

The Highland Licensing Board

Meeting – 14 May 2013

Agenda Item	9.1
Report No	HLB/053/13

Application for a major variation of a Premises Licence under the Licensing (Scotland) Act 2005

The Classroom, 1 Cawdor Street, Nairn IV12 4QD
Report by the Clerk to the Licensing Board

Summary

REF: HC/INBS/412

This Report relates to an application for a major variation of a Premises Licence.

Premises: The Classroom, 1 Cawdor Street, Nairn IV12 4QD

Applicant: The Classroom Nairn Limited, Commerce House, Elgin, per William Lean

1.0 Description of Premises

Licensed bar bistro premises offering on and off sales converted under the transitional arrangements to the Licensing (Scotland) Act 2005.

1.1 Current Core Operating Hours

On sales:

Mon to Wed - 11.00 to 24.00

Fri and Sat. - 11.00 to 00.30

Sun - 12.30 to 24.00

Off sales:

Mon to Sat - 11.00 to 22.00

Sun - 12.30 to 22.00

2.0 Summary of Variation Application

2.1 Variation Sought

Application is made to extend as an outdoor dining area until 22.30, during period 15 April until 30 September to accommodate alfresco dining.

Also to vary **On-sales** core hours:

Mon to Sat - 11.00 to 01.00

Sunday - 12.00 to 24.00

Off Sales:

Sundays - 12.00 to 22.00

Application of seasonal variation to operate extended hours as granted by Highland Licensing Board during the Festive Season.

Vary Activities - Extend restaurant facilities to operate outwith core hours and also include televised sports within activities.

Amend children's policy to read "Children aged 14 years can access restaurant unaccompanied until 18.00, after which time they will be accompanied by an adult. Young persons can access the premises unaccompanied until 20.00 after which time require to be accompanied by an adult. After 22.00 Children and Young Persons must be accompanied by an adult for the purpose of a meal or attending a private function".

3.0 Background

3.1 The premises are licensed for on and off sales and were converted from the 1976 Act.

On 2 April 2013 the Licensing Board received an application for a major variation of a Premises Licence from the applicant's agent, Mr William Lean.

3.2 The application was publicised during the period 8th to 28th April 2013.

3.3 In accordance with standard procedure, Police Scotland, Highlands & Islands Fire & Rescue Service, the Council's TEC Services (Environmental Health), Planning, Building Standards were consulted on the application.

Notification of the application was also sent to NHS Highland and the local Community Council.

4.0 Legislation

4.1 The Licensing Board must in considering and determining the application, consider whether any grounds of refusal apply and if none of them applies, the Board must grant the application.

Relevant grounds of refusal may be: -

1. the grant of the application will be inconsistent with one or more of the licensing objectives;
2. having regard to; (i) the nature of the activities carried on or proposed to be carried on in the subject premises, (ii) the location character and condition of the premises, and (iii) the persons likely to frequent the premises, if the Board considers the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation;
3. having regard to the number and capacity of (i) licensed premises of the same or similar description as the subject premises (taking account of the proposed variation), in the locality in which the subject premises are situated, the Board considers that, if the application were to be granted, there would, as a result, be over provision of licensed premises or licensed premises of that description in the locality.

- 4.2 The Board has power where, if they would refuse the application as made, but if a modification is proposed by them and accepted by the applicant, the application can be granted as modified.

5.0 Licensing Standards Officer's Comments

The Classroom is a popular restaurant and bistro operating in the centre of Nairn. It is well run and has a trouble free operating history. It is family friendly and caters for families dining together. Compliance checks carried out by the LSO have revealed a high degree of compliance and a sound understanding of the licensing requirements.

The application has been sought to modernise the premises in a number of areas. Firstly in respect of the core hours, application has been made to expand the current operation to the maximum permitted under Highland Licensing Board Policy, namely Monday to Saturday, terminal hour moved to 01.00. Sunday sales for both on and off consumption to commence from midday.

The Applicant desires to insert under the Seasonal Variation section of the Operating Plan that as a permanent feature of the Operating Plan the Premises will seek to take advantage, on an annual basis, of any Extended Hours offered by the Highland Board as part of its Festive Policy. The Premises have consistently operated such extended hours allowed by the Board without issue and simply wish to be absolved from submitting yearly applications for extended hours. The Applicant accepts that there will still be a requirement to notify the Police and the Board of the dates on which the Premises will operate extended hours allowed under any Festive Policy.

Modernisation of Section 5 of the Operating Plan is requested, in extending restaurant facilities to operate out with licensed hours in order to provide breakfasts and associated non-alcohol based beverages. Similarly, televised sport is to be included as an ancillary activity to be operated both within and outwith core hours for the enjoyment of customers.

Alteration is requested in respect of the Children's Policy to allow children aged 14 years and above to enter until 18.00 to enjoy food and soft drinks, which is seen as entirely reasonable; after 18.00 such children require to be accompanied by an adult. Young Persons are requested to have unaccompanied access for the same reasons until 20.00, after which time they require adult supervision. After 22.00 Children and Young Persons require to be accompanied by an adult if taking a meal or attending a Private function. This is similar to many like food led operations in the Highland Board's area and in the LSO's opinion is in keeping with the fifth licensing objective concerning the protection of children from harm.

The Premises operate an external patio area in front of the restaurant currently capped for the provision of alcoholic and non-alcoholic beverages until 21.00. The area is popular with diners particularly during the summer months. Variation is requested to the existing local licensing condition to

allow the area to operate for the sale of alcoholic and non-alcoholic beverages until 21.30 during the period 1st April to 30th September annually, which covers meal service.

There has never been any complaint in respect of the current operation of the outside area. There is residential property in the vicinity but, in the view of the LSO, should the Board be minded to allow the variation it will not become a source of public nuisance.

6.0 HLB Local Policies

The following policies are relevant to the application:-

- (i) Highland Licensing Board Policy Hours
- (ii) Highland Licensing Board Policy Statement
- (iii) Schedule of Local Conditions
- (iv) Highland Licensing Board Equality Strategy

7.0 Conditions

7.1 Mandatory Conditions

If the application is approved the Mandatory Conditions set out in Schedule 3 of the Act will apply.

7.2 Local Conditions

The existing conditions a), b), c) and e) remain on the Premises Licence unaltered by this application.

Local Condition g) is altered as follows;

From 1 April until 30 September after 22.30 (or such other time as may be specified by the Licensing Board) alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area. From 1st October until 31st March each year, consumption of alcoholic and non-alcoholic drinks in the outside drinking area shall cease at 21.00.

7.3 Specific Condition(s)

The Licence Holder shall submit to the Board and to Northern Constabulary prior to 1st December each year notice of the dates within the festive period on which it is intended that the premises remain open until the festive period terminal hour stated for that category of premises in the Board's Festive Policy Statement. The Premises may remain open until the festive period terminal hour only on those dates for which notice has been given by the licence holder to the Board and to Northern Constabulary in accordance with this condition.

Recommendation

The Board is invited to determine the above application.

Designation: Clerk to the Licensing Board

Reference: HC/INBS/412

Date: 10/04/2013

Author: Wendy Grosvenor

Background Papers: The Licensing (Scotland) Act 2005/Application Form.