

The Highland Licensing Board

Meeting – 6 August 2019

Agenda Item	8.2
Report No	HLB/072/19

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

The Castle Tavern, 1 View Place, Inverness, IV2 4SA

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Jane Dolina Wilson, 65 Cradlehall Park, Inverness, IV2 5DA.

1.0 Description of premises

1.1 The premises form a centrally situated public house with restaurant facilities, catering for the requirements of locals and tourists alike.

On the ground floor there is a public/lounge bar and to the front there is beer garden with table service. The restaurant is situated on the first floor with views over the river Ness.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Friday: 1100 hours to 0100 hours
Saturday: 1100 hours to 0030 hours
Sunday: 1200 hours to 2400 hours

Off sales:

Monday to Saturday: 1100 hours to 2200 hours
Sunday: 1200 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) Inclusion of an extra outside drinking area adjacent to 1/2 View Place meaning an increase of 30 persons to the capacity at Section 7 of the operating plan.
- (2) On sales hours on Saturday to terminate at 01:00 hrs rather than 00.30 hrs.
- (3) On and off sales to commence at 11.00 hrs on Sunday.
- (4) Section 6(d) of operating plan to be amended to read: "Children and young persons are welcome at management discretion in the lounge bar and adjacent terrace(s) until 22.00 hrs or until a meal has been finished. In the upstairs restaurant children and young persons are welcome until 23.00 hrs. In the event of a private function in the restaurant area, children and young persons may be permitted for the duration of the function at management discretion.
- (5) Additional paragraph to add to description: "In 2019 an additional outside drinking area was created opposite the entrance to Inverness Castle."

4.0 Background

- 4.1 On 11 June 2019 the Licensing Board received an application for a major variation of a premises licence from Jane Dolina Wilson.
- 4.2 The application was publicised during the period 24 June until 15 July 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) The Castle Tavern is a well established city centre licensed premises, situated opposite the entrance to Inverness Castle. The operating history of the premises is satisfactory and inspections and liaison by the LSO have revealed strong levels of compliance with the Licensing (Scotland) Act 2005.

(ii) An application has been made to vary the premises licence. Currently the premises have an existing outdoor drinking area situated directly outside the main entrance to the premises. This has not been conditioned in terms of hours of operation and has operated successfully since 2009 without any form of

neighbour complaint. The applicant now has the opportunity of adding an additional outside drinking area by using a portion of land situated at the junction of Castle Street and View Place and servicing this from the premises, which are literally a few feet away. The LSO is satisfied that adequate levels of supervision can be applied by staff. This area will accommodate seating for 30 persons. Appropriate layout plans incorporating this within the overall licensing footprint have been supplied.

In respect of this second and additional outside drinking area, it is recommended by the LSO that its use is restricted to a maximum time of 22.00 hrs daily.

(iii) There is a slight amendment requested to the core hours of the premises by allowing on sales until 01.00 hrs on Saturdays and allowing Sunday on sales to commence from 11.00 hrs. Both alterations are within the policy hours of the Board.

(iv) The children's policy has also been amended to allow a greater degree of flexibility when dealing with family groups and celebrations, which is entirely in keeping with the 5th licensing objective concerning protecting children and young persons from harm.

(v) Lastly, the overall description of the premises has been amended to accurately reflect the increase in the licensed footprint.

(vi) It is the opinion of the LSO that should the Board be minded to grant this variation, then there will be no adverse effect on the licensing objectives. Following the statutory consultation period no objections or representations have been received by the Board.

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(s) be attached:

Local licensing conditions applicable to outside drinking area at junction of Castle Street and View Place added to the licensing footprint in 2019:

(m) After 22.00 hrs, alcoholic or non-alcoholic drinks shall not be consumed in any outdoor drinking area.

n(i) No live or recorded music shall be played in any outdoor drinking area.

(o) The licence holder shall ensure that consumption of drinks (alcoholic or 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.

(p) The licence holder shall ensure that all outdoor tables are regularly cleared of all used glassware, crockery, cutlery and refuse.

8.3 Special conditions

No special conditions are considered necessary.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local conditions detailed at paras. 8.2 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/300

Date: 17 July 2019

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