

The Highland Licensing Board

Meeting – 31 March 2015

Agenda Item	10.6
Report No	HLB/037/15

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

Hootananny/Sofa Bar, 67 Church Street, Inverness IV1 1DR

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of Premises Licence by Earnpark Limited, 4 Knockbain, Kirkhill, Inverness IV5 7PL, per Lorna Murray, 45 Culduthel Road, Inverness IV2 4HQ

1.0 Description of Premises

1.1 The premises consist of a public house, restaurant and late night entertainment venue accommodated over three floors within a detached property in a central location in the city of Inverness with outside drinking facilities.

The ground floor premises trade as Hootananny, a family friendly pub/restaurant/entertainment venue with an emphasis on live music.

The Sofa Bar is accommodated on the first and second floors with independent access. The Sofa Bar operates as a late night entertainment venue with its own dance floor and professional sound and lighting facilities.

2.0 Current Operating Hours

On Sales

Monday to Saturday 1100 hours to 0300 hours

Sunday 1200 hours to 0300 hours

Off Sales

Monday to Saturday 1100 hours to 2200 hours

Sunday 1200 hours to 2200 hours

3.0 Summary of Variation Application

3.1 Variation Sought

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

Amendment to Operating Plan:

Hootananny:

1. On and off sales hours on Sunday to commence from 11.00 hrs.

2. On sales hours on Sunday to continue to 01.00 hrs.
3. On sales on Friday and Saturday to continue until 02.00 hrs

Hootananny and Sofa Bar:

4. The premises intend to take advantage of seasonal policies such as festive hours' policy as determined by the Board.
5. Delete 5(f) the second paragraph: 'The Sofa bar will comply with local Licensing Board conditions in terms of provision of meals to late night patrons, plastic only policy from 0900 hrs. CCTV is installed. SIA registered door steward. Under 21 policy. Regular toilet checks, Zero Tolerance drugs policy'.

Sofa Bar:

6. Delete Local Condition (d): 'after 2100 hrs alcoholic and non alcoholic drinks shall be sold or served in plastic or polycarbonate glasses'.

4.0 Background

- 4.1 On 17 February 2015 the Licensing Board received an application for a major variation of a Premises Licence from the applicant's agent, Lorna Murray.
- 4.2 The application was publicised during the period 23 February 2015 until 16 March 2015 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. No local Community Council is currently formed. (Central).
- 4.5 Further to this publication and consultation process, no timeous objections or representations have been received.
- 4.6 The applicant must nevertheless be given the opportunity to be heard before the Board determines the application and has accordingly been invited to the meeting. The applicant has been advised of the hearings procedure 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:-

6.2 Hootananny Sofa Bar is a three storey premises situated on Church Street, Inverness. The building houses on the ground floor Hootananny, a traditional pub/restaurant with an emphasis on live music. Currently this part of the premises enjoys conventional core hours, terminating at 01.00hrs Monday to Friday, 00.30 hrs Saturdays and midnight on Sundays.

6.3 The Sofa Bar is accommodated on the first and second floors with independent access via a stairway from ground level. The Sofa Bar operates as a late night entertainment venue with its own dance floor and professional sound and lighting facilities. The core on-sales trading hours are daily from 19.00 hrs until 03.00hrs. As a late night venue the premises have been checked by the LSO on a number of occasions and have proved to be compliant.

6.4 Application is made to vary the operating plan in respect of Hootananny. The Sunday hours are requested to be amended to reflect the broader range of Sunday Hours made available by the Highland Board commencing at 11.00hrs and terminating at 01.00hrs. Off sales are requested to co-terminously commence at 11.00hrs on Sundays.

- 6.5 Application is also made to extend Late Hours opening to 02.00hrs for Hootananny on Friday and Saturday nights. In this respect the LSO is of the opinion that the premises are able to adequately comply with the Board's Late Hours Policy in that they regularly offer live musical entertainment and have a purpose built stage, they are well regarded as a live music venue in the public domain. A dance floor area is cleared in front of the stage following the conclusion of meal provision. As the premises have to satisfy the late opening Mandatory Conditions in respect of the Sofa Bar part of the premises there should be no issue with extending those operational factors to cover Hootananny.
- 6.6 The premises were visited by the LSO on 19th February, 2015, it was noted that the current CCTV system installed in the premises does not cover the public areas of Hootananny. The Board may wish to condition the commencement of the revised core hours to be dependent on the upgrading of the CCTV coverage.
- 6.7 Application is also made to build into the seasonal variation part of the operating plan the ability to operate extended hours over the Festive or any other period of extended hours offered by the Highland Board. The applicant is accepting of the condition requiring notification to the Highland Licensing Board and Police Scotland.
- 6.8 Removal of the former condition (f) requiring plastic or polycarbonate glassware after 21.00hrs in the part of the premises enjoying late hours is requested. This reflects changes in Board Policy made in 2013. As such, the second paragraph in section 5(f) is redundant and is requested to be removed.
- 6.9 Lastly the description of the premises has been updated to reflect the differentials of operation within different locations in the premises. This is accurate. However, in the opinion of the LSO, this should be incorporated within Section 5(f) of the operating plan as well, in order to endorse compliance with the operating plan. Premises Licence: Mandatory Condition 2(1) Alcohol is to be sold on the premises only in accordance with the operating plan contained in the licence.

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

Q. The licence holder shall submit to the Board and to Police Scotland, prior to 1 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. Licensing Objectives 1 and 2). (This condition will apply only to premises which have a statement in their operating plan to the effect that they will open during the festive period for the hours agreed by the Board under their Festive Period policy.)

8.3 Removal of Condition. The following conditions should be removed.

L. After 21.00hrs (or on any other such time as maybe specified by the Licensing Board), on any day that the Sofa Bar is operating after 1.00am the premises licence holder shall ensure that there is adequate stewarding at all relevant entrances and egresses to the premises and within the premises. (this condition is redundant from a local condition perspective and superseded by the Late Night Mandatory Conditions.)

F. After 21.00hrs alcoholic and non-alcoholic drinks shall be sold or served in plastic or polycarbonate glasses.

8.4 Special Conditions

Additional Specific Local Condition.

The Hootananny part of the premises will not operate after 01.00hrs until a CCTV system is installed adequately covering this part of the Premises to the satisfaction of the Chief Constable (Licensing Objective 1 and 2).

Recommendation

The Board is invited to determine the above application.

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/276

Date: 18 March 2015

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