

**The Highland Licensing Board**

**Meeting – 14 May 2019**

Agenda Item	<b>9.6</b>
Report No	<b>HLB/054/19</b>

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

**St Fergus Bowling Club, Northcote Street, Wick**

**Report by the Clerk to the Licensing Board**

**Summary**

This report relates to an application for a major variation of premises licence by St Fergus Bowling Club in respect of St Fergus Bowling Club, Northcote Street, Wick.

**1.0 Description of premises**

1.1 St Fergus Bowling Club is an established members club comprising of a pavilion and bowling green set in its own grounds within Wick. The premises was granted a premises licence, on transition, on 1 September 2009.

**2.0 Current operating hours**

2.1 The premises currently enjoys the following operating hours:

**On sales:**

Monday to Thursday: 1100 hrs to 2300 hrs  
Friday and Saturday: 1100 hrs to 0100 hrs  
Sunday: 1230 hrs to 2400 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 on Sunday to Thursday to terminate at 0100 hrs the following day and, on a Sunday to commence at 1100 hrs.
2. Delete reference to a premises manager.
3. Delete existing description of premises and substitute amended version with extraneous detail removed.
4. Add a seasonal variation to take advantage of any period of extended hours agreed by the Board for the festive period.

5. To list of permitted activities out with core hours add conference facilities, receptions, clubs, live performances, dance and televised sport with the explanation that activities and services may be available for members, their guests and other users prior to the commencement of licensed hours.
6. To the list of activities during and out with core hours add music.
7. At Q5(f) – other activities: add charity and fundraising events and open bowling competitions and that from time to time a marquee or other temporary structure may be erected in the grounds in support of functions and events.
8. Delete existing terms of entry for children and young persons and substitute a new version which will permit unaccompanied children aged 9-15 years to be on the premises until 2100 hrs.
9. Increase capacity to 120 persons.
10. Delete local condition (e) to remove the restriction on the use of the outdoor drinking area.

#### **4.0 Background**

- 4.1 On 22 March 2019 the Licensing Board received an application for a major variation of a premises licence from St Fergus Bowling Club.
- 4.2 The application was publicised during the period 26 March to 16 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, the following timeous notices of objection have been received and are appended:
  - Kevin Crowe
  - Colin Scott
- 4.6 The applicant and the objectors have been invited to attend the hearing. Both have been advised of the hearings procedure which will be followed at the meeting and 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 LSO has provided the following comments:-

- a) The premises are a members club with on-sales hours Monday to Thursday 1100 to 2300 hrs, 1100 to 0100 hrs the following day on a Friday and Saturday and 1230 hrs to 2400 hrs on a Sunday.
- b) To permit increased use of the premises by members and to make facilities and some services available to non-members, the club applies to vary their licence.
- c) In particular they wish to extend on-sales hours to 1100 to 0100 hrs the following day on each day of the week and to confirm that various activities and services may be available to members, their guests and to other users of the premises prior to the commencement of licensed hours.

- d) The club also applies to have the condition preventing the consumption of alcohol within the outdoor area after 2100 hrs removed. The premises are located in a residential area and bowling has taken place after 2100 hrs without any nuisance being reported. I am satisfied that removal of the condition will not cause any nuisance to neighbours.
- e) To encourage increased use of the club by children it is proposed that children aged 9 to 15 years need not be accompanied by an adult when on the premises until 2100 hrs. I am satisfied that the club has given due consideration to the licensing objectives and that permitting unaccompanied children to be on the premises is not unreasonable.
- f) The club had originally underestimated the capacity for the premises and the increase from 95 to 120 persons is acceptable, however consultation with officials of Building Standards has highlighted that the current sanitary provision currently installed in the Club is inadequate at the present time to support such an increase. Dialogue with the Club has resulted in the current capacity of 95 being maintained.
- g) During the public consultation phase of the application two timeous objections were received from neighbours. It is the opinion of the LSO that the application still conforms to the licensing objectives
- h) 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 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.
  
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 paras 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/1432

Date: 30 April 2019

Author: G Sutherland

Appendices: Email dated 16 April 2019 from Kevin Crowe

Email dated 15 April 2019 on behalf of Colin Scott

## Geraldine Sutherland

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**From:** Kevin Crowe [REDACTED]  
**Sent:** 16 April 2019 15:36  
**To:** Licensing  
**Subject:** Objection to variation of Premises License with regard to St Fergus Bowling Club, Northcote Street, Wick.

### 1. NAME AND ADDRESS OF PERSON MAKING THE OBJECTION.

Kevin Crowe,  
[REDACTED]

### 2. ADDRESS OF PREMISES IN RESPECT OF WHICH OBJECTION IS MADE.

St Fergus Bowling Club,  
Northcote Street,  
Wick.

### 3. DETAILS OF ANY OBJECTION.

The Objections relate to 3, in particular "preventing public nuisance" and "protecting public health" and 4, in particular "the nature of the activities" and "the location of the premises".

### EXPLANATION OF OBJECTIONS.

St Fergus Bowling Club backs on to residential properties in Loch Street, and particularly bungalows where elderly, disabled and other vulnerable people live. I am 68 years old and have various medical conditions which limit my mobility, including rheumatoid arthritis, osteoarthritis and a chronic bowel condition. My husband is 79 years old and has asthma, cataracts and a thyroid complaint. To extend licensing hours to 0100 hours, with the attendant noise and disruption, has the potential to further damage our health through disruption of our sleep, the stress from additional noise pollution into the early hours of the morning and concerns for our security. To remove the condition restricting use of outdoor drinking area would have the potential to increase noise pollution into the early hours of the morning. Adding live performances, dance and music to list of activities would also increase the potential for noise pollution.

Over the past couple of years we have had a number of issues with St Fergus Bowling Club which raises questions about their ability to adequately police relaxation of license conditions. These include:

- 1). Making a frivolous and vexatious complaint to the Highland Council regarding us having a bird table and hanging bird feeders in our garden. This frivolous and vexatious complaint was rejected by the Highland Council.
2. Verbal abuse from club members made to us across the boundary wall.
3. Frivolous and vexatious complaints about residents using lawn mowers or having barbecues in afternoons and early evenings.

4. The training of a CCTV camera on the gardens of residents, thus interfering with the privacy and safety of residents. It took several phone calls and publicity on social media before St Fergus Bowling Club turned the CCTV camera away from our gardens. The club claimed it was a dummy CCTV camera, but we residents have no way of knowing whether this is true or not.

5. There have been several incidents of children using the boundary wall and our gardens as a short cut to the street, thus affecting our privacy and safety.

In view of this, we have no confidence that St Fergus Bowling Club will be able to protect residents from noise pollution, interference in our privacy and damage to our health, wellbeing and security.

We urge you to reject the application for variation of premises license for St Fergus Bowling Club.

Yours sincerely,  
Kevin Crowe.



## Geraldine Sutherland

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**From:** Dorothy Scott [REDACTED]  
**Sent:** 15 April 2019 15:05  
**To:** Geraldine Sutherland  
**Subject:** variation of premises licence

Hi i am writing this on behalf of my brother Colin Scott who received a letter in regards to the application for St Fergus Bowling Club to increase the license hours,

He is objecting to the increased licence hours, the bowling club is very close to his premises and he and his neighbours feel the noise is a issue as it is without extending the hours.

[REDACTED]

Thank you for your time

Dorothy Scott