

The Highland Licensing Board

Meeting – 15 May 2018

Agenda Item	8.9
Report No	HLB/051/18

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

Sutor Creek, 21 Bank Street, Cromarty

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Graham Fox and Phoebe Fox.

1.0 Description of premises

1.1 Sutor Creek is a restaurant situated in a single storey building near Cromarty Harbour, also providing provision for takeaway meals and off-sales. There is no bar counter on the premises. An area has been designated at the front of the building for outdoor drinking.

2.0 Summary of variation application

2.1 Variation sought

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

1. Remove specific condition restricting the sale of alcohol only to persons taking a meal on the premises.
2. Increase licensed hours on a Sunday to commence at 1100 hrs.
3. Add off-sales hours from 1100 to 2200 hrs daily
4. To the list of activities and services during core hours add outdoor drinking facilities and remove live performances and dance
5. From the list of activities and services outwith core hours remove restaurant facilities, receptions and clubs and amend details section at Q5.
6. Add at Q5(f) other activities "Takeaway meals sold and to be taken from the premises by 2200 hrs on any day; Charity and fundraising events.
7. Amend wording of children and young persons policy and change latest time of entry from 2100 hrs to 2200 hrs.
8. Change premises layout and location plan to include an outdoor drinking area.
9. Delete existing premises description and substitute new description as a consequence of changes to the operating plan.

3.0 Background

- 3.1 On 27 March 2018 the Licensing Board received an application for a major variation of a premises licence from Graham Fox and Phoebe Fox.
- 3.2 The application was publicised during the period 6 to 27 April 2018 and confirmation that the site notice was displayed has been received.
- 3.3 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.
- 3.4 Notification of the application was also sent to NHS Highland and the local Community Council.
- 3.5 Further to this publication and consultation process, no timeous objections or representations have been received.
- 3.6 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

4.0 Legislation

- 4.1 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.
- 4.2 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.
- 4.3 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.

4.4 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.

4.5 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.

5.0 Licensing Standards Officer

5.1 The LSO has provided the following comments:-

Following a review of the operation of the business the applicant requires to make amendments to the operating plan.

Although the premises operate primarily as a restaurant the applicant wishes to allow alcohol to be sold other than as an accompaniment to a meal and to sell alcohol by off-sales.

The layout of the premises is to be amended to include a small area at the front of the premises for use as an outdoor drinking area but primarily for use for outdoor dining. Although there are neighbouring residential properties it is not considered necessary to include any condition restricting the use of that area.

The applicant now confirms that the premises will no longer trade prior to the commencement of licensed hours and the operating plan is amended to remove any information about activities and services which are no longer relevant. It is noted that the applicant had, on the application form, stated that the premises **would** be open prior to the commencement of licensed hours but neglected to remove the reference when finalising the application. She requests that the Board allows the amendment to application to delete the response at Q5 - explanatory further details.

The variations sought do not conflict with Board policy and I am satisfied that the applicant has given full consideration to the licensing objectives. I have no cause to object to the grant of the variation application.

6.0 HLB local policies

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-18
- (2) Highland Licensing Board Equality Strategy

7.0 Conditions

7.1 Mandatory conditions

If the application is approved the mandatory conditions set out in Schedule 3 of the Act will apply.

7.2 Local conditions

There are no existing local conditions and it is not considered necessary to attach any.

7.3 Special conditions

Remove the existing specific condition restricting the sale of alcohol to persons take a meal on the premises.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, agree to the amendment to the application to delete the response at Q5 and to agree to remove the specific condition as detailed in para 7.3 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/CSR/1172

Date: 1 May 2018

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