

**The Highland Licensing Board**

**Meeting – 1 April 2014**

Agenda Item	<b>11.11</b>
Report No	<b>HLB/052/14</b>

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

**Retro, Bridge Street, Wick, KW1 4NG**

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

**Summary**

**Ref:** HC/CSER/1633

**Premises:** Retro, Bridge Street, Wick, KW1 4NG

**Applicant:** Yvonne Fitzgerald per Lorna Murray

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

**1.0 Description of Premises**

**1.1** Retro is a basement bar which is part of a larger building located in the town centre of Wick in a mainly commercial area.

**1.2 Current Core Operating Hours**

**On Sales:**

Monday to Saturday 1100 hrs to 0100 hrs  
Sunday 1200 hrs to 2400 hrs

**Off Sales:**

Monday to Saturday 1100 hrs to 2200 hrs  
Sunday 1200 hrs to 2200 hrs

**2.0 Summary of Variation Application**

- 2.1**
1. Variation to On Sales Hours: Sunday 1100 hrs to 0100 hrs
  2. Variation to Off Sales Hours: Sunday 1100 hrs to 2200 hrs
  3. Addition to list of activities of live performances (no amplified music - solo performers only) and receptions etc (within core licensed hours).
  4. Amendment of children and young person's policy to allow them to be present in the premises until 1800 hrs daily provided they are accompanied by an adult.

### **3.0 Background**

3.1 On 18 February 2014 the Licensing Board received an application for a major variation of a Premises Licence by the applicant.

3.2 The Board has advertised the application on the Council's website for a period of 21 days and the applicant had to display a Notice on site for the same period.

3.3 In accordance with standard procedure, Police Scotland, Scottish Fire and Rescue Service, the Council's 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 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**

- 5.1 The proposed change to on and off-sales hours on a Sunday is in accordance with Board policy.
- 5.2 These premises occupy a basement above which is a care home for the elderly. In terms of the current operating plan music is permitted and is available as recorded music played through loud-speakers. The applicant wishes to provide live "un-plugged" performances by solo performers. To date I am unaware of any complaints from the care home or neighbouring residential properties of excessive noise from the premises.
- 5.3 I am advised that the premises manager, who is the tenant of the premises, has some childcare responsibilities for his children which may necessitate them to be on the premises from time to time. Neither children nor young persons are currently permitted on the premises and the applicant seeks to vary the terms of entry to allow persons under 18 to be on the premises.
- 5.4 I have no objections nor wish to make representation in respect of 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**

In accordance with current Board policy it would be appropriate to remove specific condition 1 relating to the seasonal variation for the festive period and replace it with local condition (q)

(q) The Licence Holder shall submit to the Board and to Police Scotland prior to 1<sup>st</sup> 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.

### 7.3

#### **Late Opening Local Conditions**

In accordance with current Board policy it would be appropriate to impose the under-noted Late Opening Local Conditions which shall apply on any occasion that the Premises are open after 0100 hrs.

1) A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hrs (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) 0500 hrs.

2) A designated person who is the holder of a personal licence must be present on the premises from 0100 hrs (on any day when the premises are open at 0100 hrs) until whichever is the earlier of:-  
(a) the time at which the premises next close, and  
(b) 0500 hrs.

### 7.4 **Special Condition**

Persons under the age of 18 years are not permitted on the premises. This condition does not apply to persons under 18 years of age being children of the licence holder, premises manager or tenant who may be permitted only in an enclosed part of the premises to which members of the public are not permitted access.

#### **Recommendation**

The Board is invited to determine the above application and the proposed local conditions, late opening local condition(s) and special condition as detailed at para(s). 7.2, 7.3 and 7.4 above noting that the application for variation is within the policy adopted by the Board on 1 October 2013 as the Board's new policy for 1 December 2013 to 30 November 2016.

Designation: Clerk to the Licensing Board  
Reference: HC/CSER/1633  
Date: 14 March 2014  
Author: Iona Cook

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

Appendix: None