

The Highland Licensing Board

Meeting – 9 June 2017

Agenda Item	12.9
Report No	HLB/067/17

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

The Alexander Bain, Market Place, Wick

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of premises licence by JD Wetherspoon (Scot) Ltd.

1.0 Description of premises

1.1 The premises are a public house located in Wick town centre serving food.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Sunday: 1100 hrs to 0100 hrs

Off sales:

Monday to Saturday: 1000 hrs to 2200 hrs
Sunday: 1100 hrs to 2200 hrs

3.0 Summary of variation application

3.1 Variation sought

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

1. Delete existing terms of entry for children and young persons on operating plan and substitute with "Children and young persons will be allowed access to the premises. Children (0-11 years) will be required to be accompanied by an adult (ie a person over 18 years of age). Children 12-15 years and young persons may, at the manager's discretion, be allowed access to the premises unaccompanied provided they are there for the purposes of consumption of a meal".

2. Delete existing times of entry for children and young persons on operating plan and substitute with “Young persons and accompanied children will be allowed entry to the premises subject to them having to vacate the premises by 2200 hrs unless taking a meal or attending a private function. Unaccompanied children (12-15 years) will be allowed entry to the premises from 0800 to 1800 hrs”.

4.0 Background

- 4.1 On 24 April 2017 the Licensing Board received an application for a major variation of a premises licence from JD Wetherspoon (Scot) Ltd.
- 4.2 The application was publicised during the period from 1 to 22 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://www.highland.gov.uk/downloads/download/428/liquor_licence_objections_appeals_notices_of_determination

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 The applicant operates a popular public house, with a significant food element, in the centre of Wick.
- 6.3 The current terms of entry for children and young persons require that all children must be accompanied by an adult and that unaccompanied young persons may be permitted at the discretion of the manager if on the premises for the purposes of having a meal. Unless having a meal or attending a function all children and young persons must vacate the premises by 2200 hrs.
- 6.4 The purpose of the variation is to allow unaccompanied children aged 12-15 years to be on the premises to partake of meals and snacks between 0800 hrs and 1800 hrs failing which all children must be accompanied by a suitable, appropriate adult.
- 6.5 The licence holder has identified a demand for that service and has given appropriate consideration to the licensing objective of protecting children from harm.
- 6.6 While it is not uncommon for unaccompanied children to be permitted in café type premises it is uncommon for unaccompanied children to be on premises which have a relatively significant “vertical drinking” element.
- 6.7 The layout of the premises creates two well-defined areas. One, adjacent to the bar counter, is used mainly as a traditional bar area and the other much larger area contains tables chairs and booths primarily used for the consumption of meals. In terms of the current licence children and young persons are not permitted within the “bar area” and clear signs are displayed to that effect.
- 6.8 It is noted that the current response to Question 6(e) of the premises licence (Parts of the premises to which children and young persons will be allowed entry) will require amendment if the variation is granted and, following discussion with the applicant, it is requested that the existing response be deleted and the undernoted response substituted:-

Q6(e)

Children and Young Persons will be allowed access to the designated children’s area of the premises as shown on the attached layout drawings.
Unaccompanied children (12-15 years) and young persons will be allowed

access to the bar area only for the purpose of ordering their meals and beverages. They will not be allowed to remain in the bar area after placing their order.

- 6.9 Board policy in respect of access to premises by children states that the Board may impose the following requirements when considered appropriate:-

“Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hrs except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This will not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress.

Secondly, whilst in any room with a bar counter all children must be in the company of, or supervised by an appropriate responsible adult. This will not apply to children of the licence holder or children who are resident on the premises”.

- 6.10 The applicant is a very experienced licence holder and has strict in-house policies and procedures for the protection of children from harm. I am confident that they have not taken the decision to seek the variation lightly and are aware that what is sought is unusual when considered in the context of the Board’s policy regarding the presence of children on premises with a bar counter.
- 6.11 I am satisfied that the applicant has given due regard to their responsibility to protect children from harm and have no cause to object to the grant of the variation.
- 6.12 The requirements of the policy are generally reinforced by the imposition of conditions and, should this variation be granted, the Board may choose to amend the list of local 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

Delete existing local condition (b).

8.3 **Special condition**

1. All children must be in the company of, or supervised by an appropriate responsible adult. This will not apply to children aged 12 to 15 years who are on the premises between 0800 hrs and 1800 hrs on any day for the purpose of having a meal on the premises.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, agree the proposed change to local conditions and add a special condition as detailed at paragraphs 8.2 and 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/CSR/1020
Date: 23 May 2017
Author: G Sutherland
Background Papers: The Licensing (Scotland) Act 2005/Application Form