

The Highland Licensing Board

Meeting – 3 September 2024

Agenda Item	11.1
Report No	HLB/91/24

Premises licence review hearing

Review application under section 36(1) of the Licensing (Scotland) Act 2005

Royal Hotel, High Street, Tain

Report by the Clerk to the Licensing Board

Summary

This report relates to a premises licence review hearing under section 38 of the Licensing (Scotland) Act 2005 following submission to the Board of a premises licence review application under section 36(1) of the Act.

1. Background

- 1.1 An application has been received under section 36 of the Licensing (Scotland) Act 2005 from Police Scotland for a review of the existing premises licence for the premises known as Royal Hotel, High Street, Tain. The premises licence HC/CSR/1349 is held by Royal Hotel Tain Ltd.
- 1.2 The review application, dated 31 May 2024, is appended to this report (**Appendix 1**). The alleged grounds for review and the information considered by the review applicant to support these grounds are as set out in the review application. In terms of section 36(6) of the Act, the Clerk to the Board is satisfied that the review application is neither frivolous nor vexatious and that it discloses matters relevant to one or more of the alleged grounds for review, which is one of the statutory grounds for review. A premises licence review hearing is accordingly necessary.
- 1.3 The Licensing Standards Officer for the area in which the premises are situated has been sent a copy of the review application in accordance with section 38(3) of the Act and has submitted a report on it which is also appended (**Appendix 2**). The Board must take this report into account at the hearing.
- 1.4 The premises licence holder has also been sent a copy of the review application. The premises licence holder, a representative from Police Scotland and the Licensing Standards Officer have been invited to attend the hearing. They have been advised of the hearing procedure which will be followed at the meeting and which may also be viewed via the following link:

http://highland.gov.uk/hlb_hearings

2. Legal position

2.1 Grounds for review

2.1.1 The statutory grounds for review of a premises licence are set out in subsections 36(3)(za) to (b) of the Act. They are-

- 36(3)(za) that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence,
- 36(3)(a) that one or more of the conditions to which the premises licence is subject has been breached, or
- 36(3)(b) any other ground relevant to one or more of the licensing objectives.

2.1.2 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.

2.1.3 Where the ground alleged in the review application is that specified in subsection 36(3)(za), the application must include a summary of the information on which the applicant's view that the alleged ground applies is based.

Where the ground alleged is that specified in subsection 36(3)(a), the application must include notice of the condition or conditions alleged to have been breached.

Where the ground alleged is that specified in subsection 36(3)(b), the application must include notice of the licensing objective or objectives to which the alleged ground of review relates.

These requirements have been met in the review application.

2.2 The Board's powers in respect of the premises licence

2.2.1 In terms of section 39(1) of the Act, at a premises licence review hearing the Board may, if satisfied that a ground for review is established (whether or not on the basis of any circumstances alleged in the premises licence review application considered at the hearing), decide

- to take no action, or
- to take such of the steps mentioned in section 39(2) of the Act as the Board consider necessary or appropriate for the purposes of any of the licensing objectives.

2.2.2 Those steps are-

- (a) to issue a written warning to the licence holder
- (b) to make a variation of the licence for such period as the Board may determine,
- (c) to suspend the licence for such period as the Board may determine,
- (d) to revoke the licence

2.2.3 However, this is subject to the requirement in section 39(2A) that where the Board are satisfied that the ground for review specified in subsection 36(3)(za) is established (i.e. the ground that the licence holder is not a fit and proper person to hold the licence), the Board must revoke the licence.

2.2.4 A revocation under section 39(2A) takes effect at the end of the period of 28 days beginning with the day on which the Board makes the decision, unless the revocation is recalled by the Board. It must be recalled if the Board either grants an application under s33 for the transfer of the premises licence, or grants a premises licence variation application seeking a variation which the Board considers would remove the ground on which the licence was revoked under section 39(2A). The transfer or variation application must be received within the 28-day period, but the Board may then extend the 28-day period pending determination of the application.

2.2.5 Should the Board make a variation under section 39(2)(b) or suspend the licence under section 39(2)(c), the Board may subsequently revoke the variation or suspension, on the application of the licence holder, if satisfied that, by reason of a change of circumstances, the variation or suspension is no longer necessary.

2.3 Additional action in relation to personal licence holder working in the premises

2.3.1 In the course of a premises licence review hearing the Board may also make a finding in respect of any personal licence holder who is or was working in the premises that the personal licence holder concerned, while working in the premises, acted in a manner which was inconsistent with any of the licensing objectives.

2.3.2 Should the Board make such a finding, this would normally trigger a separate and subsequent hearing under section 84 of the Act in respect of the personal licence holder. However, in this instance, a separate application for review of the personal licence held by the designated premises manager of Royal Hotel, Tain has already been submitted by Police Scotland under section 84 A of the Act, alleging conduct inconsistent with the licensing objectives. This section 84A application is the subject of a separate report on the agenda for this meeting and a hearing on this will take place at this meeting.

Recommendation

The Board is invited to hear from the representative of Police Scotland, the Licensing Standards Officer and the premises licence holder and then-

- (a) to decide whether they are satisfied that any of the grounds for review set out in section 36(3) of the Act, and listed at **paragraph 2.1.1** above, are established and, if so
- (b) to decide whether they consider it necessary or appropriate for the purposes of any of the licensing objectives to take any of the steps set out in section 39(2) of the Act and listed at **paragraph 2.2.2** above. In this regard, the Board must specify the licensing objective(s) in question.

If the Board is satisfied that the ground for review specified in section 36(3)(za) is established, the Board must revoke the premises licence, as explained at **paragraph 2.2.3** above.

Reference: HC/CSR/1349

Date: 16 July 2024

Author: G Sutherland

Appendices: Appendix 1 – Premises licence review application dated 31 May 2024
Appendix 2 – Licensing Standards Officer's report dated 16 July 2024

31/05/2024

Your Ref: HC/CSER/1349

Our Ref: 22539

Highland Council
Licensing Office
Council Headquarters
Glenurquhart Road
Inverness
IV3 5NX



Divisional Co-ordination Unit
Highland and Islands Division
Police HQ
Old Perth Road
INVERNESS
IV2 3SY

Dear Sir,

**LICENSING (SCOTLAND) ACT 2005 - SECTION 36 PREMISES LICENCE
REVIEW APPLICATION - LICENCE NO: HC/CSER/1349
PREMISES: ROYAL HOTEL HIGH STREET, TAIN, IV19 1AB.
PREMISES LICENCE HOLDER: ROYAL HOTEL TAIN LTD**

In terms of section 36(1) of the Licensing (Scotland) Act 2005 I hereby make application to the Highland Licensing Board for a review of the premises licence in respect of the premises known as Royal Hotel, High Street, Tain, IV19 1AB.

This application for review is made in terms of the grounds set out at Section 36(3) (ZA): that, having regard to the licensing objectives, the licence holder, Mr William Parsons (as a director of Royal Hotel Tain LTD) is not a fit and proper person to be the holder of a premise licence.

Additionally in terms of the grounds set out at Section 36(3) (ZA) the licence holder (as a director of Royal Hotel Tain LTD) and Designated Premises Manager, Mr Ayaz Irshad is also not a fit and proper person to be holder of a premises licence. Please note a cross referred Personal Licence Review Hearing request in respect of Mr Ayaz Irshad.

This application for review is also made in terms of Section 36(3) (b) on grounds relevant to one or more of the licensing objectives as articulated at Section 4(1) of the 2005 Act, namely:

- Preventing crime and disorder
- Securing Public Safety

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In support of this application, and in terms of section 36(5A) and section 36(5) (za) the following information is provided for your consideration: -

A director, William Parsons, of the premises licence holder, Royal Hotel Tain Ltd, has been convicted of the following relevant offence rendering him an unfit person to hold a premises licence. Mr Parsons currently lives and works within the hotel.

Date	Court	Crime/Offence	Disposal
13/05/2024 PNCE045990021	Livingston High Court	Section 3 Sexual Offences (Scotland) Act 2009 - Sexual Offence against a male 16 or over.	Sex Offender Notification Requirement and sentence deferred to 14/05/2024 then 12/06/2024 at Glasgow High Court.

Another director, Ayaz Irshad, of the premises licence holder, Royal Hotel Tain Ltd, (also the premises Designated Premises Manager) by reasons of the circumstances set out below is considered to no longer be a fit and proper person to hold a premises licence, nor a personal licence (see crossed referred Personal Licence Review Hearing request).

Circumstances

On the 10th of November 2021 the victim booked into the Royal Hotel, Tain for the night and was checked in by the Designated premises Manager, Mr Irshad, around 11pm. At this time, Mr Irshad noted the victim to be intoxicated and smelling of cannabis.

The victim then made his way through to the hotel bar and observed witness A and Mr Parsons to be within the bar. Mr Irshad also attended the bar area.

Mr Irshad, in his capacity as the Designated Premises Manager, was in control and charge of the sale of alcohol.

The victim ordered a double vodka and coke and was served by Mr Irshad. The victim and Mr Parsons thereafter began to converse.

Shortly after midnight, now the 11th of November 2021, Mr Irshad was closing the bar, and the victim ordered several drinks to take to his room. Mr Irshad poured a double vodka in one glass and then six more measures of vodka in another glass along with two single measures of whiskey.

The victim placed these drinks on a tray and Mr Parsons stated he would show him to his room. The victim and Mr Parsons thereafter walked to the victim's room. Mr Irshad and witness A remained downstairs for some time conversing with each other.

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The victim and Mr Parsons remained in the room together with the victim giving Mr Parsons the measure of whiskey and proceeded to consume all his alcohol over the period of about two hours.

The victim wished for a cigarette with Mr Parsons stating he could do so if he moved to the window of the room. Whilst smoking the cigarette Mr Parsons came up to him, reached down and placed his hand down the victim's trousers and grabbed his penis. The victim shouted.

"What the fuck are you doing?"

And pushed Mr Parsons away.

Around 2am the victim sent a message on Facebook to his friend, witness B, to phone the police to attend the hotel. Witness B phoned the victim on receipt of this message and heard him to be extremely upset, hard to make sense of, intoxicated, panicking, and crying.

The victim then informed witness B that he had been in the hotel bar with Mr Parsons, who he believed was the manager, and that Mr Parsons had followed him to his room and "stuff" happened in the room.

Witness B contacted the Police.

Around 2.45am Police attended the hotel and were afforded entry by Mr Irshad. Police found the victim in his hotel room heavily intoxicated and upset. The victim was able to provide to Police that Mr Parsons had sexually assaulted him.

Whilst within the room the victim noticed he no longer had his boxer shorts on under his trousers and observed them at the end of the bed. On this he recollected that whilst at the window his trousers and boxers were off, and Mr Parsons had been licking his anus.

Police observed numerous empty glasses around the room. These glasses matched the glasses from the bar area. The victim identified the glass Mr Parsons had been drinking from and this was duly seized from the room.

Mr Irshad was spoken to and confirmed he had checked the victim in, the victim appearing intoxicated, observed him to smoke a "joint" at some point during the evening, conversing with Mr Parsons and serving him several drinks to take to his room when he closed the bar, being several large vodkas, two whiskies and a can of cola.

The victim was taken away from the hotel and enquiries started. The victim was spoken to again at around 8.30pm and further details noted. The victim provided he gave no consent for any sexual activity and would have been too intoxicated to be able to give any such consent.

On the 12th of November 2021 the victim underwent a medical examination.

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At 8pm, same date, Mr Parsons was arrested and conveyed to Inverness Burnett Road Police Station.

After interview Mr Parsons was charged with the offence of sexual assault to which he replied under caution

“I did it with his consent”.

Mr Parsons was held in police custody to appear at court the next day.

Petition proceedings began on the 15th of November 2021 with Mr Parsons being released on bail.

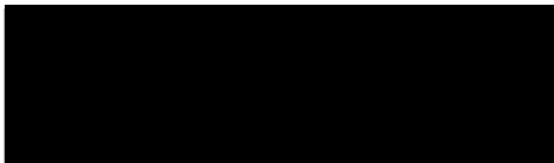
After numerous court dates set for this matter Mr Parsons was convicted on the 13th of May 2024 at Livingston High Court of sexual assault. He was subject to the Sex Offender Notification Requirement and sentence deferred to the next day and thereafter the 12th of June 2024 at Glasgow High Court.

I request that the Licensing Board considers the grounds for review and takes such steps as it considers necessary or appropriate for the purposes of the Licensing Objectives under the terms of Section 39(2) or 39(2A) of the Act.

This narrative of offending can be linked to the sale of alcohol at the premises to the victim, being a patron of the premises for the evening. The premises licence holder, Mr Parsons, has breached the Licensing Objectives, namely crime prevention and securing public safety and poses a high risk to the public and a breach of the Objectives should there be a continuation of this premises licence.

Further to this, Mr Irshad, the Designated Premises Manager, and a director of the company holding the Premises Licence has failed in his duty of care towards the victim whereby he has admitted to believing the victim was intoxicated and smoking cannabis at the time of check in and serving him alcohol and thereafter irresponsibly serving a large quantity of alcohol to the victim to take to his room. These actions being relevant to the Licensing Objectives and in breach of them.

Yours faithfully

A large black rectangular redaction box covering the signature of the Chief Superintendent.

Chief Superintendent Rob Shepherd
Divisional Commander

For enquiries, please contact the Licensing Department on 01463 720817.

APPLICATION FOR REVIEW OF PREMISES LICENCE

This is an application for review of the premises licence for Royal Hotel, Tain. The holder of the premises licence is Royal Hotel Ltd. The review application is made by Police Scotland under Licensing (Scotland) Act 2005 – Section 36.

Background

The Royal Hotel, Tain is a licensed hotel situated on High Street, Tain. It comprises of a lounge bar, function bar/room, dining room and 27 letting rooms.

The premises licence holder is Royal Hotel Ltd. Two of the directors of The Royal Hotel Ltd are William Parsons and Ayaz Irshad.

Licensing Standards Officer's comments

I have in the past conducted licensing compliance visits which have shown no breaches or concerns in relation to licensing objectives.

On 15th November 2021 I was made aware by Police Scotland Licensing Sgt that an incident had occurred at the Royal Hotel Tain, and that there was an ongoing Police enquiry. I was aware that this enquiry would take some time to complete. I took no part in that police enquiry.

Garry Cameron
Licensing Standards Officer
16 July 2024