

The Highland Licensing Board

Meeting – 6 December 2016

Agenda Item	10.2
Report No	HLB/116/16

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

Ferry Inn Hotel, Scrabster

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of a premises licence by Highland Travel Inns Limited.

1.0 Description of premises

1.1 The premises consists of a hotel and restaurant complex overlooking Scrabster Harbour.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Thursday: 0900 hrs to 2400 hrs
Friday 0900 hrs to 0100 hrs
Saturday and Sunday: 0900 hrs to 2345 hrs

Off sales:

Monday to Saturday: 1000 hrs to 2200 hrs
Sunday: 1230 hrs to 2200 hrs

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Change name of premises to The Ferry Inn Hotel.
- (2) Change the description of the premises.
- (3) Change licensed hours on a Saturday to commence at 1000 hrs and terminate at 0100 hrs the following day.

- (4) Add a seasonal variation to take advantage of any period of extended hours agreed by the Board over the festive period and other extensions.
- (5) Add take-away meals to the list of activities.

4.0 Background

- 4.1 On 24 October 2016 the Licensing Board received an application for a major variation of a premises licence from Highland Travel Inns Limited.
- 4.2 The application was publicised during the period 28 October until 18 November 2016 and confirmation that the site notice was displayed is awaited.
- 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 A representation dated 28 October 2016 was received from Police Scotland and is attached as an appendix to this report.
- 4.5 Notification of the application was also sent to NHS Highland and the local Community Council.
- 4.6 Further to this publication and consultation process, no timeous objections or representations have been received other than the Police representation attached.
- 4.7 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://highland.gov.uk/hlb_hearings

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:-

6.2 The premises are situated at Scrabster Harbour and provide full hotel services in support of harbour and ferry traffic as well as the more general tourist and local trade. They are the principal provider of food and beverages in the locality.

6.3 The description of the premises as currently recorded contains much superfluous detail and is now adequately summarised as "Hotel and restaurant complex overlooking Scrabster Harbour".

6.4 The premises were granted generous licensed hours by the former Caithness Divisional Licensing Board some years ago. I understand that the reasoning was so as to permit full services and activities in support of ferry traffic and the busy harbour which could operate 24 hours per day.

6.5 It is noted that, on each day, the licensed hours extend to a period of 15 hours or more and that such a length of hours is contrary to Scottish Government guidance and the Board's own policy.

6.6 The premises licence is subject to a condition requiring the licence holder to have available a selection of hot and cold food when the premises are open prior to 1100 hrs is currently imposed.

6.7 The premises are not "hybrid" premises in respect of which the Board has previously exercised discretion over the total number of licensed hours permitted on a particular day.

6.8 Current licensed hours on a Saturday are from 0900 hrs to 2345 hrs, a total of 14.75 hrs. The applicant seeks to change those hours to 1000 hrs to 0100 hrs the following day, a total of 15 hours, principally to improve their restaurant trade opportunities.

- 6.9 Following discussion with the applicants they now wish to amend the commencement hour to 1015 hrs so that there is no increase in the total number of licensed hours on a Saturday.
- 6.10 The premises have no history of disengagement with any of the licensing objectives. The compromise position of slightly reducing the total licensed hours does not create an awkward precedent and would not appear to increase pressure on engagement with the licensing objectives.
- 6.11 The applicant inadvertently omitted to amend the hours for off-sales on a Sunday to commence at 1000 hrs in accordance with current Board policy and asks that the Board allow that time to be inserted.
- 6.12 The other variations sought are reasonable and appropriate for the premises.
- 6.13 I have no grounds to object to the grant of the variation.

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

Retain existing local conditions and add the following:-

- q. The licence holder shall submit to the Board and to Police Scotland, prior to 1 December each year, notice of the dates within the festive period on which it is intended that the premises remain open until the festive period terminal hour stated for that category of premises in the Board's Policy Statement. The premises may remain open until the festive period terminal hour only on those dates for which notice has been given by the licence holder to the Board and to Police Scotland in accordance with this condition.

8.3 Special conditions

The following shall apply on any occasion that the premises are open after 0100 hrs.

1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hrs (on any day when the premises are open at that time) until whichever is the earlier of-

- (a) the time at which the premises next close; and
- (b) 0500 hrs; and

2. A designated person who is the holder of a personal licence must be present on the premises from 0100 hours (on any day on which the premises are open at that time) until whichever is the earlier of-
 - (a) the time at which the premises next close; and
 - (b) 0500 hrs

Recommendation

The Board is invited to determine the above application and if minded to grant the application subject to the amendments detailed in paragraphs 6.9 and 6.11 to agree the proposed local and special conditions detailed at paragraphs 8.2 and 8.3.

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/CSR/0404

Date: 22 November 2016

Author: G Sutherland

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

Appendix: Letter dated 28 October 2016 from Police Scotland

28/10/2016

Your Ref: SB/GS HC/CSR/0404

Our Ref: 183146

Clerk to the Highland Board
Town House
High Street
Inverness
IV1 1JJ



**POLICE
SCOTLAND**

Keeping people safe

Philip Gormley QPM
Chief Constable

Divisional Co-ordination Unit
Highland and Islands Division
Police HQ
Old Perth Road
INVERNESS
IV2 3SY

FOR THE ATTENTION OF SUSAN BLEASE

Dear Madam,

**LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE
FERRY INN
FERRY INN, SCRABSTER, HIGHLAND KW14 7UJ
HIGHLAND TRAVEL INNS LIMITED**

I refer to the above application for the variation of a premises licence under terms of Section 29(5) of the Licensing (Scotland) Act 2005.

The variation requested consists of amending Saturday core on sales hours from 0900-2345 hours to 1000-0100 hours, add seasonal variations in relation to festive and other extensions granted by the Board. Add take away meals to list of activities and change name of premises to the Ferry Inn Hotel.

In terms of Section 29(5) of the Act this request can be considered a variation.

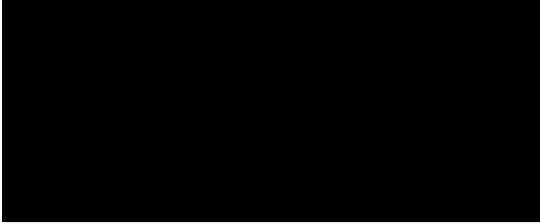
In terms of Section 22(1)(b)(ii) and (iii) of the same Act, I make the following representation on behalf of the Chief Constable.

Amend Saturday core on sales hours from 0900-2345 hours to 1000-0100 hours. This application is outwith the Board's policy in that the hours requested exceed the 14 hour period of continuous trading.

In terms of Section 22(1)(b)(ii) and (iii) of the Licensing (Scotland) Act 2005, the Chief Constable is of the opinion that the variation in its current form should be modified to show core hours for Saturday as 1000-2359 hours which would be within board policy.

This representation is submitted for your attention in considering this application.

Yours faithfully



Philip Gormley QPM
Chief Constable

For enquiries please contact the Licensing Department on 01463 720817.