

## The Highland Licensing Board

Meeting – 4 August 2020

Agenda Item	8.5
Report No	HLB/049/20

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

Gun Aim, 12 Harbour Street, Plockton, IV52 8TG

#### Report by the Clerk to the Licensing Board

##### Summary

This report relates to an application for a major variation of premises licence by West Highland Distillers Limited, Fas, Sabhal Mor Ostaig, An Teanga, An t-Eilean Sgitheanach, IV45 8RQ.

#### 1.0 Description of premises

1.1 The premises is a mid-terraced building within the village of Plockton. It comprises of a café on the ground floor with seating for 42 covers. Alcohol is for consumption on the premises and off sales inclusive of home delivery.

#### 2.0 Summary of variation application

##### 2.1 Variation sought

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

1. Change premises name to “Plockton Distillery and Apothecary”;
2. Amend premises description;
3. Section 5(f) – any other activities - add – (i) micro distillery events; (ii) gin or other spirits classes/tastings; (iii) micro still for display purposes to be used to distil non-alcoholic oils and tinctures during opening hours. May be operational for rectification outwith opening hours subject to licences being granted by HMRC;
4. Amend children and young persons policy;
5. Reduce on sales capacity from 42 to 28;
6. Increase off sales capacity from 6.45 m<sup>2</sup> to 6.5 m<sup>2</sup>;
7. Layout plan – the off sales display will change location.

### **3.0 Background**

3.1 On 13 May 2020 the Licensing Board received an application for a major variation of a premises licence from West Highland Distillers Limited.

3.2 The application was publicised during the period 17 June 2020 until 8 July 2020 and confirmation that the site notice was displayed has been received.

3.3 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.

3.4 Notification of the application was also sent to NHS Highland and the local Community Council.

3.5 Planning have raised no objections on the basis that they have confirmed with the licence holder that the premises are operated in the following manner:-

- 12 Harbour Street will continue to operate in the retail and cafe use classes for which it has planning permission;
- food, pre-prepared off site, will continue to be served on the site alongside coffee, tea, cake and soft drinks;
- the premises will continue to use its retail use for off sales purposes;
- on site sampling and tastings will be done in line with licencing and weights and measures requirements
- tutored tastings will be incidental to the two main uses re to operate.

3.6 Further to this publication and consultation process, the following timeous notice of objection has been received and is appended:

1. Letter dated 26 June 2020 from Charles M MacRae, Secretary, Plockton Village Hall (Appendix 1).

3.7 As a hearing cannot be held in person due to coronavirus, the Licensing Board, before reaching a decision, must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by alternative methods. Consequently, both the applicant and the objector have been invited to submit a written representation to state their case.

### **4.0 Legislation**

4.1 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.

4.2 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.

4.3 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.

4.4 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.

## **5.0 Licensing Standards Officer**

5.1 The LSO has provided the following comments:-

- (i) Gun Ainm is a mid-terraced property within the village of Plockton, Wester Ross.
- (ii) The variation application is to allow for the change of name of the premises and also a change in operations and business within the premises. There is no change to the current licensing hours or the special conditions limiting the use of the premises. The full description of the variation application is included in the application.
- (iii) The core hours applied for are within the policy of the Highland Licensing Board and have not changed from the existing licence.

- (iv) The activities sought would appear to be reasonable and appropriate for the proposed operation of the premises.
- (v) The children's policy is considered suitable and is within the policy of the Highland Licensing Board.
- (vi) The layout plan submitted complies with the required specifications.
- (vii) There would not appear to be any matter contained within the application that is inconsistent with the licensing objectives.
- (viii) During the period of consultation, one timeous objection was received from Mr Charles MacRae, Secretary of Plockton Village Hall Committee, 36 Harbour Street, Plockton, on behalf of Plockton Village Hall Committee.
- (ix) It is noted that this letter of objection focuses very much on parking issues, problems associated with possible increased vehicular traffic in the immediate area of the premises and anti-social behaviour or noise nuisance, which may result as a consequence of perceived extended licensing hours. There is also concern expressed in relation to fire risk or pollution because of any change in use of the premises.
- (x) I have spoken to Charles MacRae and clarified with him that the concerns of the village hall committee are based on these very points. I thereafter explained that in fact there was to be no change in licensing hours or the special conditions currently in place, restricting the hours and use of the premises, thus greatly allaying concerns re anti-social behaviour. I also explained that the parking issues raised did not fall into valid objections under the licensing objectives and specifically the sale of alcohol. I also clarified the use of the premises in the future and specifically in relation to the perceived fire risk and pollution.
- (xi) Mr MacRae understood and accepted my explanation on all the points raised and accepted there had been some confusion around what was included in the application.
- (xii) I have no objection to the application.

## **6.0 HLB local policies**

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2018-23
- (2) Highland Licensing Board Equality Strategy

## **7.0 Conditions**

### **7.1 Mandatory conditions**

If the application is approved the mandatory conditions set out in Schedule 3 of the Act will apply.

### **7.2 Local conditions**

Existing local conditions will continue to apply and no additional local conditions are considered necessary.

### **7.3 Special conditions**

No additional 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.

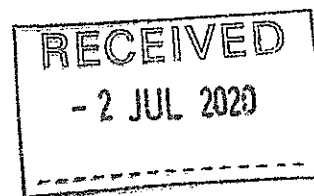
Reference: HC/RSL/1908

Date: 14 July 2020

Author: Carol Nicolson

Appendix 1: Letter dated 26 June 2020 from Charles M MacRae, Secretary,  
Plockton Village Hall

# Appendix 1



Carol Nicolson (Licencing Applications)

Charlie M Macrae

Highland Licensing Board

Secretary Plockton Village Hall

Tigh Na Sgire, Park Lane

36 Harbour Street

Portree

Plockton

Isle of Skye. IV51 9GP

Ross-shire IV52 8T

26/6/2020

Your Ref.HC/RSL//1908

Dear Carol

Application for Major Variation of Premises Licence

THE PLOCKTON HALL COMMITTEE CONSIDER THE OPERATION OF A DISTILLERY WITH TALKS, TASTINGS, ON SALES, OFF SALES AND CAFÉ FACILITIES OPEN TO 10 PM AT 12 HARBOUR STREET WOULD BE INAPPROPRIATE FOR THIS RESIDENTIAL AREA OF THE VILLAGE WITH A GREAT MANY ELDERLY RESIDENTS.

THERE WILL BE NOISE DISTURBANCE TO THE RESIDENTS OF THE ADJACENT HOUSES, NUMBERS 11 AND 13 HARBOUR STREET.

WITH A 10 PM CLOSING TIME , AFTER ALCOHOL HAS BEEN CONSUMED THERE WILL BE NOISE AND POSSIBLY DISTURBANCE CREATING A PUBLIC NUISANCE AFFECTING THE HEALTH AND WELLBEING OF OUR MORE ELDERLY RESIDENTS WHO ARE EARLY BEDDERS.

THE VILLAGE HALL HAS A GRASSED AREA WITHIN ITS FEU WHICH IS FENCED AND GATED. IT IS USED FOR WEDDINGS, HORTICULTURAL SHOW, AND CRAFT FAIRS AND AS A PLAY AREA FOR THE PLAY GROUPS CHILDREN AND MOTHER AND TODDLER GROUP. WE HAVE CONCERNS THAT SOME OF THE APPLICANTS CUSTOMERS MAY CONSIDER IT TO BE A SUITABLE PLACE TO PARTY AFTER CLOSING HOURS. THERE WOULD INEVITABLY BE LITTER, CANS, BOTTLES AND PROBABLY BROKEN GLASS. THIS PRESENTS A SERIOUS RISK TO THE HEALTH OF THE CHILDRE USING THIS AREA.

THERE ARE FIVE PARKING SPACES AT THE HALL. THESE ARE WITHIN THE HALL'S FEU AND ARE RESERVED FOR LOCALS ATTENDING EVENTS AT THE HALL. IT IS IMPORTANT THEY ARE KEPT FREE FOR THIS PURPOSE AND NOT OBSTRUCTED BY VEHICLES BELONGING TO THE APPLICANTS CUSTOMERS.

THERE IS A SHORTAGE OF PARKING IN THIS AREA. NUMBER 13 IS NOW AN AIRBNB AND HAS 3 CARS PARKED OUTSIDE, NUMBER 12 HAS VEHICLES BELONGING TO STAFF OUTSIDE. CUSTOMERS PARK WHERE THEY CAN UP THE ROAD. THIS CREATES A PUBLIC NUISANCE IF THEY RETURN LATE. CAR DOORS BANGING AND CARS DRIVING OFF CREATE DISTURBANCE FOR RESIDENTS.

DISTILLATION OF SPIRITS INVOLVES A FIRE RISK WHICH COULD INVOLVE THE ATTACHED HOUSES NUMBERS 11 AND 13 AND POSSIBLY OVER THE ROAD TO THE HALL. WE ENQUIRE IF THIS RISK HAS BEEN ASSESSED AND WHAT ACTION TO MITIGATE THIS RISK HAS BEEN TAKEN.

IF THE BOARD IS INCLINED TO GRANT THIS APPLICATION THE HALL COMMITTEE RECOMMENDS THE CLOSING HOURS SHOULD BE NO LATER THAN 6.0 P M.

Yours sincerely

C M MacRae. (Secretary Plockton Village Hall)