

The Highland Licensing Board

Meeting – 26 March 2024

Agenda Item	9.3
Report No	HLB/33/24

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

Cuillin Hills Hotel, Scorrybreac Road, Portree, Isle of Skye, IV51 9QU

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Wickman Hotels Limited, Cuillin Hills Hotel, Scorrybreac Road, Portree, Isle of Skye, IV51 9QU.

1.0 Description of premises

1.1 The premises is situated in the village of Portree and set in its own large private grounds and caters for residents and non residents. The rear of the premises has an ornamental garden.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Sunday: 1100 hours to 0100 hours

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Addition of off sales hours – 1000 hours to 2200 hours – Monday to Sunday;
- (2) Increase seating in and around bar area including alteration to bar to accommodate extra capacity;
- (3) Increase bedroom capacity from 38 to 39;
- (4) Provide mini bar to rooms;
- (5) Use of marquee in garden areas to satisfy seasonal demand and to service weddings and similar functions;

- (6) Supply alcohol with packed lunches for guests subject to age verification policy;
- (7) External drinking areas in front and rear garden areas. Usually referred to as “The Lawn and Courtyard Gardens (CYG)”;
- (8) Music may be played for guests in all areas of the licensed footprint;
- (9) Wording on Children and Young Persons Policy to be amended (6(e));
- (10) Increase on sales capacity to 354 including marquee capacity when in use. Note that the outdoor seating availability will be negated by use of marquee;
- (11) Use of pyrotechnics may be deployed during celebrations such as Hogmanay, weddings or similar events;
- (12) Amend seasonal variation wording;
- (13) Amend premises description.
- (14) Layout plan –
 - (i) Minor changes proposed to layout of bar are primarily to improve ambience, provide a more efficient customer service and to generally remain true to customer expectations. This change is intended to create a more efficient operation without any anticipated major increase in business or general footfall. The primary objective is to create a larger more customer friendly and efficient use of hitherto ‘dead’ space.
 - (ii) During alterations a temporary bar area will require to be set up utilising space in the existing ‘Malt Bar’ area. Dependent on timescales and demand, it may be preferable to operator table service only.
 - (iii) Addition of external drinking areas may include a ‘pop up bar’ or marquee on occasion and location may be varied.

4.0 Background

- 4.1 On 31 January 2024 the Licensing Board received an application for a major variation of a premises licence from Wickman Hotels Limited.
- 4.2 The application was publicised during the period 8 February 2024 until 29 February 2024 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, the following timeous representation has been received and is appended:

1. Representation from Environmental Health on 29 February 2024 (Appendix 1).

Reference to this representation is addressed in the LSO comments at 6.1

- 4.6 The applicant and the objector 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:

http://highland.gov.uk/hlb_hearings

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.

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.

- 5.2 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.

- 5.3 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.

5.4 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:-

- (i) The premises are a long established 38 bedroom prestige hotel set in its own large private grounds and caters for residents and non-residents.
- (ii) The application is to bring up to date what the business requires to meet ever changing expectations of guests from a prestige establishment, there has been considerable investment in the premises to enhance the guest experience and I believe further investment is planned.
- (iii) The application is consistent with the licensing objectives.
- (iv) The application is within HLB policy.
- (v) The premises have operated for many decades with no adverse incidents.
- (vi) No objections or representation has been received from any of the neighbouring properties.
- (vii) Representation has been received from Environmental Health and is contained in the supporting paperwork for this application.
- (viii) The LSO certainly invites the Board to note the representation.
- (ix) The applicant wishes to attend the Board meeting and put their case about the points raised to the Board personally. It is worthy of note that the applicant is very aware of the balance between how the business will operate/control the outside areas and the impact that could have on neighbouring properties and indeed their paying guests and will manage it in an appropriate manner.
- (x) The LSO suggests that the applicant and Environmental Health could formulate a "Noise Management Plan" that is workable for both parties.
- (xi) I have no objections 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.

8.3 Special conditions

Existing special conditions will continue to apply and no additional special conditions are considered necessary.

Recommendation

The Board is invited to determine the above 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/RSL/0775

Date: 5 March 2024

Author: Carol Nicolson

Appendices: Appendix 1 – Representation from Environmental Health received on 29 February 2024

Appendix 1

Representation received from Environmental Health on 29 February 2024

Noise:

1. The closest properties to the hotel are some 50m from the courtyard and 65m from the front lawn. With respect to the outdoor drinking areas as detailed on the plans submitted and given the proximity of these nearest residence, to protect the amenity of any persons not connected to the establishment no outdoor drinking shall occur past 2200hrs. The only exceptions to this would be for special occasions (i.e. weddings) or seasonal variations that extend permitted hours (i.e. Hogmanay or similar) as per the current licensing standards.

2. With regard to the statement within the application whereby “Music may be played for guests in all areas of licensed footprint”, it is felt that within the outdoor courtyard area, due to its construction, it should not be used for any live or amplified music; this is to protect the amenity of any person not connected to the establishment. Recorded music, played gently as background music, may be acceptable.

3. With regard to the front lawn, the likely spot for a marquee for events such as weddings etc., live music may go ahead in line with the following times and noise limits (as measured at the nearest noise sensitive premise):

Between the hours of 0900 and 2300:	
1 to 3 events per calendar year	The Music Noise Level should not exceed 65dB(A) over a 15-minute period
4 to 12 events per calendar year	The Music Noise Level should not exceed the background noise level by more than 15dB(A) over a 15-minute period.
Between the hours of 2300 and 0900:	
Any event	The music noise should not be audible within noise-sensitive premises with windows open in a typical manner for ventilation.

The applicant must determine the frequency of wedding (and similar) events per year and take all reasonable steps to adhere to the target noise levels stipulated above, through the implementation of noise limiting procedures and/or consideration of the marquee construction.

Pyrotechnics

4. It is noted the premises intended to use pyrotechnics at events. Whilst our Service would not wish to object to the use of pyrotechnics, the applicant should ensure that appropriate risk assessments and health and safety arrangements are implemented effectively for their use. Additionally, the applicant should consider the frequency of any such events in order to minimise any potential impact to neighbouring residents, and may wish to inform immediate neighbouring residents when such events take place, particularly if they have animals (i.e. pets, horses, livestock etc.).