

The Highland Licensing Board

Meeting – 27 March 2018

Agenda Item	9.14
Report No	HLB/034/18

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

The Brewery Shop (Buth an Leanna), The Pier (Unit 2), Uig, Isle of Skye, IV51 9XP

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Isle of Skye Brewing Company (Leann an Eilein) Ltd per TLT LLP, 140 West George Street, Glasgow, G2 2HG.

1.0 Description of premises

1.1 The premises is a gift shop retailing general tourist related products, Isle of Skye Brewery beers, Scottish country wines and whiskies.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

Off sales:

Monday to Saturday: 1000 hours to 1830 hours

Sunday: 1230 hours to 1700 hours

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Amend to allow on sales from 1000 hours to 2200 hours daily;
- (2) Amend listed off sales hours to 1000 hours to 2200 hours daily;
- (3) Remove seasonal variation;
- (4) To list of permitted activities during and outwith core hours add bar meals, club meetings, recorded music and films;

- (5) To other activities add home deliveries to public or trade, brewery tours, trade, charity and community events, tastings and related events which may take place from time to time;
- (6) Add justification for activities prior to commencement of core hours;
- (7) Amend children and young persons terms of entry;
- (8) Add an on sales capacity of 20 persons;
- (9) Reconfiguration of the premises to include the addition of a café/bar.

4.0 Background

- 4.1 On 10 January 2018 the Licensing Board received an application for a major variation of a premises licence from Isle of Skye Brewing Company (Leann an Eilein) Ltd.
- 4.2 The application was publicised during the period 25 January 2018 until 15 February 2018 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 Planning advised that change of use of the building would be required for the proposed variation and this has been applied for by the applicant.
- 4.5 Notification of the application was also sent to NHS Highland and the local Community Council.
- 4.6 Further to this publication and consultation process, the following timeous notice of objection has been received and is appended:
 - Mr and Mrs David Healey
- 4.7 The applicant and the objector have been invited to attend the hearing. Both have been advised of the hearings procedure which will be followed at the meeting and 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 For the purposes of the Act, the licensing objectives are-

- (a) preventing crime and disorder,
- (b) securing public safety,
- (c) preventing public nuisance,
- (d) protecting and improving public health, and
- (e) protecting children and young persons from harm.

5.3 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.

5.4 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 premises currently operate as a gift shop retailing general tourist-related products and alcohol. Off sales hours are 1000 hours to 1830 hours Monday to Saturday and 1230 hours to 1700 hours on a Sunday.
- (ii) Arising from a review of trading opportunities linked to the commercial brewery attached to the premises, the licence holder now wishes to offer on sales and to add to the services and activities to be provided on the premises.

- (iii) Following submission of the application it was concluded that the current description of the premises did not accurately reflect the changes. The applicant now requests that the Board allows the application to be amended to include the undernoted new description:

“A gift and specialist product shop attached to a working brewery with on sales provided primarily for tasting and sampling purposes from within a taproom in which prepared snacks may be available or the services of an outside caterer provided. The sale of alcohol for consumption on the premises will not be restricted only to persons taking part in an organised tasting or sampling session within the taproom in which there is a bar counter. Any activity or services other than conventional retail activities will only take place within the taproom.”

- (iv) It was also noted that the layout plans showing the reconfigured premises suggested that the off sales capacity was to be increased from 2m² to 13.88m² but, due to an administrative error, that information was not specified within the application. The applicant requests that the Board allow the application to be amended to include the increased capacity.
- (v) I note that the operating plan contains a comprehensive list of services and activities to be provided on the premises. Following my discussions with the applicant I am satisfied that there is no intention for the premises to operate as a café/bar in the conventional sense but as a visitor attraction or specific destination for enthusiasts.
- (vi) Food, in the form of snacks, may be provided subject to a demand however there is no commercial kitchen on the premises and it is unlikely that food sales will be a significant part of the day to day operation.
- (vii) It is noted that the applicant seeks a commencement hour for on sales of 1000 hours. Board policy hours for on sales would normally commence at 1100 hours daily. It is anticipated that the premises will become a destination for small organised tours as well as passing trade during which occasional free samples for tasting or as a part of a brewery tour could legitimately be offered outwith core hours. It would be reasonable to expect that some such visits may commence prior to 1100 hours. As the premises are not to operate as a café/bar in the conventional sense and the sale of alcohol for consumption on the premises will be as a part of the visitor experience rather than the sole purpose of the visit, I am of the opinion that allowing consumption of alcohol from 1000 hours is unlikely to have a detrimental effect on the licensing objectives.

I have spoken with the applicant who is content to restrict any on sales prior to 1100 hours on any day only to persons taking part in a tour of the brewery or to persons taking part in a tutored tasting session.

- (viii) I also spoke with the authors of the objection which has been lodged. Their principal concern was that the premises might operate as a pub / café with a significant food element which could affect their tearoom and caravan site. As they are now aware that there is no commercial kitchen on the premises and that the premises will not be operated as a conventional pub they are less concerned about the potential effect on their business. They also understand that matters relating to traffic, parking and related issues are not matters which the Board are likely to accept as an objection in terms of the legislation and that the Board does not have a policy on overprovision in respect of on sales premises. They made me aware that they have now sold the business and will not attend the Board meeting.

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.

8.3 Special conditions

The Board may wish to consider attaching the following special conditions:

- (1) All persons under 18 years of age must be in the company of or supervised by an appropriate responsible adult.
- (2) Alcohol for consumption on the premises prior to 1100 hours on any day may only be sold to persons participating in a formal tasting or sampling session and a notice to that effect will be displayed on the premises.

Recommendation

The Board is invited (a) to agree to the amendment to the capacity and the change to the description of the premises and (b) determine the above application and, if minded to grant the application, to agree the proposed special conditions detailed at para. 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.

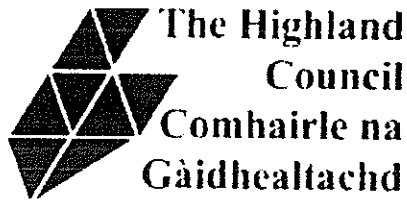
Reference: HC/RSL/0091

Date: 14 March 2018

Author: Carol Nicolson

Appendices: Objection from Mr and Mrs David Healey dated 2 February 2018

Appendix



05 FEB 2018

REPRESENTATIONS OR OBJECTIONS IN RELATION TO A PREMISES LICENCE APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005

Please read the Board's Guidance Notes on How to Object or make Representations in relation to a Premises Licence Application before completing this form. This form when completed should be returned to the nearest office of the Licensing Board using the contact details in the guidance notes or emailed to licensing@highland.gov.uk. Remember, if an objection is rejected by the Board as frivolous or vexatious, the Board may seek to recover expenses from the objector or person making representations

1. Full Name and Address of person making objection/representation:

MR + MRS DAVID HEALEY	
Telephone Number:	
Email Address:	

2. Address of Premises in respect of which objection / representation is made:

ISLE OF SKYE BREWERY THE BREWERY SHOP UIG, ISLE OF SKYE IV51 9XP

3. Details of any OBJECTION: (complete only if you consider one of the ground for refusal apply)

State ground of objection (refer to ground of objection by number, see guidance notes, and give details): (Continue on separate sheet if necessary)	
1. Excluded Premises	3.3 SEPERATE SHEET USED 3.5
2. Off-Sales Hours/24 hour drinking	
3. Licensing Objectives	
4. Activities/Premises/Customers	
5. Over Provision	

4. Details of any REPRESENTATION: (complete only if you wish to make a representation in respect of the application)

State details of any representation (refer to representation by number, see guidance notes, and give details): (Continue on separate sheet if necessary)	
1. in support of application	
2. seeking an amendment to the operating plan, or	
3. seeking to add additional conditions to the licence	

Signature:..... Date..... 2/2/18.....

As we own Urasay, Urasay tearoom and 6 static caravans, please take this objection from all as we are directly next door to the applicant.

Public nuisance

As we have a B&B and caravan park directly next door to the brewery we feel increased noise from these premises eg music playing, car doors directly by our guests bedrooms we will be getting complaints and could seriously impact on our business.

Overprovision

As we also run a tearoom along with 2 other cafes in the centre of Uig we feel there is no requirement for another one. There is also a pub in the centre of Uig along with 2 others in the near vicinity. All these obviously provide food as well as alcohol.

Car parking is also a big problem in the village. The car park is usually full with people leaving their car and going on the ferry. Cars, tourist coaches many times cannot park in the village or they block the roads. A lot of potential customers drive back out of the village due to not being able to park which will be made worse if this application goes ahead.

Yours

David and Anne Healey