

The Highland Licensing Board

Meeting – 14 May 2019

Agenda Item	9.7
Report No	HLB/055/19

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

The Storehouse, Foulis Ferry, Evanton

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Quintelle Ltd in respect of The Storehouse, Foulis Ferry, Evanton.

1.0 Description of premises

1.1 The Storehouse operates as a restaurant and farm shop in a rural location just off the A9 south of Evanton. The premises 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 1900 hrs
Sunday: 1230 hrs to 1800 hrs

Off sales:

Monday to Saturday: 1000 hrs to 1900 hrs
Sunday: 1230 hrs to 1800 hrs

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Increase the licensed hours each day to terminate at 0100 hrs the following day, and on a Sunday to commence at 1100 hrs;
- (2) increase off-sales hours to terminate at 2200 hrs daily and on a Sunday to commence at 1000 hrs;

- (3) replace explanation for when premises open outwith core hours;
- (4) add explanation for other activities;
- (5) set on-sales capacity to 100 persons and off-sales capacity to 3.025m²;
- (6) add seasonal variation that the premises may take advantage of any period of extended hours agreed by the Board for the festive period;
- (7) remove local conditions 5,6,7,8 and 9 as they are no longer imposed, and local condition 4 restricting use of outdoor drinking area;
- (8) amend layout plan to show revised area for off-sales display;
- (9) update premises description;
- (10) change address of premises manager

4.0 Background

- 4.1 On 3 April 2019 the Licensing Board received an application for a major variation of a premises licence from Quintelle Ltd.
- 4.2 The application was publicised during the period 5 to 26 April 2019 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

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 business, which operates as a restaurant and farm shop, currently has licensed hours for on-sales of 1100 to 1900 hrs daily Monday to Saturday and 1230 hrs to 1800 hrs on a Sunday. Off-sales hours commence at 1000 hrs daily and 1230 hrs on a Sunday.
- b) Arising from a review of the business plan for the premises, the applicant wishes to increase licensed hours to terminate at 0100 hrs the following day on each day and, on a Sunday to commence at 1100 hrs. Off-sales hours are to terminate at 2200 hrs daily and commence at 1000 hrs on a Sunday. It is anticipated that the full licensed hours will only be operated occasionally subject to demand.
- c) The opportunity is also being taken to clarify some aspects of the operating plan arising from some adjustment to the alcohol display area and to the description of the premises.
- d) The alcohol capacity is 3.025m² which does not conflict with the Board policy on overprovision. The capacity for the premises has been confirmed as 100 persons.

- e) Local conditions 5-9 as currently imposed on the licence are no longer contained within Highland Licensing Board policy and may be removed.
- f) Local condition 4 was imposed in accordance with the policies of the former Caithness, Sutherland and Easter Ross Divisional Licensing Board. There are no neighbouring residential properties and I am content that removal of the condition preventing the consumption of alcohol in the outdoor drinking area later 2100 hrs can safely be removed.
- g) 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 a, b and c 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/1406
Date: 30 April 2019
Author: G Sutherland