

The Highland Licensing Board

Meeting – 2 April 2019

Agenda Item	8.3
Report No	HLB/033/19

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

Uig Filling Station and The Hungry Gull Café, Uig Pier, Uig, Isle of Skye, IV51 9XX

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Paul Ross Nicolson.

1.0 Description of premises

1.1 The premises is a detached concrete block building located near the ferry terminal in Uig. As well as fuel, the shop also supplies general groceries, hardware, gifts and newspapers. The premises are owned by the local community and managed by the licence holder.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

Off sales:

Monday to Sunday: 1000 hours to 2200 hours

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Change name of premises to Uig Filling Station and Hungry Gull Café;
- (2) Amend premises description;
- (3) Add on sales hours 1100 hours to 2200 hours daily;

- (4) To the list of activities and services to be provided during and outwith core hours add – restaurant facilities, receptions, live music, live performances and dance. The premises may trade prior to the commencement of licensed hours;
- (5) At Q5(f) other activities add charity and fundraising events and food and drink fayres;
- (6) Add terms of entry for children and young persons;
- (7) Add on sales capacity of 50 persons;
- (8) Amend layout to show location of a door to separate café from shop.

4.0 Background

- 4.1 On 4 February 2019 the Licensing Board received an application for a major variation of a premises licence from Paul R Nicolson.
- 4.2 The application was publicised during the period 12 February 2019 until 5 March 2019 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.

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:-

- (i) The premises operate as filling station and shop with off sales capacity. The applicant intends to lease a part of the premises to a third party to operate as a café. The café has a separate entrance but will also be accessible from the filling station when that part of the business is operating;
- (ii) The applicant will remain responsible for alcohol licensing matters as premises licence holder and premises manager, however, the new tenant will also be the holder of a personal licence with line management responsibility for staff training of café staff and for authorising the sale or service of alcohol within the café;
- (iii) The proposed changes to the operating plan include activities and services which may be made available subject to demand but are unlikely to take place regularly;

- (iv) There is no bar counter on the premises and the sale of alcohol is unlikely to be a significant element of the business although the sale of alcohol will not be restricted only to persons taking a meal on the premises;
- (v) The applicant has considered the licensing objective of protecting children and young persons from harm and, at the discretion of management, is content for unaccompanied children and young persons to be within the cafe until 2100 hours following which children must be accompanied by an appropriate responsible adult;
- (vi) The description of the premises has been amended to take account of the new activities and services to be provided on the premises;
- (vii) There is currently unrestricted access between the café and the filling station. A new door is to be installed to restrict access to and from the filling station when those premises are not trading and the layout plan has been amended to show that change;
- (viii) The applicant has voluntarily provided an acceptable noise management plan for the premises. It is not considered necessary at this time to impose a condition requiring compliance with the plan;
- (ix) The application is for hours within policy. I am content that the applicant has given due regard to the licensing objectives and I have no cause to object to the grant of the 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

There are no existing local conditions and it is not considered necessary to attach any.

8.3 Special conditions

No special conditions are considered necessary.

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/RSL/1276
Date: 13 March 2019
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