

The Highland Licensing Board

Meeting – 11 December 2014

Agenda Item	9.3
Report No	HLB/152/14

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

The Picture House, 68 High Street, Dingwall, IV15 9RY

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of Premises Licence by Joseph Alexander Sweeney, 68 High Street, Dingwall, IV15 9RY.

1.0 Description of Premises

1.1 The Picture House is a Town Centre Bar situated on Dingwall High Street.

2.0 Current Operating Hours

2.1 The premises currently enjoy the following operating hours:

On sales:

Monday to Thursday 1100 hours to 0100 hours;
Friday 1200 hours to 0200 hours;
Saturday 1300 hours to 0300 hours; and
Sunday 1200 hours to 0100 hours.

3.0 Summary of Variation Application

3.1 Variation Sought

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

- (1) Erect a new partition wall and extend fire exit.
- (2) Amend wording of premises description and seasonal variation.
- (3) Amend children's policy and other activities to include under 18's Disco or Blue Light Disco's on occasional Friday and Saturday nights between the hours of 1900 hours to 2200 hours.

(4) Amend existing core on-sales opening and terminal hours to:-
Monday to Thursday 1600 hours to 0300 hours;
Friday 1300 hours to 0300 hours; and
Saturday and Sunday 1100 hours to 0300 hours.

4.0 Background

- 4.1 On 29 September 2014 the Licensing Board received an application for a major variation of a Premises Licence from Joseph Alexander Sweeney.
- 4.2 The application was publicised during the period 09 October 2014 until 30 October 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 and the local Community Council.
- 4.5 Further to this publication and consultation process, the following timeous notice(s) of objection and representation have been received and are appended from Police Scotland and Dingwall Community Council.
- 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:-

(i) The Picture House, Dingwall is a Town Centre Bar situated on Dingwall High Street and has a sound operating history and has not come to Police attention in any adverse light.

Compliance visits have been carried out by the LSO which show that the premises are run according to the operating plan and the attached conditions.

At present the premises are trading as a hybrid establishment enjoying conventional licensing hours Sunday to Thursday and thereafter late opening hours Friday and Saturday where the premises trade as a late opening premises providing significant entertainment in the form of a discotheque; the premises have a dance floor specifically for this.

The premises during compliance visits have demonstrated they are able to meet the full range of mandatory late night licensing conditions. The premises are situated in a largely commercial district although there are some nearby residential units. The premises have never been the subject of any noise complaints.

The application seeks to turn the premises from a hybrid operation into a late night operation with hours concluding at 0300 hours Monday to Sunday.

On Monday to Friday the premises will trade within the 14 hour threshold referred to within the Board's Policy Statement and on Saturday and Sunday the operating day is of a 16 hours duration and as the Premises wish to operate in the initial part of the day as conventional licensed premises in order to be able to take advantage of trade generated from the likes of Ross County Football Club hosting home matches which has been discussed with the applicant and significant entertainment will be offered in the evening of these dates as per the other days of the week where the premises are a late hours venue. The applicant states he is fully able to comply with the requirement of "significant entertainment" as per Local Licensing Condition (O).

The applicant also seeks to install in his operating plan at seasonal variation the generic allowance of trading for any period of extended hours offered by the Highland Board such as the festive policy. This is a commonly used practice by many Highland premises licence holders and the applicant is fully accepting of the Local Licensing Condition associated with this.

In addition the applicant wishes to run under 18 discotheques on the premises between the hours of 1900 hours and 2200 hours for persons within the age of 12 to 17 years. Such entertainment has been offered at Inverness venues in the past without problems. There is indeed much to recommend proper and attractive youth entertainment being offered in a secure environment properly stewarded and is in line with the 5th Licensing Objective. The LSO would expect close liaison between the operator and the local Police Scotland Office. Local licensing conditions applicable to under 18 Discos have been recommended within this report.

There have been minor adjustments to the premises lay-out plan and modernised lay-out plans have been furnished. The premises description has also been updated.

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

- (o) On any day of which the terminal hour specified in this licence is later than 0100 hours the following day, alcohol may be sold on the premises after 0100 hours only while entertainment as detailed in the operating plan is being provided continuously from no later than 2200 hours. (Licensing Objective 4)
- (q) The licence holder shall submit to the Board and to Police Scotland, prior to 01 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 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.

8.3 Special Conditions

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

- (1) During the hours of operation of any under 18 events on the premises, a personal Licence holder shall be present on the premises for the duration of the event.
- (2) During the hours of operation of any under 18 events, adequate stewarding by SIA registered personnel will be at all relevant entrances and egresses to the premises within the premises.
- (3) Any under 18 events will be run according to the rules and conventions of "Blue Light Discos" and with the approval of Police Scotland.
- (4) The CCTV system installed on the premises shall be utilised to cover the duration of any under 18 events.

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/RSL/0960

Date: 18 November 2014

Author: AHM/IC/CM

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

Appendices:

- 1 Letter from Police Scotland dated 30 October 2014.
- 2 E-mail from Dingwall Community Council dated 23 October 2014.

30 October 2014

Your Ref: HC/RSL/0960
Our Ref: NE13019/14



Clerk to the Highland Licensing Board:
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Dear Sir

**HIGHLAND LICENSING BOARD – ROSS, SKYE AND LOCHABER DIVISION
APPLICATION: VARIATION
APPLICANT: JOSEPH ALEXANDER SWEENEY
PREMISES: PICTURE HOUSE, 68 HIGH STREET, DINGWALL IV15 9HL**

I refer to correspondence of 8 October 2014 and can advise that there are Police observations and objections in relation to this application:

Observation – the terminal hour of 0300 hours applied for on Sunday to Wednesday inclusive, is outwith board policy hours for hybrid premises.

Objection - The Police Scotland objection is in relation to the upholding of three of the licensing objectives namely:

- Preventing Crime and Disorder
- Securing Public Safety
- Preventing Public Nuisance

Police Scotland are of the opinion that the granting of this application would be prejudicial to the attainment of these three objectives for the following reasons;

During the period covering 20 October 2013 to 19 October 2014 there have been 33 reported incidents of antisocial behaviour, disorder and dishonesty linked to these premises. These incidents range from varying degrees of drunken disorder, assaults, breach of the peace and theft.

The manner in which these particular incidents were dealt with varied from police moving persons on to persons being apprehended, cautioned and charged with particular offences.

It should be noted that these incidents were reported to police between the hours of 0015 hours and 0352 hours on Friday and Saturday nights with the exception of one theft report which was not made until 0604 hours. Also of note is that there are quite a number of residential properties on Dingwall High Street and adjoining Streets and Closes the residents of which are adversely affected by the behaviour of patrons leaving these premises at such a late hour.

In relation to the Blue Light Disco scheme it should be pointed out that this was an initiative run by Northern Constabulary in conjunction with local youth services. This initiative ceased in 2012 and is no longer available in the Highland area.

Police Scotland apologise for the late submission of this report which was mainly due to the time consuming collation of statistics and speaking to local officers coupled with the allocation of annual leave.

Yours sincerely



Mairi MacInnes
Chief Inspector
Divisional Co-ordination Unit

Catherine MacLennan

From: Nigel Greenwood <nigel.muiryshade@tiscali.co.uk>
Sent: 23 October 2014 20:40
To: Catherine MacLennan
Cc: saramccallum@hotmail.co.uk
Subject: Licensing Application - Picture House, 68 High Street Dingwall

The community council at its last meeting decided to formally oppose the above application for extended hours.

Previous applications for extended hours at this and other premises have we understand been opposed by the Police. We also feel that any extension of hours into the early morning would only increase the problems and poor behaviour, which we are aware already occurs at closing time on a Saturday night. We do not wish to see any further problems like this on other nights.

Please take account of our comments in your determination.

Nigel Greenwood
Chairman
Dingwall Community Council