

## The Highland Licensing Board

Meeting – 7 February 2017

Agenda Item	10.8
Report No	HLB/043/17

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

Novar Arms Hotel, Balconie Street, Evanton

Report by the Clerk to the Licensing Board

#### Summary

This Report relates to an application for a major variation of premises licence by Viewfirth Hotels Ltd.

#### 1.0 Description of premises

1.1 Detached hotel in the village of Evanton.

#### 2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

##### On sales:

Monday to Saturday: 1100 hrs to 0100 hrs  
Sunday: 1200 hrs to 2400 hrs

#### 3.0 Summary of variation application

##### 3.1 Variation sought

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

1. Increase on-sales licensed hours on a Sunday to commence at 1100 hrs and terminate at 0100 hrs the following day.
2. Add off-sales as a permissible activity during the hours of 1000 hrs to 2200 hrs each day of the week.
3. Amendment to the layout of the premises to include an outdoor drinking area at the front of the premises.
4. Amendment to the list of activities provided to include outdoor drinking during and outwith core hours and to permit, where appropriate, other activities outwith core hours.
5. Change premises manager to Ralph Mercer

## **4.0 Background**

- 4.1 On 14 February 2017 the Licensing Board received an application for a major variation of a premises licence from Viewfirth Hotels Ltd.
- 4.2 The application was publicised during the period from 17 February to 10 March 2017 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 Notification of the application was also sent to NHS Highland and the local Community Council.
- 4.5 Further to this publication and consultation process an objection was received from Sandra Mackenzie (copy attached).
- 4.6 The applicant and objector have been invited to attend the hearing. All have been advised of the hearings procedure which will be followed at the meeting and 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.

5.3 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 Following transfer of the premises licence the new operator intends to make some changes to the business model.

6.3 The increase to licensed hours on a Sunday and the addition of off-sales are both within Board policy and should not conflict with any licensing objective.

6.4 The premises are located on Balconie Street, the main road running through Evanton, and the site includes an area directly in front of the building adjoining the public pavement. Tables and seating are provided and the applicant now wishes to allow that area to be available for outdoor drinking. A further area at the rear of the premises has also been identified for use as an outdoor drinking area but is unlikely to be used frequently.

6.5 The boundary of the hotel's share of the open space in front of the premises with the public pavement is not clearly defined and nor is the portion of ground to be adopted as the outdoor drinking area. As there is a ban on outdoor drinking in public areas in Evanton it may be appropriate to impose a condition requiring that the boundary of the outdoor drinking area at the front of the premises be effectively demarcated to my satisfaction. The matter has been discussed with the applicant who will consider various options to comply with such a condition.

6.6 I am aware that a letter of objection or representation expressing concern about the outdoor drinking area has been received. It makes reference to historic issues when the hotel was under different ownership several years ago before closing down. The author resides next door to and relatively closely to the premises and there is clearly a potential for her to be disturbed by any excessive noise. I will discuss mitigation measures with the applicant. If the variation is granted and there is a conflict with any licensing objective it is open to the author to request a review of the premises licence.

6.7 The applicant has accepted that it will be appropriate to impose a condition restricting the use of the outdoor drinking areas and he has proposed 2200 hrs as a suitable time for consumption of alcohol to cease there. I have not yet been able to contact the author of the objection to obtain her views however I believe she would prefer that the restriction should come into effect at 2100 hrs.

6.8 The author of the objection has suggested that tables outside the premises should be removed after 2100 hrs. The tables and seats are of substantial construction and I do not believe it would be proportionate to impose a

condition that they must be removed. I will discuss noise or nuisance mitigation measures with the applicant with the intention that people will be discouraged from lingering in that area.

6.9 I am satisfied that the applicant will engage fully with the licensing objectives and that he will agree to any reasonable measures to ensure that the potential for nuisance is minimised. I have no cause to object to the grant of the variation subject to consideration of the undernoted additional conditions.

## **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
- (3) Highland Licensing Board Policy Hours

## **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 conditions and add:-

- e. After 2200 hrs alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area.
- l. The boundaries of any outside area will be effectively demarcated to the satisfaction of the Licensing Standards Officer.

## **Recommendation**

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local conditions detailed at paragraph 8.2 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/CSR/1643  
Date: 14 March 2017  
Author: G Sutherland  
Background Papers: The Licensing (Scotland) Act 2005/Application Form

Appendix: Letter dated 20 February 2017 from Sandra Mackenzie

20 Balconie Street  
Evanton  
Ross-shire  
IV16 9UN  
20 Feb 2017

Clerk to the Licensing Board  
Highland Council  
Caithness House  
Market Place  
Wick  
KW1 4AB

Dear Sir/Madam

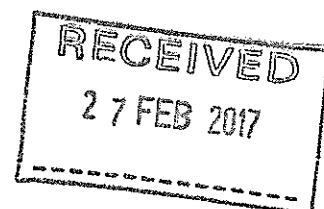
**RE: LICENSING (SCOTLAND) ACT 2005**  
**NEIGHBOUR NOTIFICATION - NOVAR ARMS HOTEL, BALCONIE STREET, EVANTON.**

I refer to the notification of application for a provisional premises licence for the Novar Arms Hotel, Evanton sent to me dated 14 Feb, 2017, your Ref SB/GS.

I have reviewed the plans at Alness Service Point and I am writing to register my objection to the proposed outdoor drinking area for 24 people at the **front** of the hotel and I appeal to you to not approve this outdoor drinking area.

The basis for this opposition is that I believe that granting a licence for this outdoor drinking area would be inconsistent with the licensing objectives for

- preventing public nuisance
- protecting children from harm
- protecting and improving public health
- preventing crime and disorder



This proposed area is directly adjacent to my property; in a residential area on the main street of a small village where members of the public are constantly passing by and is not an appropriate place for the sale and consumption of alcohol. The proposed area is practically on the pavement and is not shielded from public view. I feel that people sitting there in public drinking and smoking (which would inevitably be the case when smoking is not permitted indoors) is a very bad example in this day and age for children and impressionable young people passing by. Surely, in this day and age, allowing people to sit drinking and smoking on the main street is inconsistent with the principle of protecting and improving public health and protecting children from harm. I would be very reluctant to allow my small grandchildren to play in my front garden if they are to be subjected to this. It is bad enough at the moment with drunken smokers standing outside the bar on the main street.

Several years ago there were tables in this area for outdoor drinking and it was most unpleasant and extremely intimidating for both neighbours and passers-by. The tables were a permanent fixture; there was rowdy and noisy behaviour, glasses of drink were left lying out on the tables overnight and were still there until the next day when children were passing to school. The litter of cigarette ends was shocking and the whole area was stinking of cigarette smoke and stale drink. I had damage done to my property and my car due to these tables being used by drinkers outside hotel licensing hours.

Residents in this area have already suffered noise nuisance and antisocial behaviour at all hours of the day and night in the past due to outdoor drinking in this area and it is totally unacceptable to expect them to continue to do so again. The past few years without this outdoor drinking area have been very peaceful and this street has become a pleasant place to live and for people to walk along since these tables were removed by the previous tenant. Reinstating this drinking area will almost certainly lower the value of properties nearby if antisocial behaviour occurs again as a result of this.

If, despite my objections, the committee decides to approve this drinking area could it please be a condition that these tables are not a permanent fixture and that they are taken indoors every night at 21.00 hours so that neighbours can sleep in peace without noise and disruption from this area.

Yours faithfully

Sandra Mackenzie (Mrs)