

The Highland Licensing Board

Meeting – 14 February 2023

Agenda Item	9.5
Report No	HLB/018/23

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

Commercial Hotel, 21-23 High Street, Alness

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Thomas Brodie in respect of Commercial Hotel, 21-23 High Street, Alness.

1.0 Description of premises

1.1 The Commercial Hotel is a 10 bedroom hotel with public bar, lounge/restaurant and dining/function room in the centre of Alness. The premises licence was granted on conversion on 1 September 2009.

2.0 Current operating hours

2.1 The premises currently has the following operating hours:

On sales:

Monday to Sunday: 1100 hrs to 0100 hrs

Off sales:

Monday to Sunday: 1100 hrs to 2200 hrs

3.0 Summary of variation application

3.1 Variation sought

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

- 1) amend the layout plan to extend the current outdoor drinking area and change the area that children and young persons are allowed;
- 2) amend the premises licence description;
- 3) increase the on-sales capacity;
- 4) update the children and young persons policy.

4.0 Background

- 4.1 On 10 October 2022 the Licensing Board received an application for a major variation of a premises licence from Thomas Brodie.
- 4.2 The application was publicised during the period 21 October to 11 November 2022 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:

https://www.highland.gov.uk/downloads/file/6399/licensing_hearings_procedure/licensing_board

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:-

- 1) The property known as Commercial Hotel is a long-established hotel on the High Street in the centre of the community of Alness, Easter Ross.
- 2) This application is to extend the current outdoor area at the premises which will also increase the capacity of that area. The application also tightens the children and young persons policy to further restrict access of children and young persons to the premises.
- 3) The premises have operated for many years without adverse comment.
- 4) The activities sought would appear to be reasonable and appropriate for the proposed operation of the premises.
- 5) The children and young persons policy is appropriate.
- 6) The layout plan submitted complies with the required specifications.
- 7) There would not appear to be any matter contained within the application that is inconsistent with the licensing objectives.
- 8) During the period of public consultation, no objections were received.
- 9) Specific condition one will be removed given the change to the children and young person's policy.
- 10) I would also suggest addition of the local conditions in 8.2 below in relation to the outdoor area.
- 11) I have no objection to this 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 will continue to apply and it is recommended that the following additional local condition be attached:

- I. The boundaries of any outside area will be effectively demarcated to the satisfaction of the Licensing Standards Officer.

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

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed additional local conditions detailed at para 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/CSR/0912
Date: 25 January 2023
Author: G Sutherland

Background Papers: The Licensing (Scotland) Act 2005/Application Form.