

The Highland Licensing Board

Meeting – 30 March 2021

Agenda Item	8.1
Report No	HLB/024/21

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

Foyers Lodge, Foyers, Inverness-shire, IV2 6XT

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by P D Crowe Ltd, Building 6000, Langstone Technology Park, Langstone Road, Havant, Hampshire, PO9 1SA.

1.0 Description of premises

1.1 Foyers Lodge is detached property within its own grounds offering luxury accommodation and picturesque views looking over Loch Ness and is approximately 20 miles from Inverness.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Sunday: 1100 hours to 2300 hours

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Amendment to S5(f) - in the first instance the facilities at Foyers Lodge are for the use of guests, however, non-residents may occasionally use the facilities when visiting to enjoy table meals and drinks or to attend small events.
- (2) Amendment to S6(c) - Children aged 12-15 and young persons will be allowed on the premises if accompanied and supervised by an adult. Children aged 0-11 will not be permitted.

- (3) Add off sales Monday-Sunday: commencing at 1000 hrs and terminating at 2200 hrs.
- (4) Amend capacity from 16 to 40.
- (5) Licensed area to now include the footprint of the entire ground floor as outlined in red - former storage area has now been converted to a self-catering unit comprising a sitting room and bedroom.
Change to first floor or outside area.
- (6) Change to premises description to read:
'The premises is a detached traditional Victorian lodge standing in its own grounds in the rural location of Foyers, overlooking Loch Ness. Residential guests are provided with bed and breakfast/evening meal on the premises. There are eight guest bedrooms and a one-bedroom apartment. Alcohol will be sold to such residents and dispensed at the bar in the Drawing Room.

Non-resident guests may use the facilities when occasionally visiting to enjoy table meals or attend small events.

Wine and other alcoholic beverages may be served to residents and non-residents by staff when eating in the Dining Room, Drawing Room or garden.

Residents and non-residents may take drinks into the garden and consume them within the perimeter of the outside licensed area as shown on the layout plan.

Residents and non-residents may purchase drinks to consume off the premises, for example with picnic/packed lunch. Off sales liquor will be sourced from a stock room or behind the bar on receipt of order; there will be no public display.

The property/premises may be hired out for exclusive use and/or events. This includes alcohol tasting/sampling events.

The owner/applicant lives in a private flat within the property/premises.'

4.0 Background

- 4.1 On 1 February 2021 the Licensing Board received an application for a major variation of a premises licence from P D Crowe Ltd.
- 4.2 The application was publicised during the period 15 February until 8 March 2021 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 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.

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) Foyers Lodge is a large Victorian detached house on the outskirts of Foyers Village, Inverness-shire. It stands in its own substantial grounds which are also encompassed within the licensing footprint.
- (ii) The premises were granted a licence in June 2019, to serve alcohol to guests who had secured accommodation. Since then, the licensing history has been incident free. Liaison between the LSO and the operators has shown sound adherence to the operating plan and requirements of the Licensing (Scotland) Act 2005.
- (iii) Application has now been made, to allow passing trade to visit the premises for the purposes of meals and drinks without the requirement to be a resident. The LSO having visited the premises, agrees that this is a suitable business development in keeping with the licensing objectives. Permission is also sought to allow the purchase of off sales, which are sometimes requested by guests wishing to take home local ales and spirits, or occasionally as an accompaniment to a packed lunch to be consumed off the premises.
- (iv) Also a former storage room on the ground floor, has been converted into a self-catering apartment for rental; it is included within the licensing footprint. Revised layout plans have been submitted of appropriate quality encompassing this development.
- (v) The children and young persons' policy has been amended in terms of age range allowed on the premises, which is in keeping with protection of children and young persons from harm.
- (vi) The capacity of the premises has been amended to show, both its capacity for residential occupation and also the numbers of non-resident guests who can be safely accommodated.
- (vii) Following the public consultation phase of this application no objections or representations have been received by the Highland Licensing Board. The LSO is satisfied that the entire application meets the criteria of the 5 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 and it is not considered necessary to attach any.

8.3 Special conditions

No 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/INBS/639
Date: 12 March 2021
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