

## The Highland Licensing Board

Meeting – 6 August 2013

Agenda Item	11.1
Report No	HLB/103/13

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

Cellar Bar, Bridge Street, Wick, KW1 4NG

#### Report by the Clerk of the Licensing Board

##### Summary

This Report relates to an application for a major variation of a Provisional Premises Licence HC/CSER/1633 in respect of the Cellar Bar, Bridge Street, Wick, KW1 4NG.

## 1 Licensing History

- 1.1 The premises tendered a provisional application on 28 August 2012 which was subsequently granted on 6 November 2012.

## 2 Variation Details

- 2.1 (a) Add a seasonal variation to take advantage of any period for extended hours offered by the Highland Licensing Board  
(b) Add indoor/outdoor sports (pool and darts) as activities to be provided on the premises during core licensed hours.  
(c) Increase capacity to 80 persons

## 3 Process

- 3.1 Following receipt of the application which has been accompanied by statutory fee:
- 3.2 A notice of the application together with a copy thereof was sent to Police, Fire, Environmental Health, Planning, Building Standards, Licensing Standards Officer and NHS's Director of Public Health. The local Community Council were also notified.
- 3.3 The Chief Constable has a period of 21 days to give notice that either the applicant or any connected person has been convicted of any relevant offence or foreign offence. It is also open to the Chief Constable in the event of giving such a conviction to recommend that the application be refused for the purposes of crime prevention objection that is the prevention of crime and disorder.

**3.4** The Board has advertised the application on the Council's website for a period of 21 days and the applicant displayed the Notice on site for the same period.

**3.5** The Applicant and the Board have complied with all the statutory formalities and there are no objections. Building Standards have submitted a representation about the increased capacity and requesting that at any time when a pool table is located in any public part of the premises the capacity be reduced to 60. The Licensing Standards Officer has also commented and any amendments proposed have been incorporated into the operating plan or are recommended as conditions.

## **4 Policies**

**4.1** The following policies apply:

- The Highland Licensing Board combined Equality Scheme
- The Policy Statement by The Highland Licensing Board

**4.2** I am of the view that none of the objectives of the operating plan are contrary to either policy.

**5** The Members will note that the following is a summary of the Board's powers and if required more specific advice will be offered.

### **5.1 Grounds For Refusal**

Relevant grounds of refusal may be:-

1. The premises are excluded premises.
2. The grant of the application will be inconsistent with one or more of the licensing objectives.
3. Having regard to: (i) the nature of the activities 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 the sale of alcohol.
4. Having regard to the number and capacity of licensed premises of the same or similar description in the locality, the Board considers that if the application were to be granted, there would, as a result, be over provision of licensed premises of that description in the locality.

**5.2** 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.

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

**6.1** It is understood that a new operator intends to take over the premises and a variation is sought in support of the new business model.

**6.2** The proposed variations are reasonable and appropriate for these premises.

- 6.3** The increase in capacity from 40 to 80 persons is based on occupancy standards in accordance with Building Standards (Scotland) Regulations and did not involve any change to the layout of the premises.
- 6.4** I have been advised by the intended operator that a pool table will be installed from time to time and when not required will be removed. Presence of the pool table will affect capacity.
- 6.5** Following discussion with the applicant she now wishes to amend the capacity entry at Q7 of the application to read “Capacity 80 but reduced to 60 at any time when a pool table is located in any public part of the premises” so as to be in accord with the recommendations of Building Standards officers and requests that the Board allow the amendment.

## **7 Local Conditions**

**7.1** No change to existing local conditions is required.

### **7.2 Special Condition**

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**

It is recommended that Members consider the application and further allow the application to be amended as para 6.5.

Designation: Clerk of the Highland Licensing Board  
Reference: HC/CSER/1633  
Date: 23 July 2013  
Author: Iona Cook

Background Papers: The Licensing (Scotland) Act 2005

Appendix: None