

The Highland Licensing Board

Meeting – 14 May 2019

Agenda Item	9.3
Report No	HLB/051/19

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

The Overscaig House Hotel, Loch Shin, Lairg, IV27 4NY

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Black Cormorant Ltd, The Overscaig House Hotel, Loch Shin, IV27 4NY.

1.0 Description of premises

- 1.1 The Overscaig House Hotel is a small seasonal tourist hotel (Visit Scotland 3 Star) with 8 letting bedrooms. The hotel is the owners' permanent residence. It is located 17 miles north-west of Lairg on the A838 single track road to Kinlochbervie/Durness and sits on the south side of the road overlooking Loch Shin. The area has 5 houses spread over 2 miles, only one of which is permanently occupied. The remote location means there is no local trade, limited passing trade and has a limited attraction for families with children. During its main season of April - October the hotel offers bar, restaurant and lounge facilities for its residents. The hotel has fishing boats available on the local lochs. The bar and restaurant are open to the public - food and drinks may be taken outside. Traditionally the hotel is open for the main season only, however increasing levels of tourism offer opportunities to open the hotel during winter holidays periods e.g. Christmas and New Year. The hotel promotes its food locally but does not offer music or other events in its bar.

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 2300 hours

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. Remove seasonal variation so as to permit year round trade.
2. Increase licensed hours for on and off sales on a Sunday to commence at 1100 hrs.
3. Delete existing wording for activities provided outwith core hours and substitute "The premises may trade prior to commencement of licensed hours when all listed activities and services may be available for residents and other customers.
4. Delete terms of entry for children and young persons and substitute TERMS – All children must be in the company of an appropriate, responsible adult. At the discretion of the management unaccompanied young persons may be permitted on the premises failing which they too must be accompanied by an appropriate, responsible adult. AGES – All ages subject to terms of entry. TIMES – At all times but children are excluded from any part of the premises containing a bar counter after 2200 hrs unless consuming a meal or attending a function. PARTS – All parts of the premises subject to terms and times of entry.
5. To list of activities outwith core hours add outdoor drinking.
6. Delete existing description of the premises and substitute; "2 storey detached traditional hotel with 8 letting bedrooms, bar/restaurant and associated facilities. The sale of alcohol is not restricted only to residents.

4.0 Background

- 4.1 On 11 March 2019 the Licensing Board received an application for a major variation of a premises licence from Black Cormorant Ltd.
- 4.2 The application was publicised during the period 20 March 2019 until 10 April 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.

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 as a hotel with on-sales hours Monday to Saturday of 1100 to 2300 hrs and, on a Sunday, 1230 to 2300 hrs. Off-sales hours on a Sunday commence at 1230 hrs and, on other days, they commence at 1100 hrs daily. The premises do not trade all year round.

- 6.3 The applicant has recently taken ownership of the premises and has reviewed the business model. They now wish to increase on and off-sales hours on a Sunday to commence at 1100 hrs and to remove the seasonal variation to permit year round trade.
- 6.4 The opportunity is also being taken to update the operating plan for the premises and to clarify the terms of entry for children and young persons.
- 6.5 The current description of the premises contained unnecessary detail and a new description has been provided.
- 6.6 The proposed changes do not conflict with Board policy. I am satisfied that the applicant has given due consideration to the licensing objectives and I 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

Existing local conditions.

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/CSR/0196

Date: 15 April 2019

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