

The Highland Licensing Board

Meeting – 05 November 2013

Agenda Item	11.2
Report No	HLB/127/13

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

Johnny Foxes and The Den, Bank Street, Inverness IV1 1QU

Report by the Clerk to the Licensing Board

Summary

REF: HC/INBS/161

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

Premises: Johnny Foxes and the Den, Bank Street, Inverness IV1 1QU

Applicant: Emerald Inns Ltd, 135 Culduthel Road, Inverness, IV2 4EF per Don Lawson

1.0 Description of Premises

This is a licensed public house, restaurant and late night entertainment venue occupying part of the ground floor of a mixed commercial and residential building in a central location in the city of Inverness overlooking the River Ness. Independent access from Bank Street. Outside drinking facilities at sub-street level. The premises trade as a family friendly restaurant and eatery during the day with meals served until 21.00 hrs from which time the premises change in character to an entertainment venue catering for the late night economy. Musical entertainment is available in two separate areas, each with its own dance floor and professional sound and lighting facilities.

1.1 Current Core Operating Hours

On Sales:

Mon – Sat 11.00 hrs to 03.00 hrs

Sunday 12.00 hrs to 03.00 hrs

Off Sales:

Mon - Sat 11.00 hrs to 22.00 hrs

Sunday 12.00 hrs to 22.00 hrs

2.0 Summary of Variation Application

2.1 Variation Sought

1. Amendment to remove local condition requiring plastic/polycarbonate glassware.
2. Amendment to On Sales opening hours: from 11.00 hrs on Sundays.

3.0 Background

- 3.1 On 16 September 2013 the Licensing Board received an application for a major variation of a Premises Licence on behalf of the applicant's agent, Don Lawson for Emerald Inns Ltd, 135 Culduthel Road, Inverness, IV2 4EF.
- 3.2 The Board has advertised the application on the Council's website for a period of 21 days and the applicant has to display the Notice on site for the same period (23 September to 14 October 2013). Confirmation of site notice has been received.
- 3.3 In accordance with standard procedure, Police Scotland, Highlands and Islands Fire and Rescue Service, The Council's TEC Services (Environmental Health), Planning and Building Standards were consulted on the application.
Notification and a copy of the application have been sent to NHS Highland and to the Local Community Council.
- 3.4 A notice of the application has been sent to and all the people listed under S21(1) of the Act.
- 3.5 No objections have been received in respect of the application.

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

Application has been made by the Premises Licence Holder to be absolved from the Local Condition currently endorsed on the Premises Licence to supply alcoholic and non-alcoholic in plastic or polycarbonate containers.

The Premises have a sound operating history as a popular and busy late night venue. On several occasions the LSO has visited and found the Premises to be well run and compliant with mandatory and local Licensing conditions. Efficient and effective stewarding is very much a part of the running of the Premises. It is the view of the LSO that the Premises are deserving of the condition being removed.

The hours applied for are within the Board's new policy adopted by the Board on 1 October, 2013.

The LSO foresees no threat to the Licensing Objectives should the Board be minded to grant this application.

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 combined Equality Scheme

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

Removal of Local Condition (f) relating to the requirement for plastic/polycarbonate glassware from 9.00pm.

Recommendation

The Board is invited to determine the above application. The Board is invited to determine the above application.

Designation: Clerk to the Licensing Board

Reference: HC/INBS/161

Date: 19 September, 2013

Author: Wendy Grosvenor

Background Papers: The Licensing (Scotland) Act 2005/Application Form. Licensing Board Policy Statement 1 October 2013 to 30 November 2016