

## The Highland Licensing Board

Meeting – 4 December 2018

Agenda Item	8.4
Report No	HLB/129/18

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

Newton Lodge, Kylesku, Lairg, IV27 4HW

#### Report by the Clerk to the Licensing Board

##### Summary

This report relates to an application for a major variation of premises licence by Edward Newton, Newton Lodge, Kylesku.

#### 1.0 Description of premises

1.1 Newton Lodge is a private guest house and detached lodge situated in one acre of grounds surrounded by croft land and located off the A894, close to the crofting township of Newton. Owner occupied and run as a small private guest house providing accommodation (BandB) and evening meals for residents.

#### 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

#### 3.0 Summary of variation application

##### 3.1 Variation sought

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

(1) Remove special condition attached to licence "Any alcohol sold on the premises is to be consumed only on the premises by guests being accommodated there".

(2) Increase on sales licensed hours daily Monday to Sunday from 1100 hrs to 0100 hrs the following day.

(3) Add off sales licensed hours Monday to Sunday from 1000 hrs to 2200 hrs daily.

(4) Removal of seasonal variation to permit year round trading.

(5) Add to activities to be provided during and outwith core hours add receptions, club meetings, music, live performances, dance facilities, films, indoor/outdoor sports, televised sport and outdoor drinking facilities. The premises may trade prior to the commencement of licensed hours.

(6) Add to other activities charity and fundraising events, food/alcohol tastings/fairs, erection of non-permanent structures tents/marquees in outside drinking area.

(7) Increase capacity to 80 persons.

(8) Delete existing Children and Young Persons terms of entry and substitute new version in accordance with Board policy.

(9) Alterations internally to create bar and dining area.

(10) Amend description of the premises to reflect the updated operating plan for the premises.

#### **4.0 Background**

4.1 On 24 October 2018 the Licensing Board received an application for a major variation of a premises licence from Edward Newton.

4.2 The application was publicised during the period 26 October 2018 until 16 November 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 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.

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:-
- 6.2 The premises licence was transferred to a new operator on 14<sup>th</sup> March 2018 and the new owner wishes to expand the business and offer various activities and services to non- residents.
- 6.3 In addition to the removal of the special condition restricting the sale of alcohol to residents only, the licence holder now wishes to extend the operating hours for on-sales to terminate at 0100 hrs daily and, on a Sunday, to commence at 1100 hrs and to remove the seasonal variation to permit year round trading.

- 6.4 The applicant also wishes to add off-sales between 1000 and 2200 hrs daily with the stock be available, on request, from a store and not on display and to take advantage of any period of extended hours agreed by the Board for the festive period.
- 6.5 The applicant also wishes to include the grounds as an outdoor drinking area and, from time to time, may erect a marquee or other temporary structure for functions and small events. There are no near neighbours and it is not considered necessary to impose any restrictions on the times of use of grounds as an outdoor drinking area.
- 6.6 It is noted that the applicant has proposed a capacity of up to 80 persons. Following discussions between the applicant and building standards officers the applicant wishes to amend the application to restrict the capacity to 60 persons and she requests that the Board allows the amendment.
- 6.7 The applicant intends to carry out some internal works to create a bar / dining area within the existing footprint of the premises in support of the anticipated non-resident trade. I understand that the applicant and building standards officers are currently in discussion over building warrant requirements, however those discussions will not affect determination of this application.
- 6.8 As a consequence of the proposed changes, the description of the premises has been updated to better reflect the new business model. The amendments to the list of activities and services to be provided in operating plan are reasonable and appropriate for this type of business and will allow the licence holder to make a fuller use of the facilities available on the premises.
- 6.9 I am satisfied that no elements of the application are in conflict with Board policy and that the applicant has given due regard to the licensing objectives. I have no cause to object to the grant of this variation application subject to the undernoted conditions.

## **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
- (3) Highland Licensing Board Policy Hours

## **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

Remove special condition 1 and add the following local conditions:

(a) Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hours except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This condition does not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress.

(b) 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 of the licence holder or children who are resident on the premises.

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

(k) 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 condition(s):

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

2. A designated person who is the holder of a personal licence must be present on the premises from 0100 hrs (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 hrs

## **Recommendation**

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/special condition(s) detailed at paragraphs 8.2 and 8.3 above and to agree to the applicant's request to reduce the capacity from 80 to 60 persons.

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/0247

Date: 20 November 2018

Author: L Gunn

Background Papers: The Licensing (Scotland) Act 2005/Application Form.