

The Highland Licensing Board

Meeting – 14 May 2013

Agenda Item	10.1
Report No	HLB/061/13

Premises Licence Review Application

Karma Lounge, 5-9 Young Street, Inverness IV3 5BL

Report by the Clerk to the Licensing Board

Summary

A premises licence review application in terms of section 36 of the Licensing (Scotland) Act 2005 has been received from the Chief Constable's Agent, Police Scotland and the Board must hold a Hearing to determine the application.

1.0 Background

1.1 The premises to which the review application relates is known as Karma Lounge, 5-9 Young Street, Inverness IV3 5BL. It operates as a Licensed restaurant and late night entertainment venue occupying part of the ground and first floors of a tenement building in a mainly commercial area on the fringes of the City Centre.

The premises trade as a restaurant during the day with meals served until late. In the evenings the premises change in character to an entertainment venue catering for the late night economy.

Musical entertainment is by DJ, with occasional live band performances. The premises have a professional sound and lighting system and a sizeable dedicated dance floor.

The premises meet the conditions set out in the Late Opening Premises Regulations.

2.0 Legislation

2.1 In terms of section 36(1) of the Licensing (Scotland) Act 2005 any person may apply to the Board in respect of any licensed premises in relation to which a premises licence has effect, for a review on any of the following grounds:-

(a) That one or more of the conditions to which the premises licence is subject has been breached, or

(b) Any other ground relevant to one or more of the licensing objectives.

3.0 Premises Licence Review Application

3.1 A premises licence review application dated 30 April 2013 has been submitted to the Board on behalf of the Chief Constable and is attached to this Report as Appendix 1.

The application alleges that there has been a breach of the following Mandatory condition which forms part of the premises licence conditions:

Mandatory Condition 3: 'any other activity to be carried on in the premises is to be carried on only in accordance with the operating plan contained in the licence.'

4.0 Review Hearing

4.1 Section 38 (1) of the Act provides that where the Board receives a premises licence review application it must hold a Hearing for the purposes of considering and determining the application.

4.2 Section 38 (4) of the Act provides that the Licensing Standards Officer must, before the review hearing, prepare a Report on the application which the Board must take into account. This Report dated 2 May 2013 is attached as Appendix 2.

4.3 A copy of this Report and the premises licence review application have been sent to the Premises Licence Holder, Caledonian Heritable Limited, 4 Hope Street, Edinburgh Eh2 4DB, who have been invited to attend the Hearing.

4.4 A representative of the Chief Constable has also been invited to attend the Hearing.

5.0 Board's powers on review

In terms of section 39 of the Act 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) take the following steps:

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

In terms of section 84 of the Act where, in the course of a review hearing in respect of a premises licence, the Board makes a finding in relation to a personal licence holder who was working in the licensed premises that the licence holder concerned acted in a manner which was inconsistent with any of the licensing objectives then the Board must hold a further Hearing.

Recommendation

The Board is invited to determine the premises licence review application by the Chief Constable's agent by way of a review hearing.

Designation: Clerk of the Licensing Board

Date: 30 April 2013

Ref: HC/INBS/508

Background Papers:Licensing (Scotland) Act 2005.

Appendix 1: Letter from Colin Gough Functional Chief Inspector on behalf of the Chief Constable, Police Scotland dated 30April 2013

Appendix 2: Report from Ian Cox Licensing Standards Officer dated 2 May 2013

30/04/2013



Our Ref: NN5879/13

Clerk to the Licensing Board
Highland Licensing Board –
Inverness, Badenoch Strathspey
& Nairn
The Town House
INVERNESS
IV1 1JJ

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

01463 720817

roddy.nicolson@scotland.pnn.police.uk

Dear Sir

**HIGHLAND LICENSING BOARD –
INVERNESS, NAIRN, BADENOCH & STRATHSPEY DIVISION
APPLICATION: REQUEST FOR PREMISES LICENSE REVIEW
PREMISES: KARMA LOUNGE, 5-9 YOUNG STREET, INVERNESS**

As agent of the Chief Constable, I am moved to request a review of the aforesaid Premises License under the terms of Section 3 6 (i) of the Licensing (Scotland) Act 2005 on the grounds that the crime prevention and protecting children from harm objectives may not be being met. In addition the premises were not operating in accordance with their operating plan.

The Premises Licence is held by Caledonian Heritable Limited, 4 Hope Street, Edinburgh EH2 4DB. The designated Premises Manager is Nicola Bentley, 29 Island Bank Road, Inverness IV2 4QS who is the holder of Personal Licence number HC/INBS/3401 issued by Highland Licensing Board on 29 June 2012.

The circumstance surrounding this request for review centre on an event held on the premises and are as follows:

About 0115hours on Saturday 2 March 2013, police received a call for assistance from door staff at Karma Lounge who were experiencing difficulty with a drunk male within the premises. He was reported as being verbally abusive and refusing to leave. Police duly attended and spoke with door staff who identified the individual who was by this time standing nearby.

The attending officers spoke to this male person established his details and ascertained that he was 17 years of age and clearly under the influence of alcohol. He informed the officers that he was attending a party in Karma Lounge. He declined to divulge any information in relation to where he had obtained alcohol.

It was established by the attending officers that there was an “under 18” private function being held within the premises. On entering the premises officers found over 100 youths within, a number of whom appeared to be under the influence of

alcohol. It was noticed that the bar servery in this area was effectively closed off, however the rear bar was operational with access to this area controlled by a single staff member.

The Premises Manager was spoken to and she intimated that the premises had been reserved for a private party with adults arranged to supervise. There was no evidence of adult supervision. It was ascertained from the Premises Manager that she had not consulted with the Police, Council or Licensing Board, prior to accepting this booking.

At the direction of the Duty Inspector the premises were then closed.

A number of the young persons leaving the premises were spoken to and they discreetly confirmed that some of their friends had been able to purchase alcohol on the premises, however refused to make statements regarding this. A subsequent call was received by the police from a concerned parent stating that her daughter's 17 year old friends had been able to purchase alcohol on the premises (Karma Lounge) however this parent declined to allow her daughter to be interviewed.

The current Childrens Policy within Section 6 of the operating plan of Karma Lounge states:

6 (b) Children and young persons will be permitted on the premises until 10pm daily, but not admitted after 9pm and present only for the purpose of a meal. Children require to be accompanied by an adult at all times.

Mandatory Condition 3 also states:

Any other activity to be carried on in premises is to be carried on only in accordance with the operating plan contained in the licence.

Karma Lounge have no facility within the Operating Plan to hold an under 18's party. Furthermore the operation of a mixed bar at any under 18s disco exposes children and young persons to harm and provides them with the potential to be able to obtain alcohol.

In view of the foregoing it is respectfully requested that the Licensing Board review Karma Lounge's Premises Licence on the grounds that the Prevention of Crime and the Protecting of Children from Harm Licensing Objectives were adversely affected.

The premises were also operating outwith the terms of their Operating Plan.

Yours sincerely

Colin Gough
Functional Chief Inspector
Divisional Co-ordination Unit

Highland Licensing Board Meeting – Tuesday, 14 May, 2013

Review Hearing in terms of the Licensing (Scotland) Act, 2005 Section 38 (1)

Premises: Karma Lounge, 5-9 Young Street, Inverness.

Report by Licensing Standards Officer

1.0 Summary:

1.1 This Report has been prepared in response to notification from the Clerk to the Highland Licensing Board in terms of Section 38(3)(b)(ii) of the Licensing (Scotland) Act, 2005 that a review hearing is to be held in respect of the Premises Licence for the Karma Lounge, 5-9 Young Street, Inverness held by Caledonian Heritable Limited, 4 Hope Street, Edinburgh, EH2 4DB.

2.0 Licensing History:

2.1 A Premises Licence for Karma Lounge (previously branded as Mavericks, Mambo's and Nova) was granted by the Highland Licensing Board, under transitional arrangements, on 1st September 2009 to Caledonian Heritable Ltd.

2.2 The Premises operate as a late hours venue on Friday and Saturday evenings until 3am, Monday to Thursday the Premises trade until 1 am and on Sunday's they close at midnight.

Nicola Bentley has been the premises manager since 11th July, 2012.

3.0 Legislation:

3.1 The premises licence is subject to:-

- Mandatory Conditions in accordance with Schedule 3 of the Licensing (Scotland) Act, 2005;
- Late Opening Conditions in accordance with Section 27(3) &(4) of the Licensing (Scotland) Act 2005;
- Licensing Conditions (Late Opening Premises)(Scotland) Regulations 2007;
- Local Conditions attached by the Highland Licensing Board in accordance with Section 27(6) of the Licensing (Scotland) Act, 2005.

4.0 Description of premises:

- 4.1 The premises are situated in a four storey tenement block just outside the City Centre. The Premises are situated on the ground floor, there is a central bar area, a bespoke dance floor and DJ stage, with seating areas adjacent to the bar counter on two sides.
- 4.2 The Premises specialise in club music hosted by DJs and have sought to build up a loyal following of customers. They have developed an operating style where they have moved away from food provision to concentrate on musical style and provision of entertainment.

5.0 Synopsis:

- 5.1 On 30th April, 2013 I received notification from A H Mackenzie, Clerk to the Highland Licensing Board, that an application for a review of the premises licence had been received from the Chief Constable, Police Scotland in respect of the above premises. The circumstances of the review being that on Saturday, 2nd March, 2013 Police Officers had attended the venue to assist door staff dealing with a problematic customer and whilst dealing with this matter became aware of an “under 18” private function being held in the venue, at which it was estimated 100 youths were present, several of whom appeared to be under the influence of alcohol. At the direction of the Duty Police Inspector the Premises were closed.
- 5.2 A number of City Centre Night Clubs have applied to the Highland Licensing Board for specific variations of their Premises Licence to host “under 18 events”; these have been granted on the assurances of being run to strict protocols agreed with the Police and with specific local licensing conditions being attached to the Licence. Karma Lounge has not made any such application to the Highland Licensing Board.

The current Children’s Policy within Section 6 of the Operating Plan states that Children and Young Persons will be permitted on the premises until 10pm but not admitted after 9pm and present only for the purpose of a meal. Children require to be accompanied by an adult at all times. AS such failure to observe the Children’s Policy is a departure from the Operating Plan and thereby contravenes Mandatory Condition 3;

“Any other activity to be carried on in premises is to be carried on only in accordance with the operating plan contained in the licence”

- 5.3 It is my view that as the Premises no longer open during the day, do not now provide meals and have to all intents and purposes re-aligned themselves to an evening/vertical drinking profile, then Children and Young Persons access should fall.

6.0 Measures taken by Licence-holder

6.1 Since the incident in question the management have stated their intention of not running such events again.

7.0 Supplementary information:

7.1 On a general basis the operating history of the venue is relatively trouble free.

7.2 The Premises employ SIA registered door staff during the Friday/Saturday Night periods when late hours are operated.

7.3 CCTV, plastic glassware and other requirements of the late night conditions are met.

8.0 CONCLUSION:

- The Premises Manager Nicola Bentley has the responsibility of the day to day running of the Premises and has signed off the staff training records. It would be my expectation that she of all people would know the current Operating Plan in detail in order to cascade this throughout staff training to ensure compliance.
- It is my impression that in times when revenue is tight that this has led to the acceptance of the booking for the function and as such is a deliberate departure from the Operating Plan and cannot be construed as an oversight.

Ian Cox

Licensing Standards Officer

2nd May, 2013