

## The Highland Licensing Board

Meeting – 15 May 2018

Agenda Item	8.6
Report No	HLB/048/18

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

**Bakur Bar, The Pier, Uig, Isle of Skye, IV51 9XX**

**Report by the Clerk to the Licensing Board**

### Summary

This report relates to an application for a major variation of premises licence by Steven R McKibbin.

### 1.0 Description of premises

1.1 The premises is a bar and restaurant located at the entrance to the ferry pier in Uig, Isle of Skye.

### 2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

#### On sales:

Monday to Wednesday: 1130 hours to 2300 hours  
Thursday: 1130 hours to 2400 hours  
Friday: 1130 hours to 0100 hours  
Saturday: 1100 hours to 0030 hours  
Sunday: 1230 hours to 2330 hours

#### Off sales:

Monday to Friday: 1130 hours to 2200 hours  
Saturday: 1100 hours to 2200 hours  
Sunday: 1230 hours to 2200 hours

### 3 Summary of variation application

#### 3.1 Variation sought

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

- (1) Increase licensed hours Monday to Sunday to commence at 0800 hours and to terminate at 0100 hours the following day on each day;

- (2) Amend listed off sales hours to commence at 1000 hours daily;
- (3) Remove seasonal variation to permit year round trading;
- (4) To list of permitted activities during and outwith core hours add indoor and outdoor sports and, outwith core hours, add music and televised sport;
- (5) Delete existing explanation at Q5 and substitute “The premises may open prior to the commencement of licensed hours when all activities and services may be available and may remain open at end of licensed hours subject to demand linked to ferry operations”;
- (6) Amend children and young persons terms of entry so as to allow unaccompanied children to be in a part of the premises at certain times;
- (7) Amend premises description to – “Single storey detached bar and restaurant located adjacent to Uig Ferry Terminal”;
- (8) Amend layout plan to identify the area in which unaccompanied children may be permitted;
- (9) Delete condition (b) and add a condition permitting unaccompanied children aged 12-15 years within the designated area shown on the layout plan.

#### **4.0 Background**

- 4.1 On 27 March 2018 the Licensing Board received an application for a major variation of a premises licence from Steven R McKibbin.
- 4.2 The application was publicised during the period 4 April 2018 until 25 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](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 bar and restaurant with licensed hours 1130 hours to 2300 hours Monday to Wednesday, 1130 hours to 2400 hours on a Thursday, 1130 hours to 0100 hours the following day on a Friday, 1100 hours to 0030 hours the following day on a Saturday and 1230 hours to 2330 hours on a Sunday. The licence includes a seasonal variation identifying periods during which restricted licensed hours will apply.

- (ii) The layout of the premises is open plan but the bar and restaurant are obviously separate areas and meals are only consumed in the restaurant area.
- (iii) The premises are located at the entrance to the ferry pier in Uig and provide a service for ferry users and the tourist trade as well as for local people. The ferry operates with seasonal timetables and arrivals and departures are sometimes subject to delays and cancellations for weather and operational reasons.
- (iv) The applicant has reviewed the opening hours of the restaurant and now trades from 0800 hours daily to accommodate an increase in tourist and ferry traffic and applies to be able to sell alcohol from 0800 hours daily and to remove the seasonal variation so as to permit full year round trading.
- (v) The applicant is aware of the Board's policy on core licensed hours which, for food-led premises, may permit the sale of alcohol for on sales from 0900 hours daily. As the business supports ferry users by providing facilities and services from 0800 hours the applicant would ideally like to be able to offer alcohol during all opening hours but subject to a condition that alcohol for consumption on the premises prior to 1100 hours will only be sold as an accompaniment to a meal on the premises.
- (vi) He is also aware that the Board's policy for food-led premises provides that on any one day the terminal hour is such that the continuous period during which alcohol may be sold does not exceed 14 hours. While the licensed hours sought would be for a total daily trading period of 17 hours the applicant considers it unlikely that demand would result in the full complement of hours being used on a regular basis.
- (vii) The current seasonal timetables for the ferries list various departure times from Uig commencing at 0530 hours until 2240 hours and arrivals between 0900 hours and 2250 hours on particular days and dates.
- (viii) The existing terms of entry for children and young persons require that such persons are accompanied by a suitable appropriate adult while on any part of the premises containing a bar counter.
- (ix) The licence holder has identified a demand for unaccompanied children aged 12-15 years and unaccompanied young persons to be permitted on the premises within the restaurant area only for the purposes of having a meal on the premises. I am satisfied that he has given due consideration to the licensing objectives and, in particular, that of protecting children and young persons from harm;

- (x) The other variations sought are reasonable and appropriate for this type of business and I have no cause to object to the grant of the application.

## **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**

Local condition (a) will continue to apply; delete local condition (b) and amend local condition (c) as follows:-

(c) Notwithstanding conditions (a) and Special Condition 1, children must not sit or remain at the bar counter at any time.

### **8.3 Special conditions**

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

1. 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 aged 12 to 15 years who are within the restaurant area for the purpose of having a meal on the premises and seated within the designated children and young persons dining area as shown on the layout plan.

**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/0793  
Date: 30 April 2018  
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