

**The Highland Licensing Board**

**Meeting – 7 February 2017**

Agenda Item	<b>8.1</b>
Report No	<b>HLB/015/17</b>

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

**Loch Bay Restaurant, Stein, Waternish, Isle of Skye, IV55 8GA**

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

**Summary**

This Report relates to an application for a major variation of premises licence by Lochbay Restaurant Limited, 1-2 MacLeod's Terrace, Stein, Waternish, Isle of Skye, IV55 8GA.

**1.0 Description of premises**

1.1 The premises is a 22 cover restaurant situated within a former fisherman's terraced cottage. There is no bar counter on the premises. Sales of alcohol are restricted to persons on the premises for the purpose of having a meal which may include customers waiting to be seated at a table.

**2.0 Current operating hours**

2.1 The premises currently enjoys the following operating hours:

**On sales:**

Monday to Saturday: 1100 hours to 1530 hours and 1800 hours to 2300 hours

Sunday: 1200 hours to 1530 hours and 1800 hours to 2300 hours

**Off sales:**

Monday to Saturday: 1100 hours to 1530 hours and 1800 hours to 2200 hours

Sunday: 1200 hours to 1530 hours and 1800 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) Update description of premises.
- (2) Increase on-sales hours to commence at 1100 hours and terminate at 2400 hours on each day.
- (3) Increase off-sales hours to commence at 1100 hours and terminate at 2200 hours on each day.
- (4) Remove seasonal variation to permit year round trading.
- (5) Decrease capacity from 27 to 22 persons.
- (6) Change premises name from Loch Bay Seafood Restaurant to Loch Bay Restaurant.
- (7) Delete specific condition "The premises are not authorised to have a bar counter. No alcohol may be ordered or consumed by persons at any servery on the premises."
- (8) Update premises licence holder and premises manager address details.

#### **4.0 Background**

- 4.1 On 28 November 2016 the Licensing Board received an application for a major variation of a premises licence from Lochbay Restaurant Limited.
- 4.2 The application was publicised during the period 2 December 2016 until 23 December 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://highland.gov.uk/hlb\\_hearings](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:-
- (i) Following a transfer of the premises licence the new operators have reviewed the terms of the premises licence and now wish vary the licence in support of their intended method of operation and to update personal details.

- (ii) The premises currently do not operate licensed hours during afternoons throughout the winter months but now intend to offer services throughout the day and all year round. The proposed hours are within policy for on and off sales premises.
- (iii) The description of the premises requires amendment to more accurately reflect the new business model. The premises do not have a bar counter in the conventional sense however customer waiting to be seated for a meal may sit at a raised counter/servery and would be permitted to purchase and consume alcohol.
- (iv) The specific condition was imposed when the licence was granted in 2009 in line with the requirements of the former Ross, Skye and Lochaber Divisional Licensing Board. The current Board's conditions reflect common practice for such premises and the undernoted local condition is suggested as a suitable alternative.

## **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**

There are no existing local conditions and it is not considered necessary to attach any.

### **8.3 Special conditions**

The Board may wish to consider attaching the following special condition:

- (1) Alcohol for consumption on the premises may only be sold or supplied to persons on the premises for the purpose of having a table meal.

**Recommendation**

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed special condition detailed at para. 8.3 above.

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/RSL/0786

Date: 13 January 2017

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