

**The Highland Licensing Board**

**Meeting – 5 November 2013**

Agenda Item	<b>11.12</b>
Report No	<b>HLB/137/13</b>

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

**Volunteer Arms, 47 High Street, Fort William, PH33 6AT**

**Report by the Clerk to the Licensing Board**

**Summary**

This Report relates to an application for a major variation of Premises Licence in respect of the Volunteer Arms, 47 High Street, Fort William, PH33 6AT.

**1.0 Description of Premises**

The Volunteer Arms is a well established bar located on the High Street within the town centre of Fort William, overlooking Cameron Square. The premises consists of a bar on the ground floor with the bar counter to the front of the premises. The area to the rear of the premises accommodates a pool table which is removed when entertainment is provided and the area is utilised as a dance area. There is a stairway before the dance area which leads to the male and female toilets in the basement. There are also external drinking facilities at the front of the premises on the High Street.

There is a lane on one side of the premises with commercial property on the other and residential property above and to the rear of the premises. The High Street is pedestrianised and covered by CCTV.

**1.1 Current Core Operating Hours**

The premises currently enjoys the following operating hours:

**On-Sale:**

Monday to Saturday: 1100 hours to 0100 hours  
Sunday: 1200 hours to 0100 hours

## **2.0 Summary of Variation Application**

### **2.1 Variation Sought**

The applicant seeks to vary the premises licence as follows:-

- (1) Increase terminal core hour on Friday and Saturday evenings from 0100 hours to 0200 hours.
- (2) Increase opening core hour on Sunday morning from 1200 hours to 1100 hours.
- (3) Additional activities within Operating Plan, both during and outwith core hours, to include conference facilities, receptions and club or other group meetings.
- (4) Additional activities within Operating Plan to be provided outwith core hours to include music, films, gaming and indoor sports.
- (5) Revision to layout plan to remove fixed seating and include DJ Booth, two poser tables and new booth seating.
- (6) Revision to description of premises to include operation as late night entertainment venue.

### **3.0 Background**

3.1 On 24 September 2013 the Licensing Board received an application for a major variation of a Premises Licence from SBM (Fort William) Limited.

3.2 The application was publicised during the period 27 September 2013 until 18 October 2013 and confirmation that the site notice was displayed has been received.

3.3 In accordance with standard procedure, Police Scotland, Highlands & Islands Fire & Rescue Service, the Council's TEC Services (Environmental Health), Planning, Building Standards were consulted on the application.

Notification of the application was also sent to NHS Highland and the local Community Council.

3.4 A location plan identifying the premises is attached as Appendix A.

3.5 A timeous notice of representation to the application was received on 18 October 2013 from Fort William Community Council, a copy of which is appended as Appendix B.

3.6 The applicant and a representative from the Community Council have been invited to attend the Hearing.

## **4.0 Legislation**

### **4.1 Late Opening Premises**

The Late Opening Mandatory Conditions apply to late opening premises pursuant to the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007. These premises are defined in the Regulations as premises, the capacity of which, is at least 250 people and which:-

- (a) will regularly provide at any time in the period between 1:00 am and 5:00 am—
  - (i) live or recorded music with a decibel level exceeding 85dB;
  - (ii) facilities for dancing; or
  - (iii) adult entertainment, or
- (b) when fully occupied, are likely to have more customers standing than seated.

They do not include, however, premises which have as their primary function the service of food, or which include, or are part of larger premises which include, at least 6 letting bedrooms, or in respect of which a licence under section 12 of the Theatres Act 1968(1) or section 1 of the Cinemas Act 1985(2) is in force, or which are, or are part of, an art gallery.

- 4.2 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.

4.3 The Board has only power to either grant the application and make a variation of the conditions to which the licence is subject or, refuse the application.

If the Board refuses the application, the Board must specify the ground for refusal and if the ground for refusal is in relation to a licensing objective, the Board must specify the objective in question.

## **5.0 Licensing Standards Officer**

5.1 The LSO has provided the following comments:-

- The premises currently operate as a general on-sales premises during the day and the applicant proposes to offer on Friday and Saturday evenings, a mixture of live music and DJ entertainment from 2100 hours. In accordance with the Board's new policy adopted on 1 October 2013, and to take advantage of the late night economy, the applicant wishes the premises to be considered as "hybrid" premises, and thereby seeks to increase the existing terminal hour on Friday and Saturday from 0100 to 0200 hours.
- The applicant has stated that significant entertainment in the form of live music and DJ entertainment will be provided until the conclusion of the terminal hour. The applicant is aware of and accepts the condition relating to the sale of alcohol being ancillary to the entertainment provided. This entertainment will be pre-advertised on the premises web-site, facebook page and the external noticeboard located at the entrance to the premises. There is a dance floor to the rear of the premises representing approximately 40% of the floor space. A copy of the ground floor layout plan is attached as Appendix (i) in this regard.
- The application states that the music level will not exceed 85db and when fully occupied there is likely to be more customers standing than seated.
- The capacity detailed within the current Premises Licence is less than 250, namely 170 persons.
- The Licence-holder has stated that the premises will comply with the requirements of the Late Opening Conditions and that hot and cold food will also be available and advertised within the premises.
- The Licence-holder is currently preparing Drugs and Evacuation policies for approval by the Licensing Board.
- The additional increase in core hours sought on a Sunday is within the Board's new policy adopted on 1 October 2013.
- The additional activities sought are reasonable and appropriate for the type of operation of the premises.
- From the layout plan submitted, the variation complies with the required specifications.
- The description of the premises has been updated to reflect the proposed variation.

- The premises are a popular local establishment frequented by a wide age range. Children and Young Persons are not permitted within the premises.
- They are founder members of Pubwatch and attend meetings regularly.
- Although the requirement for stewarding is not an existing Local Condition attached by the Licensing Board, it is implemented at peak times for effective management. There is also an existing CCTV system within.
- The Premises has been visited on several occasions and found to be compliant in observing the requirements of the Licencing (Scotland) Act 2005.
- There would not appear to be any matter contained within the application that is inconsistent with the Licensing Objectives and the premises are considered suitable for use for the sale of alcohol in accordance with the proposed application.

## **6.0 HLB Local Policies**

The following policies are relevant to the application:-

- (i) Highland Licensing Board Policy Hours (Appendix C attached)
- (ii) Highland Licensing Board Policy Statement 2013-16
- (iii) Schedule of Local Conditions
- (iv) Highland Licensing Board Equality Strategy

## **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 Late Opening Conditions**

If the application is approved it is recommended that the Mandatory Late Conditions set out in Schedule 3 of the Act should apply as follows:-

1. A person trained to the satisfaction of the Licensing Board in administering First Aid must be present on the premises from 1.00 am (on any day when the premises are open at that time) until whichever is the earlier of:-
  - (a) the time at which the premises next close; and
  - (b) 5.00am

2. A designated person who is the holder of a personal licence must be present on the premises from 1.00am (on any day when the premises are open at that time) until whichever is the earlier of:-
  - (a) the time at which the premises next close; and
  - (b) 5.00am or such other time as the Licensing Board may specify.
3. There must be written policies in existence concerning:-
  - (a) the evacuation of the premises; and
  - (b) the prevention of the misuse of drugs on the premises.
- 4.
5. A CCTV system must be installed on the premises to the satisfaction of the appropriate Chief Constable and must be kept in good working order.
6. There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.
7. A person who holds a licence granted under Section 8 of the Private Security Industry Act 2001(1) must be positioned at every entrance to the premises from 1.00am (on any day when the premises are open at that time) until whichever is the earlier of:-
  - (a) the time at which the premises next close; and
  - (b) 5.00am or such other time as the Licensing Board may specify.

### 7.3 HLB Local Conditions

As a consequence of the Licensing Board's new Policy Statement 2013-16, it may be appropriate to remove all existing Local Conditions and substitute with the following:

- G: Premises open for the sale of alcohol after 0100 hours shall have available a selection of hot and cold foods and shall advertise this within the premises.
- H. Dartboards and any pool table will be situated in a location to be approved by the Licensing Standards Officer.
- J. After 2100 hours, when the premises is operating until 0200 hours, the premises licence holder shall ensure that there is adequate stewarding at all relevant entrances and egresses to the premises and within the premises.
- M. The licence holder shall ensure that all outdoor tables covered by a Pavement Permit are regularly cleared of all used glassware and crockery.
- N. The licence holder shall ensure the provision of an effective means of recording the capacity during the premises hours of operation.

- 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.

#### 7.4 HLB Special Conditions

Having regard to location of the premises and given that residential properties are located above and to the rear of the premises, the Board may wish to consider attaching the following Special Conditions:

- All glass disposal operations shall cease between the hours of 2300 hours and 0800 hours the following day.
- All Live vocals or amplified music will be so controlled after 2300 hours that it shall be inaudible in nearby residential property.

#### **Recommendation**

The Board is invited to determine the above application and give consideration to:

- (i) Updating the existing Local Conditions as referred to at para. 7.3 of the report;
  - (ii) If the Board are minded to grant the application as outlined at para. 2.1, in addition to the Mandatory and Local Conditions, consideration be given to attaching the Late Opening Conditions as referred to at Para 7.2 and proposed Special Conditions as referred to at para. 7.4 of the report;
- or
- (iii) If the Board are minded to refuse the application, the Board must specify the ground for refusal and if the ground for refusal is in relation to a licensing objective, the Board must specify the objective in question.

Designation: Clerk to the Licensing Board

Reference: HC/RSL/0486

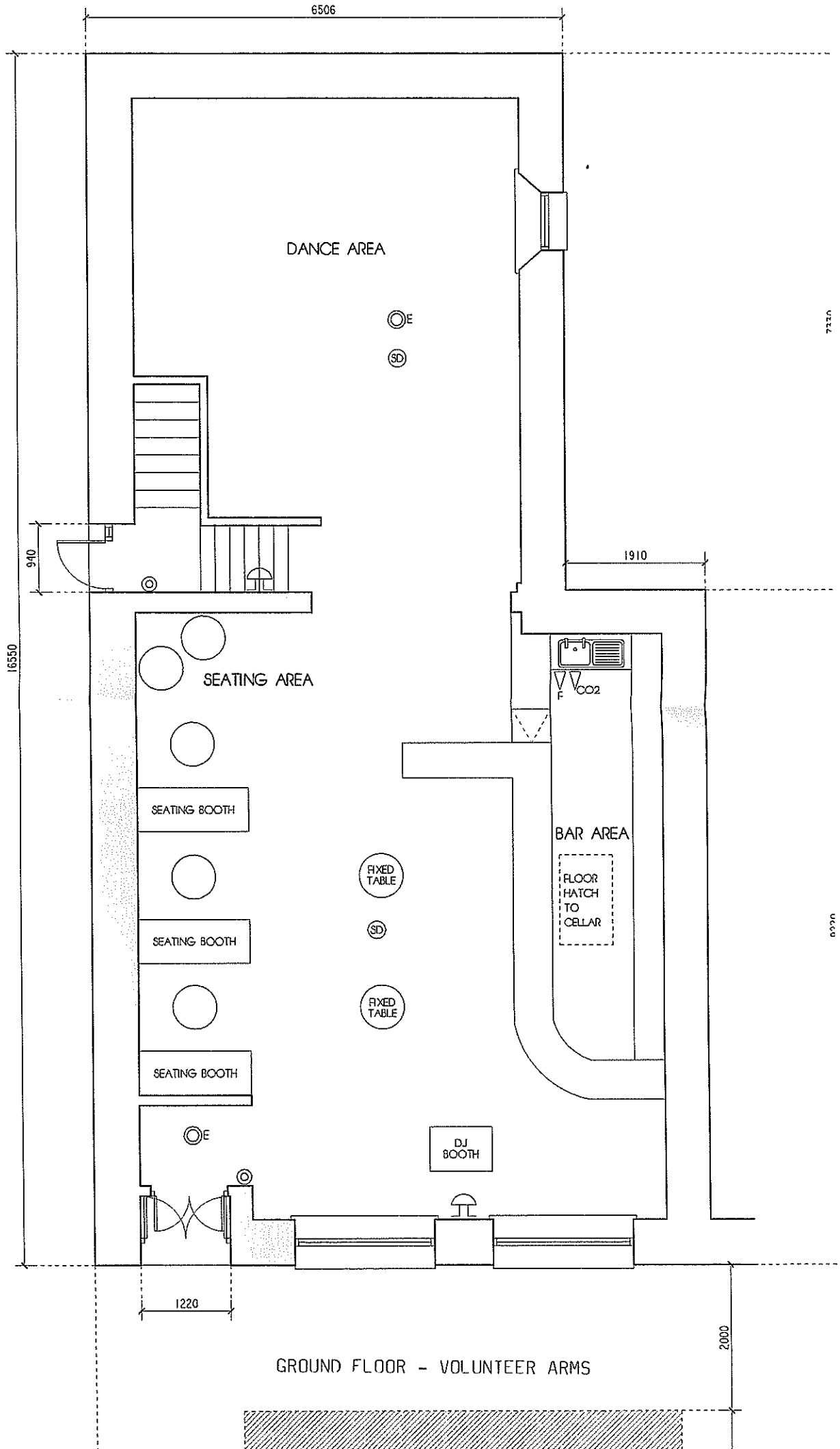
Date: 22 October 2013

Author: AMK:ET/JT

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

Appendices:

- (A) Location Plan
- (B) Representation from Fort William Community Council
- (C) HLB Policy Hours
- (i) Ground Floor Layout Plan of Premises



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