

**The Highland Licensing Board**

**Meeting – 1 November 2016**

Agenda Item	<b>6.1</b>
Report No	<b>HLB/101/16</b>

**Application for a major variation of premises licence under the Licensing (Scotland) Act 2005**

**The Fluke, 38 Culcabock Road, Inverness, IV2 3XG**

**Report by the Clerk to the Licensing Board**

**Summary**

This Report relates to an application for a major variation of premises licence by Mitchells and Butlers Retail Limited, 27 Fleet Street, Birmingham, B3 1JP per Hill Brown Licensing, RWF House, 5 Renfield Street, Glasgow, G2 3EZ.

**1.0 Description of premises**

1.1 Large bar and restaurant with garden area and car park situated in an area containing commercial and residential properties.

**2.0 Current operating hours**

2.1 The premises currently enjoys the following operating hours:

**On sales:**

Monday to Tuesday: 1100 hours to 2300 hours  
Wednesday to Thursday: 1100 hours to 2400 hours  
Friday: 1100 hours to 0100 hours  
Saturday: 1100 hours to 0030 hours  
Sunday: 1230 hours to 2300 hours

**Off sales:**

Monday to Saturday: 1100 hours to 2200 hours  
Sunday: 1230 hours to 2200 hours

### **3.0 Summary of variation application**

#### **3.1 Variation sought**

The applicant seeks to vary the premises licence as follows:-

- (1) On and off sales to commence at 1100 hours on Sunday.
- (2) Children's policy 6(c) to read "challenge 25".

#### **4.0 Background**

- 4.1 On 25 August 2016 the Licensing Board received an application for a major variation of a premises licence from Mitchells and Butlers Retail Limited.
- 4.2 The application was publicised during the period 5 September until 26 September 2016 and confirmation that the site notice was displayed has been received.
- 4.3 In accordance with standard procedure, Police Scotland, the Scottish Fire and Rescue Service and the Council's Community Services (Environmental Health) and Planning and Building Standards were consulted on the application.
- 4.4 Notification of the application was also sent to NHS Highland and the local Community Council.
- 4.5 Further to this publication and consultation process, no timeous objections or representations have been received.
- 4.6 The applicant must nevertheless be given the opportunity to be heard before the Board determines the application and has accordingly been invited to the meeting. The applicant has been advised of the hearings procedure which may also be viewed via the following link:

[http://www.highland.gov.uk/downloads/download/428/liquor\\_licence\\_objections\\_appeals\\_notices\\_of\\_determination](http://www.highland.gov.uk/downloads/download/428/liquor_licence_objections_appeals_notices_of_determination)

#### **5.0 Legislation**

- 5.1 The Licensing Board must in considering and determining the application, consider whether any grounds of refusal apply and if none of them applies, the Board must grant the application.

Relevant grounds of refusal may be: -

1. the grant of the application will be inconsistent with one or more of the licensing objectives;

2. having regard to (i) the nature of the activities carried on or proposed to be carried on in the subject premises, (ii) the location, character and condition of the premises, and (iii) the persons likely to frequent the premises, the Board considers the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation;
3. having regard to the number and capacity of licensed premises of the same or similar description as the subject premises (taking account of the proposed variation) in the locality in which the subject premises are situated, the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises or licensed premises of that description in the locality.

5.2 The Board only has power either to grant the application and make a variation of the conditions to which the licence is subject or to refuse the application.

If the Board refuses the application, the Board must specify the ground for refusal and if the ground for refusal relates to a licensing objective, the Board must specify the objective in question.

## **6.0 Licensing Standards Officer**

6.1 The LSO has provided the following comments:-

(i) The Fluke in is a well-established premises in the Culcabock area of Inverness. The premises have a trouble free operating history and compliance checks have shown the premises to be run in accordance with their operating plan.

(ii) Application has been made to commence Sunday trading in on and off sales from 1100 hours. This application is within the Highland Licensing Board's policy.

(iii) In the opinion of the LSO should the Board be minded to grant this application, there will be no adverse impact on the licensing objectives.

## **7.0 HLB local policies**

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-18
- (2) Highland Licensing Board Equality Strategy

## **8.0 Conditions**

### **8.1 Mandatory conditions**

If the application is approved the mandatory conditions set out in Schedule 3 of the Act will apply.

## 8.2 Local conditions

Existing local conditions will continue to apply and no additional local conditions are considered necessary.

## 8.3 Special conditions

No special conditions are considered necessary.

### **Recommendation**

The Board is invited to determine the above application.

If the Board is minded to refuse the application, the Board must specify the ground for refusal and if the ground for refusal is in relation to a licensing objective, the Board must specify the objective in question.

Reference: HC/INBS/119

Date: 7 October 2016

Author: Marjory Bain

Background Papers: The Licensing (Scotland) Act 2005/Application Form.