

## The Highland Licensing Board

Meeting – 28 March 2017

Agenda Item	10.10
Report No	HLB/045/17

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

4 Cameron Square, Fort William, PH33 6AJ

#### Report by the Clerk to the Licensing Board

##### Summary

This Report relates to an application for a major variation of a premises licence by The McLean Pension Trust per Twindeer Law, Ben Nevis Auction Mart, Torlundy, Fort William, PH33 6SQ.

#### 1.0 Description of premises

1.1 The premises is located within Cameron Square, Fort William, immediately off Fort William High Street. The premises provides restaurant facilities and consists of a small reception area next to the bar area with the restaurant comprising of two parts, namely a seated area immediately adjacent to the reception bar area and a further seated area within the sun room.

#### 2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

##### On sales:

Monday to Wednesday: 1100 hours to 0000 hours  
Thursday to Saturday: 1100 hours to 0100 hours  
Sunday: 1230 hours to 2345 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. Increase capacity of premises to 100 persons (currently 45 persons)

2. Increase on and off-sale operating hours on Sundays to commence at 1200 hours (currently 1230 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 The McLean Pension Trust per Twindeer Law.
- 4.2 The application was publicised during the period 20 February 2017 until 13 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 & 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. The local Community Council were not constituted at the time of application.
- 4.5 Further to this publication and consultation process, whilst no objections have been received, the following timeous representations from the Planning and Building Standards Services have been received in respect of the application:

- (i) Representation dated 21 February 2017 from the Planning Authority – advising that no planning permission can be identified in their archive for alterations and extension to the premises.

The applicant's agent has been informed of the above representation and his clients have been requested to contact the Planning Authority with a view to resolving the issues.

- (ii) Representation dated 13 March 2017 from Building Standards – recommends reduction in capacity applied for from 100 persons to 82 persons based on an occupancy load factor of 1.0 if both parts of the premises are to be utilised as a restaurant.

The applicant's agent has agreed to reduce the capacity applied for from 100 persons to 82 persons in line with the Building Standard Officer's recommendation.

- 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:-

- The licensing history has been very sound and previous licensing visits carried out by the LSO have shown strong levels of compliance.
- Application is made to vary the trading hours of the premises to allow on and off sales to be made from midday. This is well within HLB policy hours and in view of the type and location of the premises will cause no adverse issues in respect of the licensing objectives.
- Likewise the capacity of the premises has been increased through making better use of the existing floor space to increase customer numbers and the applicant has reduced the capacity applied for in line with the Building Standards Officer's recommendations.

- The major variation has been properly advertised and the applicant has been advised of the representation which has been received from the Planning Authority.

## **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 as amended by the applicant (to increase the capacity to 82).

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/0462

Date: 14 March 2017

Author: SB:IC/JT

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