

## The Highland Licensing Board

Meeting – 9 June 2017

Agenda Item	12.7
Report No	HLB/065/17

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

Heathmount Hotel, Kingsmills Road, Inverness, IV2 3JU

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

##### Summary

This Report relates to an application for a major variation of premises licence by Gillian Fiona Newton, The Gables, Essich, Inverness, IV2 6AH.

#### 1.0 Description of premises

1.1 Heathmount Hotel and Restaurant is a detached building situated in the Crown area of Inverness at the junction of Southside Road and Kingsmills Road, serving the local community consisting of residential properties and local businesses.

#### 2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

##### On sales:

Monday to Friday: 1100 hours to 0100 hours  
Saturday: 1100 hours to 0030 hours  
Sunday: 1230 hours to 2300 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) Sunday on and off sales to commence at 1100 hours.

(2) Allow outside area to be used prior to core hours for teas/coffees and the like.

(3) Change of wording in section 6(d) to “Non-resident children and young persons will be permitted on the premises at management discretion until 2330 hours. In the case of privately booked functions they may be able to remain for the duration, if deemed suitable by the premises management.”

Resident children and young persons have unrestricted access with parental supervision.

(4) Change of wording in section 6(e) to “Children and young persons permitted access to all public areas at management discretion.”

(5) Extension to lounge area facing the car park included within layout plans (ref. 0714.2038.01H).

(6) External outside drinking area adjacent to Southside Road, to be included within licensed area.

(7) Capacity to increase to 162.

(8) Q4 – yes to seasonal variation to take advantage of festive policy hours.

(9) Third paragraph of description to read:

“Ground floor of the premises consists of a restaurant area, lounge and public bar, kitchen and dish washing area. The restaurant/dining area is served by a disabled toilet and a unisex toilet. There are external drinking areas located at the public bar/dining entrance and also at the side of the hotel adjacent to Southside Road, Inverness.”

#### **4.0 Background**

4.1 On 21 April 2017 the Licensing Board received an application for a major variation of a premises licence from Gillian Fiona Newton.

4.2 The application was publicised during the period 27 April until 17 May 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 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) The Heathmount hotel is a large detached building occupying a central location in the Crown area of Inverness at the junction of Southside Road and Kingsmills Road, Inverness. The area has a selection of local businesses and is also a very well populated residential area.

(ii) The hotel has held an alcohol premises licence from the inception of the new licensing (Scotland) act 2005, and has been responsibly run by the premises licence holder, Fiona Newton. Inspection visits carried out by the LSO have shown good levels of diligence and compliance with licensing regulation.

(iii) Application has been made by the licence holder to vary the core trading hours within the operating plan, to allow on and off sales to commence on Sundays from 1100hrs. This change is within current Board policy times and whilst the volume in trade will be moderate, it modernises the licence and allows the provision of facilities such as Sunday brunch. In the view of the LSO this will not threaten the licensing objectives in any way.

(iv) The licensing footprint of the premises has been increased with the provision of an additional outside drinking area on the west side of the hotel, facing Southside Road. In addition, the internal lounge bar area has been extended slightly into the car parking area, at the front of the hotel (north facing). The internal extension has been recorded on amended layout plans and will not affect the licensing objectives. The new external drinking area is well designed and self-contained; it will operate prior to core licensing hours to allow for tea/coffee provision, but as the area is close to residential properties, with the third licensing objective, concerning public nuisance, it is recommended, that this facility be conditioned to a maximum operating time of 2200 hours.

(v) The description of the premises within the licence has been amended to accurately reflect the aforementioned alterations to the licensed area.

(vi) Finally, the children and young persons' policy has been modernised, to allow the presence of non-resident children and young persons' on the premises until 2330 hours, to allow for the conclusion of food provision, with many families, particularly those from abroad, choosing to dine later. The licence holder also requests the right of discretion to allow children and young persons to attend privately booked functions for the duration of the event, if deemed suitable. The LSO, having seen the dedicated dining provision finds this in accordance with the fifth licensing objective.

(vii) At the time of writing this report, the LSO has had some informal community representation advocating concern, that the outside drinking area adjacent to Southside Road will cause noise issues. This may or may not materialise as a formal objection or representation at the Board meeting, however, the LSO has made provision for this legitimate concern by recommending the local condition restricting use of the outside drinking area to 2200 hours. Over and above that the behaviour of patrons will be subject to the diligence of supervision provided by staff.

## **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 (b), (c) and (h) will continue to apply and it is recommended that the following additional local condition(s) be attached:

(e) After 2200 hours alcoholic and non-alcoholic drinks shall not be consumed in any outdoor drinking area.

(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**

No special conditions are considered necessary.

#### **Recommendation**

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/special condition(s) detailed at para. 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/INBS/59

Date: 18 May 2017

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