

## HIGHLAND LICENSING BOARD

Minute of the meeting of the **Highland Licensing Board** held in the Council Chamber, Council Headquarters, Glenurquhart Road, Inverness on Tuesday 28 March 2023 at 2.00pm.

### **Present:**

Mr C Birt, Mr J Bruce, Mr J Grafton, Ms J Hendry, Mr S Kennedy, Mr D Macpherson, Mr D Millar, Mr P Oldham, Mr K Rosie.

### **In Attendance:**

Ms C McArthur Clerk to the Board  
Mr G Somers, Solicitor  
Mr I Cox, Licensing Standards Officer  
Mr G Cameron, Licensing Standards Officer  
Mr E C MacKinnon, Licensing Standards Officer  
Mr G MacCormick, Senior Environmental Health Officer  
Ms E Hood, Environmental Health Officer  
Ms A Macrae, Senior Committee Administrator

### **Also In Attendance:**

Sergeant A Bryce, Police Scotland

Item 7.1: Andrea Duncan, manager

Item 7.5: Dawn Williams

Item 7.6: Reece McLaughlin

Item 8.1: Lynn Simpson, solicitor

Item 8.2: Taran Campbell, applicant

Item 8.3: Catherine Hamilton, applicant, Kirstin Hamilton, applicant, Richard Hunter, objector, Michelle Shearer, objector, Una McKernan, objector

Item 8.4: David Whiteford, applicant

Item 8.5: Audrey Junner, solicitor for the applicant, Rebecca Lynch and Leo Lynch, applicants, Claire McEwan, Planner, objector

Item 9.2: Marion Anderson, Katie Gilbert, area manager

Item 9.3: Claire Winskill, applicant and Iain Roden, premises manager

Item 9.5: Peter and Ingrid Rochford, applicants

Item 10.1: Martin Smith, solicitor for the licence holder

### **Briefing on Protocol for Webcasting of Meetings**

The Convener advised the Board that the meeting would be filmed and broadcast over the internet on the Highland Council website and would be archived and available for viewing for 12 months.

#### **1. Apologies for Absence Leisgeulan**

An apology for absence was intimated on behalf of Ms E Knox.

#### **2. Declarations of Interest Foillseachaidhean Com-pàirt.**

Item 8.5: Mr D Millar

**3. Confirmation of minutes  
Dearbhadh a' gheàrr-chunntais**

There was submitted for confirmation as a correct record the minute of the meeting of the Highland Licensing Board held on 14 February 2023.

The Minutes were held as read and **APPROVED**

**4. Licensing (Scotland) Act 2005  
Licences granted under delegated powers  
Achd Ceadachd (Alba) 2005  
Ceadachdan a bhuilicheadh fo ùghdarras air a thiomnadh**

There had been circulated **Report No HLB/021/23** detailing licences which had been granted under delegated powers by the Clerk to the Board during the period 2 February 2023 to 15 March 2023 and inviting the Board to note the Report.

The Board **NOTED** the report.

**5. Licensing (Scotland) Act 2005  
Occasional licences and extended hours  
granted under delegated powers  
Achd Ceadachd (Alba) 2005  
Ceadachdan Corra-uair agus uairean sìnte a bhuilicheadh fo ùghdarras  
air a thiomnadh**

There had been circulated **Report No HLB/022/23** detailing Occasional Licences and Extended Hours applications which had been granted under delegated powers by the Clerk to the Board during the period 2 February 2023 to 15 March 2023 and inviting the Board to note the Report.

The Board **NOTED** the report.

**6. Review proposals – non-payment of annual premises licence fees  
Moladh ath-sgrùdaidh – neo-phàigheadh chìsean ceadachd  
togalaichbliadhna**

There had been circulated **Report No HLB/023/23** by the Clerk inviting the Board to make premises licence review proposals in respect of premises licences for which the annual fee has not been paid.

Following discussion, the Board **NOTED** that the Fort George Visitor Centre, Tongue Stores & Post Office, Spey Valley Golf Club and Commercial Inn, Balintore had now paid the annual fee.

Thereafter, the Board **AGREED** to make review proposals in respect of:

- Spean Bridge Hotel, Spean Bridge
- Al Raj Restaurant, Nairn
- Star Hotel, Kingussie

- Bay Leaf Spice, Grantown-on-Spey
- Crown Court Hotel, Inverness
- The Wee Highland Deli, Inverness
- Costcutter, North Kessock

with a view to holding review hearings at the Board's next meeting on 9 May 2023.

**7. Licensing (Scotland) Act 2005  
Applications for new premises licences  
Achd na Ceadachd (Alba) 2005  
Larrtas airson cheadachdan thogalaichean ura**

**7.1 Ref: HC/INBS/680**

**Applicant:** Robert MacBeth Girvan, Loch Ness Highland Resort, Glendoe Road, Fort Augustus, PH32 4BG

**Premises:** Papa Gs Restaurant, Loch Ness Highland Resort, Glendoe Road, Fort Augustus, PH32 4BG per Park Home Consultants, 11 Cuthill Brae, West Calder, West Lothian, EH55 8QE

**Type:** On and off sales

There had been circulated **Report No HLB/024/23** by the Clerk which invited the Board to determine the application.

The Committee **AGREED** to **GRANT** a premises licence subject to the mandatory conditions only.

**7.2 Ref: HC/INBS/682**

**Applicant:** Partnership of Malcolm and Maggie Allan, Pitfaranne Guest House, 57 Crown Street, Inverness, IV2 3AY

**Premises:** Pitfaranne Guest House, 57 Crown Street, Inverness, IV2 3AY

**Type:** On sales

There had been circulated **Report No HLB/025/23** by the Clerk which invited the Board to determine the application.

The Board **AGREED** to **GRANT** a premises licence subject to the mandatory conditions only.

**7.3 Ref: HC/INBS/683**

**Applicant:** Cairngorm Gin Company Ltd, 4<sup>th</sup> Floor, Metropolitan House, 31-33 High Street, Inverness, IV1 1HT

**Premises:** Cairngorm Gin Company Ltd, Unit 9/3, Achnagonalin Industrial Estate, Grantown on Spey, PH26 3TA

**Type:** On and off sales

There had been circulated **Report No HLB/026/23** by the Clerk which invited the Board to determine the application.

The Board **AGREED** to **GRANT** a premises licence subject to the mandatory conditions and local condition (g).

#### **7.4 Ref: HC/INBS/686**

**Applicant:** Inverness Beer Ltd. Flat 1, Aultnakiach House, Culduthel Road, Inverness, IV2 4BB

**Premises:** Moonshine, Unit 6, The Victorian Market, Inverness, IV1 1JN

**Type:** Off sales

There had been circulated **Report No HLB/027/23** by the Clerk which invited the Board to determine the application.

The Board **AGREED** to **GRANT** a premises licence subject to the mandatory conditions only.

#### **7.5 Ref: HC/RSL/2046**

**Applicant:** Highland Holidays Limited, 14 City Quay, Dundee, DD1 3JA

**Premises:** Ben Nevis Holiday Park, Camaghael, Fort William, PH33 7NF

**Type:** On and off Sales

There had been circulated **Report No HLB/028/23** by the Clerk which invited the Board to determine the application.

The Board **AGREED** to **GRANT** a premises licence subject to the mandatory conditions only.

#### **7.6 Ref: HC/CSR/2041**

**Applicant:** MMRC Ltd, 4 South Mound, Houston, Scotland, PA6 7DX

**Premises:** Norse Bakehouse, Rhitongue, Tongue, IV27 4XW

**Type:** On and off sales

There had been circulated **Report No HLB/029/23** by the Clerk which invited the Board to determine the application.

During discussion, Mr R McLaughlin, applicant confirmed he was content with recommended local condition (m) that after 2200hrs alcoholic or non-alcoholic drinks shall not be consumed in any outdoor area.

The Board **AGREED** to **GRANT** a premises licence subject to the mandatory conditions and local conditions (l) (m) and (o).

### **8. Licensing (Scotland) Act 2005 Applications for provisional premises licences Achd Ceadachd (Alba) 2005 Iarrtas airson ceadachdan thogalaichean le cumha**

#### **8.1 Ref: HC/INBS/681**

**Applicant:** Tennent Caledonian Breweries Wholesale Limited, Wellpark Brewery, 161 Duke Street, Glasgow, G31 1JD per TLT LLP Solicitors, Hobart House, 80 Hanover Street, Edinburgh, EH2 1EL

**Premises:** Tennent Caledonian, 10 Seafield Road, Inverness, IV1 1SG

**Type:** Off sales

There had been circulated **Report No HLB/030/23** by the Clerk which invited the Board to determine the application.

The Board **AGREED** to **GRANT** a provisional premises licence subject to the mandatory conditions only.

### **8.2 Ref: HC/INBS/684**

**Applicant:** Beyond Bar Inverness Limited, Windrill, Drumsmittal, North Kessock, IV1 3XF

**Premises:** Playback, 27-31 Academy Street, Inverness, IV1 1JN

**Type:** On and off sales

There had been circulated **Report No HLB/031/23** by the Clerk which invited the Board to determine the application.

The Board **AGREED** to **GRANT** a provisional premises licence subject to the mandatory conditions, local conditions (m), (n(i)), (o) and the two special conditions set out at 7.3 of the report.

### **8.3 Ref: HC/INBS/685**

**Applicant:** One One Two on The Brae Ltd, 112 High Street, Nairn, IV12 4DE

**Premises:** The Grapemonger, 106 High Street, Nairn, IV12 4DE

**Type:** On and off sales

There had been circulated **Report No HLB/032/23** by the Clerk which advised that timeous notices of objection had been received from Richard Hunter, Michelle Shearer and Una McKernan. The Board was invited to determine the application.

Catherine Hamilton, applicant, advised that she had been co-owner the neighbouring premises 'Café 112' for six years and during that period no complaints had been received about noise or public nuisance. On the premises at 106 High Street, Nairn becoming vacant, it had been decided to expand the business and to operate the premises as a wine shop. An on-sales licence had been applied for to provide for wine tastings and these would not extend beyond 8pm.

Mr R Hunter, objector advised that, as a neighbouring resident and while welcoming the business, he was concerned at the on-sales hours element of the application. This related to the disturbance that would be generated by customers potentially consuming large amounts of alcohol on site up until 10pm and noise leakage into his property particularly given the inadequate sound proofing.

Una McKernan, objector expressed concern that the warehouse to the rear of the premises should not be used for wine tasting as it would affect the amenity of all the neighbours. She, her family and the neighbours had not been aware of the proposed use of the premises effectively as a wine bar. The relevant notice had not been displayed on the premises and she queried the potential to extend the consultation period. The applicant's current premises already offered off sales and she queried why this was not sufficient provision in the locality. She outlined the detrimental impact the applicant's operation already had on her and the other residents in terms of their peace and enjoyment of their properties including the public nuisance caused by rubbish and deliveries. Her general health had also suffered as a result of the applicant's existing business. These

issues would be exacerbated by the grant of a licence and she suggested that the application was contrary to the licensing objectives. She queried whether there was adequate fire safety and toilet facilities in place and parking provision for the additional traffic that would be generated.

The applicant advised that the warehouse to the rear of the premises of the proposed wine shop was to be used purely for the storage of wine and she clarified the proposed delivery arrangements.

The Clerk advised that many of the amenity issues raised were planning or building standards matters and neither Service had objected to the application. The Board could only take into consideration the matters that regulated the sale of alcohol. A special condition was recommended that any glass disposal will not take place after 2200 hours or prior to 0800 hours. In terms of any breach of licensing objectives, these had to be linked to the sale of alcohol and evidenced to the Board rather than based on speculation. The statutory consultation requirements had been adhered to by the applicant.

The Licensing Standard Officer confirmed that he had visited the premises during the consultation period and the relevant notice had been displayed properly in the doorway. The proposed operating hours for the premises was reasonable for an off-sales located in a commercial area. It was reasonable for the applicant to occasionally showcase products, and he did not consider there was a threat to the licensing objectives. There had been no issues arising in respect of the applicant's operation of her existing premises. The local community council had been consulted and had indicated their support for the application.

The applicant stressed the premises was to be a wine shop and not a wine bar as suggested in the objections. Any wine tastings would be infrequent and would finish at 8pm, however, these could be moved to her existing premises if necessary.

Thereafter, and during debate points raised by Members included:-

- while the application was essentially for off-sales, taking into account the objectors concerns, the application be modified so that on sales hours be reduced from 22:00 hours to 20:00 hours on Thursday and Friday;
- many of the issues raised by the objectors were planning or building control matters and were speculative as to what may happen if a licence was granted; and
- this was an application for a well-run high end wine shop business located on a high street in one of the largest towns in the area. The proposed operating hours for on and off sales were reasonable and the application be granted as submitted.

Thereafter, Mr P Oldham seconded by Mr D Millar **moved** to grant a provisional premises licence (as modified and accepted by the applicant at the hearing) as follows:

- On sales hours to be reduced from 22:00 hours to 20:00 hours on Thursday and Friday

subject to the mandatory conditions and the special condition set out at 7.3 of the report.

Mr C Birt seconded by Mr S Kennedy moved as an **amendment** to grant the application subject to the mandatory conditions and the special condition set out at 7.3 of the report.

On the matter being to a vote, the **motion** received **4** votes and the **amendment** received **3** votes with no abstentions. The **motion** was therefore **carried**, votes being cast as follows:

**Motion:** Mr J Grafton, Mrs J Hendry, Mr D Millar, Mr P Oldham

**Amendment:** Mr C Birt, Mr S Kennedy, Mr D Macpherson

### **Decision**

The Board **AGREED** to **GRANT** a provisional premises licence (as modified and accepted by the applicant at the hearing) as follows:

- On sales hours to be reduced from 22:00 hours to 20:00 hours on Thursday and Friday

subject to the mandatory conditions and the special condition set out at 7.3 of the report.

#### **8.4 Ref: HC/CSR/2045**

**Applicant:** Conon Hotel Ltd, Navity House, Cromarty, Inverness, United Kingdom, IV11 8XY

**Premises:** Conon Hotel, High Street, Conon Bridge

**Type:** On and off Sales

There had been circulated **Report No HLB/033/23** by the Clerk which invited the Board to determine the application.

During discussion, Mr D Whiteford, applicant confirmed he was content with recommended local condition (m) that after 2200hrs alcoholic or non-alcoholic drinks shall not be consumed in any outdoor area.

The Board **AGREED** to **GRANT** a provisional premises licence subject to the conditions and local conditions (m) and (o).

#### **8.5 Ref: HC/CSR/2038**

**Applicant:** The Poitin Still Limited, Highland House, 165 The Broadway, Wimbledon, London, England, SW19 1NE

**Premises:** Poitin Still, 6 Janet Street, Thurso

**Type:** On and off Sales

**Declaration of Interest:** Mr D Millar declared an interest in this item as Chair of the North Planning Applications Committee and took no part in the determination of the application.

There had been circulated **Report No HLB/034/23** by the Clerk which advised that timeous notices of representation had been received from Mr Forbes and Mr and Mrs Campbell. The Board was invited the Board to determine the application.

The Clerk advised that a late objection from the Planning Service and 3 late representations of support had been received and could not automatically be considered. Members were entitled to entertain an objection/representation, if they were satisfied there was sufficient reason why it was not so made.

Ms Claire McEwan, Planner explained that the Planning Authority had responded to the application timeously, however initially it was not picked up that there were areas of the application conflicting with the planning permission. The Planning Service's response had been reviewed to take account of these issues.

Ms Audrey Junner, solicitor for the applicant advised there was no issue with the late submissions being considered.

The Clerk then read out the reasons as to why the 3 late representations in support of the application had been submitted late.

Thereafter, the Board **AGREED** to accept the late objection and representations of support and copies were circulated to Members.

The Board heard from the solicitor for the applicants during which she advised that the planning consent for the premises restricted the hours of operation and activities that could be offered. Her clients were fully aware that they would require both liquor licensing and planning consent to be in place to operate after 2300hrs. It was their intention to apply to vary the planning consent and this would be subject to public consultation, however, in the meantime they would continue to operate in accordance with the planning consent. There was no evidence of noise nuisance at the premises and the applicants were mindful of maintaining positive relationships with local residents. A main reason for seeking later hours was to facilitate a more gradual dispersal from the premises to minimise disruption for the neighbours. In terms of the recommended special condition 1, her clients would like provision to be made for live solo performers to play in the premises on an infrequent basis. Her clients had been working with environmental consultants on setting an appropriate decibel level to ensure there was no noise leakage into neighbouring properties. The applicants were good operators and the representations in support received from the neighbours was encouraging.

Following questions, the Planner added that condition 1 of the planning permission for the premises had been imposed to safeguard the character and amenity of the surrounding area and the occupants of the neighbouring properties. If the licence was granted and the licence holders operated outwith the terms of the planning consent, then the Service would be required to pursue enforcement action.

Thereafter, the Board **AGREED** to **GRANT a** provisional premises licence subject to the mandatory conditions, local conditions (m), (n(i)), (o) and the two special conditions set out at 7.3 of the report.



**9. Licensing (Scotland) Act 2005  
Applications for variation (major) to premises licences  
Achd Ceadachd (Alba) 2005  
Iarrtasan airson Caochladh (Mòr) a thaobh ceadachdan thogalaichean**

**9.1 Ref: HC/INBS/532**

**Applicant:** Beaully Holiday Park Ltd, Robertson House, Shore Street, Inverness, IV1 1NF

**Premises:** Captain Faffs Bar, Beaully Holiday Park, Lovat Bridge, Beaully, IV4 7AY

**Type:** On and off sales

There had been circulated **Report No HLB/035/23** by the Clerk which invited the Board to determine the application.

The Board **AGREED** to **GRANT** the major variation to the premises licence subject to the mandatory conditions, existing local conditions and five special conditions set out at 7.3 of the report.

**9.2 Ref: HC/INBS/291**

**Applicant:** Marion Anderson

**Premises:** Glenalbyn Bar, 2-4 Young Street, Inverness, IV3 5BL

**Type:** On and off sales

There had been circulated **Report No HLB/036/23** by the Clerk which invited the Board to determine the application.

The Board **AGREED** to **GRANT** the major variation to premises licence subject to the mandatory conditions, existing local conditions, additional local conditions (l), (m), (n(i)), (o) and (p).

**9.3 Ref: HC/RSL/0151**

**Applicant:** Claire Winskill

**Premises:** Coruisk House, Elgol, Isle of Skye, IV49 9BL

**Type:** On and off sales

There had been circulated **Report No HLB/037/23** by the Clerk which invited the Board to determine the application.

The Committee **AGREED** to **GRANT** the major variation to premises licence subject to the mandatory conditions and local condition (m).

**9.4 Ref: HC/CSR/1697**

**Applicant:** Kirkaig Foods Ltd, Flat 4 17 Belgrave Place, London, SW1X 8BS

**Premises:** Peet's Restaurant, Culag Square, Lochinver, IV27 4LE

**Type:** On and off sales

There had been circulated **Report No HLB/038/23** by the Clerk which invited the Board to determine the application.

The Board **AGREED** to **GRANT** the major variation to premises licence subject to the mandatory conditions, existing local condition (m) as amended at 8.2 of the report, additional local conditions (l) and (o) and the removal of the existing special condition set out at 8.3 of the report.

**9.5 Ref: HC/CSR/1697**

**Applicant:** Kirkaig Foods Ltd, Flat 4 17 Belgrave Place, London, SW1X 8BS

**Premises:** The Fishertown Inn, Church Street, Cromarty

**Type:** On and off sales

There had been circulated **Report No HLB/039/23** by the Clerk which invited the Board to determine the application.

The Board **AGREED** to **GRANT** the major variation to premises licence subject to the mandatory conditions, existing local conditions and additional local conditions (l), (m) and (o).

**10. Licensing (Scotland) Act 2005 Section 38**

**Application for review of premises licence**

**Achd Cheadachd (Alba) 2005, Earrann 38**

**larrtasan airson èisteachd ath-bhreithneachail air ceadachd togalaich**

**10.1 Licence holder:** Alhama UBB Limited, 79 High Street, Nairn, Scotland, IV12 4BW

**Premises:** Uncle Bob's Bar, 1 High Street, Nairn

There had been circulated **Report No HLB/040/23** by the Clerk together with an application by Environmental Health for a premises licence review.

The Senior Environmental Health Officer stated the case for the alleged grounds for review as detailed in Appendix 2 to the report. The Board was asked to review the licence and agree to the addition of a condition to the licence which restricted the use of the rear fire escape as a smoking/drinking area and required the fire door to be kept closed and only used in the event of an emergency.

Mr Martin Smith, solicitor for the licence holder asked whether Environmental Health would be satisfied if a system could be put in place where there was an alert to the bar staff that the rear fire escape door was being opened as a potential resolution. The Senior Environmental Health Officer confirmed that the Service would welcome such a management control being put in place.

Mr Smith then stated the case for the applicant, during which he highlighted the difficulties of supervising the rear fire escape from the bar, particularly on busy nights. He referred to the less formal attempts to resolve the problem as noted in Environmental Health's report to limited effect. His client's proposal to address the issue, while not physically restricting access to the fire escape, was to install and maintain a flashing/low volume alarm system on the rear fire escape so that staff could take immediate action if it was opened, and this would be progressed in the near future. The proprietor would have no objection to any such condition being put in place.

In response to questions from Members, Mr Smith confirmed that there would be no issue with signage being put in place directing patrons to the smoking area at the front of the premises and to make it clear that opening the rear fire door would trigger an alarm and that bar staff would react to it being opened.

Following further discussion, the Board **AGREED:**

(1) that the statutory grounds for review under s.36(3)(b) of the Licensing (Scotland) Act 2005 had been established in that there were grounds for review relevant to one or more of the licensing objectives, namely (1) preventing public nuisance and (2) securing public safety.

(2) that it was necessary and appropriate for the purposes of the licensing objectives, specifically (1) preventing public nuisance and (2) securing public safety to make a variation of the licence by the addition of a further condition on the licence as follows:

**“at all times duty staff shall ensure that customers do not use the rear fire escape as a smoking and/or drinking area by having a suitable management system in place. This is to include installing and maintaining an alarm system on the rear fire escape.”**

**11. Surrender of premises licence  
Gèilleadh ceadachd togalaich**

**11.1 Premises:** Garve Hotel, Garve  
**Licence Holder:** Hart Licensees Ltd

**11.2 Premises:** Mackays Hotel and Spa Lodge, Strathpeffer  
**Licence Holder:** Hart Licensees Ltd

**11.3 Premises:** The Spa Lodge, Strathpeffer (Provisional Licence)  
**Licence Holder:** Hart Licensees Ltd

**11.4 Premises:** Morefield Motel, North Road, Ullapool  
**Licence Holder:** J & R Group Limited

**11.5 Premises:** Retro, 6 Bridge Street, Wick  
**Licence Holder:** Yvonne Fitzgerald

The Board **NOTED** the above Premises Licences had been surrendered in terms of Section 28(5)(f).

The meeting closed at 5.00pm.

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