

## The Highland Licensing Board

Meeting – 1 April 2014

Agenda Item	11.1
Report No	HLB/042/14

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

Levels Ltd, 26-28 Union Street, Inverness IV1 1PX

#### Report by the Clerk to the Licensing Board

##### Summary

REF: HC/INBS/454

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

**Premises:** Levels Ltd, 26-28 Union Street, Inverness IV1 1PX

**Applicant:** Ali Raza Mohamed, 18 Wimberley Way, Inverness IV2 3XL, per Lorna Murray, Solicitor, 45 Culduthel Road, Inverness IV2 4HQ

## 1 Description of Premises

This is a first floor restaurant/late night venue accommodated within a commercial building in a central location in the City of Inverness. Until 20.00 hrs daily part of the premises trades as a dedicated restaurant when alcohol is served only as an ancillary to table meals. The bar counter in this area operates until 20.00 hrs. daily only as a dispense counter and all alcohol sales until 20.00 hrs. are by table service. Last orders for food are taken at 20.00 hrs. and the premises closes its restaurant operation at 21.30 hrs. The premises open as a late night venue from 22.00 hrs.

### 1.1 Previous Core Operating Hours

#### On Sales:

Monday to Sunday 12.00 hrs. to 03.00 hrs.

## 2 Summary of Variation Application

### 2.1 Variation Sought

#### Operating Plan:

1. Amend core times for on sales to Monday to Sunday 11.00 hrs. to 01.00 hrs.

2. Remove from the list of activities:

'Bar meals; club or other group meetings; dance facilities'.

3. Remove from the list of activities to be provided out-with core licensed hours, the following:

'restaurant facilities; receptions; music; live performance.'

4. Remove all activities listed in 5(f).

5. 5(g) to be replaced with 'Carryout meals facilities will be available for consumption off the premises'.

7. Amend Children and Young Person's policy at 6(b) as follows:

'Young persons will be allowed unrestricted entry to the premises. Children will be allowed unrestricted entry to the premises. Children will be allowed access at all times provided they are accompanied by an adult except that at the discretion of the management, children over the age of 13 will be allowed entry to the premises unaccompanied by an adult until 21.30 hrs daily.

8. Amend capacity to 87.

#### **Premises Licence**

9. Updated description:

'First floor restaurant accommodated within a commercial building in a central location in the City of Inverness.

### **3 Background**

3.1 On 24 January 2014 the Licensing Board receipted an application for a major variation of a Premises Licence on behalf of the applicant's agent, Lorna Murray, 45 Culduthel Road, Inverness.

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 (3 February to 24 February 2014). Confirmation of display of the 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), and Planning and Building Standards were consulted on the application. Notification and a copy of the application have been sent to NHS Highland. No Community Council is currently formed for the area.

3.4 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 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. that the grant of the application will be inconsistent with one or more of the licensing objectives;

2. that having that 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. that 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 applicant has applied for a variation to reflect a change in operation of these premises. Originally an application had been submitted to allow a family restaurant operation to change in the latter part of the evening into a nightclub premises offering substantial entertainment; now the application for variation seeks to confirm the Premises as a family friendly restaurant which is very much food led but does offer ancillary alcohol provision.

As such, the description of the premises has been altered reflecting its now core business of food provision.

The core hours of the premises have been reduced to allow on sales provision Monday to Sunday, 11.00hrs to 01.00hrs. A number of approved "activities" within Section 5 of the operating plan are to be removed as the new description and operation of the premises makes them redundant. The provision of "carry out" meals is requested to be included at Section 5(g).

Capacity of the premises has been reduced to 87 persons.

The children's policy at Section 6 has been amended to request that young persons can enter at any time during core hours unaccompanied; children aged over 13 years can enter unaccompanied with management discretion until 21.30hrs, after which time they will require adult supervision. The premises have been inspected by the LSO and this children's policy is seen as suitable to meet the requirements of the 5<sup>th</sup> Licensing Objective.

## **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.

Removal of the Late Night Opening conditions from the premises licence as the Premises through this amended operating plan no longer fulfil the criteria.

### **7.2 Local Conditions**

7.2.1 The existing Local Condition (a) should be retained on the premises Licence.

7.2.2 Removal of the following Local Conditions: (b), (c), (f), (i), (k), (l) and (p).

7.2.3 Removal of existing Local Specific Condition;  
“On each day of operation except in the circumstances of a private function, the premises shall close between 21.30hrs and 22.00hrs to enable the effective transition from a family restaurant to a late night premises venue”.

## **8 Recommendation**

The Board is invited to determine the above application.

Designation: Clerk to the Licensing Board

Reference: HC/INBS/454

Date: 10 March, 2014

Author: Wendy Grosvenor

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

Licensing Board Policy Statement from 1 December 2013 to November 2016