

**The Highland Licensing Board**

**Meeting – 16 June 2015**

Agenda Item	<b>11.3</b>
Report No	<b>HLB/068/15</b>

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

**Scotch and Rye (Formerly City Bar) 21 Queensgate, Inverness IV1 1DF**

**Report by the Clerk to the Licensing Board**

**Summary**

This Report relates to an application for a major variation of Premises Licence by Sutherland Bars Limited, Marine Hotel, Station Road, Mallaig PH41 4PY per Lorna Murray, Solicitor, 45 Culduthel Road, Inverness IV2 4HQ

**1.0 Description of Premises**

1.1 Restaurant, Pub and Entertainment venue on ground floor of a tenement style building in the City Centre.

**2.0 Current Operating Hours**

2.1 The premises currently enjoy the following operating hours:

**On sales:**

Monday to Friday: 1100 hours to 0100 hours  
Saturday: 1100 hours to 0030 hours  
Sunday: 1230 noon to 2400 hours

**Off sales:**

Monday to Saturday 1100 hours to 2200 hours  
Sunday: 1230 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 name to Scotch and Rye.
- (2) Amend local condition to require adequate stewarding only on Friday and Saturday evenings.

(3) Change to Layout Plan: alterations include the removal of fixed seating, a high shelf and dance platform and introduction of a DJ booth. Extend bar counter out slightly and remove smaller bar area.

(4) Extend on sales hours: Saturdays to 01.00 hours and Sundays from 1100 hours to 0100 hours.

(5) Extend off sales hours: Sundays from 1100 hours.

(6) Amend seasonal variation to allow the premises to take advantage of Board policy hours for festive and other occasions as determined by the Board.

(7) Children to be allowed entry as follows:

6(b) Children and young persons will be allowed entry to the premises until 2200 hours, provided they are accompanied by an adult. At the discretion of the management children and young persons who are accompanied by an adult may be allowed entry to the premises after 2200 hours for the duration of private functions or for the purpose of viewing live entertainment or for the purpose of taking a meal.

6(c) Children and young persons of all ages will be allowed entry to the premises under the terms noted at 6(b) above.

6(d) Children and young persons will be allowed entry to the premises at all times when the premises are open under the restrictions noted at 6(b) above.

6(e) Children and young persons will be allowed entry to all parts of the premises which are open to the public under the terms noted at 6(b).

(8) On sales capacity amended to 186. – Currently 158.

(9) Off Sales capacity amended to 13.9 square metres.

#### **4.0 Background**

4.1 On 31 March 2015 the Licensing Board received an application for a major variation of a Premises Licence from the applicant's agent, Lorna Murray, 45 Culduthel Road, Inverness IV2 4HQ per Sutherland Bars Ltd, Marine Hotel, Station Road, Mallaig, PH41 4PY.

4.2 The application was publicised during the period 20 April 2015 until 11 May 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. An emailed note of representation has been submitted by the Highland Council's Environmental Health Office dated 20<sup>th</sup> April 2015 and is attached as Appendix 1. This has been forwarded to the applicant's agent.

4.4 Notification of the application was also sent to NHS Highland. The local Community Council, Central, is unformed.

- 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](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 premises are a restaurant, pub and entertainment venue situated in Queensgate, Inverness. The licence holders, Sutherland Bars Limited, sub-lease the premises to tenants who run the premises on a day-to-day basis. This application coincides with a change in tenancy and a modernisation of the operating plan.

Firstly an amendment is sought to the existing Local Licensing Condition in respect of stewarding. It is requested that the condition only require adequate stewarding on Friday and Saturday nights. This is seen as reasonable by the LSO and certainly reflects the peak trading times of the premises and is on a par with other town centre premises with similar operating plans.

Refurbishment of the internal lay out of the premises has altered the configuration of the internal lay out. New layout plans have been submitted which are competent and accurate and the LSO sees no adverse issue with the proposed changes.

Extension of the core hours is proposed in extending Saturday on-sales hours until 01.00hrs. Sunday trading is proposed to commence at 11.00hrs and conclude at 01.00hrs. Off-sales on Sunday are asked to commence from 11.00hrs. Such policy hours are within the current policy hours of the Highland Licensing Board and reflect similar hours held by many city centre bars. The LSO is of the opinion that this relatively small expansion of core hours will have no adverse effects in respect of the licensing objectives.

The operators wish to amend the seasonal variation section of the operating plan to enable automatic take up of periods of extended hours offered by the Highland Board during such times as the festive period, without having to make the annual application. The operators are accepting of the Local Condition requiring notification to the Board and Police (Scotland).

The applicants have proposed a children and young persons' policy at Section 6 of the operating plan which in the opinion of the LSO is robust enough to ensure that the fifth Licensing Objective concerning the protection of children from harm is adequately catered for. There is amendment also to the capacity figures which has been occasioned by the re-configuration of the internal lay out.

During the statutory consultation phase a representation has been received from Gregor MacCormick, Environmental Health Officer, worded as follows: "The applicant should devise and implement an effective noise management plan for the premises which protects the amenity of surrounding residential properties. Our Service would recommend that the applicant complete the Noise Management Checklist that was devised for licensed premises and where necessary provide a firm commitment to implementing suitable noise mitigation measures".

Subsequently such a noise management plan has been submitted which meets the foregoing requirements. The LSO has recommended that the Noise Management Plan becomes a Specific Local Licensing Condition attached to 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**

8.3 The existing Local Condition I be removed.

8.4 It is recommended that the following Local Conditions be attached.

a, b, c, j (21.00hrs on Friday and Saturday evenings) and q.

a. Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hours 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.

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.

c. Notwithstanding conditions (a) and (b) children must not sit or remain at the bar counter at any time.

j. After 21.00hrs on Friday and Saturday evenings the premises licence holder shall ensure that there is adequate stewarding at all relevant entrances and egresses to the premises and within the premises.

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.

8.5 The following Conditions shall apply on any occasion that Extended Hours after 01.00hrs are being used on the premises.

- 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).

8.6 **Specific Condition**

The following specific condition shall apply:

A written Noise Management Plan acceptable to the Highland Licensing Board must be in place for the premises and any relevant activity or service being provided must be conducted in accordance with that plan.

**Recommendation**

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local and specific conditions(s) detailed at para(s). 8.4, 8.5 and 8.6 above, with the removal (8.3) of Local Condition I.

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: HCINBS/234

Date: 21 May 2015

Author: Wendy Grosvenor

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

Appendix 1: Representation from Environmental Health dated 20 April 2015

**20 April 2015**

**Email copy of representation from Environmental Health  
SCOTCH AND RYE, INVERNESS**

Please find attached the EH consultation response re this application. The representations referred to are detailed below:-

1. The applicant should devise and implement an effective noise management plan for the premises which protects the amenity of surrounding residential properties. Our Service would recommend that the applicant complete the Noise Management Checklist that was devised for licensed premises and where necessary provide a firm commitment to implementing suitable noise mitigation measures.
2. There is currently a number of concerns within Inverness City Centre regarding the number of wheelie bins being permanently located on the pavement, including the Queensgate area. In order to protect the residential amenity of surrounding residents and premises, our Service would strongly recommend that suitable off-street provision be provided and used for the storage of the premises wheelie bins and glass recycling bins.
3. The new owners/operators of the bar would require to register with EH as a food premises. Our Service would take the opportunity to ask the applicant that they require to register as a food premises with our Service and have attached the relevant form for this purpose.

I trust these comments are of assistance, however, should you require any further information please do not hesitate to contact me.

Regards

Gregor MacCormick  
Environmental Health Officer