

## The Highland Licensing Board

Meeting – 28 November 2023

<b>Agenda Item</b>	8.5
<b>Report No</b>	HLB/134/23

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

The Bay Dunbeath, Dunbeath

Report by the Clerk to the Licensing Board

#### Summary

This report relates to an application for a major variation of premises licence by The Bay Dunbeath Limited in respect of The Bay Dunbeath, Dunbeath.

#### 1.0 Description of premises

1.1 The Bay Dunbeath comprises a public bar, lounge bar and restaurant. The premises are a single storey detached building adjacent to the A9 in Dunbeath. The premises licence was granted on conversion on 1 September 2009.

#### 2.0 Current operating hours

The premises currently has the following operating hours:

##### On sales:

Monday to Thursday:	1100 hrs to 2400 hrs
Friday and Saturday:	1100 hrs to 0100 hrs
Sunday:	1100 hrs to 2345 hrs

##### Off sales:

Monday to Sunday:	1100 hrs to 2200 hrs
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#### 3.0 Summary of variation application

##### 3.1 Variation sought

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

- 1) change the name of the premises to The Bay Dunbeath Limited t/a Dunbeath Coastal Retreat;
- 2) extend the licensed area to include onsite accommodation cabins, amend the layout plan to show this and amend the premises licence description;
- 3) update the children and young person policy;
- 4) increase the on sales capacity;

- 5) amend the explanation for activities held outwith core hours and also list of other activities provided.

#### **4.0 Background**

- 4.1 On 5 October 2023 the Licensing Board received an application for a major variation of a premises licence from The Bay Dunbeath Limited.
- 4.2 The application was publicised during the period 20 October to 10 November 2023 and confirmation that the site notice was displayed is awaited.
- 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](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:-

- a) The property known as The Bay Dunbeath is a long-established licensed premises on the outskirts of the village of Dunbeath.
- b) This application is to extend the licensed footprint of the premises to include an area for cabin accommodation and thus the licensed layout of the premises. The application also updates the Children and Young Persons policy.
- c) The premises have operated for many years without adverse comment.
- d) The activities sought would appear to be reasonable and appropriate for the proposed operation of the premises.
- e) The Children's and Young Persons policy is appropriate.
- f) The layout plan submitted complies with the required specifications.
- g) There would not appear to be any matter contained within the application that is inconsistent with the licensing objectives.
- h) During the period of public consultation, no objections were received.
- i) 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 no additional local conditions are considered necessary.

#### **Recommendation**

The Board is invited to determine the above application and if minded to grant the 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/CSR/1202  
Date: 13 November 2023  
Author: G Sutherland

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