

The Highland Licensing Board

Meeting – 05 November 2013

Agenda Item	11.9
Report No	HLB/134/13

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

The Playhouse, Church Street, Nairn IV12 4AU

Report by the Clerk to the Licensing Board

Summary

REF: HC/INBS/ 507

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

Premises: The Playhouse, Church Street, Nairn IV12 4AP

Applicant: Peter Gerald Moore, Flat 2, 36 High Street, Nairn IV12 4AU per Lorna Murray, Solicitor, 45 Culduthel Road, Inverness IV2 4HQ.

1.0 Description of Premises

The premises were formerly known as Nairn County and Social Club. They now comprise Lounge Bar, occupying part of the ground floor (with a mezzanine floor) of a tenement building in a commercial area in the centre of Nairn. Independent access off Church Street.

1.1 Current Core Operating Hours

On Sales:

Mon – Wed 11.00 hrs to 24.00 hrs
Thurs to Sat 11.00 hrs to 01.00 hrs
Sunday 12.00 hrs to 00.30 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. Variation on On Sales hours on Fridays and Saturdays to terminate at 02.00 hrs.
On and Off Sales hours on Sundays to commence from 11.00 hrs.
2. Amend Seasonal Variations to: 'The Premises shall seek to operate any period of extended hours offered by the Highland Licensing Board such as festive extensions'.

3. Premises Description to read: 'Lounge bar and late night entertainment venue occupying part of the ground floor (with a mezzanine floor) of a tenement building in a commercial area in the centre of Nairn. The premises trade as a lounge bar offering meals and every Friday and Saturday evening from 22.00hrs they offer a mixture of live music and DJ entertainment, catering for the late night economy. The premises have a substantial dance floor area and professional sound and lighting facilities.

3.0 Background

- 3.1 On 24 September 2013 the Licensing Board received an application for a major variation of a Premises Licence on behalf of the applicant's agent Lorna Murray, Solicitor, 45 Culduthel Road, Inverness IV2 4HQ.
- 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 a 21-day period (3 - 24 October 2013). Confirmation of site notice will be updated at the meeting.
- 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 An objection has been received in respect of the application from I M Henderson, 1 Knowles Gardens, Church Street, Nairn, on 21st October 2013. (Appendix 1 attached).
An observation has been received from the Chief Inspector dated 30 September 2013 (Appendix 2 attached).
Letters of support for the application have been received on 23 October 2013 from:
Raymond MacGregor, 2 Portland Terrace, Church Street, Nairn;
Debbie Smith, 11 Portland Terrace, Church Street, Nairn; and
Wilma Taylor, 1 Portland Terrace, Church Street, Nairn;
(Appendix 3 attached)
- 3.6 The applicant, his representative, the supporters and the objector have 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

The Play House, Nairn, is a popular and busy lounge bar/entertainment venue situated within the Town Centre of Nairn. The Premises have been open from the end of April, 2013. They are modern and have a high specification of décor and fittings. Since opening the Premises have enjoyed an incident free operating history.

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

Application is also made to include reference within the Seasonal Variation Section of the Operating Plan that the Premises will seek to operate in accordance with periods of a General Extension of Hours offered by the Highland Board such as the Festive Policy, without the need to submit a yearly application. The Applicant is aware and willing to abide by the local condition requiring Police and Board notification of operating dates.

In addition the Premises seek to extend their core hours on Fridays and Saturdays until 2am. They understand the requirements to provide substantial entertainment which is a current factor in their operation in the form of live entertainers and DJ's. The Premises are a new conversion of the former Nairn County FC Social Club, they have include within the layout a purpose built raised stage area, a video wall and dance floor area.

They are also in a position to meet compliance with the requirement of CCTV.

The Applicants are confident of meeting all of the late night mandatory conditions. The Premises have been visited by the LSO and they certainly meet the guidance within the Policy Statement as to the requirements to be considered for a Late Hours Alcohol Premises Licence. Although situated in a mixed residential and commercial area the Premises have never been the subject of a noise complaint. No other Licensed Premises in Nairn are licensed at this present time beyond 1am. The size of Nairn, an already established local night time economy and the status of a holiday destination add to the view that a Late Night venue would fit in.

The operation of the Premises is that of a hybrid venue, in recognition of it moving to a late night premises on Fridays and Saturdays from 22.00 hrs the Children and Young Persons policy seeks amendment to ensure such categories of persons are off the Premises by 21.00 hrs on these evenings, except in the case of privately booked functions.

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

Late Night 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 Local Conditions to apply with the addition of::

- i. The premises licence holder of premises open after 1.00am shall have available a selection of hot and cold foods. (Promotion of Public Health Licensing Objective).
- k. Any music or live performance will cease at 1.45am. (or any other such time as specified by the board)(Prevention of public nuisance).
- p. The licence holder shall ensure the provision of an effective means of recording the capacity during the premises hours of operation.(Securing Public Safety)

o). On any day for which the terminal hour specified in this licence is later than 0100 hours the following day, alcohol may be sold on the premises after 0100 hours only while entertainment as detailed in the operating plan is being provided and has been provided continuously from no later than 2200 hours.

7.3 **Specific Condition**

The Licence Holder shall submit to the Board and to Police Scotland 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 Police Scotland in accordance with this condition. (Prevention of Crime and Disorder).

Recommendation

The Board is invited to determine the above application, noting that the application is within the policy adopted by the Board on 1 October 2013 as the Board's new policy for 1/12/13 to 30/11/2016.

Designation: Clerk to the Licensing Board

Reference: HC/INBS/507

Date: 20 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.

Appendix 1: Letter of objection from I M Henderson, 1 Knowles Gardens, Church Street, Nairn.

Appendix 2: Letter of representation from the Chief Constable dated 30 September 2013

Appendix 3: Letters of support from R MacGregor, D Smith and W Taylor

1, Knowles Gardens,
Church Street,
Nairn
18th October 2013.

RECEIVED
21 OCT 2013

Dear Sir,

RE: Application by Playhouse, Church Street, Nairn.

I am writing this letter of objection to the above mentioned application, not only on behalf of myself, but also a number of concerned residents in this locality. I cannot believe that I have to keep writing to you, as Mr Moore has had previous applications refused.

Mr Moore had originally made application for a "Night Club" licence to be granted in respect of these premises. The original application was refused by Highland Council, including all four local councillors. Mr Moore decided to appeal this decision.

This appeal was duly considered by The Reporter to the Scottish Government. The reporter concluded that these premises were unsuitable to be used as a late night venue. There were several reasons for the decision, but one of the main conclusions was that the location was in close proximity to a residential area. The current application has failed to mention this point, but relied on the closeness to the High Street in Nairn.

There are currently 4 licensed premises within approximately 50 yards of each other. If this is not over provision, I do not know what is. 3 of the premises have doors onto Church Street. The first of the residential properties could only be some 20 yards from The Playhouse.

This area currently has to endure, at the weekends, occasional loud noise and the usual behaviour that has become the norm in today's society. To be fair, it is not every weekend or indeed every early morning that the nuisance value reaches an unreasonable level, but the disturbances tend to be between 1 pm and 2 pm. To grant this extension would push the parameters of disturbance to between 1 pm and 3 pm. The residents of this area have lived with this inconvenience over a considerable number of years without making undue complaints. Do we not have a right to some decent respect in the early hours?

Dr Sommerville has long advised the Licensing Board with her vast knowledge, and she has advised of the problems relating to alcohol misuse and the over provision of not only outlets for alcohol, but also the availability of alcohol. Does Highland Licensing Board really wish to be seen as expanding the availability for the consumption of alcohol? The Scottish Government has described our alcohol habits in a most alarming fashion and also the medical profession has been advising of the "epidemic" features of our national trait.

Should this application be granted, almost certainly further applications would be forthcoming from License holders in Nairn. Mr Moore had his original application refused. He subsequently reapplied for the premises to have a license under the guise of a "Sports Bar"; I believe it is now to be called an "Entertainment Venue". Currently this premise operates from Wednesday afternoon through till Sunday. It also charges for admission on Friday and Saturday evenings. You could say that it tries to operate, in all but name, as a Night Club.

This is, as far as I know, a standard public house license and the hours granted were in line with current Highland Council Licensing Board Policy. Should this application succeed, it is inevitable the other "Public House" venues, throughout Highland Region, would seek similar provisions. It would then follow logically that the "Night Club" venues, in order to maintain their 2 hour advantage over other premises, would apply to the Board for Licenses up to 4 pm. The Licensing Board has no doubt been advised of the situation that has arisen in Aberdeen, where a Public House was granted a license to 3 am, and the Night Clubs were possibly going to ask for 6 am licenses.

We are not "killjoys". We only wish to have a reasonable expectation of civil responsibilities. Please reject this application.

Yours sincerely

I M Henderson

30 September 2013

Your Ref: NC/INBS/497
Our Ref: NM9668/13

RECEIVED
30 SEP 2013



Clerk to the Highland Licensing Board:
Alasdair MacKenzie
Chief Executive's Office
The Town House
Inverness
IV1 1JJ

Highlands & Islands Policing Division
Divisional Co-ordination Unit
Divisional Headquarters
Old Perth Road
INVERNESS
IV2 3SY

01463 720230

Colin.gough@scotland.pnn.police.uk

Dear Sir

**HIGHLAND LICENSING BOARD –
INVERNESS, NAIRN, BADENOCH & STRATHSPEY DIVISION
APPLICATION: VARIATION OF PREMISES LICENCE
APPLICANT: PETER GERALD MOORE
PREMISES: THE PLAYHOUSE, CHURCH STREET, NAIRN**

I refer to correspondence received here on 24 September 2013 and can advise that there are Police observations to this application:

Observation – the terminal hour of 0200 hours applied for on Fridays and Saturdays would exceed 14 hours of continuous trading and as such is outwith Board policy.

Yours sincerely

Colin Gough
Chief Inspector
Divisional Co-ordination Unit

The Clerk to the Licensing Board
Town House
High Street
INVERNESS
IV1 1JJ

Raymond Macgregor
2 Portland Terrace
Church Street
NAIRN
IV12 4AS
07742101031

22 October 2013

Dear Sir/Madam

CHANGE TO PREMISES LICENSE - THE PLAYHOUSE, CHURCH STREET, NAIRN, IV12 4AS

I am writing in support of the application to increase the change of license for the Playhouse in Church Street.

As a resident of Portland Terrace and neighbour to the Playhouse in Church Street, I have had no bother whatsoever since the place has opened, which tells me that the guys are running it correctly and are taking their responsibilities seriously in making sure that the people who go in and also me as a neighbour are being looked after.

Please get in touch if you want to talk this over more.

Yours

Raymond Macgregor

The Clerk to the Licensing Board
Town House
High Street
INVERNESS
IV1 1JJ

Debbie Smith
11 Portland Terrace
Church Street
NAIRN
IV12 4AS
Tel No: 01667 453638
Mobile: 07732887936

20 October 2013

Dear Sir/Madam

VARIATION TO PREMISES LICENSE – THE PLAYHOUSE, CHURCH STREET, NAIRN, IV12 4AS

It was with great pleasure I saw that there had been a request for an extension on the license for the Playhouse, my neighbour, on Church Street.

Since the sports bar has opened it has been great to see new life being breathed into Nairn, and some of my friends who live outwith Nairn who have accompanied me to the premises are very impressed with the place and the staffing. There is a feeling of being safe in the premises and as a neighbour to the Playhouse, also being safe outside. There are cameras situated at the doors to monitor outside but they are also in such a position that my car is looked after too! The police cameras are always facing the opposite way, and never caught anyone who damaged my car in the past. Since the Playhouse has been open there has been NO damage to my car at all.

The owners of the premises are always very polite and on occasion when I see them are very considerate in asking how I, as a neighbour, am feeling about noise levels (if any) of the client group when they leave, and also any music levels. Since they have moved in it has been brought to my attention how noisy other premises in the street are, there is no noise from the Playhouse at all that can be heard in my house or even when I am outside in my garden-however two other premises on the same street can be heard.

I have not seen any negative impact whatsoever from the Playhouse since its opening and am strongly in agreement that they should get an extended license, they are responsible owners, proven by strong safety and security staff employment, and I'm sure will make sure that both the client group who use the premises and us as neighbours are respected.

Yours faithfully

Debbie Smith

1 Portland Terrace
Church Street
Nairn

Clerk to the Licensing Board
Town House
High Street
Inverness
IV1 1JJ

To whom it may concern,
I write to offer my
support to the Playhouse in
their application to the licensing
board. As the owner/occupier
of the first house in Portland Terrace,

Therefore near neighbour to the Playhouse premises, I can state that at no time have I been aware of any noise emanating from the Playhouse. They are well staffed with extremely courteous doormen who do an excellent job of curtailing any potential trouble.

It has actually highlighted the fact that the noise level from the other premises on Church St do reach an unacceptable level on Saturday nights but for the Playhouse to be blamed for this is unfair and not acceptable.

² It also adds a certain level
of security to Church Street on
Saturday nights to know that
there are security doormen present.

with my full support
Yours faithfully
