

HIGHLAND LICENSING BOARD

Minute of the meeting of the **Highland Licensing Board** held in the Council Chamber, Council Headquarters, Glenurquhart Road, Inverness on Tuesday, 25 June 2024 at 10.00am.

Present:

Dr C Birt, Mr J Grafton, Mrs J Hendry (Convener), Mr S Kennedy, Mr D Macpherson, Mr D Millar (until item 10.5), Mr P Oldham.

In Attendance:

Mr I Meredith, Clerk to the Board
Ms M Duffy, Solicitor
Mr G Somers, Solicitor
Mr G Cameron, Licensing Standards Officer
Mr E MacKinnon, Licensing Standards Officer
Mr S Campbell, Monitoring Inspector
Mrs G MacPherson, Committee Officer

Also In Attendance:

Sergeant Paterson, Police Scotland

Item 8.1: Scott Taylor, representative
Item 9.2: Stephen Taylor, applicant (remote)
Item 10.2: Audrey Junner, solicitor (remote)
Item 10.4: Alex Green, solicitor
Item 10.8: Audrey Junner, solicitor (remote)
Item 10.9: Audrey Junner, solicitor (remote)
Item 11.1: Lynn Simpson and Steven Bremner, representatives (remote)
Item 12.1: James McEachern, 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

Apologies for absence were intimated on behalf of Mr J Bruce, Ms E Knox and Mr K Rosie.

2. Declarations of Interest Foillseachaidhean Com-pàirt.

There were no declarations 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 7 May 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/54/24 detailing Licences which had been granted under delegated powers by the Clerk to the Board during the period 25 April 2024 to 12 June 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/55/24 detailing Occasional Licences and Extended Hours Applications which had been granted under delegated powers by the Clerk to the Board during the period 25 April 2024 to 12 June 2024.

The Board **NOTED** the Report.

**6. The Highland Licensing Board Annual Functions Report 2023-24
Aithisg Dhreuchdan Bhliadhnail Bòrd Ceadachd na Gàidhealtachd 2023-24**

There had been circulated Report No HLB/56/24 by the Clerk to the Board inviting the Board to approve the Board's seventh annual Functions Report for publication in accordance with section 9A of the Licensing (Scotland) Act 2005.

Members thanked licensing officers for the report and felt that it was important to have this information to hand. Members also acknowledged their hard work throughout the year in terms of licences granted under delegated powers.

The Board **APPROVED** the Report.

**7. The Highland Licensing Board Annual Financial Report 2023-24
Aithisg Ionmhasail Bhliadhnail Bòrd Ceadachd na Gàidhealtachd 2023-24**

There had been circulated Report No HLB/57/24 by the Clerk to the Board inviting the Board to approve the Board's seventh annual Financial Report for publication in accordance with section 9B of the Licensing (Scotland) Act 2005.

The Board **APPROVED** the Report.

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

8.1 Ref: HC/INBS/702

Applicant: The Highland Council, Town House, High Street, Inverness, IV1 1JJ

Premises: The Highland Council, Civic Office, Town House, High Street, Inverness, IV1 1JJ

Type: on and off sales

There had been circulated Report No HLB/58/24 by the Clerk.

A Highland Council representative who spoke in support of the application explained that this was part of the commercialisation programme for the Town House, to bring in some small funds to try and offset the costs from the Common Good Fund.

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

- all glass disposal operations shall cease between the hours of 2300 hours and 0800 hours

8.2 Ref: HC/RSL/2117

Applicant: Aileen Colquhoun

Premises: Tighard Guest House, Isle of Canna, PH44 4RS

Type: On sales

There had been circulated Report No HLB/59/24 by the Clerk.

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

8.3 Ref: HC/RSL/2118

Applicant: Mingary Castle Limited

Premises: Mingary Castle, Kilchoan, Acharacle, PH36 4LH

Type: On and off sales

There had been circulated Report No HLB/60/24 by the Clerk.

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

9. Licensing (Scotland) Act 2005
Applications for provisional premises licences
Achd Ceadachd (Alba) 2005
larrtas airson ceadachdan thogalaichean le cumha

9.1 Ref: HC/RSL/2111

Applicant: The Highland Council

Premises: Storr Centre, Portree, Isle of Skye, IV51 9HX

Type: on and off sales

There had been circulated Report No HLB/61/24 by the Clerk.

It was said that the Storr Centre was a very popular attraction, with close to 300,000 visitors this year and the newly installed multi-purpose area offered accommodation for weddings during inclement weather.

At this juncture, it was expressed generally that making decisions without the attendance of the applicant or their representative was disappointing, although it was confirmed that in this case, the representative had been unable to attend due to a clash with another meeting.

The Board **AGREED** to **GRANT** the application for a provisional premises licence subject to the existing mandatory conditions and a special condition that:

- on sales are permitted only in the multipurpose area and external decking area by any wedding party/group/club who have hired/booked this space.

9.2 Ref: HC/CSR/2116

Applicant: Green Shack Café Ltd

Premises: The Old Hall Café, Kinlochewe

Type: On sales

There had been circulated Report No HLB/62/24 by the Clerk.

The applicant spoke in support of the application.

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

10. Licensing (Scotland) Act 2005

Applications for variation (major) to premises licences

Achd Ceadachd (Alba) 2005

Iarrtasan airson Caochladh (Mòr) a thaobh ceadachdan thogalaichean

10.1 Ref: HC/INBS/348

Applicant: Cabot Highlands LLP, Kinburn House, St Andrews, KY16 9DR

Premises: Castle Stuart Golf Links, Balnaglack, Inverness, IV2 7JL

Type: on and off sales

Variation:

1. On sales to commence from 0900 hours Monday to Sunday.
2. Amend Sunday off sales hours to commence from 1000 hours.

There had been circulated Report No HLB/63/24 by the Clerk.

The Board **AGREED** to **GRANT** the application for a major variation to the premises licence subject to the existing conditions and additional local condition (e).

10.2 Ref: HC/INBS/120

Applicant: Co-operative Group Food Limited, 1 Angel Square, Manchester, M60 0AG

Premises: Co-op House of Beauly, Station Road, Beauly, IV4 7EH

Type: off sales

Variation:

1. Major Variation to layout plan to account for internal reconfiguration of the premises, with an increase in capacity to 38.36m².

There had been circulated Report No HLB/64/24 by the Clerk.

The applicant's solicitor spoke in support of the application and provided an explanation of the new shop layout after refurbishment.

With the capacity requested having been larger than agreed in the Policy, there was concern that approving this increase would set a precedent, however, after clarification from the Clerk, Members were happy to go against Policy in this instance for the following reasons:-

- thorough mitigation had been provided by the applicant's solicitor;
- the in-accessible alcohol from behind the counter had been moved to the accessible alcohol on the main floor;
- the new shelving units were taller in height but the actual alcohol footprint had not increased;
- the submission was that it was a reconfiguration leading to a small increase in capacity rather than an increase in the amount of alcohol on display; and
- Members considered each case on its own merit and the Clerk confirmed that it did not set a precedent.

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

10.3 Ref: HC/INBS/558

Applicant: Nyomi Dixon, 71 Drumdevan Road, Inverness, IV2 4DX

Premises: Cawdor Deli, The Barn, 1 Jubilee Cottage, Cawdor, IV12 5XP

Type: off sales

Variation:

1. Change premises name from Cawdor Stores to Cawdor Deli.
2. On sales and off sales Monday-Sunday 1000-2200 hrs.
3. Operating plan to include restaurant facilities, receptions, outside drinking area, all within core hours.
4. Add children and young person Policy.
5. Layout plan to be amended for new business layout.
6. Description to change: 'Cawdor Deli is a small shop selling a range of alcohol by off sale.'

Also on the premises are a number of tables for food service, which may include the provision of alcohol on the premises. The premises will also operate an outside drinking area where food and beverages may be taken.'

There had been circulated Report No HLB/65/24 by the Clerk.

The Board **AGREED** to **GRANT** the application for a major variation to the premises licence subject to the existing conditions, additional local conditions (f), (n)(i), (o), and (p), and a special condition:

- Alcohol may only be sold or supplied on the premises to persons taking table meals for consumption by such a person as an accompaniment to a meal.

10.4 Ref: HC/INBS/85

Applicant: Alliance Property Holdings Ltd, Hilmore House, Gain Lane, Bradford, West Yorkshire, BD3 7DL

Premises: Morrisons Daily, Culcabock Road, Inverness, IV2 3XQ

Type: off sales

Variation:

The applicant seeks a variation of the information contained within 5(f) of the following plan. This is to be amended to add the following: 'A home delivery shopping service may be operated from the store. This will be via third party delivery companies and may contain alcohol.'

There had been circulated Report No HLB/66/24 by the Clerk.

The applicant's representative spoke in support of the application and it was confirmed that robust protocols were in place in terms of age verification.

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

10.5 Ref: HC/RSL/1936

Applicant: Partnership of Mark I Rossi & Larisa Mostovaya

Premises: Torlinnhe Guest House, Achintore Road, Fort William, PH33 6RW

Type: on sales

Variation:

1. Increase on-sale capacity of premises from 18 guests to 20 guests
2. Extend footprint of licensed premises to include a second self-catering pod
3. Revise description of premises to include second self-catering pod which can accommodate 2 guests.

There had been circulated Report No HLB/67/24 by the Clerk.

It was the understanding of the Licensing Standards Officer that Building Standards were satisfied and that the applicants were awaiting the paperwork.

The Board **AGREED** to **GRANT DELEGATED POWERS** to the Principal Solicitor to **GRANT** the application for a major variation to the premises licence subject to the existing mandatory and local conditions, subject to receipt of a satisfactory Building Standards Completion Certificate.

10.6 Ref: HC/RSL/1462**Applicant:** Fort William Shinty Club**Premises:** Fort William Shinty Club Clubhouse, An Aird, Fort William, PH33 6AN**Type:** On and off Sales**Variation:**

1. Increase on sales hours to : 1100 hrs to 0100 hrs Monday to Sunday
 2. Increase off-sale hours to : 1000 hrs to 2200 hrs Monday to Sunday
- There had been circulated Report No HLB/68/24 by the Clerk.

It was said that this variation would allow the venue flexibility to hold different events.

The Board **AGREED** to **GRANT** the application for a major variation to the premises licence subject to the existing mandatory and local conditions.

10.7 Ref: HC/RSL/1834**Applicant:** Torabhaig Distillery Ltd**Premises:** Torabhaig Distillery, Teangue, Sleat, Isle of Skye, IV44 8RE**Type:** on and off sales**Variation:**

1. Increase on sales capacity from 120 to 400 (Internal 120 and external 280);
2. Increase on sales hours to 1000 hrs to 2400 hrs each day (currently 1000 hrs to 2200 hrs);
3. Amend working of Children and Young Persons Policy (6(d));
4. 5(f) – any other activities – additional wording as follows:-
 - (i) Both internal and external areas may be used for market purposes whereby third parties exhibit and sell food, drink and other products;
 - (ii) The external areas may be used for a variety of recreational purposes including displays and demonstrations of all natures, of which pop-up bars and temporary structures may be utilised;
 - (iii) The external areas may be used infrequently for festivals and events, on occasions an event may take place in the evening.

There had been circulated Report No HLB/69/24 by the Clerk.

The Board **AGREED** to **GRANT** the application for a major variation to the premises licence subject to the existing conditions and additional local condition (m), and special condition that:

- Alcohol for consumption on the premises prior to 1100 hours on any day may only be sold to persons participating in a formal tasting or sampling session or to such persons following on from their participation in a formal tasting or sampling session and a notice to that effect will be displayed on the Premises.

10.8 Ref: HC/CSR/1173**Applicant:** Co-operative Group Food Limited**Premises:** Co-op, Old Evanton Road, Dingwall

Type: Off sales

Variation:

- 1) Add recorded music as an activity to be provided during and outwith core hours;
- 2) add home delivery as an additional service provided

There had been circulated Report No HLB/70/24 by the Clerk.

The applicant's solicitor spoke in support of the application.

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

10.9 Ref: HC/CSR/0707

Applicant: Co-operative Group Food Limited

Premises: Co-op, Bridge Street, Muir of Ord

Type: Off sales

Variation:

- 1) Add recorded music as an activity to be provided during and outwith core hours;
- 2) add home delivery as an additional service provided

There had been circulated Report No HLB/71/24 by the Clerk.

The applicant's solicitor spoke in support of the application.

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

11. Gambling Act 2005

Achd na Cearrachd 2005

Application for gambling machine permit

11.1 Ref: HC/INBS/701

Applicant: The Original Bowling Company Limited, Focus 31, West Wing, Cleveland Road, Hemel Hempstead Industrial Estate, Hemel Hempstead, PH22 7BW

Premises: Hollywood Bowl, Ground Floor, Unit 12, Eastfield Way, Inverness, IV2 7GD

There had been circulated Report No HLB/72/24 by the Clerk.

The applicant's representative spoke in support of the application and confirmed that the Category C machines (for over 18s only) would be placed directly in front of the reception and bar areas, to be visually monitored by trained staff. Further, it was confirmed that the machines contained age verification software, which would be subject to regular monitoring.

The Board **AGREED** to **GRANT DELEGATED POWERS** to the Principal Solicitor to **GRANT** the application for a gaming permit for 5 Category C and 35

Category D machines on conversion of the applicant's provisional premises licence to a full premises licence.

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

12.1 Personal Licence Holder: James E R McEachern

There had been circulated Report No HLB/73/24 by the Clerk.

Mr McEachern had submitted letters of commendation prior to the meeting which were circulated to Members and the Licensing Sergeant.

The Board then heard from the Licensing Sergeant, who detailed the circumstances of the conviction.

Mr McEachern sought clarification from the Licensing Sergeant regarding particular incidents and Members heard that the information provided to the Board came from the report that Police submitted to the Procurator Fiscal. This information did not include transcripts, pleas or mitigation discussed in Court.

Mr McEachern apologised to the Board for his conduct, further, this was not something that had happened before, and mitigation was provided to Members.

During discussion, it was understood that Mr McEachern had failed to disclose the circumstances on his application, had held a personal licence for approximately 25 years and was currently a premises manager for which he required a licence to carry out his duties.

It was said that it was important that personal licence holders were aware of their legal duties, especially upon conviction of offences, and that personal licence holders were permitted, in legislation, one month to report to a Board any conviction they had.

Mr McEachern accepted the responsibilities and conditions of holding a personal licence and provided further mitigation.

During continued discussion, the following points were raised:-

- it was important that licence holders were transparent about anything that had happened;
- the Board had a duty to protect the public and uphold the licensing objectives;
- Mr McEachern was in a position of trust when he failed to comply with licensing objectives; however, he had accepted his punishment and the character reference provided by his current employer showed he was trusted;
- Mr McEachern was a trusted premises manager, with day-to-day financial responsibilities; and

- it was felt that despite the conviction, suspending his licence would penalise his employer, and so it was more appropriate to endorse the licence.

The Board **AGREED** to **ENDORSE** the personal licence for the reason of acting in a manner inconsistent with the licensing objective under s.84(2) of the Licensing (Scotland) Act 2005.

12.2 Personal Licence Holder: Hugh Crossey

There had been circulated Report No HLB/74/24 by the Clerk.

Prior to discussion, the Board **AGREED** to hear the matter in the licence holder's absence.

The Board heard from the Licensing Sergeant, who detailed circumstances of the conviction.

Thereafter, Mr P Oldham, seconded by Mrs J Hendry, **MOVED** that the licence holder had acted in a manner inconsistent with the licensing objectives and was no longer a fit and proper person to hold a licence, therefore the licence should be revoked.

As an **AMENDMENT**, Mr S Kennedy, seconded by Dr C Birt, moved that the licence holder had acted in a manner inconsistent with the licensing objectives, accordingly his licence should be suspended for a period of 6 months.

On a vote being taken, the **MOTION** received 3 votes and the **AMENDMENT** received 3 votes, with no abstentions, the votes having been cast as follows:-

For the Motion:

Mr J Grafton, Mrs J Hendry, Mr P Oldham

For the Amendment:

Dr C Birt, Mr S Kennedy, Mr D Macpherson

On there being an equality of votes, the Chair cast her second and determining vote in favour of the **MOTION** which became the finding of this Hearing.

Decision

The Board **AGREED** to **REVOKE** the licence holder's personal licence under s.84(7A) of the Licensing (Scotland) Act 2005 due to being found not to be a fit and proper person to hold a personal licence.

13. Surrender of premises licence Gèilleadh ceadachd togalaich

13.1 Premises: Tall Pines Restaurant, Evelix, Dornoch – HC/CSR/0856
Licence Holder: Thomas Sutherland

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

The meeting closed at 11.59 am.