

The Highland Licensing Board

Meeting – 2 August 2017

Agenda Item	10.5
Report No	HLB/095/17

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

Northern Sands Hotel, Dunnet

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Blargoans Limited.

1.0 Description of premises

1.1 The Northern Sands Hotel is situated in the village of Dunnet and comprises 12 letting bedrooms, lounge bar, public bar, dining room, coffee bar and associated hotel facilities. It was granted a premises licence during conversion on 1 September 2017.

2.0 Current operating hours

On sales:

Monday to Thursday: 1100 hrs to 2345 hrs
Friday and Saturday: 1100 hrs to 0100 hrs
Sunday: 1230 hrs to 2300 hrs

Off sales:

Monday to Saturday: 1100 hrs to 2200 hrs
Sunday: 1230 hrs to 2200 hrs

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Sunday: 1100 hrs to 0100 hrs

Off sales:

Monday to 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) Amend licensed hours Monday to Thursday and Sunday to terminate at 0100 hrs the following day
- (2) Increase off-sales hours on a Sunday to commence at 1100 hrs.
- (3) Add a seasonal variation to take advantage of any period of extended hours agreed by the Board over the Festive Period.
- (4) To the list of activities and services to be provided add theatre and gaming and that, other than gaming and bar meals, all activities and services may be provided outwith core licensed hours.
- (5) Minor amendment to children and young persons' times of entry to confirm that non-resident children are permitted on the premises after 2200 hrs if attending a function, viewing entertainment or a televised sporting event, and substitute the wording for parts of premises to "all part of the premises except the public bar".
- (6) Amend wording for activities permitted outwith core hours.
- (7) At Question 5 (f) other activities remove existing wording and substitute "From time to time a marquee may be erected in the grounds for weddings and other events."
- (8) Amend layout plan to include an extended licensed area for siting a marquee.

4.0 Background

- 4.1 On 22 May 2017 the Licensing Board received an application for a major variation of a premises licence from Blargoans Limited.
- 4.2 The application was publicised during the period 28 June until 19 July 2017 and confirmation that the site notice was displayed is awaited.
- 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

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. that 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 the same or similar description as the subject premises, 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:-
- 6.2 The applicant has recently taken over the premises and, following a review of the operation, applies to vary the premises licence.
- 6.3 As a consequence of an increase in tourist trade the premises will now be open all year round and the existing seasonal variation is to be removed.

- 6.4 The precise terms of the existing terms of entry for children and young persons were ambiguous and unnecessarily restrictive. The proposed terms are in line with Board policy and should not conflict with the licensing objectives.
- 6.5 Since the date of application the list of licensing objectives contained within the Act has 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.
- 6.6 I am satisfied that the applicant has given due consideration to the amended objective and that permitting unaccompanied young persons to be within parts of the premises containing a bar counter until 2200 hrs should not conflict with the objective.
- 6.7 Refurbishment of the bar area does not affect the operating plan for the premises.
- 6.8 There is currently a condition restricting the use of the outdoor drinking area after 2100 hrs and that would affect the sale and consumption of alcohol within the marquee erected for weddings and other functions. If the application is approved it may be appropriate to vary that condition to not have effect during any function within the marquee.
- 6.9 The proposed variations are reasonable and appropriate for this type of business and I have no cause to object 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

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 "e" and add the following additional local condition:

- 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 late hours conditions

1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hrs (on any day when the premises are open at that time) until whichever is the earlier of–
 - (a) the time at which the premises next close; and
 - (b) 0500 hrs

2. A designated person who is the holder of a personal licence must be present on the premises from 0100 hrs (on any day when the premises are open at that time) until whichever is the earlier of–
 - (a) the time at which the premises next close; and
 - (b) 0500 hrs or such other time as the Licensing Board may specify.

8.4 Special condition

1. After 2100 hrs alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area. This condition shall not apply on any occasion when a marquee is erected in the grounds for a special function.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/special conditions detailed at paras 8.2, 8.3 and 8.4 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/0293

Date: 20 July 2017

Author: G Sutherland

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