

The Highland Licensing Committee

Meeting – 11 December 2014

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| Agenda Item | 8.1 |
| Report No | HLC/089/14 |

Late Hours Catering Licence – Request for Variation – McDonalds Restaurant (Ward 15 – Inverness Central)

Report by the Legal Manager

Summary

This Report relates to a request for variation of a late hours catering licence in relation to McDonalds Restaurant, 12-22 High Street, Inverness.

This item is subject to a formal hearing procedure.

1.0 Background

1.1 The Highland Council has resolved that in terms of the Civic Government (Scotland) Act 1982 a licence will be required for the operation of a late hours catering premises. A licence is required where the premises are selling food during any of the hours between 11.00pm and 5.00am.

2.0 Current Licence

2.1 Mr Craig Duncan currently holds a licence for the premises at McDonalds, 12-22 High Street, Inverness. The current licence expires on 14 March 2016.

2.2 The premises are currently licensed for the following hours:

- Thursday, Friday, Saturday 23:00 to 03:00 (into each following morning).
- Sunday to Wednesday - 23:00 hrs to 24:00 hrs

2.3 The current Late Hours Catering Policy Hours (in relation to all settlements which have late opening liquor licences) which were agreed by the Highland Licensing Committee on 5 February 2013 are:

Wednesday to Sunday - to 03:00 hrs
Monday and Tuesday – to 24:00 hrs

3.0 Application for Variation

3.1 On 7 October 2014 a request for variation of licence was submitted by the licence holder's agent, Macleod and MacCallum Solicitors, 28 Queensgate, Inverness, for hours which are outwith the current policy (copy of request attached in Appendix 1). The hours requested for are:

Mondays: 2300 hours to 2400 hours
Tuesdays: 2300 hours to 2400 hours
Wednesdays: 2300 hours to 0300 hours (Thurs. morning)
Thursdays: 2300 hours to 0300 hours (Fri. morning)
Fridays: 2300 hours to 0330 hours (Sat. morning)
Saturdays: 2300 hours to 0330 hours (Sun. morning)
Sundays: 2300 hours to 0300 hours (Mon. morning)

3.2 The licence holder's agent has also requested that in the event that, in terms of the Licensing (Scotland) Act 2005, the Highland Licensing Board has declared a policy for a terminal hour later than 3.00am for on-sales in respect of premises operating after 1.00am during the festive season or for the duration of any significant event, the terminal hours referred to in the table above shall be extended to 30 minutes after the said terminal hour declared by the Highland Licensing Board.

3.3 The Licensing Board's Festive Hours policy is attached in Appendix 5.

3.4 Appendix 2 contains a location plan of the premises.

4.0 Process

4.1 Following receipt of the request a copy of the same was circulated to the following Agencies/Services for consultation:

- Police Scotland
- Scottish Fire & Rescue Service
- Community Services (Environmental Health)
- Planning and Building Standards Service

4.2 The Fire Service and Planning & Building Standards Service have responded to advise that they have no objections to this variation request.

4.3 A letter of objection dated 16 October 2014 has been received from Police Scotland and is attached in Appendix 3.

4.4 The Environmental Health Service have submitted a report (contained in Appendix 4) regarding the possible impact in relation to litter and noise arising from the additional hours requested.

4.5 As part of the consultation process the Environmental Health Service issued a questionnaire to the licence holder seeking details of their waste and litter arrangements. Following receipt of the completed questionnaire the Environmental Health Service have confirmed that they would have no objections to the variation request on the basis of the response received.

5.0 Determination

5.1 As the hours detailed in paragraph 3.1 are outwith policy the request for variation requires to be considered and determined by the Licensing Committee.

6.0 Policies

6.1 The following policies are relevant to this case:

Standard Late Hours Catering Licence conditions. A copy of these can accessed at

http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/298/entertainment_licences

or a hard copy can be supplied where requested.

7.0 Recommendation

The Committee is invited to determine the variation request in accordance with the Council's Hearings Procedure.

Designation: Legal Manager

Officer Reference: Michael Elsey

Date: 17 November 2014

Background Papers: Civic Government (Scotland) Act 1982

Appendix 1 - Letter from MacLeod & MacCallum dated 6 October 2014

Appendix 2 - Location Plan of Premises

Appendix 3 - Letter of Objection from Police Scotland dated 16 October 2014

Appendix 4 - Report from Environmental Health

Appendix 5 – Highland Licensing Board's Festive Hours policy



Macleod & MacCallum

Solicitors, Estate Agents & Financial Advisers
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LP17 - Inverness 1 DX IN12 Inverness
mail@macandmac.co.uk www.macandmac.co.uk

Partners:

Graham P. Watson
Morag S. MacIntosh
Alison M. Martin
Peter F. Mason
Fiona J. Campbell
Corra L. Irwin
Lindsay Bishop
Katrina L. Ashbolt
Graham R. Laughton

Practice Manager:

David Maclean

Associates:

Chris J. Wallace
Gary A. Webster
David Findlay
Jenna Thomson

Property Manager:

Nicola D. Fraser

Lettings Manager:

Sarah-Anne Gow

Financial Consultant:

Mike Davidson

DELIVERY
Michael Elsey, Esq.
Legal Manager
Highland Council
Town House
INVERNESS
IV1 1JJ

Our Ref GPW/FC/D.2299.1
Your Ref

6 October 2014

RECEIVED

Dear Sir

**Civic Government (Scotland) Act 1982
MacDonalds Restaurant, 12-22 High Street, Inverness
Late Hours Catering Licence**

We are instructed by Craig G Duncan of MacDonalds Restaurant, 12-22 High Street, Inverness in connection with an application for variation of the Late Hours Catering Licence (number 13(I) for those premises.

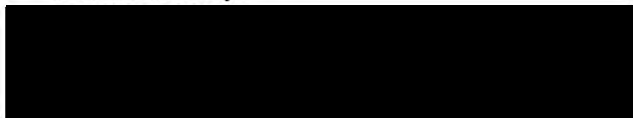
We hereby apply to vary the licence to the effect that trade from the premises shall be permitted during the following hours (subject to the provisions of the subsequent paragraph):-

| | |
|------------|-----------------------------------|
| Mondays | 11pm to 12 Midnight |
| Tuesdays | 11pm to 12 Midnight |
| Wednesdays | 11pm to 3am (Thursday morning) |
| Thursdays | 11pm to 3am (Friday morning) |
| Fridays | 11pm to 3:30am (Saturday morning) |
| Saturdays | 11pm to 3:30am (Sunday morning) |
| Sundays | 11pm to 3am (Monday morning) |

In the event that, in terms of the Licensing (Scotland) Act 2005, the Highland Licensing Board has declared a policy for a terminal hour later than 3am for on-sales in respect of premises operating after 1am during the festive season or for the duration of any significant event, the terminal hours referred to in the table above shall be extended to 30 minutes after the said terminal hour declared by the Highland Licensing Board.

We confirm having lodged the application dues of £109 by bank transfer to the Council's bank account under reference "LHC 13(I)". Please acknowledge receipt and confirm that this application will be considered at the meeting of the Licensing Committee on 4th November 2014.

Yours faithfully,



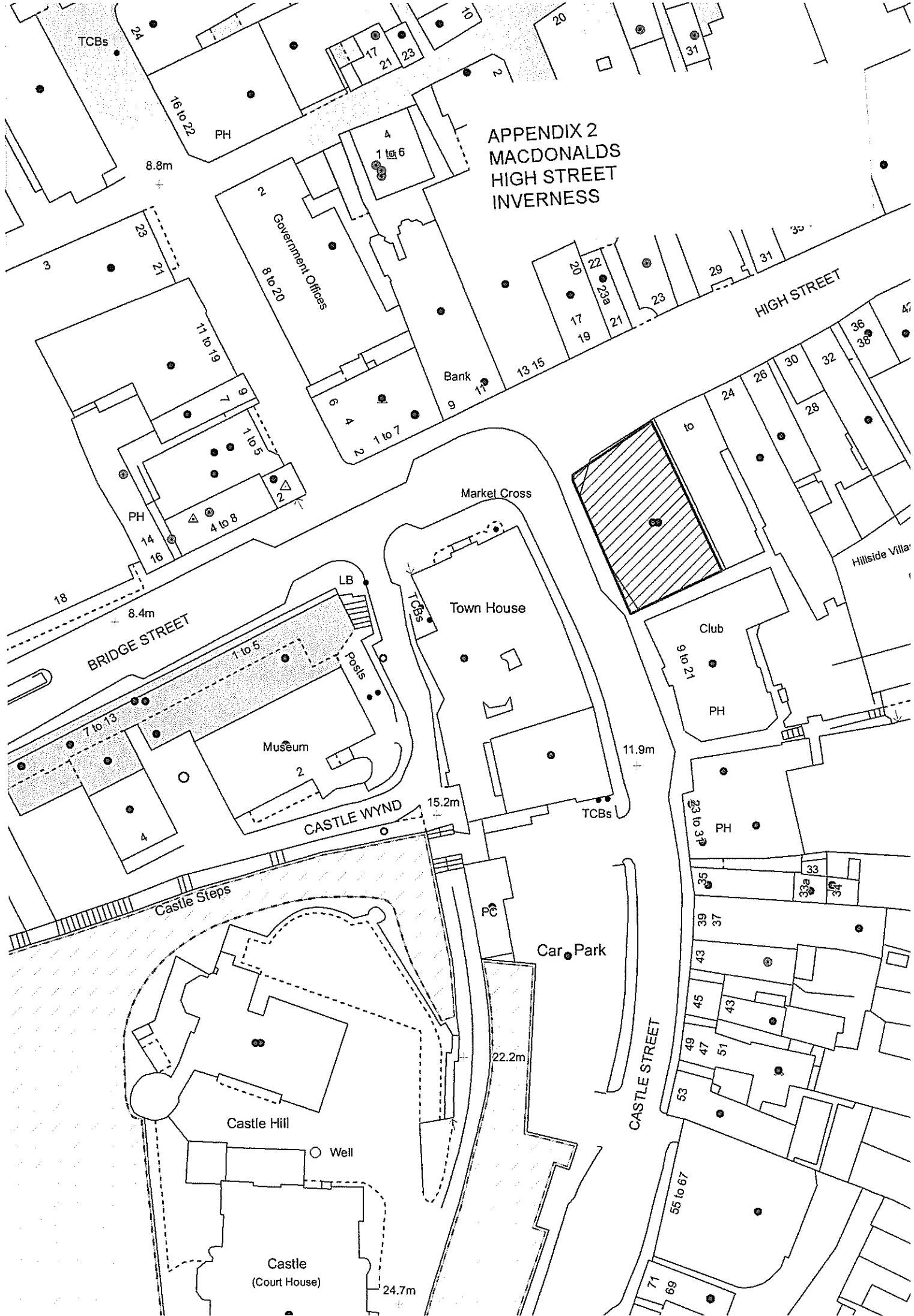
Enc.

Law Society of Scotland Accreditations:

Morag S. MacIntosh - Specialist in Family Law
Fiona J. Campbell - Specialist in Family Law and a Family Law Mediator
Graham R. Laughton - Specialist in Personal Injury Law David Findlay - Specialist in Crofting Law

Fiona J. Campbell and Morag S. MacIntosh are Collaborative Family Lawyers & Fiona J. Campbell is a Family Law Arbitrator

APPENDIX 2
MACDONALDS
HIGH STREET
INVERNESS



BRIDGE STREET

HIGH STREET

CASTLE STREET

CASTLE WYND

Castle Hill

Castle
(Court House)

Town House

Museum

Market Cross

Car Park

Club

PH

PH

Hillside Villa

TCBs

PH

PH

Bank

TCBs

PC

Well

8.8m

8.4m

15.2m

11.9m

22.2m

24.7m

24

16 to 22

1 to 6

Government Offices
8 to 20

11 to 19

7

9

1 to 5

4 to 8

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16

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7 to 13

1 to 5

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Castle Steps

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POLICE
SCOTLAND
Keeping people safe

16 October 2014

Your Ref: LHC13

Our Ref: NN28904/14

Senior Licensing Officer
Highland Council
Town House
High Street
Inverness
IV1 1JJ

Divisional Co-ordination Unit
Highland and Islands Division
Police HQ
Old Perth Road
INVERNESS
IV2 3SY

01463 720209

highlandislandciviccgovtlicensing
@scotland.pnn.police.uk

Dear Sir,

**Applicant: Craig Duncan, MacDonald's Restaurant,
12-22 High Street, Inverness**

**Civic Government (Scotland) Act 1982 Part II
Licensing & Regulation – Miscellaneous Licences
Licence: Late Hours Catering – Exemptions under S 42(5) from the
requirement to hold a Late Hours Catering Licence**

I refer to the application received 07 October 2014 on behalf of the above named premises for the permanent variation of Late Hours Catering licences and can advise that there is a Police objection to this application.

The Police Scotland objection is in relation to:-

- Preventing Crime an Disorder
- Securing Public safety
- Preventing Public nuisance

Police Scotland is of the opinion that the granting of this licence would be prejudicial to the attainment of these objectives for the following reasons:-

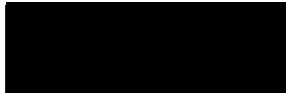
Late hour catering establishments can become a focal point for disorder if attended by large numbers of people in an intoxicated state, which is what would undoubtedly happen if they were permitted to remain open beyond the terminal hour of liquor licensed premises.

Corresponding terminal hours allows and indeed encourages patrons to leave licensed premises in time to obtain food, thus preventing congregations of intoxicated people from arriving simultaneously at catering establishments. We are concerned here with the maintenance of sensible measures to manage flash points for disorder and reduce the impact of anti-social behaviour on the night time economy and general city centre environment.

Police Scotland have always supported the granting of late hours catering licence during festive periods and on other occasions which may be of local significance, but we have always maintained that we would not support like applications if they were to become a regular feature. Whilst acknowledging the benefits of the additional trade to a small number of businesses, we cannot escape the negative aspect of the noise and public nuisance within the city centre and the dispersal to residential areas in and around Inverness as individuals make their way home.

It is for these reasons Police Scotland object to the granting of this variation to the current licence.

There is also an observation that the variation applied for would be outwith current policy.



Yours faithfully

Mairi MacInnes
Chief Inspector
Highland & Islands Divisional Support

APPLICATIONS FROM TOPKAPI, ZOOM and MACDONALDS.

REPORT FROM TECS (Environmental Health Service) dated 15 October 2014

LICENSING COMMITTEE 4 NOVEMBER 2014

Regarding the request for an indication as to the impact, if any, arising from the change in policy regarding late hours catering premises I would make the following comments:-

Litter

Whilst there are no figures or statistics to demonstrate the actual impact, the street cleaning staff are of the opinion that there has been an increase in litter with the City Centre over the last 18 months or so. Understandably the biggest problems mainly occur at weekends when the City Centre is at its busiest. Whilst we are therefore unable to quantify the increase incidence or correlate this specifically with the change in policy, it stands to reason that any increase in opening hours at fast food outlets would coincide with an increase in littering etc.

It is therefore important that all LHC premises within Inverness City Centre comply with Conditions 5, 7, and 8 attached to their licence. Our Service intend monitoring compliance with these conditions more closely as we lead up to the busy festive period. Our Service would therefore welcome the support of the Committee in this respect to highlight these requirements to all LHC applicants, and to take suitable action in the event we establish non-compliance at a licensed premises. To assist in monitoring compliance, our Service have now started requesting applicants provide written confirmation as to their arrangements (See attached).

Noise

Our Service is not aware of any significant impact in terms of noise or disturbance to local residents as a result of the change in policy.

Hope this is of some assistance.

Kind Regards

Gregor MacCormick
Environmental Health Officer

Highland Council Community Services- Environmental Health Late Hours Catering Licence – Premises Waste and Litter Arrangements

The purpose of completing this form is to assist the Environmental Health Service in responding to your application in connection with a Late Hours Catering Licence. The information provided will be used to assess compliance with Conditions 5, 7 and 8 (where applicable) contained within the Highland Councils late hours catering licence conditions.

You are requested to provide the information below and to return the completed questionnaire to the Councils Licensing Officer. Failure to do this may result in a delay in the processing of your application and/or objection by Community Services – Environmental Health.

| | | | |
|--|------------------------------------|----------------------------|-----------|
| NAME OF APPLICANT | | APPLICATION REF. NO | ____/____ |
| TRADING NAME AND ADDRESS OF PREMISES (INC POSTCODE) | | | |
| SECTION 1: - REFUSE DISPOSAL ARRANGEMENTS | | | |
| 1. Please provide details of your appointed waste contractor/s for the following types of waste: | | | |
| | Name of Appointed Waste Contractor | | |
| General Waste | | | |
| Recyclables | | | |
| Cooking Oil | | | |
| Food Waste | | | |
| 2. Please indicate the number of wheelie bins utilised by your premises: | | | |
| Type | Number of bins | | |
| 1100ltr (Large wheeled bin) | | | |
| 660ltr (Med wheeled bin) | | | |
| 240ltr (Small domestic type) | | | |
| Other (Please provide details) | | | |

3. Please tick the day/s of the week the bins are uplifted:-

| | General Waste | Recyclables | Cooking Oil | Other |
|-------|---------------|-------------|-------------|-------|
| Mon | | | | |
| Tues | | | | |
| Wed | | | | |
| Thurs | | | | |
| Fri | | | | |
| Sat | | | | |
| Sun | | | | |

4. Please indicate if your bin/s is labelled with your premises trading name?

Yes

No

5. Please confirm if your bin/s is fitted with a functioning lock and is kept locked at all times when not in use?

Yes

No

6. Please confirm if you have a designated bin storage area within the curtilage of your premises?

Yes

No

If no, please provide details of where your premises bins are stored?

SECTION 2 – LITTER PICKING AND STREET CLEANING

7. Please confirm the frequency and usual time/s per day that you arrange to collect and remove all litter within a 50m radius of your premises?

| | |
|---|---|
| 8 | Please confirm the frequency and usual time/s of day that you sweep and remove all the waste and detritus from the area bounded by the premises frontage? |
| 9 | Please confirm how regularly you wash or otherwise cleanse, the area or pavement outside your premises to remove stains, grease, chewing gum etc? |

SECTION 3: DECLARATION

I fully understand that this information will be used by the Councils Environmental Health Service for the purpose of assessing compliance with the Councils Late Hours Catering Licence Conditions. I declare that this information is correct at the time of application and is a true reflection of the arrangements which will be in place at the premises: -

Signed: (Applicant)

Print Name:

Date:

THE COMPLETED FORM SHOULD BE RETURNED TO THE COUNCIL LICENSING OFFICER IN THE AREA WHERE YOU NORMALLY RESIDE AND ACCOMPANY YOUR LICENCE APPLICATION.

HIGHLAND LICENSING BOARD FESTIVE SEASON POLICY - 2014/15

The Highland Licensing Board has adopted the following festive policy for 2014/15:

(a) Extended Hours

Applications to extend permitted hours to the following terminal hours over the Festive Season 2014/15 will generally be granted unless, in any particular case, the Board consider that there are material reasons to refuse the application:

| Description of Premises: | Terminal Hour: | Period which may be applied for: |
|--|-------------------|--|
| Late Night Opening Premises (as defined in 2.1 of the Board's consultation Draft Licensing Policy Statement 2013-16) | 0400 hours | From: Saturday, 13 December 2014 (ie. beginning on the morning of Saturday, 13 December 2014) |
| Other on-sales premises | 0200 hours | To: Sunday, 4 January 2015 inclusive (ie. ending on the morning of Sunday, 4 January 2015) |

- Premises which have, within the 'Seasonal Variations' section of their operating plan, a statement to the effect that they will open for such extended hours as the Board has agreed for the festive period (above) will **not require to lodge applications for festive period terminal hours**.
- Premises licences which include such statements in their operating plan are requested, however, to submit to the Board and to Police Scotland, prior to 1 December 2014, notice of the dates within the festive period on which it is intended that the premises open until the festive period terminal hour for that category of premises. Please note that for certain premises, this notice requirement is a condition of the premises licence and accordingly must be adhered to.
- A large number of applications are likely to be received, all of which require to be referred to Police Scotland and the Licensing Standards Officer, who have up to 10 days to respond before they can be determined. Therefore you are advised to lodge your completed application(s) **no later than Friday 28 November 2014**. Applications received after this date may not be processed on time.
- The application fee for an Extended Hours application for the festive period is £10.

Applications may be completed online from the Highland Council Website via the following link:
http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/339/liquor_licence

IMPORTANT:

The following conditions will apply to any premises open after 0100 hours:-

- A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hours. (Mandatory Condition)
- A designated person who is the holder of a personal licence must be present on the premises from 0100 hours. (Local Condition)

Each application will be considered on its own merits and where appropriate, additional condition(s) may be attached.

(b) Occasional Licences

Over the Festive Period the policy hours for on-sales premises other than Late Opening Premises (i.e. until 0200 hours) will be treated also as the policy hours for occasional licences during the period commencing Saturday 13 December 2014 (ie. beginning on the morning of Saturday, 13 December 2014) until Sunday, 4 January 2015 inclusive (i.e. ending on the morning of Sunday, 4 January 2015), subject to the undernoted:-

- In relation to “non-licensed” premises seeking to hold an event which is licensed to sell alcohol during the festive period, an Occasional Licence application should be lodged at least **28 days** in advance of the event. Each application will be considered on its own merits and where appropriate, in addition to the mandatory Occasional Licence Conditions, additional local conditions may be attached.
- The application fee for an Occasional Licence application is £10.
- Applications received outwith the 28 day period may not be processed on time.

Applications may be completed online from the Highland Council Website via the following link:
http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/339/liquor_licence

Where applicable, application forms should be returned to your local Licensing Board office. ***Please note that Council Service Points can no longer accept payment by cash or cheques.*** Payment for Occasional Licence(s) or Extended Hours must be made by way of a credit or debit card. Payment by Credit Card will incur a 2% surcharge.