

Item: 5

Orkney Islands Area Licensing Board: 23 August 2018.

Licensing (Scotland) Act 2005.

Application for Variation of Premises Licence.

**Pickaquoy Centre Trust – Pickaquoy Centre and Campus,
Muddisdale Road, Kirkwall.**

Report by Clerk to the Board.

1. Purpose of Report

To consider an application by the Pickaquoy Centre Trust for a variation of a premises licence held in respect of Pickaquoy Centre and Campus, Muddisdale Road, Kirkwall.

2. Recommendations

It is recommended:

That the Board determines the application by the Pickaquoy Centre Trust for a variation of a premises licence held in respect of Pickaquoy Centre and Campus, Muddisdale Road, Kirkwall.

3. Policy Aspects

3.1.

In accordance with the Licensing (Scotland) Act 2005, the Board's Statement of Alcohol Licensing Policy provides that decisions on premises licence variation applications shall be made by the Board (with the exception of decisions on minor variation applications which are delegated to the Clerk to the Board).

3.2.

The Board's Statement of Alcohol Licensing Policy generally permits:

- Commencement on-sale operating hour of 10:00 each day.
- Terminal on-sale operating hours of 12 midnight Sundays to Thursdays and 01:00 Fridays/Saturdays and Saturdays/Sundays.
- For local events such as annual agricultural shows, local festivals and private functions, a terminal on-sale operating hour of 01:00 any morning.
- For weddings, a terminal on-sale operating hour of 01:30 any morning.
- For the festive season, being 24/25 December until 2/3 January each year, a terminal on-sale operating hour of 01:00 any morning.

3.3.

The full policy document is available from the Related Downloads section of the following Council webpage:

<http://www.orkney.gov.uk/Service-Directory/L/licensing-board-policies.htm>.

4. Introduction

4.1.

A premises licence has been held at Pickaquoy Centre and Campus, Muddisdale Road, Kirkwall, since 1 September 2009, firstly by Mark R Harrison and then by the Pickaquoy Centre Trust.

4.2.

On 23 May 2018, the Pickaquoy Centre Trust submitted an application for variation of the premises licence. Details of the application are provided at section 5 below.

5. Layout Plans and Capacity

5.1.

The application requests approval of updated layout plans to reflect changes to the Centre building by construction of new areas and changed uses of areas within the building carried out within recent years.

5.2.

The amended layout plans of the premises are attached at Appendix 1 to this report.

5.3.

On the ground floor, the area highlighted in red (the swimming pool, squash courts and Village changing area) is excluded from the licensed premises.

5.4.

The Lifestyle facility will be included within the licensed premises. The applicant has provided information about the proposed use of the facility. This is summarised as follows:

“The Lifestyle facility within the Centre walls provides tailored and individual support for people to become involved in a range of community based activities and opportunities. This facility is in operation between 08:00 – 17:30 Monday through to Friday with the Centre Trust allowed access out with these operating times. It is planned that this facility will be used for occasional events in which some alcohol will be consumed within this area but only at the times outside of the Lifestyles opening hours. There will never be more than 100 folk able to use this space for any such function and would be supervised by suitable trained event staff in charge of any selling/serving of alcohol and food.”

5.5.

On the first floor, the areas highlighted in red (the airspace above the swimming pool, the seated pool viewing area and a creche) are excluded from the licensed premises.

5.6.

The current on-sale capacity of the premises of 2,671 persons will not be affected by the proposed variation.

6. Operating Hours

6.1.

The premises are currently licensed for on-sales only. The following on-sale hours are currently operated and will not be affected by the proposed variation

- 11:00 to 00:00 on Mondays to Thursdays inclusive.
- 11:00 to 01:00 on Fridays/Saturdays and Saturdays/Sundays.
- 12:00 to 00:00 on Sundays.
- 01:00 any morning for private functions or when an event related to a local festival is being held within the premises.

6.2.

The on-sale operating hours referred to at section 6.1 above, are within current policy. As no variation to these on-sale operating hours is sought, those aspects of the premises licence are outwith the scope of matters for consideration in connection with the current application.

7. Consultation

The required notices were issued to the statutory consultees on 14 June 2018 and the application was published on Orkney Islands Council's website from 15 June 2018. The last date for objections or representations to be received was 6 July 2018. No submissions were received.

8. Financial Implications

The appropriate application fee of £100 has been paid.

9. Legal Aspects

9.1.

The Licensing (Scotland) Act 2005 (the Act) provides that the licensing board must hold a hearing for the purpose of considering and determining an application for a variation that is not a minor variation.

9.2.

The following element of the application means that it is not a minor variation and therefore must be determined by the Board:

- Physical enlargement of footprint of premises due to construction of new areas.

9.3.

Any person may, by notice to the Licensing Board, object to an application on any of the grounds for refusal specified in the Act or may make representations to the Licensing Board, including representations in support of the application, as to modifications which the person considers should be made to the operating plan accompanying the application or as to conditions which the person considers should be imposed.

9.4.

The grounds for refusal under the Act are as follows:

9.4.1.

The application must be refused if, generally, it is an application within one year of a previous refusal or seeks generally banned 24 hour opening or prohibited off-sale hours.

9.4.2.

The Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives, namely:

- Preventing crime and disorder.
- Securing public safety.
- Preventing public nuisance.
- Protecting and improving public health.
- Protecting children and young persons from harm.

9.4.3.

Having regard to:

- The nature of the activities proposed to be carried on in the subject premises.
- The location, character and condition of the premises.
- The persons likely to frequent the premises.

The Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation.

9.4.4.

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 (taking account of the variation), in the locality.

9.5.

Anyone lodging an objection on the ground detailed at section 9.4.4 above must specify the locality on which they are basing their objection.

9.6.

Where the Board refuses the application, the Board must specify the ground for refusal. If the ground for refusal is that specified in the ground detailed at section 9.4.2 above, the Board must specify the licensing objective or objectives in question.

9.7.

The Board must, in considering and determining the application, consider whether any of the grounds for refusal applies. If none of them applies, the Board must grant the application. If any of them applies, the Board must refuse the application.

10. Contact Officers

Gavin Mitchell, Clerk to the Board, extension 2233, email gavin.mitchell@orkney.gov.uk.

Elaine Sinclair, Legal Clerk, extension 2232, email elaine.sinclair-hill@orkney.gov.uk.

11. Appendix

Appendix 1: amended layout plans of the premises.