

The Highland Licensing Board

Meeting – 28 March 2017

Agenda Item	10.3
Report No	HLB/038/17

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

Fasgadh Stores, Dunvegan, Isle of Skye, IV55 8WA

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Jonathan Tully.

1.0 Description of premises

1.1 The premises is a single storey shop with parking to front and situated in the centre of the village of Dunvegan.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

Off sales:

Monday to Saturday: 1000 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) Increase licensed hours on a Sunday to commence at 1000 hours.
- (2) Amend the explanation at Q5 of the operating plan to accord with the amended hours.

4.0 Background

4.1 On 14 February 2017 the Licensing Board received an application for a major variation of a premises licence from Jonathan Tully.

4.2 The application was publicised during the period 17 February 2017 until 10 March 2017 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

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 proposed increase to licensed hours on a Sunday should not conflict with Board policy.
- (ii) The variation sought is reasonable and appropriate for this type of operation and should not cause disengagement with the licensing objectives. I have no cause 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

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

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/RSL.1320

Date: 13 March 2017

Author: Carol Nicolson

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