

## The Highland Licensing Board

Meeting – 05 November 2013

Agenda Item	11.3
Report No	HLB/128/13

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

Royal Bengal, 89 High Street, Nairn IV12 4DB  
Report by the Clerk to the Licensing Board

#### Summary

REF: HC/INBS/203

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

**Premises:** Royal Bengal, 89 High Street, Nairn IV12 4DB

**Applicant:** Moshahid Ali, 7 Robertson Place, Nairn, IV36 1EU.

#### 1.0 Description of Premises

First Floor Restaurant accommodated within a mixed commercial and residential building, with retail outlets on the ground floor and residential accommodation on the second floor. The premises are in a central location of Nairn, with customer access off High Street.

#### 1.1 Current Core Operating Hours

##### On-Sales:

Monday to Saturday 12.00 hrs to 23.00 hrs; Sundays 17.00 hrs to 23.00 hrs.

#### 2.0 Summary of Variation Application

##### 2.1 Variation Sought

1. Restaurant to operate outwith core licensing hours
2. Amend on-sales Friday, Saturday and Sunday to 24.00 hrs.
3. Amendment to Premises Description to: 'First floor restaurant on High Street, Nairn, which incorporates Moshi's coffee shop as well as the Indian restaurant. Alcohol sales are table service to customers only taking table meals and snacks. Toilet facilities are provided on premises. Restaurant and Coffee Shop have separate entrances.'

#### 3.0 Background

3.1 On 19 September 2013 the Licensing Board received an application for a major variation of a Premises Licence on behalf of the applicant, Moshahid Ali, 7 Robertson Place, Nairn, IV36 1EU.

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 or representations have been received in respect of the application.

#### **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.

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

The Applicant has applied to extend the range of Activities covered in Section 5 of the Operating plan by requesting to conduct restaurant facilities out with core hours. This reflects an alteration to the Premises traditional business hours in that in part of Premises covered by the Alcohol Premises Licence the Premises Licence Holder has established a coffee shop which opens from 9am; the description of the Premises has been amended in order to accurately reflect this new direction in the business.

In addition the Applicant has also requested that the Premises core hours are extended on Friday, Saturday and Sunday's to allow the Premises to trade until midnight. This extension is within the Policy Hours of the Highland Licensing Board and is required to facilitate customer demand particularly in the summer months.

The operating history of the Premises has been trouble free since transition in 2009 and it is the opinion of the LSO that should the Board be minded to granted this variation there will be no adverse effect on the Licensing Objectives.

## **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**

Existing Conditions remain adequate to meet the Licensing Objectives.

## **Recommendation**

The Board is invited to determine the above application.

Designation: Clerk to the Licensing Board

Reference: HC/INBS/203

Date: 20 September, 2013

Author: Wendy Grosvenor

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