

The Highland Licensing Board

Meeting – 4 November 2014

Agenda Item	7.1
Report No	HLB/138/14

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

La Tortilla Asesina, 99 Castle Street, Inverness IV2 3EA

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of a Premises Licence by Tapas Inverness Ltd, per Hana Stewart, 99 Castle Street, Inverness IV2 3EA

1.0 Description of Premises

On sales premises. Premises are a restaurant on two floors specialising in Spanish food and wine. Bar area within the downstairs restaurant area and table service in the upstairs restaurant area.

2.0 Current Operating Hours

On Sales:
Monday to Thursday 1200 hours to 2300 hours
Friday and Saturday 1200 hours to 0100 hours
Sunday 1230 hours to 2300 hours

3.0 Summary of Variation Application

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

Amendment to Operating Plan:

1. Addition of Off Sales provision on the premises Monday to Sunday 1000 hrs to 2200 hours.
2. Amendment to On Sales Hours:
 - Monday to Thursday 11.00 hrs to 12.00 hrs.
 - Friday and Saturday commencing from 1100 hours.
 - Sundays - 1100 hours to 1200 hours.
3. Amend seasonal variation to allow the premises to operate under extended hours as permitted by Licensing Board policy such as festive periods.
4. Activities to include receptions, theatre and films to be provided during core licensing hours.
5. Outside drinking area to be operated during and outwith core licensing hours.

6. Section 5f to include wording: 'provision of takeaway meals and sampling of wines for members of wine club'.
7. Capacity to be amended to 85 persons to take account of the outside drinking area.
8. Question 7 to include the wording ' all off-sales are resourced from the stockroom'.
9. Amendment to premises description: additional wording: 'A small outside drinking area is situated at the front of the restaurant, facing Castle Street.
10. Amendment to layout plan to include outside drinking area.

4.0 Background

- 4.1 On 28 August 2014 .the Licensing Board received an application for a major variation of a Premises Licence from the applicant's agent, Hana Stewart.
- 4.2 The application was publicised during the period 8 September to 29 September 2014 and confirmation that the site notice was displayed has been received.
- 4.3 No notices of objection to the application or representations have been received.
- 4.4 In accordance with standard procedure, Police Scotland, Highlands & Islands Fire & Rescue Service, the Council's Community Services (Environmental Health), Planning, Building Standards were consulted on the application.

No objections or representations have been received from these consultees.

- 4.5 Notification of the application was also sent to NHS Highland. There is no Community Council formed for the area (Central).

5.0 Legislation

- 5.1 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, 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.

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

6.0 Licensing Standards Officer

The LSO has provided the following comments:-

The premises in question are a Spanish themed tapas bar which has operated successfully since transition in 2009. The premises have a trouble-free operating history and compliance visits carried out by the LSO have shown that the premises are being operated according to the operating plan and the mandatory and local conditions attached to the licence.

In terms of this variation, the applicant has made changes to the core on-sales hours which are in keeping with those core hours currently stated within the Highland Licensing Board's Policy Statement. Application is also made to sell off-sales as clients are increasingly making requests to purchase specialise Spanish wines and there is the potential to establish a 'wine club' among the restaurant clientele.

The applicant has secured a pavement permit to operate a small outside drinking area to the front of the restaurant, bordering onto Castle Street. This has increased the overall capacity of the premises which is recorded at section 7 on the operating plan.

Seasonal variation has been requested to include the generic statement allowing the premises to take advantage of periods of extended hours granted by the Highland Board such as during the festive season.

A number of textural variations have been included within section 5 of the operating plan to accurately reflect the range of permitted activities that occur on the premises. None of these in any way post adverse issues in respect of the Licensing Objectives.

7.0 HLB Local Policies

The following policies are relevant to the application:-

- (i) Highland Licensing Board Policy Statement 2013-16
- (ii) Highland Licensing Board Equality Strategy

8.0 Conditions

8.1 Mandatory Conditions

If the application is approved the mandatory conditions set out in Schedule 3 of the Act will apply.

8.2 Local Conditions

There are no existing local conditions but the following local and specific conditions are now recommended:

e) After 2300 hours alcoholic or non –alcoholic drinks shall not be consumed in an outdoor drinking area (Licensing Objective 3).

k) Within 30 minutes of the conclusion of permitted hours for any outside area governed by a pavement permit all tables and chairs, parasols and other moveable furniture will be removed (Licensing Objectives 1,2 and 3).

m) The licence holder shall ensure that all outdoor tables covered by a pavement permit are regularly cleared of all used glasswear and crockery (Licensing Objective 2).

q) The licence holder shall submit to the B within the festive period on which it is intended that the premises remain open until the festive period terminal stated for that category of premises in the Board's 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 (Licensing Objectives 1 and 2).

8.3 Specific Conditions

On any occasion that the premises are permitted to remain open after 0100 hours the following specific conditions will apply:

1. A personal licence holder shall be present on the premises from 0100 hours until such time as the premises close.
2. A person who to the satisfaction of the Licensing Board is the holder of a current First Aid qualification shall be present on the premises from 0100 hours until such time as the premises close.

Recommendation

The Board is invited to determine the above application and the local and specific conditions recommended at paragraphs 8.1, 8.2 and 8.3

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.

Reference: HC/INBS/364

Date: 24 September 2014

Author: Wendy Grosvenor

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