

The Highland Licensing Board

Meeting – 19 February 2019

Agenda Item	8.5
Report No	HLB/020/18

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

Cote Du Nord, c/o The Schoolhouse, Bettyhill, KW14 7TB

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Christopher Duckham.

1.0 Description of premises

1.1 Restaurant operated three evenings a week from the dining room at The Schoolhouse, Kirtomy.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Wednesday, Friday and Saturday: 1900 hours to 2230 hours

3.0 Summary of variation application

3.1 Variation sought

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

1. Increase on sales operating hours on Wednesday to Sunday to commence at 1100 hrs and terminate at 2300 hrs.
2. Amend children and young persons terms of entry to reflect the increase in trading hours and days.
3. Amend description of premises.

4.0 Background

- 4.1 On 24 December 2018 the Licensing Board received an application for a major variation of a premises licence from Christopher Duckham.
- 4.2 The application was publicised during the period 7 January 2019 until 28 January 2019 and confirmation that the site notice was displayed has been received.
- 4.3 In accordance with standard procedure, Police Scotland, the Scottish Fire & 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.

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.

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 currently operate within a private house as an 8 cover, fine dining restaurant with on-sales licensed hours of 1900 hrs to 2230 hrs on Wednesdays, Fridays and Saturdays only. The premises do not trade during a period over the winter and there is a seasonal variation to that effect.

6.3 The applicant now wishes to extend the trading hours and days to offer lunches and to open 5 days a week remaining closed on Mondays and Tuesdays and the specified winter period.

6.4 The current terms of entry for children and young person makes reference to the specific trading days and the amended terms of entry reflects the changes to the trading period.

6.5 I have noted that the current recorded capacity is 8 persons however the operating plan section of the variation application shows an increase in capacity to 10 persons which has not been highlighted at section 3 (b) of the application.

6.6 I have confirmed with the applicant that section 3(b) should have included a reference to the increase in capacity which will apply only for lunches and he requests that the Board allow the application to be amended to show that increase in capacity. I am content that the slight increase in capacity does not fundamentally affect the application.

6.7 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.

7.0 HLB local policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2018-23
- (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

None to apply.

8.3 Special conditions

Existing special condition only.

Recommendation

The Board is invited to determine the above application.

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/1700

Date: 4 February 2019

Author: L Gunn

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