

## The Highland Licensing Board

Meeting – 4 December 2018

Agenda Item	8.6
Report No	HLB/131/18

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

Kinlochewe Hotel, Kinlochewe

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

##### Summary

This report relates to an application for a major variation of premises licence by Firm of Kinlochewe Hotel.

#### 1.0 Description of premises

1.1 The premises is a 9 bedroom rural hotel set in its own grounds. It was granted a premises licence, on transition, on 1 September 2009.

#### 2.0 Current operating hours

2.1 The premises currently has the following operating hours:

##### On sales:

Monday to Saturday: 1100 hrs to 2400 hrs  
Sunday: 1230 hrs to 2400 hrs

##### Off sales:

Monday to Saturday: 1100 hrs to 2200 hrs  
Sunday: 1230 hrs to 2200 hrs

#### 3.0 Summary of variation application

##### 3.1 Variation sought

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

- (1) increase the on-sales hours on Monday to Sunday to terminate at 0100 hrs the following day, and on a Sunday for on and off-sales to commence at 1100 hrs;
- (2) remove existing seasonal variation and substitute with festive extended hours;

- (3) add to list of activities/services provided during and outwith core hours - receptions, club meetings, music, live performances, dance facilities, films, televised sport and outdoor drinking;
- (4) replace existing explanation for activities provided outwith core hours;
- (5) add list of other activities provided;
- (6) delete existing terms of entry for children and young persons and substitute that children must be accompanied by an adult in any part of the premises containing a bar counter and, at the discretion of the management unaccompanied young persons may be permitted at all times;
- (7) increase the licensed area on the layout plan to include outdoor drinking areas to front and rear of premises;
- (8) delete existing description of the premises and substitute with – “Detached rural hotel set in its own grounds. The premises consist of 9 bedrooms, a bar with dining facilities, residents lounge and the customary facilities. Areas to the front and rear of the premises have been identified as outdoor drinking facilities.”

#### **4.0 Background**

- 4.1 On 18 October 2018 the Licensing Board received an application for a major variation of a premises licence from Firm of Kinlochewe Hotel.
- 4.2 The application was publicised during the period 26 October to 16 November 2018 and confirmation that the site notice was displayed is awaited.
- 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.

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 operate as hotel with public bar. The licence was granted on 1 September 2009 with licensed hours for on-sales of 1100 to 2400 hrs daily Monday to Saturday and 1230 to 2300 hrs on a Sunday. Off sales hours are 1100 to 2200 hrs daily Monday to Saturday and 1230 to 2200 hrs on a Sunday. The licence was transferred to the current holder on 12 April 2017.

6.2 The new licence holder now wishes to extend the operating hours for on-sales to terminate at 0100 hrs daily and, on a Sunday, for on and off-sales to commence at 1100 hrs, and to take advantage of any period of extended hours agreed by the Board for the festive period.

6.3 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.

- 6.4 The applicant has identified areas to the front and rear of the premises as being suitable for use as outdoor drinking areas and the area to the rear of the premises is of sufficient size to accommodate a small marquee or other temporary structure which may be erected to cater for small functions and events. It is not considered necessary to impose any condition restricting the hours of use of the outdoor drinking area.
- 6.5 The proposed change to the terms of entry for children and young persons remains within Board policy and the applicant is aware of his obligations in respect of protecting children and young persons from harm.
- 6.6 The amendments to the 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.
- 6.7 The description of the premises has been amended as a consequence of the addition of the outdoor drinking areas
- 6.8 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**

Existing local conditions will continue to apply and it is recommended that the following additional local condition be attached:

- 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 conditions:

- (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; and
  
- (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 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 para 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/CSR/0608  
Date: 20 November 2018  
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