

The Highland Licensing Board

Meeting – 28 March 2023

Agenda Item	8.5
Report No	HLB/034/23

Application for the grant of a provisional premises licence under the Licensing (Scotland) Act 2005

Poitin Still, 6 Janet Street, Thurso

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for the grant of a provisional premises licence in respect of Poitin Still, 6 Janet Street, Thurso.

1.0 Description of premises

1.1 The premises is a small hotel with 14 letting rooms, 2 bars, restaurant, lounge area and outside licensed area in Thurso town centre.

2.0 Operating hours

2.1 The applicant seeks the following hours:

On sales:

Monday to Sunday: 1200 hrs to 0100 hrs the following day

Off sales:

Monday to Sunday: 1000 hrs to 2200 hrs

3.0 Background

3.1 On 12 January 2023 the Licensing Board received an application for the grant of a provisional premises licence from The Poitin Still Limited.

3.2 The application was accompanied by the necessary section 50 certification in terms of Planning, together with a Disabled Access Statement.

3.3 The application was publicised during the period from 10 February to 3 March 2023 and confirmation that the site notice was displayed has been received.

3.4 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.

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

3.6 Further to this publication and consultation process, two representations were received from the persons below and they are attached as an appendices to this report:-

- (1) Mr Forbes
- (2) Mr and Mrs Campbell

3.7 **Late objection**

A late objection was received from the Planning Service on 10 March 2023, after the deadline.

As such it cannot be considered automatically and has not been circulated. The Board may, having heard from the late objector and the applicant, consider the late objection if satisfied that:

- (a) the failure is due to mistake, oversight or other excusable cause, and
- (b) the Board considers it appropriate in all the circumstances to relieve the failure to meet the deadline.

3.8 **Late representations**

In addition, there have been three late representations of support for the application. They were received on 12, 14 and 15 March 2023.

The late objection and representations will be circulated if the Board agrees to consider them.

3.9 The applicant and the objector(s) have been invited to attend the hearing. Both have been advised of the hearings procedure which will be followed at the meeting and which may also be viewed via the following link:

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

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.

4.2 Relevant grounds of refusal are: -

1. that the premises are excluded premises;
2. that the Board considers, having regard to the licensing objectives, that the

applicant is not a fit and proper person to be the holder of a premises licence;

3. that the grant of the application would be inconsistent with one or more of the licensing objectives;
4. that having regard to;
 - (i) the nature of the activities 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, or
5. 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.

4.3 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.

4.4 If the Board would refuse the application as made, but a modification is proposed by them and accepted by the applicant, the application can be granted as so modified.

5.0 Licensing Standards Officer

5.1 The LSO has provided the following comments:-

- 1) The property to be known as Poitin Still, Janet Street, Thurso is a detached and extensively renovated property, which had previously existed as a Licensed Members Club until 2016.
- 2) The property has fourteen letting rooms, two bars, a restaurant, lounge and outside hospitality areas.
- 3) The application is to allow for the provision of alcohol by both on and off sales. There is a restaurant, bar and lounge area for dining and provision of alcohol as well as outdoor areas where alcohol may be consumed.
- 4) The children's policy is considered suitable and is within the policy of the Highland Licensing Board.

- 5) The layout plans submitted complies with the required specifications.
- 6) The premises have operated under occasional licences, periodically since 2020 during the Covid pandemic and more recently with specific special conditions in place.
- 7) The specific conditions were linked to conditions relative to the planning permission for the premises which granted a part change of use to a restaurant with an ancillary bar in August 2022. The condition stated that no customer shall be allowed within the restaurant and ancillary bar areas outwith the hours of 6am to midnight Monday to Sunday. It also included the restaurant ceasing serving to customers, all background music ceasing and external areas closing to restaurant patrons at 11pm Monday to Sunday
- 8) As part of this application, the applicant seeks a terminal hour of 1am Monday to Sunday for on sales and to include live performances, dance facilities and recorded music.
- 9) My role is to review the application in line with licensing legislation and whether the application is inconsistent with any of the licensing objectives.
- 10) On reviewing this application, I do not have any reason to object to the later licensing hours nor the activities proposed as long as they are suitably managed and adhere to the proposed conditions being put in place to mitigate any concerns in relation to public nuisance.
- 11) This is on the basis that I have insufficient evidence to confirm a lack of compliance in relation to occasional licences previously granted until 0100 hrs and the premises appear to be suitable under licensing legislation for the hours applied for.
- 12) I am aware that the applicant has a separate responsibility to comply with any planning legislation. Consequently, the applicant would require to adhere to any planning conditions in place as a separate regulatory matter.
- 13) During the period of public consultation, two objections were received from neighbouring properties.
- 14) Mr Forbes reported that whilst previous periods of occasional licences operated at the premises under the name of Manor House, specifically in December 2020 and in September 2021, there were disturbances caused by persons attending the premises, leaving the premises and from the smoking area at the premises. I could find no evidence of a breach of licensing conditions related to the occasional licences at this time
- 15) Police Scotland have attended to various incidents complained about and have recorded updates as well as other unannounced visits to the premises, recorded on their systems, which I understand are satisfactory.

- 16) Mr Forbes also specifically linked his complaint to planning conditions which have been placed on the applicant and the premises, under planning legislation.
- 17) Mr and Mrs Campbell have also lodged a complaint in relation to this application which is based on the premises adhering to planning conditions, which are currently in place. Mr Campbell has also sought clarification at various times in relation to special conditions in place during periods of occasional licences.

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

Should the Board grant the application as applied for, the Board may wish to consider attaching the following conditions from the schedule of local conditions:

- m. After 2100 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.

7.3 Special Conditions

The Board may also wish to consider attaching the following special conditions:

1. Only background music will be allowed within the premises at any time.
2. All glass disposal operations shall cease between the hours of 2300 hrs and 0800 hrs.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local and special conditions detailed at para 7.2 and 7.3 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/CSR/2038
Date: 14 March 2023
Author: G Sutherland

Appendix 1: Emails dated 3 March and 28 February 2023 from Mr Forbes
Appendix 2: Letter dated 1 March 2023 from Mr and Mrs Campbell

From: shaun forbes [REDACTED]
Sent: 03 March 2023 09:34
To: Licensing <licensing@highland.gov.uk>
Subject: Objection to application for a provisional premises license

CAUTION: This email was sent from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sir / Madam,

I would like to comment on an application for a provisional premises license – Poitin Still, 6 Janet Street, Thurso

In summary my family and I do not seek complete refusal of the application merely that the licensing board set conditions with the license, all of which are already conditions of local planning. These being;

1. Alcohol serving time cease at 23:00hrs
2. The bar is ancillary to the onsite restaurant
3. People external to the premises are kept to a minimum, current application requests 50 persons.

Garry Cameron (LSO) has explained verbally that the Highland council planning department and liquor licensing are completely separate identities and planning conditions are not a licensing concern however thorough assessments were carried out by the local planning officers during recent applications and conditions are set out in [21/04517/FUL](#) (report attached) which are directly linked to the liquor license and the current application would breach those planning conditions. The report provides an unbiased assessment that covers several activities that **are Grounds for refusal within the licensing (Scotland) ACT 2005.**

The statements below detail the **Grounds for refusal within the licensing (Scotland) ACT 2005** that are applicable to the current application.

The application is **Inconsistent with Licensing Objectives:**

Preventing crime and disorder – Crowds gathering from a public bar at closing time within a residential area with drunk persons and increased volume of traffic area significantly increases crime and disorder. Note – During previous occasional license held at the premises in Dec 2020 we experienced vandalism.

Preventing public nuisance – Crowds gathering from a public bar at closing time within a residential area with drunk persons and increased volume of traffic area significantly increases public nuisance. Note – During previous occasional licenses held at the premises in Dec 2020 and Oct 2021 excessive noise from the smoking and drinking area and crowds at closing time were frequent.

Protecting and improving public health – Outside smoking and drinking areas within close proximity of residential properties contradicts the governments values on Protecting and improving public health. Cigarette ends have been thrown over boundary wall from previous smoking and drinking area in Kids play area.

Protecting children from harm – The creation of a public bar serving alcohol within 100m of Miller Academy and Nursery and within proximity of several young families should not be acceptable to the committee. Cigarette ends have been thrown over boundary wall from previous smoking and drinking area in Kids play area.

The statement above are based on actual experience of occasional licenses that were held at the property in December 2020 and October 2021 when patrons were allowed to consume liquor to 01:00hrs and functions were held. Note we have not experienced disturbances when closing times have been restricted to 23:00hrs and the serving of alcohol is ancillary to the on-site restaurant.

If you would like to discuss any of the points raised further please do not hesitate to get in touch

Kind Regards
Shaun Forbes



Sent from [Outlook](#)

From: [shaun_forbes](#)
To: [Licensing](#)
Cc: [REDACTED]
Subject: Comment on application for provisional licence - Poitin Still, 6 Janet Street, Thurso
Date: 28 February 2023 08:28:07
Attachments: [21_04517_FUL-Committee_Report-2800679.pdf](#)

CAUTION: This email was sent from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sir / Madam,

I would like to comment on an application for a provisional premises license – Poitin Still, 6 Janet Street, Thurso

This application should be read in conjunction with planning application [21/04517/FUL](#) (report attached)

The conditions set out in the planning application clearer states that any bar is ancillary to the restaurant and that the restaurant and bar closes at 23:00 therefore to avoid doubt I would request that the liquor license ceases at 23:00.

This is consistent with other similar local services with a very similar example being Forss House Hotel which has an on sales liquor license of 11:00 to 23:00 daily.

I am also concerned with the capacity mentioned within the application being “On sales - 200 persons (internal 150, external 50)” 50 people external to the property would breach planning conditions.

In summary I would request that the liquor license reflects the conditions of agreed planning conditions.

I hope the above is acceptable and happy to discuss any issues further

Kind Regards

Shaun Forbes

[REDACTED]
[REDACTED]
[REDACTED]

Sent from [Outlook](#)



1st March 2023

Clerk of the Licensing Board,
Council Offices,
Caithness House,
Market Place,
Wick,
KW1 4AB

Dear Sir/Madam,

LIQUOR LICENCE APPLICATION QUERY– PROVISIONAL LICENCE FOR POITIN STILL, 6 JANET STREET, THURSO

With regards to the Liquor Licence Application for a Provisional Licence for Poitin Still, located at Manor House, 6 Janet Street, Thurso, KW14 7AR we write with the following query.

We have previously submitted objections with regards to Occasional Licence applications at this premises (although under the name of Manor House, rather than Poitin Still, with the last objection letter dated 16th October 2022) and based on these we would like confirmation from yourselves that if the application is to be granted it will have restrictions imposed in line with the outcome of the planning application ref 21/04517/FUL for these premises, which had identified a number of areas of concern.

We note that the Poitin Still application has 'On Sales' hours up to 01:00am which is not in compliance with the recommendations of the planning outcome and that the capacity numbers, particularly the 50 external, also do not appear to align with the permitted planning? We also assume that the Poitin Still application is only intended to operate in support of the Manor House restaurant, again in line with planning outcome?

We hope the above query makes sense for consideration by the Licensing Board, but if you would like to discuss further, please do not hesitate to get in touch.

Best Regards,

Signed electronically

Kenny & Lorraine Campbell