

The Highland Licensing Board

Meeting – 15 May 2018

Agenda Item	8.5
Report No	HLB/047/18

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

Aros Centre, Viewfield Road, Portree, Isle of Skye, IV51 9EU

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Aros (Isle of Skye) Ltd.

1.0 Description of premises

1.1 The premises is located on the outskirts of Portree and is a visitor centre incorporating exhibition spaces, 180 seat theatre and cinema, restaurant and cafe bar with outdoor drinking/eating area, training facilities (for third party use) and retail area.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Saturday: 1100 hours to 2300 hours
Sunday: 1230 hours to 1430 hours and 1830 hours to 2300 hours

Off sales:

Monday to Sunday: 1100 hours to 2200 hours
Sunday: 1230 hours to 1430 hours and 1830 hours and 2200 hours

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Increase on sales hours Monday to Sunday to commence at 1000 hours and terminate at 2400 hours;

- (2) Increase off sales hours Monday to Sunday to commence at 1000 hours and terminate at 2200 hours;
- (3) To the list of activities and services during and outwith core hours add: clubs, indoor/outdoor sports, televised sport and outdoor drinking;
- (4) Delete existing explanation at Q5 and substitute that the premises may open prior to the commencement of licensed hours when all activities and services may be available;
- (5) Add at 5(f) – Other activities add – sales exhibitions, food and drink fayres, car rallies, book festivals, music festivals, food and drink tasting events, visual arts exhibitions, book launches, weddings and private parties, charity and fundraising events. From time to time a marquee or other temporary structure may be erected in the grounds for events and functions;
- (6) Delete existing policy for children and young persons and substitute a version which does not include extraneous detail but remains within the terms of Board policy;
- (7) Increase off-sales capacity from 0.92² to 12.92m²;
- (8) Add a seasonal variation to take advantage of any extended hours for the festive period as permitted by the Board;
- (9) Amend layout of the premises including the addition of an extension to the outdoor drinking area, extension to licensed area to include an area which might be used for music, dance, theatre or any social events, change to the internal exhibition area and extend the restaurant servery to allow self-service of food and drink.

4.0 Background

- 4.1 On 22 March 2018 the Licensing Board received an application for a major variation of a premises licence from Aros (Isle of Skye) Ltd.
- 4.2 The application was publicised during the period 27 March 2018 until 17 April 2018 and confirmation that the site notice was displayed has been received.
- 4.3 In accordance with standard procedure, Police Scotland, the Scottish Fire and 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 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 visitor centre incorporating exhibition spaces, a theatre, cinema, café bar, training facilities and retail areas. The licence was granted on 1 September 2009 with licensed hours for on sales of 1100 hours to 2300 hours daily Monday to Saturday and 1230 hours to 1400 hours and 1830 hours to 2300 hours on a Sunday. Off sales hours operate with similar commencement hours but terminate at 2200 hours daily.
- (ii) Following an extensive review of the business the applicant now seeks to vary the licence so as to permit a wider range of activities during and outwith core hours and offer a better customer experience through changes to the layout and method of delivery of services and activities.
- (iii) In particular the applicant seeks an increase in licensed hours for on sales to commence at 1000 hours and terminate at 2400 hours daily. On sales primarily take place within the café which is very much a food-led part of the business. Any on sales of alcohol prior to 1100 hours on any day will be made only when food is available.
- (iv) Arising from a change to the layout within the retail area the applicant seeks to increase the alcohol capacity for off sales from 0.92m² to 12.92m² to allow for the stocking of a larger range of products. The increase does not conflict with Board policy on over-provision.
- (v) It is noted that the main purpose of the extension to the external licensed area is to allow the sale of alcohol within a marquee or other temporary structure erected within the area for functions and other events as sought in this variation application. There are no residential properties nearby and it is not considered necessary to impose any local conditions restricting the use of the external area.
- (vi) The variations sought are within Board policy and are reasonable and appropriate for this type of premises. I am satisfied that the applicant has given due consideration to the licensing objectives.

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 will continue to apply and it is recommended that the following additional local conditions be attached:

- f(1) Premises opening for the sale of alcohol for consumption on the premises prior to 1100 hours shall have available a selection of hot and cold food and shall advertise this within the premises.

- 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

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

- (1) A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hours (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 hours.

- (2) A designated person who is the holder of a personal licence must be present on the premises from 0100 hours (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 hours or such other time as the Licensing Board may specify.

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 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/RSL/1319
Date: 30 April 2018
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