

**The Highland Licensing Board**

**Meeting – 2 October 2018**

Agenda Item	<b>10.8</b>
Report No	<b>HLB/104/18</b>

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

**Ben Nevis Woollen Mill, Belford Road, Fort William, PH33 6BZ**

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

**Summary**

This report relates to an application for a major variation of premises licence by The Edinburgh Woollen Mill Limited.

**1.0 Description of premises**

1.1 The Ben Nevis Woollen Mill operates as a stand-alone tourist visitor centre comprising of a scottish retail store, licensed restaurant and whisky shop area.

**2.0 Current operating hours**

2.1 The premises currently enjoys the following operating hours:

**On sales:**

Monday to Saturday: 1000 hours to 1900 hours  
Sunday: 1200 hours to 1900 hours

**Off sales:**

Monday to Sunday: 1000 hours to 1900 hours

**3.0 Summary of variation application**

**3.1 Variation sought**

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

- (1) Request removal of the local condition which stipulates that the sale of alcohol can only be made to persons taking table meals on the premises.
- (2) Increase on-sale opening time on Sunday to 1000 hrs (previously 1200 hrs).
- (3) Increase on-sale terminal hour Monday to Sunday to 2200 hrs (previously 1900 hrs).

- (4) Increase off-sale terminal hour Monday to Sunday to 2200 hours (previously 1900 hrs).
- (5) Replace existing seasonal variation with a statement to permit the premises to take advantage of any extension the Board may grant in relation to extended hours.
- (6) Include additional activities within Operating Plan namely Receptions; Club or other Group Meetings, Music and Live Performances to take place both within and outwith core hours.
- (7) In relation to column 4 entries in the Operating Plan, remove current statement and update to allow all relevant activities to take place prior to core opening hours.
- (8) At 5(f), include a statement detailing all activities which may take place within the premises.

#### **4.0 Background**

- 4.1 On 7 August 2018 the Licensing Board received an application for a major variation of a premises licence from The Edinburgh Woollen Mill Limited.
- 4.2 The application was publicised during the period 27 August 2018 until 17 September 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, the following timeous notice of objection has been received and is appended:
  - Objection dated 3 September 2018 received from Lyn and Colin MacTavish.
- 4.6 The applicant and the objectors 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](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:-

- The Ben Nevis Woollen Mill is a large detached retail outlet on Belford Road, Fort William. The premises comprise a large shop selling clothing and other Scottish products including a high quality range of alcohol for off sales. There is a large restaurant with seating which also supplies alcohol for on consumption by customers.
- The premises are situated at the end of the West Highland Way and are popular with walkers completing this well documented hike. Similarly the premises host coach tours throughout the year.
- Application has been made via Agents, TLT solicitors to modernise the current premises licence to allow greater trading opportunities.
- The application seeks to remove the condition currently on the licence that alcohol may only be sold for on consumption to persons taking table meals on the premises. This seems reasonable as many walkers finishing the West Highland Way ask to be supplied with a drink only. It is

the first licence premises encountered after finishing the hike. The LSO is content that relaxing this condition will not threaten the licensing objectives.

- Alteration is requested to the trading hours allowing on sales to be made from 1000 hrs on Sunday's, the premises are food led with full menu operating in the restaurant and therefore comply with the current HLB policy in respect of early opening premises.
- The terminal hour for the premises is required to be moved until 2200hrs, which will allow coverage of expanded summer trading hours and likewise for the festive season. Off sales are co-terminously altered to conclude at 2200 hrs. Such changes of hours are within the current policy hours of Highland Licensing Board and the 2005 Act.
- The range of activities listed at Section 5 of the operating plan has been expanded to cover all potential aspects of activities taking place on the premises and the time in which they may be offered.
- Similarly a generic allowance to take up any extended licensing hours offered by the Highland Board is included at Section 3 of the operating plan.
- Following the neighbour notification process associated with this application a timeous objection has been received from Lyn and Colin Mactavish, Springwell, Nevis Bridge, Fort William. In summation the objection concerns noise disturbance occasioned by ordinary vehicular use of the premises car park and the occasional use of a piper to entertain customers. It is the view of the LSO that most if not all these activities are in the normal course of business for the premises and do not contravene the licensing objectives. The variation applied for is in keeping with the licensing objectives. The Board as a concession to the complainers may wish to consider any live performance at the exterior to the premises being limited to 2000hrs.
- Having reviewed all the proposed changes within the application the LSO is of the opinion that they are compliant with the licensing objectives and fit with current HLB Policy.

## **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

- (a) It is recommended that the existing local condition requiring alcohol to be sold solely to people taking table meals on the premises be removed.
- (b) It is recommended that the following local condition be attached:
  - (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

Any live performance conducted outside the Premises for the entertainment of customers is required to cease by 20.00hrs.

### **Recommendation**

The Board is invited to determine the above application and if minded to grant the application, to agree to remove the existing local condition referred to at para 8.2(a) and attach a new conditions as detailed at para. 8.2(b) 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/0720  
Date: 19 September 2018  
Author: IC/JT  
Appendix:

- (i) Objection dated 3 September 2018 received from Lyn and Colin MacTavish.

**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](mailto:licensing@highland.gov.uk). Remember, if an objection is rejected by the Board as invalid or vexatious, the Board may seek to recover expenses from the objector or person making representations

RECEIVED

1. Full Name and Address of person making objection/representation 3 SEP 2018

LYN + COLIN MACTAVISH SPRINGWELL NEVIS BRIDGE	CHIEF EXECUTIVE'S SERVICE LOCHABER FORT WILLIAM PH33 6PF
Telephone Number:	[REDACTED]
Email Address:	[REDACTED]

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

BEN NEVIS WOOLLEN MILL BELFORD ROAD  
 FORT WILLIAM

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)											
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 20px;">1.</td><td>Excluded Premises</td></tr> <tr><td>2.</td><td>Off-Sales Hours/24 hour drinking</td></tr> <tr><td>3.</td><td>Licensing Objectives</td></tr> <tr><td>4.</td><td>Activities/Premises/Customers</td></tr> <tr><td>5.</td><td>Over Provision</td></tr> </table>	1.	Excluded Premises	2.	Off-Sales Hours/24 hour drinking	3.	Licensing Objectives	4.	Activities/Premises/Customers	5.	Over Provision	3. PREVENTING PUBLIC NUISANCE SEE SEPERATE SHEET
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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)							
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Signature: [REDACTED] Date: 3<sup>rd</sup> SEPTEMBER 2018

**We live in a residential property adjacent to the Woollen Mill which is a noisy neighbour at the best of times with car alarms frequently going off, dogs being left barking in cars, buses continually reversing with their audible warning alarms sounding.**

**We have had previous problems with live music performances with a piper, fiddler and accordianist continually playing on weekends and holiday periods. We have complained about this already to Tim Lush The Highland Councils Enviromental Health Officer in 2017 as it was so disruptive to our everyday lives. We couldn't enjoy our garden or even open our windows due to the continual noise.**

**We are worried about this happening again if there is to be extended opening hours, music and or live performances.**