

The Highland Licensing Board

Meeting – 11 December 2014

Agenda Item	9.1
Report No	HLB/150/14

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

The Auctioneers, 28 Church Street, Inverness IV1 1EH

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of Premises Licence by Greene King Brewing and Retailing Ltd c/o Belhaven Pubs, Atrium House, 6 Back Walk, Stirling FK8 2QA.

1.0 Description of Premises

1.1 The premises are a terraced 3 storey building located on Church Street in the city centre, with public house on the ground floor and private offices on the upper levels. The public house consists of a lounge bar on split level, a kitchen, disabled toilet, office, gent's toilet, cellarage, and storage on the ground floor. On the first floor there is a lounge area, 2 sets of ladies toilets, office, staff facilities and plant room.

The public house sells alcohol, both on and off the premises, hot and cold beverages, and hot and cold food.

2.0 Current Operating Hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Sunday 1100 hours to 0100 hours

Off sales:

Monday to Sunday 1100 hours to 2200 hours

3.0 Summary of Variation Application

3.1 Variation Sought

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

(1) Amend on sale hours on Friday and Saturday to terminate at 0300 hours.

4.0 Background

4.1 On 17 October 2014 .the Licensing Board received an application for a major variation of a Premises Licence from the applicant, Greene King Brewing and Retailing Ltd, c./o Belhaven Pubs, Atrium House, 6 Back Walk, Stirling, FK8 2QA.

4.2 The application was publicised during the period 27 October to 17 November 2014 and confirmation that the site notice was displayed has been received.

4.3 In accordance with standard procedure, Police Scotland, the Scottish Fire & Rescue Service and the Council's Community Services (Environmental Health) and Planning and Building Standards were consulted on the application.

4.4 Notification of the application was also sent to NHS Highland. The local Community Council Central is not formed.

4.5 Further to this publication and consultation process, the following timeous notice of objection has been received and is appended:
Objection from CFG Leisure 6 Ltd, trading as Ultra Violet per Martin Rob and Ian Jobes, Gs and Vinyl Nightclub, 9-21Castle Street, Inverness IV2 3DX.

4.6 The applicant and the objector(s) have been invited to attend the hearing. Both have been advised of the hearings procedure which will be followed at the meeting and which may also be viewed via the following link:

http://www.highland.gov.uk/downloads/download/428/liquor_licence_objections_appeals_notices_of_determination

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 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 overprovision 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 relates to a licensing objective, the Board must specify the objective in question.

6.0 Licensing Standards Officer

6.1 The LSO has provided the following comments:-

The Auctioneers is a large bar/restaurant operating within the High Street of Inverness. It is a popular bar and is well run. History shows that there has been very little issue in respect of matters relating to the Licensing Objectives. The management have been consistently co-operative with the LSO. Regular compliance checks have shown the premises to be well run according to the approved Operating Plan.

Currently the premises trade as a food/drink venue from opening until late evening. When the food provision stops, the emphasis shifts to wet sales and at the weekend bespoke entertainment is provided for customers. The entertainment is in the form of a DJ providing pre-recorded music from a purpose built booth area near a substantial dance floor situated in the centre of the premises.

The management employ SIA registered door stewards at the weekends as per the conditions of their licence. The premises are active members of the City Centre Pub Watch and take part in the Best Bar None Awards.

The LSO has met with the premises manager and confirmed that the applicants are able to meet the full range of Mandatory Late Night Conditions and the Local Condition requiring the late night provision of food.

The applicants state that they will provide substantial entertainment, pre advertised, in the form of discotheques. Whilst live performances are not a current feature this maybe a future development. The application complies with the Board's policy in terms of late opening premises. Live performances and recorded music are currently approved activities within Section 5 of the operating plan.

The LSO has been approached by the management of the nearby Mercure Hotel, expressing concern that patrons exiting the premises from 3am onwards will cause undue street noise which will disturb their guests. They are also concerned in respect of disturbance caused by music especially if the doors are kept open during the hotter summer months. In relation to potential music noise the LSO proposes that the licence be appropriately conditioned to require all doors/windows to remain closed during the playing of any live or recorded music.

An objection has been received from the operators of another City Centre late hours venue, G's and Vinyl on grounds of overprovision of late hours venues within Inverness City Centre.

7.0 HLB Local Policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-16
- (2) 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

Existing local conditions (b) and (c) will continue to apply:

- b) Whilst in any room with a bar counter all children must be in the company of, or supervised by an appropriate responsible adult. This condition does not apply to children of the Licence Holder or children who are resident on the premises. (Licensing Objective 5).
- c) Notwithstanding conditions(a) and(b) children must not sit or remain at the bar counter at any time.(Licensing Objective 5);

and it is recommended that the following additional local condition(s) be attached:

- a) Children under the age of 16 are excluded from any room where there is a bar counter after 22.00hrs except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This condition does not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress. (Licensing Objective 5).
- g) Premises open for the sale of alcohol after 01.00hrs shall have available a selection of hot and cold foods and shall advertise this within the premises (Licensing Objective 4).
- i) Any music or live performance will cease at 02.45hrs on any occasion when the Premises are open after 1am. (Licensing Objective 3).
- 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 01.00hrs the following day, alcohol may be sold on the Premises after 01.00hrs only while entertainment as detailed in the operating plan is being provided and has been provided continuously from no later than 22.00hrs.(Licensing Objective 4).

8.3 Special Conditions

The Board may wish to consider attaching the following special condition(s):

- All glass disposal should cease by 23.00hrs. (Licensing Objective 3).
- During the playing of any live or recorded music all windows and doors should be kept shut. (Licensing Objective 3).

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/special condition(s) detailed at para(s) 8.2 and 8.3 above.

If the Board is 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/285

Date: 18 November 2014

Author: Wendy Grosvenor

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

Appendix 1: Letter of objection dated 10 September 2014 from Martin Rob and Ian Jobs.

The Clerk

Highland Licensing Board

Town House

Inverness

IV1 1JJ 10 September 2014

RECEIVED
29 OCT 2014

Dear Sir

Gs & Vinyl

Application for Variation of Licence (The Auctioneers pub church Street, Inverness)

We are CFG Leisure 6 Limited trading as Ultra Violet, the operators of Gs and Vinyl nightclub located at 9 – 21 Castle Street, Inverness.

We are objecting to the application for Variation lodged by The Belhaven Group, Greene King Brewing and Retailing Ltd in relation to the Auctioneers public house church street, Inverness in which the applicants seek to extend their trading hours to 3.00 a.m. on Fridays and Saturdays.

We would point out that already within the locality of Inverness Town Centre; there are at least eleven premises which enjoy a 3.00 a.m. extension. These as are undernoted. Of those listed, we understand that six are currently closed or not using the current extensions.

The area is already saturated with 3.00 a.m. extended premises and it is our clients' contention that having regard to the number and capacity of such premises in the locality in which the subject premises are situated, if granted, there would as a result be over-provision of licensed premises of this type in the locality.

Secondly, the addition of another 3.00 a.m. extended premises will lead to more people moving around the Town Centre in the early hours of the morning as they migrate from premises to premises. Given there is no longer a midnight curfew in place, patrons are free to move between units at will. The grant of yet another 3.00 extended premises will lead to a likely increase in public nuisance and crime and disorder and as such the granting of the application would be inconsistent with the licensing objectives of Preventing Crime & Disorder and Preventing Public Nuisance as stated in paragraph 4(1)(a) and (c) of the Licensing (Scotland) Act 2005.

Thirdly, in terms of the Board's policy, 3.00 a.m. extensions would be considered for premises or parts of premises which offer significant entertainment facilities and where the provision of alcohol for consumption on the premises is ancillary to the significant entertainment provided.

Specifically nightclubs and discotheques are referred to within the Policy although reference is made to "hybrid" premises as being suitable provided certain circumstances relating to "significant entertainment" being provided are met. It is submitted that this particular

Application does not sit well with the policy requirements, given that the premises currently trade in essence as a public house and the mere introduction of a DJ does not change that.

Yours faithfully

Martin Robb

Ian Jobs

**REPRESENTATIONS OR OBJECTIONS IN RELATION TO A PREMISES LICENCE
APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005**

Please read the Board's Guidance Notes on How to Object or make Representations in relation to a Premises Licence Application before completing this form. This form when completed should be returned to the nearest office of the Licensing Board using the contact details in the guidance notes. Remember, if an objection is rejected by the Board as frivolous or vexatious, the Board may seek to recover expenses from the objector or person making representations

1. Full Name and Address of person making objection/representation:

Martin Rob/Ian Jobes Gs and Vinyl nightclub 9/21 castle street Inverness IV2 3DX	
Telephone Number:	[REDACTED]
Email Address:	[REDACTED]

2. Address of Premises in respect of which objection / representation is made:

Auctioneers public house Church street Inverness
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3. Details of any OBJECTION: (complete only if you consider one of the ground for refusal apply)

State ground of objection (refer to ground of objection by number, see guidance notes, and give details): (Continue on separate sheet if necessary)		
1.	Excluded Premises	3 and 5
2.	Off-Sales Hours/24 hour drinking	
3.	Licensing Objectives	
4.	Activities/Premises/Customers	
5.	Over Provision	

4. Details of any REPRESENTATION: (complete only if you wish to make a representation in respect of the application)

State details of any representation (refer to representation by number, see guidance notes, and give details): (Continue on separate sheet if necessary)		
1.	in support of application	
2.	seeking an amendment to the operating plan, or	
3.	seeking to add additional conditions to the licence	

Signature: [REDACTED] **Date:** 29/10/14

All premises highlighted are closed and may open if a suitable person or company takes them on

Premises name	Licences hours	Capacity
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Foxes	11am till 3am	480
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Operates as a pub with food and drink available from 11am till 3am also operates a children's certificate till 10pm provides live entertainment or a dj every night

Den	9pm till 3am	140
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Operates from 9pm till 3am set up and run as a nightclub with a DJ

Hoot n Anny	11am 3am	280
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Ground floor is a food and drink area from 11am till 10pm second floor is used as a drinking area and the third floor operates as a nightclub till 3am provides live entertainment and DJs on all floors

Karma	11am 3am/fri/sat	300
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Operates as a night club but can be used as a public house for food and drink from 11 till 1 am mon to thu and fri/sat as a nightclub till 3am provides entertainment selection of DJs closing soon not enough trade

Kake (blue/UV)	7pm till 3am	1000
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Can operate a 3am 7 nights a week (closed at moment) not enough trade

Miami	3pm till 3am	700
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Can operate as a nightclub 7 nights a week from 3pm till 3am closed not enough trade

Aces	3pm till 3am	289
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Can operate from 3pm till 3am serving food and drink also set up to run as nightclub till 3am (closed to not enough trade

Ironworks	11am till 3am	1000
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Live entertainment venue also operates as a nightclub with DJs till 3am

Private eyes	7pm till 3am	
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Can operate 7 nights a week with adult entertainment

Gs and vinyl	7pm till 3am	1028
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Can operate 7 nights a week 7 till 3am live entertainment and DJ available

Portland club	11am till 3am Saturdays only	285
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Operates as a public house from 11am till 1am and holds a 3 am for a Saturday evening (does not use the 3am not enough trade

World buffet	3am	
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Restaurant food and drink 7 days a week also there is a 3am license held on the premises but not used (attempting to transfer to pockets snooker hall and operate as a nightclub

Caledonian public house	3am	
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Operates a 3am Thu/Fri/Sat