

HIGHLAND LICENSING BOARD

Minute of the meeting of the **Highland Licensing Board** held in the Council Chamber, Council Headquarters, Glenurquhart Road, Inverness on Tuesday 5 September 2023 at 1.20pm.

Present:

Mr C Birt, Mr J Grafton, Mrs J Hendry (Convener), Mr S Kennedy, Ms E Knox, Mr D Macpherson, Mr D Millar (remote), Mr P Oldham, Mr K Rosie (remote).

In Attendance:

Mr I Meredith, Clerk to the Board
Mr G Cameron, Licensing Standards Officer
Mr I Cox, Licensing Standards Officer
Mr E MacKinnon, Licensing Standards Officer
Ms A Macrae, Senior Committee Officer

Also In Attendance:

Sergeant Paterson, Police Scotland

Item 7.3: Elizabeth Johnson (applicant)

Item 8.1: Samuel Herbert (applicant), Joanna Miller (solicitor), Lisa Kennard (objector), James and Angela McIlraith (objectors), Derek Rudkin (objector), Allan Macdonald (objector), Scott Maclean (representing Ruth Oulton, objector), Teresa O'Connor (objector)

Item 9.2: Kelly Franks (premises manager), Ross Mackay (music venue manager), Niall Hassard (solicitor)

Item 9.3: Caroline Loudon (solicitor)

Item 9.4: Chris Grunert (solicitor)

Item 9.5: Eilidh Morrison (solicitor)

Item 9.6: Gary Gruber (premises manager), Jemma Hughes (solicitor)

Item 10.1: Dennis Bates (licence holder's representative)

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 Mr J Bruce.

2. Declarations of Interest Foillseachaidhean Com-pàirt.

Item 6: Mr D Millar (Transparency Statement)

Item 8.1: Mr S Kennedy (Declaration of Interest)

**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 1 August 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/094/23 by which detailed all Licences which had been granted under delegated powers to the Clerk during the period 20 July 2023 to 23 August 2023.

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/095/23 detailing Occasional Licences and Extended Hours Applications which had been granted under delegated powers by the Clerk to the Board during the period 20 July 2023 to 23 August 2023.

The Board **NOTED** the Report.

**6. Chief Constable's Report 2022 to 2023
Aithisg an Àrd-Chonstabail 2022 gu 2023**

Mr D Millar made a Transparency Statement in respect of this item on the grounds his son was a serving Police officer in an area outwith the Highlands and Islands Division. However, having applied the objective test, reviewed his position in relation to the item and personal connection, he did not consider that he had an interest to declare.

There had been circulated the Chief Constable's Annual Licensing Report to the Highland Licensing Board for 2022/2023.

In discussion, concern was expressed at the reduction in Police Scotland's resources in Highland and the impact on their aspiration to visit all licensed premises in the area on an annual basis and in relation to the prevention of crime. It was suggested that representations be made to the Chief Superintendent and the Scottish Government on this matter.

The Convener advised that the Chair of the Communities and Place Committee had indicated he would follow up on a letter sent to the Scottish Government requesting an urgent review of Police Scotland resources in the Highlands.

Sergeant Paterson confirmed that she would share the concerns expressed by the Board with the Chief Superintendent for the Highlands and Islands. In reality, Police Scotland could not visit every licensed premises in Highland once a year and the statistics for the number of visits undertaken each year could be made available to Members if required. She provided an assurance that she and local police officers intended to visit more licensed premises to undertake checks and provide advice and guidance to licensees.

Thereafter, the Convener thanked Police Scotland for the report and commended the licensing staff for their hard work.

The Board **NOTED** the report.

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

7.1 Ref: HC/RSL/2074

Applicant: Janette MacRae

Premises: Waterside Seafood Restaurant, Railway Buildings, Kyle of Lochalsh, IV40 8AQ

Type: On sales

There had been circulated **Report No HLB/096/23** by the Clerk which invited the Board to determine the application.

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

7.2 Ref: HC/RSL/2075

Applicant: Trotternish Ltd

Premises: Trotternish B&B, 1B Peinaha, Glenhinnisdal, Portree, Isle of Skye, IV51 9UZ

Type: On sales

There had been circulated **Report No HLB/097/23** by the Clerk which invited the Board to determine the application.

In response to a question, the Clerk advised that properties were exempt from the short term licence legislation if they held a premises licence with accommodation as part of their operating plan. It was entirely competent for applicants to decide what type licence was most appropriate for their particular circumstances.

In discussion, concern was expressed at the nature of the proposed on-sales at the premises and the need for further clarity on this matter in the application.

The Clerk advised that to allay any concerns a special condition could be added to the licence that alcohol may only be sold to residents of the premises.

The Board **AGREED** to **GRANT** the application for a new premises licence subject to the mandatory conditions only and an additional special condition:

- That alcohol may only be sold to residents of the premises.

7.3 Ref: HC/CSR/2077

Applicant: Dornoch Distillery Company Limited

Premises: Dornoch Distillery Shop, Unit 3C, Station Square, Dornoch, IV25 3PG

Type: On and off sales

There had been circulated **Report No HLB/098/23** by the Clerk which invited the Board to determine the application.

The Board **AGREED** to **GRANT** the application for a new premises licence subject to the mandatory conditions and the following special condition:

- Alcohol may only be sold prior to 1100hrs for consumption on the premises only during a formal or tutored tasting session and only to customers taking part in such tasting sessions.

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/687

Applicant: Melrose Villa Limited, 17 Fowler Terrace, Edinburgh, E11 1DD

Premises: Melrose Villa, 35 Kenneth Street, Inverness, IV3 3DH

Type: on and off sales

Declaration of Interest: Mr S Kennedy declared an interest in this item on the grounds he'd had business dealings with some of the objectors in the past and he took no part in the discussion or determination of this item.

There had been circulated **Report No HLB/099/23** by the Clerk which invited the Board to determine the application.

The Clerk confirmed the following objectors were present:

Joanna Miller, solicitor for the applicant, advised that her client wished to amend the application to remove the outdoor drinking area, restrict on-sales to 11pm and offer a condition that the sale of alcohol would be to residents only. The on-sales hours could be restricted further if necessary. A complimentary miniature would be provided in guest bedrooms on arrival and there would also be the opportunity to order miniatures of whisky or gin on a very limited basis. There would be no bar or alcohol on display at the premises and the on-sales element was to allow tastings to encourage guests to visit local distilleries.

At this point, the Clerk advised that a late objection had been received from Police Scotland and, therefore, could not be automatically considered by the Committee.

Sergeant Paterson, Police Scotland, apologised for the late submission and explained this had been due to an administrative error in relation to the consultation date. Scrutiny measures had been put in place to ensure this did not happen again.

The solicitor for the applicant advised that she had no objection to the late objection being heard and advised that the issues raised had been addressed through the proposed amendments to the application as detailed above.

The Board **AGREED** to accept the late objection by Police Scotland and copies were circulated to all parties.

Thereafter, the objectors raised the following main points:-

- consideration of the application be deferred to allow the objectors sufficient time to consider the terms of the amendments made to the application and seek legal advice;
- concern at the short notice the objectors had received in relation to the Board meeting;
- the applicants or their staff would not be present on the premises overnight and concern as to how any disturbance at the premises associated with the sale of alcohol would be policed and how they would ensure the safety of guests;
- concern at the extent of the amendments proposed to the application at the meeting which from prior discussions with the applicants had not been their intention. It was queried whether the applicant was applying for a provisional premises licence to avoid having to apply for a short-term licence;
- the reason for having organised tasting sessions was to encourage guests to purchase larger bottles of alcohol; and
- the premises was located in the middle of a residential area and on-sales up until 11pm was considered to be too late in the evening for this location.

In response to questions, the solicitor for the applicant advised that:

- noise monitoring equipment and CCTV were to be fitted to the premises to ensure the applicants could monitor the public and external areas of the property;
- her client and team could attend the premises within 10 to 15 minutes if there were any concerns and arrangements were already in place for residents to contact them;
- both the liquor and short term licensing regimes required licence holders to exercise good management to ensure there was no negative impact on amenity or in terms of public noise or disorder;
- her client was content to further amend the application by removing the off-sales element and to further restrict on-sales to 10pm;

- on-sales would be conditioned so they only took place as part of a formal tasting sessions undertaken by a trained member of staff. These would be limited in terms of duration and the quantity of alcohol involved; and
- the application had been amended directly as a result of the concerns expressed by the objectors and Police Scotland. A restricted application was now proposed and it was considered a deferment was not necessary.

Following on from the above, the Board heard from Samuel Herbert, applicant during which he advised that the formal tasting sessions aimed to improve the visitor experience for guests. There was no desire to cause noise disturbance to residents and therefore the on-sales offering would be minimal and there would be no off-sales.

Thereafter, Mr P Oldham seconded by Mrs J Hendry **moved** to defer consideration of the application for a provisional premises licence to the meeting of the Highland Licensing Board on 24 October 2023 to allow the objectors sufficient time to consider the terms of the amendments made to the application and seek advice.

As an amendment, Mr C Birt moved to grant the application, as amended, but on failing to find a seconder the amendment fell.

Decision

The Board **AGREED** to **DEFER** consideration of the application for a provisional premises licence to the meeting of the Highland Licensing Board on 24 October 2023 to allow the objectors sufficient time to consider the terms of the amendments made to the application and seek advice.

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/315

Applicant: Lewis Michael Jaffrey

Premises: Corner on the Square, 1 High Street, Beaulay, IV4 7BY

Type: on and off sales

There had been circulated **Report No HLB/100/23** by the Clerk which invited the Board to determine the application.

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

9.2 Ref: HC/INBS/254

Applicant: Invopco Limited, 267 Clifton Road, Aberdeen, AB24 4HJ

Premises: Gellions, Bridge Street, Inverness, IV1 1HD

Type: on and off sales

There had been circulated **Report No HLB/101/23** by the Clerk which invited the Board to determine the application.

Niall Hassard, solicitor for the applicant, advised that in discussions with Police Scotland, his clients wished to amend the application so the terminal hour for on-sales was to 0300hrs Thursday to Saturday, and 0200hrs Sunday to Wednesday. He advised that the premises was well known as a market leading late night entertainment venue nationally and was run to a high standard. He responded to a number of questions from Members in relation to compliance with the conditions for late night premises and matters of alcohol consumption and intoxication and safe home practices for staff.

Sergeant Paterson, Police Scotland, advised that she had submitted a modification request to the application as it was outwith policy hours and reasoning for the departure had not been given in the application. Following discussion with the applicant's solicitor and having regard to the Licensing Standards Officer's report, she was supportive of the proposed amendment to the application as a reasonable compromise.

Thereafter, the Board **AGREED** to **GRANT** the major variation of the premises licence, subject to the existing conditions only, and the following amendment:

- Amend terminal hour for on-sales to 0300hrs Thursday to Saturday, and 0200hrs Sunday to Wednesday

9.3 Ref: HC/INBS/260

Applicant: C J Lang & Son Limited, 78 Longtown Road, Dundee, DD\$ 8JU

Premises: Spar, 45 Thornbush Road, Inverness, IV3 8AB

Type: off sales

There had been circulated **Report No HLB/102/23** by the Clerk which invited the Board to determine the application.

The Board **AGREED** to **GRANT** the major variation of the premises licence, subject to the existing conditions only.

9.4 Ref: HC/INBS/47

Applicant: Marks and Spencer PLC, Waterside House, 35 North Wharf Road, London W2 1NW

Premises: Marks and Spencer, 9 Eastgate, Inverness, IV2 3TL

Type: off sales

There had been circulated **Report No HLB/103/23** by the Clerk which invited the Board to determine the application.

The Board **AGREED** to **GRANT** the major variation of the premises licence, subject to the existing conditions only.

9.5 Ref: HC/RSL/0123

Applicant: Staffin Stores Limited

Premises: Staffin Stores, Talla Stafainn, Staffin, Isle of Skye, IV51 9JS

Type: off sales

There had been circulated **Report No HLB/104/23** by the Clerk which invited the Board to determine the application.

The objectors were not present.

The Licensing Standards Officer advised that three out of the four acknowledgment letters to the objectors had been returned by the Royal Mail as 'addressee unknown'. The issues raised in objection mainly referred to other matters rather than the extended hours being sought. This was a well run premises and he had no concerns in relation to the application.

The Board **AGREED** to **GRANT** the major variation of the premises licence, subject to the existing conditions only.

9.6 Ref: HC/CSR/1477

Applicant: Skibo Limited, Skibo Castle, Clashmore, Dornoch, IV25 3RQ

Premises: Skibo Castle, Lodges & Golf Club House, Clashmore, Dornoch, IV25 3RQ

Type: On and off sales

There had been circulated **Report No HLB/105/23** by the Clerk which invited the Board to determine the application.

The Board **AGREED** to **GRANT** the major variation of the premises licence, subject to the existing conditions only.

9.7 Ref: HC/CSR/0154

Applicant: Andrew R Jones

Premises: Culbokie Inn, Culbokie

Type: On sales

There had been circulated **Report No HLB/106/23** by the Clerk which invited the Board to determine the application.

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

**10. Licensing (Scotland) Act 2005 Section 84 – conduct inconsistent with the licensing objectives
Achd Cheadachd (Alba) 2005, Earrann 84**

9.1 Personal Licence Holder: Andrew David Bates

There had been circulated **Report No HLB/107/23** by the Clerk.

The Board heard from Sergeant Paterson in relation to Police Scotland's letter dated 14 April 2023.

The Board heard from Dennis Bates, the licence holder's representative, in support of the licence during which he submitted that licence holder be permitted to retain his personal licence.

Following discussion, the Board **AGREED** to **REVOKE** the licence holder's personal licence.

11. Surrender of premises licence
Gèilleadh ceadachd togalaich

11.1 Premises: The Caberfeidh Bar & Restaurant, Main Street, Lochinver, IV27 4JY

Licence Holder: Lochinver Larder Limited

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

The meeting closed at 5.05pm.
