

The Highland Licensing Board

Meeting – 25 June 2019

Agenda Item	9.1
Report No	HLB/062/19

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

The Highland Line (formerly Roo's Leap, Grampian Road, Aviemore, PH22 1RH

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Lorraine Elliot, Old Minister's Guest House, Rothiemurchus, Inverdrue, Aviemore, PH22 1QH.

1.0 Description of premises

1.1 Self-contained restaurant situated in the Aviemore resort centre next to the railway station.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Saturday: 1100 hours to 0100 hours

Sunday: 1230 hours to 0100 hours

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Q1(c) Yes to both on and off sales.
- (2) Q2 Amend on sales commencement time on Sunday to 11.00 hrs.
- (3) Add Off sales hours Monday to Sunday: 10.00 to 22.00 hrs.
- (4) Q4 Add paragraph allowing premises to take advantage of Board's general extensions at Festive period.

- (5) Q5(a) Yes to bar meals Column 2,3,and 4.
 - (6) Q5(b) Yes to receptions, weddings, club or group meetings, etc., columns 2,3,and 4.
 - (7) Q5(c) Yes to live performance, dance and films, Columns 2 and 3.
 - (8) Q5(c) Yes to televised sport Columns 2, 3 and 4.
 - (9) Q5(d) Yes to outside drinking Columns, 2,3 and 4.
- Q5 Add to box re. Column 4 activities: "Breakfasts, restaurant, bar meals, teas, coffees, etc., receptions, meeting facilities, community use, background music, televised sport, may take place out with the core licensed hours from 09.00 hrs to 11.00 hrs when no alcohol will be served."
- (11) Q5(f) Add tutored specialist spirit, wine, craft beer tastings.
 - (12) Q6(b) Amend to add: "Children and young persons may enter the premises for meals, snacks and soft drinks and for functions on terms which will secure compliance with the Licensing Objective of Protection Children and Young Persons from harm, consistent with Section 4 of the Licensing (Scotland) Act 2005. Further the Premises Licence Holder, Personal Licence Holder and Management and staff will adhere to the terms of The Highland Board's Licensing Policy Statement. Children under 12 will be required to be accompanied by and supervised by a person or persons over 18. Children of 12 and over and Young Persons may access the premises unaccompanied by an adult, all subject to adherence with Clause 2.5 of the Board's Licensing Policy Statement 2018 to 2023 and successors thereof.
 - (13) Q6(c) Amend to 0-17 years, Q6(d) Amend to "Children will require to vacate the premises by 22.00 hrs. Young persons may remain until the terminal hours. When attending a function accompanied children and young persons may remain until the end of the function."
 - (14) Q6(d) Amend to read "All public parts".
 - (15) Q7 On sales Internal capacity 97. External capacity 21. Off sales capacity 2.8M2.
 - (16) Change of premises name to 'The Highland Line'.

4.0 Background

- 4.1 On 7 May 2019 the Licensing Board received an application for a major variation of a premises licence from Lorraine Elliot.

- 4.2 The application was publicised during the period 20 May until 10 June 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.
- 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) Highland Line is a restaurant with a bar serverly situated in central Aviemore next to the railway station. The premises have held an alcohol premises licence since 2009 and have recently been transferred into new ownership, following which, a major variation application has been submitted to accompany a large scale refurbishment and re launch of this restaurant.

(ii) The premises have now requested to sell both on and off sales, whereas previously they solely provided alcohol on the premises. The new owners have substantial experience in the craft beer and artisan spirit industry, and the off sales element to the business will facilitate tastings and sales of specialist spirits, fine wines and craft beers. On sales hours on a Sunday are requested to commence from 1100 hours, which is in line with current Licensing Board policy and fits in well with the majority of nearby premises in this tourist resort.

(iii) Seasonal variations are requested to allow automatic entitlement to seasonal extensions of hours granted by the Highland Board. The list of activities contained with section 5 of the operating plan has been expanded to allow the best flexible use of the venue. Included within this is a small outside drinking area at the front of the premises. As the area in which the premises are situated are mainly a commercial district, the LSO has recommended the use of this area for consumption of alcohol should be capped at 2300 hours.

(iv) Lastly, the children and young persons' policy at section 6 of the operating plan has been revised allowing for appropriate flexibility for admitting mature children and young persons without adult supervision. In view of the large food led and family friendly nature of the premises, the LSO is in agreement that this is in keeping with the fifth licensing objective.

(v) In summation, the LSO is confident that the variation as a whole will not impact adversely on the licensing objectives.

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 but the following local conditions are now recommended:

- (a) Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hours except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This condition does not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress.
- (c) Notwithstanding condition (a) children must not sit or remain at the bar counter at any time.
- (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.
- (m) After 2300 hours, alcoholic or non-alcoholic drinks shall not be consumed in any outdoor drinking area.
- n(ii) The playing of live or recorded music in any outdoor drinking area shall be restricted to 1100 hours to 2300 hours.
- (o) The licence holder shall ensure that consumption of drinks (alcoholic and non-alcoholic) in any outside drinking area is permitted only by customers seated at the tables and chairs provided in the outside drinking area and not by customers standing in that area.

8.3 Special conditions

The Board may wish to consider attaching the following special condition(s):

- (1) At any time that the premises are open for the sale of alcohol after 0100 hours, a person who is the holder of a Scottish personal licence shall be on the premises.

(2) At any time that the premises are open for sale of alcohol after 0100 hours a person who is the holder of a valid first aid qualification shall be on the premises.

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/INBS/171
Date: 11 June 2019
Author: Marjory Bain