

HIGHLAND LICENSING BOARD

Minute of the meeting of the **Highland Licensing Board** held in the Council Chamber, Council Headquarters, Glenurquhart Road, Inverness on Tuesday 13 February 2024 at 10.00am.

Present:

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

In Attendance:

Mr I Meredith, Clerk to the Board
Ms M Duffy, Solicitor
Mr G Cameron, Licensing Standards Officer
Mr I Cox, Licensing Standards Officer
Mr E MacKinnon, Licensing Standards Officer
Mrs G MacPherson, Committee Officer

Also In Attendance:

Sergeant Paterson, Police Scotland

Item 6.1: Ms L West, applicant
Item 6.4: Ms K George, applicant
Item 7.1: Mr J Flanagan, applicant's representative
Item 8.1: Mr H Wagner, applicant

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

There were no apologies for absence.

2. Declarations of Interest Foillseachaidhean Com-pàirt

The Board **NOTED** the following Declaration of Interest.

Item 8.1: Mr P Oldham

3. Confirmation of minutes Dearbhadh a' gheàrr-chunntais

There had been submitted for confirmation as a correct record the minute of the meeting of the Highland Licensing Board held on 9 January 2024.

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/11/24 detailing all Licences which had been granted under delegated powers to the Clerk during the period 14 December 2023 to 31 January 2024.

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/12/24 detailing Occasional Licences and Extended Hours Applications which had been granted under delegated powers by the Clerk to the Board during the period 14 December 2023 to 31 January 2024.

The Board **NOTED** the Report.

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

6.1 Ref: HC/INBS/697

Applicant: Invermoriston Community Shop Ltd, Glenmoriston Buildings, Invermoriston, IV63 7YA

Premises: Invermoriston Community Shop, Glenmoriston Buildings, Invermoriston, IV63 7YA

Type: off sales

There had been circulated Report No HLB/13/24 by the Clerk.

In regards to section 2.1 of the report, a typing error had been indicated and it was clarified that the application was for off sales.

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

6.2 Ref: HC/INBS/698

Applicant: Inverness Whisky Ltd, Flat 1 Aultnaskiach House, Culduthel Road, Inverness, IV2 4BB

Premises: Inverness Whisky, Market Close, Inverness, IV1 1EX

Type: on and off sales

There had been circulated Report No HLB/14/24 by the Clerk.

The Board **AGREED** to **GRANT** the application for a new premises licence subject to the mandatory conditions plus local condition (g).

6.3 Ref: HC/CSR/2094

Applicant: Inchnadamph Lodge Ltd

Premises: Inchnadamph Explorers Lodge Ltd, Inchnadamph, Lairg, IV27 4HL

Type: Off sales

There had been circulated Report No HLB/15/24 by the Clerk.

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

6.4 Ref: HC/CSR/2093

Applicant: Firm of Burnside Cottage

Premises: Burnside Cottage B&B and The Pig Shed Self-Catering Studio, Gills, Canisbay

Type: On sales

There had been circulated Report No HLB/16/24 by the Clerk.

It was asked if the outdoor area mentioned in the report was close to adjacent properties and the applicant confirmed it was not.

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

7. Licensing (Scotland) Act 2005

Applications for provisional premises licences

Achd Ceadachd (Alba) 2005

Iarrtas airson ceadachdan thogalaichean le cumha

7.1 Ref: HC/CSR/2097

Applicant: Subs Holdings Ltd

Premises: Invergordon Convenience Store, 83 High Street, Invergordon

Type: Off Sales

There had been circulated Report No HLB/17/24 by the Clerk.

Representing the applicant, Mr Flanagan advised that this application had the support of Invergordon Community Council and added that the store owners were willing to work with the Council going forward, should any matters arise.

Information was sought, and provided, regarding the difference between a new and provisional premises licence.

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

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

8.1 Ref: HC/INBS/645

Applicant: Cawdor by the Sea Ltd, 7 Cawdor Street, Nairn, IV12 4QD

Premises: Cawdor House, 7 Cawdor Street, Nairn, IV12 4QD

Type: on sales

Declaration of Interest: Mr P Oldham declared an interest in this item as he had worked previously with the applicant and, in accordance with paragraph 5.6 of the revised Code of Conduct, he left the meeting for this item.

There had been circulated Report No HLB/18/24 by the Clerk.

It was confirmed that while the adverse representations to this application included concerns relating to the previous owners of Cawdor House, the objections remained relevant and had not been withdrawn. The current owner and applicant, Mr Wagner, reassured the Board that steps had been taken to resolve the issues. He had held two meetings with the neighbours (in addition to hosting them frequently) where plans, and any potential impact, had been discussed.

Mr Wagner wished to offer small whisky tastings to hotel guests with the opportunity to sell a bottle of whisky should guests wish to purchase one. There was no plan to extend the licenced area or hours and Mr Wagner stated he would be happy to make provisions in the licence if needed. He reiterated the importance of maintaining a good relationship with his neighbours, advising that their concerns regarding noise and parking were being taken seriously. Guests were asked not to park directly in front of the property.

It was asked, and confirmed, that alcohol was served in the café.

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

8.2 Ref: HC/CSR/1423

Applicant: Muir of Ord Golf Club

Premises: Muir of Ord Golf Club, Great North Road, Muir of Ord

Type: On and Off Sales

There had been circulated Report No HLB/19/24 by the Clerk.

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

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

9.1 Personal Licence Holder: Adil Chaudhry

There had been circulated Report No HLB/20/24 by the Clerk.

It had been reported to the Licensing Board in terms of Section 84A of the Licensing (Scotland) Act 2005 that Mr Chaudhry had acted in a manner which was inconsistent with the licensing objectives articulated at Section 4(1) of the Act, namely, preventing crime and disorder and securing public safety.

Mr Chaudhry had been invited to the meeting, however, he had not responded to the invitation and was not in attendance.

On 7 December 2023 Mr Chaudhry was convicted of a driving offence, further information of which was provided to Board Members in the report and throughout the meeting.

Speaking on behalf of Police Scotland, the Licensing Sergeant had invited the Board to consider all options open to them under Section 84(7) or 84(7A) of the Act, which included endorsement, suspension or revocation of Mr Chaudhry's personal licence.

Information was sought, and provided, regarding the effect on Mr Chaudhry's employment should his licence be removed, and it was also confirmed that Police Scotland held no record of Mr Chaudhry being a designated premises manager or premises licence holder.

In light of his non-attendance, Mrs J Hendry, seconded by Mr P Oldham, **MOVED** to defer this item to the next meeting, to allow Mr Chaudhry an opportunity to represent himself.

As an **AMENDMENT**, Mr S Kennedy, seconded by Mr D Millar, moved to debate the item at this meeting.

On a vote being taken, the **MOTION** received two votes and the **AMENDMENT** received eight votes, with no abstentions. The **AMENDMENT** was therefore **CARRIED**, the votes having been cast as follows:

For the Motion:

Mrs J Hendry, Mr P Oldham

For the Amendment:

Dr C Birt, Mr J Bruce, Mr J Grafton, Mr S Kennedy, Ms E Knox, Mr D Macpherson, Mr D Miller, Mr K Rosie

Thereafter, the Board was asked to determine whether the grounds for review were established and if the licence holder had acted in a manner that was inconsistent with the licensing objectives.

During discussion, differing views were expressed:-

- it was felt this should be considered under Section 84(7A), preventing crime and disorder, and there should be some punishment;

- Mr Chaudhry's conviction gave rise to a concern that he would be responsible for people and protocols surrounding the consumption and sales of alcohol;
- differing opinions were expressed in relation to whether or not Mr Chaudhry was deemed fit and proper to continue to hold a personal licence, and it was confirmed that if deemed not fit then the sanction would be revocation of the licence; and
- Mr Chaudhry had pleaded guilty in court, for which punishment was dealt, including the loss of his driving licence, and it was felt that his personal licence need not be affected.

Mr D Millar, seconded by Mrs J Hendry, **MOVED** that the licence holder had acted in a manner inconsistent with the licensing objectives.

As an **AMENDMENT**, Mr S Kennedy, seconded by Dr C Birt, moved that the licence holder had not acted in a manner inconsistent with the licensing objectives.

On a vote being taken, the **MOTION** received seven votes and the **AMENDMENT** received two votes, with one abstention. The **MOTION** was therefore **CARRIED**, the votes having been cast as follows:

For the Motion:

Mr J Bruce, Mr J Grafton, Mrs J Hendry, Ms E Knox, Mr D Macpherson, Mr D Millar, Mr K Rosie

For the Amendment:

Dr C Birt, Mr S Kennedy

Abstention:

Mr P Oldham

Thereafter, the Board was asked to consider whether to take no action, endorse the licence, suspend the licence for a period of up to six months, or revoke the licence.

During discussion, clarification was sought, and provided, regarding the definitions of endorsing, suspending and revoking.

Mr K Rosie, seconded by Mr D Macpherson, **MOVED** that Mr Chaudhry's personal licence be revoked.

A difference of opinion having been expressed regarding the sanction, Mr S Kennedy, seconded by Dr C Birt, moved, as a **FIRST AMENDMENT**, that the licence be endorsed.

As a **SECOND AMENDMENT**, Mrs J Hendry, seconded by Ms E Knox, moved that the licence be suspended for a period of six months.

On a vote being taken between the first amendment and the second amendment, the **FIRST AMENDMENT** received two votes and the **SECOND AMENDMENT** received eight votes, with no abstentions. The **SECOND**

AMENDMENT was therefore **CARRIED**, the votes having been cast as follows:-

For the First Amendment:

Dr C Birt, Mr S Kennedy

For the Second Amendment:

Mr J Bruce, Mr J Grafton, Mrs J Hendry, Ms E Knox, Mr D Macpherson, Mr D Millar, Mr P Oldham, Mr K Rosie.

On a subsequent vote being taken between the motion and the second amendment, the **MOTION** received three votes and the **SECOND AMENDMENT** received seven votes, with no abstentions. The **SECOND AMENDMENT** was therefore **CARRIED**, the votes having been cast as follows:-

For the Motion:

Mr D Macpherson, Mr D Millar, Mr K Rosie

For the Second Amendment:

Dr C Birt, Mr J Bruce, Mr J Grafton, Mrs J Hendry, Mr S Kennedy, Ms E Knox, Mr P Oldham

Decision

The Board **AGREED** that the licence holder had acted in a manner inconsistent with the licensing objectives, namely preventing crime and disorder and securing public safety, based on the seriousness of the convictions outlined by Police Scotland in their letter dated 22 December 2023. Having found the grounds for referral established, the licence holder's personal licence was suspended for a period of 6 months.

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

10.1 Premises: Tain Curry Club, 3 Lamington Street, Tain
Licence Holder: Mahammad Sadiq

The Board noted the above Premises Licences surrendered in terms of Section 28(5)(f).

The meeting closed at 11.40am