

The Highland Licensing Board

Meeting – 6 October 2015

Agenda Item	11.2
Report No	HLB/105/15

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

The Kitchen Restaurant, 15 Huntly Street, Inverness IV3 5PR

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of Premises Licence by B and L Properties (Scotland) Limited, Macfarlane Grey House, Castle Business Park, Springbank Road, Stirling, FK7 7WT per Inn Business Scotland, Forsyth House, Lomond Court, Castle Business Park, Stirling FK9 4TU.

1.0 Description of Premises

1.1 The premises are an Inverness-based restaurant situated on the banks of the River Ness, in the heart of Inverness and close to Inverness Town Centre.

The open nature of the restaurant creates a lively and unique ambience and, for those who wish to dine outdoors, there is a heated terrace restaurant on the top floor, with views of Inverness.

2.0 Current Operating Hours

2.1 The premises currently enjoys the following operating hours:

On Sales:

Monday to Saturday: 1100 hours to 0100 hours

Sundays: 1230 hours to 2400 hours

3.0 Summary of Variation Application

3.1 Variation Sought

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

Operating Plan:

1. Amend Sunday opening hours to 1100 hours to 2400 hours
2. Add in outside drinking area.

Layout Plan:

1. Incorporate an outside drinking area at front of premises.

4.0 Background

- 4.1 On 26 August 2015 the Licensing Board received an application for a major variation of a Premises Licence from B and L Properties (Scotland) Limited, Macfarlane Grey House, Castle Business Park, Springbank Road, Stirling, FK7 7WT per Inn Business Scotland, Forsyth House, Lomond Court, Castle Business Park, Stirling FK9 4TU.
- 4.2 The application was publicised during the period 31 August 2015 until 21 September 2015 and confirmation that the site notice was displayed has been received.
- 4.3 In accordance with standard procedure, Police Scotland, the Scottish Fire and 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, Park.
- 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:-

The Kitchen Restaurant is a well-established riverside restaurant operating in the centre of Inverness. The premises have held an alcohol premises Licence since transition in 2009 and have a trouble free operating history. Compliance checks conducted by the Licensing Standards Officer have shown there to be good standards of diligence maintained by the management in respect of their licensing obligations.

Application has been received to vary the premises licence to allow Sunday trading to commence from 1100 hours. Such an application is in line with current Highland Licensing Board policy hours and as the premises are mainly food led will create no adverse impact in respect of the Licensing Objectives.

Also within the application is a request to establish a small outside drinking area on the pavement directly in front of the restaurant. At the time of writing initial contact has been made with the Highland Council TEC Service who have indicated that a Pavement Permit would be a precursor to this application and that with the current dimensions of the pavement this would be unlikely to be granted.

Currently the applicant's agent has been advised to contact Highland Council TEC Service direct in order to clarify the prospect of pavement occupation.

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

There are no existing local conditions and it is not considered necessary to attach any.

8.3 Special Conditions

No special conditions are considered necessary.

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/156

Date: 23 September 2015

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