

The Highland Licensing Board

Meeting – 9 June 2017

Agenda Item	12.14
Report No	HLB/072/17

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

The Victoria, 4 High Street, Dingwall

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of premises licence by D A Stephen Associates Ltd t/a The Victoria.

1.0 Description of premises

1.1 The premises were granted a premises licence, on transition, on 1 September 2009 and the licence was transferred to the current licence holder on 9 May 2016. The premises operate primarily as a restaurant but sales of alcohol are not restricted to persons taking a meal on the premises.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Sunday: 1200 hrs to 0100 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 every day to commence at 1100 hrs.
2. Add off-sales with hours of Mondays to Sundays from 1000 hrs to 2200 hrs.
3. To the list of other activities on the operating plan add whisky tasting/ sampling and off-sales on behalf of Glen Wyvis Distillery.
4. Alterations to layout to form a bar counter and a designated area to be referred to as Glen Wyvis Base Camp.

5. Change description of the premises to - Single storey 80 cover restaurant, café bar with whisky tasting / sampling and off-sales on behalf of Glen Wyvis Distillery within a defined area referred to as Glen Wyvis Base Camp. The business is primarily food-led but sales of alcohol will not be restricted only to persons taking a meal on the premises.

4.0 Background

- 4.1 On 10 April 2017 the Licensing Board received an application for a major variation of a premises licence from D A Stephen Associates Ltd t/a The Victoria.
- 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 has entered into an agreement with the operator of Glen Wyvis Distillery to showcase their products in a prominent location in Dingwall town centre.
- 6.3 That is to be achieved by creating a Glen Wyvis Distillery branded area within the existing premises and converting the existing servery to form a new bar counter. The Glen Wyvis Base Camp is located within the area formerly used for pre-dining seating and light meals or refreshments.
- 6.4 There is no accessible display of alcohol solely for off-sales within the premises and no off-sales capacity is recorded. However it is noted that the Distillery's share of space for promotion of their products is approximately 4.6M² and would be well within the Board's limits for the purpose of overprovision.
- 6.5 The restaurant is currently open prior to 1100 hrs when all facilities and services are available. The applicant seeks a commencement hour of 1000 hrs for off-sales for the convenience of customers but no sampling of alcoholic products will be permitted until 1100 hrs.
- 6.6 The applicant is aware that all responsibility for licensing matters within the premises remains with them and the premises manager irrespective of any arrangement they may have with the Distillery.
- 6.7 Since the date of application the list of licensing objectives contained within the Act have been amended with effect from 15 May 2017 and objective 5 now refers to protecting children and young persons from harm. Highland Licensing Board policy does not currently contain any specific references to young persons however I am satisfied that the applicant has taken the matter into account and that the varied operating plan should not cause conflict with the new objective.
- 6.8 The proposed licensed hours are within Board policy and the activities and terms of the operating plan are reasonable and appropriate for this type of business. I have no cause to suspect that there will be any conflict with any licensing objectives and have no objections 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
- (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

Retain existing local conditions and add:-

- a. 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 condition does 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.
- b. Whilst in any room with a bar counter all children must be in the company of, or supervised by an appropriate responsible adult. This condition does not apply to children of the licence holder or children who are resident on the premises.
- c. Notwithstanding conditions (a) and (b) children must not sit or remain at the bar counter at any time.

Recommendation

The Board is invited to determine the above application and if minded to grant the application and agree the proposed change to local conditions as 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/1037
Date: 23 May 2017
Author: G Sutherland
Background Papers: The Licensing (Scotland) Act 2005/Application Form