

## The Highland Licensing Board

Meeting – 14 May 2013

Agenda Item	9.3
Report No	HLB/055/13

### Application for a Major Variation of Premises Licence under the Licensing (Scotland) Act 2005

**HUSH Nightclub (formerly Rags) 57 Academy Street, Inverness IV1 1LU**

#### Report by the Clerk to the Licensing Board

##### Summary

REF: HC/INBS/188

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

**Premises:** Hush Nightclub (formerly Rags) 57 Academy Street, Inverness IV1 1LU

**Applicant:** Hush Nightlife Ltd, 57 Academy Street, Inverness IV1 1LU per Mr Shane Manning

## 1 Description of Premises

Nightclub premises offering on sales converted under transition to the Licensing (Scotland) Act 2005.

### 1.1 Current Core Operating Hours

Thursday to Sunday 19.00 to 03.00

## 2 Summary of Variation Application

### 2.1 Variation Sought

The proposal is to include adult entertainment as an activity taking place within the premises in full compliance with the stipulated local conditions.

Increase of trading days to include:

**On Sales:**

Monday to Wednesday 19.00 - 01.00.

Saturday from 17.00 (terminating 03.00)

Insertion of a statement at seasonal variations within the operating plan to take advantage of periods of extended hours offered by the Highland Licensing Board without the need for individual applications.

The wording of the Children's Policy is altered to exclude Children and Young Persons from events that involve adult entertainment.

Substitution of Premises Manager.

### **3 Background**

- 3.1 The premises are licensed as a Nightclub from Thursday to Sunday for on sales. Centrally situated within Inverness comprising Dance Floor, Bar, Seating Areas, Lounge and DJ Desk. Entertainment is provided to members of the public and an entry fee is chargeable to patrons. Music ceases at 2.45 hrs.
- 3.2 The application was publicised during the period 15 April 2013 to the 6 May 2013.
- 3.3 In accordance with standard procedure, Police Scotland, Highlands & Islands Fire & Rescue Service, the Council's TEC Services (Environmental Health) and Planning & Building Standards were consulted on the application.

Notification of the application was also sent to NHS Highland (No Community Council is formed for Central area).

- 3.4 An emailed objection delivered on 2 May 2013 has been received from Gillian Gunn on behalf of Highland Violence Against Women Strategy Group, Assynt House, Beechwood Business Park, Inverness IV2 3BW, and is appended to the report as Appendix 1.

The applicant has been invited to attend the meeting.

### **4 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 Licensing Standards Officer's Comments

Hush is a popular City Centre nightclub in Inverness. It has a trouble free operating history and on several occasions when it has been inspected by the LSO there has been a high standard of compliance.

The major variation seeks to modernise the current operating hours of the Premises. Currently the Premises operate Thursday to Sunday inclusive on a 19.00hrs to 03.00hrs basis. Application is now made to further operate on a Monday to Wednesday basis from 19.00hrs until 01.00hrs. This is within the current Policy Hours of the Highland Licensing Board and is seen as reasonable by the LSO particularly as the Premises have been run competently and lawfully previously.

A further amendment is made to commence Saturday evening trading from 17.00hrs as the Applicant sees this as a viable way to increase business. Although this is currently at odds with the Licensing Policy Statement of the Board in terms of hours for Late Opening Premises there are several hybrid premises who offer longer hours and also enjoy late closure. In the view of the LSO this is reasonable and still keeps the Premises within the 14-hour guideline for opening hours issued by the Scottish Government in its guidance to Licensing Boards and echoed in the Highland Board's current Policy Statement.

The Applicant seeks to include under Seasonal Variation within the Operating Plan a generic statement allowing the Premises to enjoy periods of extended hours allowed for by the Highland Licensing Board such as during the "Festive Policy" period without the need for submitting a separate application. The Applicant states he is accepting of the likely condition requiring him to notify both the Board and the Police of any dates that the Premises seeks to utilise such extended hours and failure to submit such notification will mean that extended hours will not be entitled.

The main thrust of the application is to increase the current list of permitted "Activities" under section 5 of the Operating Plan by including Adult Entertainment. Enquiries with the Applicant have revealed he has been backed by persons who own lap dancing clubs in Aberdeen to provide like entertainment on the Premises. The LSO in Aberdeen, Diane Sande, has been consulted in respect of the running of these Clubs namely Private Eyes 1 and 2. She states that both Clubs are run to a high standard and there are no outstanding complaints; the responsible persons involved in running the venues have always been co-operative with the Licensing regime.

The Premises have been visited and the Applicant states that the range of Local Conditions pertaining to Adult Entertainment currently operated by the Highland Licensing Board can be fully met. A robust code of conduct document has been compiled inclusive of a register of performers. CCTV of an approved standard is already installed in the public performing areas. There are no private booths and the Premises operate a strong stewarding

presence. No Children or Young Persons are permitted during the periods that Adult Entertainment is offered.

In addition, the Premises have incorporated a bespoke changing area for the performers. This has been inspected by the LSO and adequately meets the recommendations contained within The Scottish Executive Adult Entertainment Working Group report of 2006.

An objection to the application has been received from the Highland Violence Against Women Strategy Group, it is the opinion of the LSO that the Licensing Objectives would not be adversely affected in the manner described within the objection; the cited background research is quoted in generic terms and cannot be tied in reasonable terms to the circumstances prevailing in the Highland capital and more specifically to this application.

## **6 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 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 Local Premises Licence Conditions will continue to apply with the addition of the 7 bespoke conditions in respect of Adult Entertainment that the Highland Board operates.

### **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.

## 7.4 **Adult Entertainment Conditions**

1. The licence holder shall have in place a code of conduct for behaviour of staff and customers. A copy of which will be available to staff and customers. The code will deal with matters such as information for performers, on distance to be maintained from customers during a dance, prohibitions on sexual behaviour and propositioning, and what to do if a customer breaches the rules.

2. The licence holder will maintain a register of performers engaged to perform in the licensed premises. The register will show the name, age and current address of the performer. The licence holder will require photographic proof of identity. Foreign nationals must be asked for their passport and the licence holder should take appropriate steps to ensure that there are no restrictions on the performer's entitlement to work in the United Kingdom.

3. Performers should only perform in open public areas of the licensed premises, which should at all times be appropriately stewarded and covered by CCTV cameras which will be of a standard to be approved by the Chief Constable.

4. No dance entertainment should take place in private booths and performers' genitalia should be covered at all times. There should be no touching between performers and patrons at any time during the performance, the only contact allowed being the hand-to-hand payment of money at the conclusion of the performance.

5. Performers remaining in the public area before, following or between performances should be suitably clothed at all times with no exposure of breasts or genitalia. Any advertising of performances outwith the licensed premises, whether by way of newspaper advertisement or any other public notices within or without the premises may only depict performers suitably clothed as aforesaid. Performances involving the removal of clothes should not be visible from outwith the premises.

6. The licensed premises shall have stewards in all public areas in addition to at least one steward positioned at each entrance to and/or exit from the premises. All public dance areas, entrances and exits should be monitored constantly while the premises are open to the public with the use of CCTV.

7. Where in terms of the operating plan, children and young persons are permitted on the premises, for a period of one hour before the adult entertainment commences, and thirty minutes after it ceases, children and young persons will not be permitted on the premises.

**8. Recommendation:**

The Board is invited to determine the above application.

Designation: Clerk to the Licensing Board

Reference: HC/INBS/

Date: 10 April 2013

Author: Wendy Grosvenor

Background Papers: The Licensing (Scotland) Act 2005/Application Form  
Highland Licensing Board Schedule of Local Conditions.

Appendix 1: letter of objection from Gillian Gunn (on behalf of the Highland Violence Against Women Strategy Group), Violence Against Women Development & Training Manager, Assynt House, Beechwood Business Park, Inverness, IV2 3BW



**REPRESENTATIONS OR OBJECTIONS IN RELATION TO A PREMISES LICENCE APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005**

Please read the Board's Guidance Notes on How to Object or make Representations in relation to a Premises Licence Application before completing this form. This form when completed should be returned to the nearest office of the Licensing Board using the contact details in the guidance notes. Remember, if an objection is rejected by the Board as frivolous or vexatious, the Board may seek to recover expenses from the objector or person making representations

**1. Full Name and Address of person making objection/representation:**

Gillian Gunn (on behalf of the Highland Violence Against Women Strategy Group), Violence Against Women Development & Training Manager, Assynt House, Beechwood Business Park, Inverness, IV2 3BW	
Telephone Number:	01463 704724
Email Address:	Gillian.gunn@nhs.net

**2. Address of Premises in respect of which objection / representation is made:**

Hush Nightclub, 57 Academy Street, Inverness, IV1 1LU
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**3. Details of any OBJECTION:** (complete only if you consider one of the ground for refusal apply)

<b>State ground of objection (refer to ground of objection by number, see guidance notes, and give details):</b> (Continue on separate sheet if necessary)		
1.	Excluded Premises	We object on the grounds that we believe this application in contrary to the Licensing Objectives (see attached sheet)
2.	Off-Sales Hours/24 hour drinking	
3.	Licensing Objectives	
4.	Activities/Premises/Customers	
5.	Over Provision	

**4. Details of any REPRESENTATION:** (complete only if you wish to make a representation in respect of the application)

<b>State details of any representation (refer to representation by number, see guidance notes, and give details):</b> (Continue on separate sheet if necessary)		
1.	in support of application	
2.	seeking an amendment to the operating plan, or	
3.	seeking to add additional conditions to the licence	

Signature:.....

... Date...2<sup>nd</sup> May 2013

## **Objection to Hush Nightclub's application for 'Adult Entertainment'**

The Highland Violence Against Women Strategy Group (including representation from NHS Highland, Police Scotland, the Highland Council, Women's Aid and Rape and Abuse Line) objects to Hush Nightclub's application. We believe that granting licenses for events which include 'Adult Entertainment' potentially jeopardises the fulfilment of the Licensing Board's Objectives and its commitment to equality and diversity.

### **Preventing crime & disorder**

There is a large body of evidence showing that 'adult entertainment' can increase crime and disorder in the areas in which it takes place. The links to prostitution are highlighted below.

There are additional community safety issues which arise from 'adult entertainment'. A number of reports have concluded that where 'adult entertainment' exists, particularly in the form of lap dancing clubs, incidents of sexual violence have increased within those communities as have women's expressed levels of fear of travelling at night within the areas.<sup>i</sup> Therefore, 'adult entertainment', in any form, has the potential to increase crime and disorder.

### **Protecting and Improving Public Health**

The joint SHAAP and Alcohol Focus Scotland 2009 publication, "Licensing for Public Health", has highlighted a number of risk factors associated with alcohol-related crime. These included informal commercial sexual exploitation, such as openly sexual or sexually competitive activity and entertainment focusing on 'sexy dancing'.

Many women involved in commercial sexual exploitation have experienced sexual abuse as children and/or domestic abuse as adults. Most women, who are involved in lap dancing, stripping, etc, are vulnerable and have very few choices in their lives to work and make money.<sup>ii</sup> Being involved in this industry also increases the likelihood of sexual harassment and sexual humiliation.<sup>iii</sup>

There is growing evidence in Scotland that prostitution is available in many lap dancing clubs too. The "Challenging Men's Demand for Prostitution in Scotland" report included interviews with 110 men who had purchased sex in Scotland and abroad. 80% of the men had paid for women in prostitution in indoor locations, for example in a brothel or private flat that functioned as a brothel, a sauna, in bars, through escort agencies, in private clubs/hotels - 31% of this 80% had bought women for sex in lap dancing clubs.<sup>iv</sup>

Channel 4's Dispatches 2008 programme, 'Lapdance' clearly evidenced the links between lap dancing and pole dancing and prostitution too, as have many other televised documentaries.

Prostitution and sexual abuse are public health concerns. More detail is available within NHS Scotland's publication "Commercial Sexual Exploitation: What Workers Need to know about gender based violence" (2009). All forms of commercial sexual exploitation are damaging to the health of women involved, as well as the health of women and men more generally, therefore, having 'Adult Entertainment' in Highland will not protect nor improve public health, in fact, it may have the opposite effect.

### **Equality & Diversity**



COSLA have issued the “Safer Lives: Changed Lives” document in partnership with the Scottish Government. This publication highlights the commitment to tackling Violence Against Women and specifically notes:

Activities such as pornography, prostitution, stripping, lap dancing, pole dancing and table dancing are forms of commercial sexual exploitation. These activities have been shown to be harmful for the individual women involved and have a negative impact on the position of all women through the objectification of women’s bodies. This happens irrespective of whether individual women claim success or empowerment from the activity. It is essential to separate sexual activity from exploitative sexual activity.

Therefore, it is vital that ‘Adult Entertainment’, in any form, within any licensing application is carefully considered and tested against the Licensing Objectives. We believe that ‘Adult Entertainment’ is Commercial Sexual Exploitation and runs contrary to the legal obligations outlined by the Equality Act in relation to Gender.

### **Further Concerns**

Whilst we welcome the concept of an ‘Operating Protocol’ for ‘adult entertainment’ we must also note our concerns about the effectiveness of this. As the Brightcrew case in Glasgow has highlighted, adherence to the ‘Operating Protocol’ is not able to be enforced by the Licensing Board. The ruling was that Licensing Boards can only intervene in cases where there are issues relating to the sale of alcohol. In reality, this leaves women unprotected. We, therefore, would recommend that no license for ‘adult entertainment’ are granted in Highland until the legal position regarding the Licensing Board’s power in relation to enforcing the ‘Operating Protocol’ is clarified. There is currently a consultation going through the Scottish Parliament on this very issue.

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<sup>i</sup> Inappropriate Behaviour, 2007, The Lilith Project

<sup>ii</sup> Adult Entertainment Working Group Report & Recommendations, 2006, Scottish Executive, p19

<sup>iii</sup> Profitable Exploits: Lap Dancing in the UK, 2004, Bindel

<sup>iv</sup> Challenging Men’s Demand for Prostitution in Scotland, 2008, MacLeod et al