

The Highland Licensing Board

Meeting – 6 October 2015

Agenda Item	11.3
Report No	HLB/106/15

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

Star Hotel, 3 Church Street, Nairn IV12 4Ap

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of Premises Licence by The Partnership of Andrea Raynsford and Mark Robertson, The Star Hotel, 3 Church Street, Nairn, IV12 4AP.

1.0 Description of Premises

1.1 The premises operate as an Hotel with on and off sales.

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Thursday: 1100 hours to 2400 hours
Friday and Saturday 1100 hours to 0030 hours
Sundays 1230 hours to 0030 hours

Off sales:

Monday to Saturday: 1100 hours to 2200 hours
Sundays 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 hours on Thursday, Friday, Saturday and Sunday to terminate at 0100 hours.

(2) Amend opening hour on Sunday to commence at 1100 hours.

(3) Amend Children's Policy to allow children and young persons into Function Room only from 1100-2100 hours.

(4) Take advantage of seasonal variation: 'The Premises will operate any period of Extended Hours over the Festive Season made available via the Policy of the Highland Licensing Board'.

(6) Change to Premises Manager

4.0 Background

4.1 On 31 July 2015 the Licensing Board received an application for a major variation of a Premises Licence from The Partnership of Andrea Raynsford and Mark Robertson, The Star Hotel, 3 Church Street, Nairn, IV12 4AP per Andrea Raynsford.

4.2 The application was publicised during the period 06 August until 27 August 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, Nairn River.

4.5 Further to this publication and consultation process, the following timeous notices of representation or objection have been received and are appended:

1. Ms Wilma Taylor, 1 Portland Terrace, Church Street, Nairn IV12 4AP (representation).
2. Sarah Johnston and Alexander Buchanan, 12 Portland Terrace, Church Street, Nairn IV12 4AS (objection).

4.6 The applicant must 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 Star Hotel, Nairn, is a traditional small hotel with public bar and lounge bar facilities, situated on Church Street, Nairn. The premises have a steady local trade in the public bar and at the weekends discotheques/ live performances are held in the lounge bar. Compliance checks have been carried out regularly by the LSO which show that the licence holders are keeping to the mandatory and local conditions of their premises licence.

Application has been made to the Highland Licensing Board to vary the licence to increase trading hours on Thursday to Sunday to terminate at 0100 hours. It is further requested that Sunday trading commence from 1100 hours. Such changes in hours are in line with the policy hours prescribed by the Highland Licensing Board within their current policy statement.

Application is also made under seasonal variations to take advantage as part of the operating plan of Festive Season extended hours offered by the Highland Licensing Board.

Lastly the applicants wish to amend the children and young persons' section of the operating plan to allow children and young persons to be present in the Lounge Bar when supervised by an adult between 1100 and 2000 hours so as to be able to take a meal. The LSO is comfortable with this as being in keeping with the fifth Licensing Objective, but in this part of the premises only as the public bar is not an environment suitable for children or young persons.

Two representations have been received following the statutory neighbour consultation carried out in respect of this application, both from residents in the Portland Terrace area which is close by. Both representations complain of noise coming from the Star Hotel which is their main issue. At the time of writing the applicant has been requested to complete a noise management plan in order to effectively manage the issues raised in the representations. It is interesting to note that in the representation from Sarah Johnston and Alexander Buchanan of 12 Portland Terrace, Nairn that they speak very well of the Picture House, a licensed late hours premises adjacent to the Star Hotel which has a pro-active and effective relationship with the local neighbourhood in ensuring good customer management. The Star would do well to replicate this good practice.

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

It is recommended that the existing local licensing condition I should be **removed**.

I. (After 2100 hours on Friday, Saturday and Sunday evenings, the premises licence holder shall ensure that there is adequate stewarding at all entrances and egresses to the premises and within the premises).

The following local conditions are recommended by the LSO to be attached to the Licence in order to assist with meeting the Licensing Objectives B, C, J (after 2100 hours on every Friday and Saturday evening) and Q.

(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) children must not sit or remain at the bar counter at any time.

(j) After 2100 hours on every Friday and Saturday evening the premises licence holder shall ensure that there is adequate stewarding at all relevant entrances and egresses to the premises and within the premises.

(g) 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.

8.3 Special Conditions

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

- (1) During the playing of any live or recorded music all windows and doors will require to be kept closed.
- (2) 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.
- (3) On any occasion when the Premises are permitted to be open after 0100 hours the following conditions shall apply;
 - 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).

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/142

Date: 1 September 2015

Author: Wendy Grosvenor

Background Papers:

1. The Licensing (Scotland) Act 2005/Application Form.
Letters of representation or objection:
2. Ms Wilma Taylor, 1 Portland Terrace, Church Street, Nairn IV12 4AP (representation).
3. Sarah Johnston and Alexander Buchanan, 12 Portland Terrace, Church Street, Nairn IV12 4AS (objection).

RECEIVED / Portland Terrace
Church Street
Nairn

25 AUG 2015

Dear Sir, I write in reply to your letter of 4th Aug - re application for variation of premises licence - Star Hotel, 3 Church St, Nairn.

I have no objection to an application per se, but I must point out a couple of issues which I feel must be addressed.

The noise level in house unacceptable and as my house is only 40 metres from the hotel I am acutely aware of this. I cannot open my windows as I can hear every word being sung/shouted.

In addition, a large crowd, presumably smokers, congregate outside the premises, on Church Street, shouting and swearing very loudly.

The security guards seem to have no contact over this. Perhaps they should be encouraged to stand off street. There seems to be plenty of empty area on the side of their own building. Making part, on your own, is a very intimidating experience. This takes place from late afternoon when they seem to have karaoke sessions.

All those issues have been discussed with my near neighbours on Portland Terrace and I am not alone in my worries. In fact I believe the police have had

to be called on several occasions.

I trust these issues can be resolved and we can all live and let live together!

Thank you

yours faithfully

[Redacted Signature]

(owner, 1 Portland Ten.)



Clerk of the Licensing Board
Alasdair Mackenzie
Chief Executives Office
The Town House
INVERNESS
IV1 1JJ

RECEIVED
26 AUG 2015

Dear Mr Mackenzie,

Objection in relation to premises licence application for Star Hotel, 3 Church Street, Nairn, IV12 4AP.

Please find attached the appropriate form as advised on the Highland Council website to make an objection for the application for the major variation of premises licence for the Star Hotel.

Section 3 – OBJECTION

Inconsistent with licensing Objectives

- **Preventing Crime and Disorder**

Since the Star hotel has reopened the residents of Portland Terrace have experienced vandalism within our shared terraced garden area. Although it cannot be proven that this was a direct result of a customer from the Star Hotel. We have noticed a higher volume of noise around the times that the Star Hotel closes.

A neighbour's car was damaged lately. This was logged with the police.

Staff at the Playhouse, including security staff have asked for feedback, if there have been any issues with noise or disruption and do their best to advise customers leaving the bar that it is a residential area when leaving the premises and to keep the noise down. They have also walked along the street to ensure that no one is gathering outside our properties on busy nights as some residents houses are at street level and people have been known to sit on the windowsills talking. This can be quite upsetting especially for our residents who are elderly or have mobility issues. They do their best to ensure that disruption is kept to a minimum.

The staff at the star have not been so helpful when asked to turn music down or close doors etc.

The Playhouse have outside CCTV which stops to deter or records any crime that may have occurred. I feel that the Star Hotel should be encouraged to do the same.

- **Preventing Public Nuisance**

Noise levels from the Star Hotel are high. The noise after 11 pm can be heard in our property, calls have been made to the police about the disruption by residents but often the reduction in music levels are short lived and is soon turned back up. The doors to the premises are often left open as are side doors of the back bar causing noise to carry. Noise from the outside smoking shelter can also be heard late at night.

Again considering that they have later opening times and a bigger premises, I hear very little noise from the Playhouse. If we as residents ever feel that there has been an increase in music or noise levels then the staff are happy to discuss this with us and ensure that it is looked into.

To summarise, if I can compare two premises on Church Street. One, the Playhouse has done as much as possible to prevent disruption to local residents, they fought hard to get their licence and put in place preventative measures such as sound proofing to ensure the noise levels were not disruptive to local residents. The staff at the Playhouse, including security staff all work together to ensure that the local residents are not affected by any noise or disturbances and this is very much appreciated.

The Star Hotel however has continued to cause noise and disruption. Noise complaints have been made to the police but the disruption has continued. Doors are left open letting noise to carry down the street and can be heard late into the evening causing disruption to sleep and annoyance when you are trying to relax in your own home.

Although it is good to see a business open on the street, rather than another boarded up premises, I feel that the Star Hotel needs to deal with the complaints and make changes to avoid continuous disruption to its residents before they are entitled to extend their opening hours.

The Playhouse have high standards and have a great deal of respect for the residents and I feel that the Star Hotel should be encouraged to do the same.

Thank you for taking time to read the attached.

Sarah Johnston and Alexander Buchanan
12 Portland Terrace, Church Street, Nairn, IV12 4AS



**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:

Sarah Johnston & Alexander Buchanan 12 Portland Terrace, Church Street, Nairn, IV12 4AS	
Telephone Number:	[REDACTED]
Email Address:	[REDACTED]

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

STAR HOTEL 3 CHURCH STREET NAIRN, IV12 4AP
--

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	→ see attached
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.....07/08/2015.....

