

Item: 6

Orkney Islands Area Licensing Board: 3 May 2018.

Licensing (Scotland) Act 2005.

Application for Variation of Premises Licence.

**Ulrike and Kenneth Summers Partnership – Peter Miller Shop,
Surrigarth, Westray.**

Report by Clerk to the Board.

1. Purpose of Report

To consider an application by Ulrike and Kenneth Summers Partnership for a variation of a premises licence held in respect of Peter Miller Shop, Surrigarth, Westray.

2. Recommendations

It is recommended:

That the Board determines the application by Ulrike and Kenneth Summers Partnership for a variation of a premises licence held in respect of Peter Miller Shop, Surrigarth, Westray.

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 off-sale operating hours of 10:00 to 22:00 each day.

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 Peter Miller Shop, Surrigarth, Westray, since 26 August 2011 firstly by Mrs Wilma H Stout and then by Ulrike and Kenneth Summers Partnership.

4.2.

On 27 February 2018, Ulrike and Kenneth Summers Partnership submitted an application for variation of the premises licence. Details of the application are provided at sections 5 to 7 below.

5. Operating Hours

5.1.

The premises are currently licensed for off-sales only as follows:

- 10:00 to 18:00 on Mondays to Saturdays inclusive.
- 14:00 to 16:00 on Sundays.
- 10:00 to 20:00 on Mondays to Saturdays inclusive from 17 to 31 December each year.
- 14:00 to 17:00 on Sundays during Orkney Ferries' summer season timetable, 1 May to 30 September each year.

5.2.

The application requests the following off-sale operating hours, which are within those permitted in terms of the Board's Statement of Alcohol Licensing Policy:

- 10:00 to 22:00 on Mondays to Saturdays inclusive.
- 10:00 to 20:00 on Sundays.

6. Layout Plan and Capacity of the Premises

6.1.

The application requests relocation of the off-sale alcohol displays within the premises and an increase in off-sale display capacity of 3 square metres.

6.2.

The existing layout plan of the premises, showing a total off-sale display capacity of 5.88 square metres, is attached at Appendix 1 to this report.

6.3.

The amended layout plan of the premises, showing a total off-sale display capacity of 8.88 square metres, is attached at Appendix 2 to this report.

7. Activities – Recorded Music

The application requests provision of the activity of recorded music within the premises for the first time.

8. Consultation

The required notices were issued to the statutory consultees on 28 February 2018 and the application was published on Orkney Islands Council's website from 2 March 2018. The last date for objections or representations to be received was 23 March 2018. No submissions were received.

9. Financial Implications

The appropriate application fee of £100 has been paid.

10. Legal Aspects

10.1.

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.

10.2.

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.

10.3.

The grounds for refusal under the Act are as follows:

10.3.1.

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.

10.3.2.

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.

10.3.3.

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.

10.3.4.

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.

10.4.

Anyone lodging an objection on the ground detailed at section 10.3.4 above must specify the locality on which they are basing their objection.

10.5.

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 10.3.2 above, the Board must specify the licensing objective or objectives in question.

10.6.

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.

11. 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.

12. Appendices

Appendix 1: existing layout plan of the premises.

Appendix 2: amended layout plan of the premises.