

The Highland Licensing Board

Meeting – 4 December 2018

Agenda Item	8.5
Report No	HLB/130/18

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

Capilla, The Old Chapel, Scrabster, Thurso

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Richard Knight.

1.0 Description of premises

1.1 Capilla is a tapas bar with a small bar area and outside drinking area adjacent to Scrabster Harbour. The premises was granted a premises licence on 6 November 2012 for the former Cups Tearoom which was bought over by the applicant earlier this year.

2.0 Current operating hours

2.1 The premises currently has the following operating hours:

On sales:

Monday to Saturday: 1100 hrs to 2300 hrs
Sunday: 1200 hrs to 2300 hrs

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 on Monday to Sunday to terminate at 0100 hrs the following day and, on a Sunday to commence at 1100 hrs
2. Add off-sales 1100 to 2200 hrs daily.
3. Add a seasonal variation to take advantage of any extended hours for the festive period as permitted by the Board.
4. Amend wording of explanation at Q5 for activities and services provided outwith core hours.
5. At 5(f) – Other activities – add wine tastings.

6. Delete existing policy for children and young persons and substitute a version which, at management discretion, will allow unaccompanied children aged 12-15 years to be on the premises until 1900 hrs for the purpose of having a snack or meal but must not sit at or remain at the bar counter.
7. Delete description of premises and substitute "Single storey detached Tapas Bar with outside drinking area. The premises will operate in one room which includes a small bar counter/waiting area. Sales of alcohol will not be restricted to persons taking a meal on the premises.
8. Delete local condition (e) outdoor drinking area curfew (2100 hrs)

4.0 Background

- 4.1 On 1 October 2018 the Licensing Board received an application for a major variation of a premises licence from Richard Knight.
- 4.2 The application was publicised during the period 15 October to 5 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

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.
- 5.2 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.

5.3 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.

5.4 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.

5.5 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.

6.0 Licensing Standards Officer

6.1 The premises currently operate as a tea room/café. The licence was granted on 6 November 2012 with licensed hours for on-sales only of 1100 to 2300 hrs daily Monday to Saturday and 1200 to 2300 hrs on a Sunday.

6.2 The licence has now been transferred to a new operator who wishes to change the business model to that of a tapas bar but retaining the comprehensive current list of activities and services to be provided on the premises.

6.3 The new operator wishes to extend the operating hours for on-sales to terminate at 0100 hrs daily and, on a Sunday, to commence at 1100 hrs. He also wishes to offer off-sales 1100 to 2200 hrs daily and to take advantage of any period of extended hours agreed by the Board for the festive period.

6.4 The premises are compact and comprise of one room with a small service counter which may also be used as a bar counter with seating for up to 3 persons waiting for a table.

- 6.5 Notwithstanding having a bar counter on the premises the business is very much food-led and the applicant would like to permit unaccompanied children aged 12-15 to be on the premises for the purposes of having a snack or meal until 1900 hrs. Otherwise all children must be accompanied by an adult.
- 6.6 The applicant is well aware of his duties and responsibilities in respect of protecting children and young persons from harm. There is limited standing space in the vicinity of the counter and the applicant intends that all unaccompanied children aged 12 to 15 years must be seated and will be served by table service only.
- 6.7 Having regard to the new business model and the layout of the premises I am content that applicant's proposal to allow unaccompanied children aged 12-15 to be on the premises is reasonable subject to the undernoted local condition.
- 6.8 The premises have a small outdoor drinking area at the front of the premises which is subject to local condition (e) - After 2100 hours alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area.
- 6.9 The applicant requests that the condition be removed or that a later time be specified as there is a demand from customers to consume meals along with alcohol after that time during, mainly, the summer months. A neighbouring residential property is owned by Scrabster Harbour Trust but rented out. On the date of this report no objections have been received from either of the two tenants.
- 6.10 The property and outdoor drinking area overlook Scrabster Harbour which operates 24 hours a day. The outdoor drinking area is very small and, in the absence of any objections, I am satisfied that removal of the condition would not be inappropriate for this type of business.
- 6.11 I am satisfied that the applicant has given due regard to the licensing objectives and 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

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

It is recommended that local condition (e) relating to outdoor drinking be deleted, and the following local conditions be attached:

- a. Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hrs 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.
- 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:

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 between 1100 hrs and 1900 hrs on any day while on the premises for the purpose of having a snack or meal on the premises.
2. Notwithstanding local condition (a) and special condition 1 children must not sit at or remain at the bar counter at any time.
3. 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
4. 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 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.

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/1639

Date: 11 November 2018

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