

The Highland Licensing Board

Meeting – 3 November 2015

Agenda Item	6.2
Report No	HLB/113/15

Application for a major variation of premises licence under the Licensing (Scotland) Act 2005

Hootananny/Sofa Bar/The Top 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, Solicitor 45 Culduthel Road, Inverness IV2 4HQ.

1.0 Description of Premises

1.1 Licensed 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. Outside drinking and smoking facilities.

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

The core on-sales hours for Hootananny are to 01.00 hrs on Mondays to Thursdays and Sundays and to 02.00 hrs on Fridays and Saturdays. Off Sales are available only in Hootananny.

The Sofa Bar is accommodated on the first floor. 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 in respect of The Sofa Bar are daily from 19.00 hrs to 03.00 hrs.

2.0 Current Operating Hours

2.1 The premises currently enjoy the following operating hours:

Hootananny:

On Sales

Sunday to Thursday: 1100 hours to 0100 hours

Friday to Saturday: 1100 hours to 0200 hours

Off Sales

Monday to Sunday: 1100 hours to 2200 hours

Sofa Bar:

On Sales

Monday to Sunday: 1900 hours to 0300 hours

3.0 Summary of Variation Application

3.1 Variation Sought

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

3.2 The Top Bar

Variation to Operating Plan

a. On Sales hours:

Sunday to Thursday 1100 hours to 0100 hours

Friday and Saturday 1100 hours to 0200 hours

b. Increase in capacity:

35

3.2 Variation to Layout Plan

Extend footprint of the licence to include a new bar on the second floor to be known as the Top Bar. Originally a smoking balcony at first floor level was proposed but this part of the variation has subsequently been withdrawn by the applicant's agent.

3.4 Variation to Premises Licence

'Licensed 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. Outside drinking and smoking facilities. The ground floor premises trade as Hootananny, a family friendly pub/restaurant/entertainment venue with an emphasis on live music. The second floor premises trade as the Top Bar. The core on sales hours for Hootananny and The Top Bar are to 0100 hours on Mondays to Thursdays and on Sundays, and to 0200 hours on Fridays and Saturdays. Off Sales are available only in Hootananny. The Sofa Bar is accommodated on the first floor. 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 in respect of the Sofa Bar are daily from 1900 hours to 0300 hours.'

4.0 Background

- 4.1 On 22 September 2015 the Licensing Board received an application for a major variation of a Premises Licence from the applicant's agent, Lorna Murray, Solicitor, 45 Culduthel Road, Inverness IV2 4HQ. The applicant subsequently amended the application by removing the first floor smoking area from the layout plan. A revised layout plan is appended as Appendix 1.
- 4.2 The application was publicised during the period 28 September 2015 until 19 October 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 Community Council is currently formed for Central.
- 4.5 Further to this publication and consultation process, the following timeous notice(s) of representation have been received and are appended:
- Fire Safety Enforcement officer Steven Bassindale dated 14 October 2015 (Appendix 2)
 - Highland Council Building Standards – comments dated 14 October 2015 (Appendix 3)
- 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:-

Hootananny is a late opening premises situated in Church Street, Inverness. It is a 3-storey building and currently operates two bar areas on the ground floor (Hootananny) and the first floor (Sofa Bar), which trades from 19.00hrs each evening.

The premises have a responsible trading history and compliance visits carried out by the LSO have shown good levels of compliance with the terms and conditions contained within the alcohol premises licence.

Application has been made to install bespoke bar facilities on the second floor of the building, increasing the overall capacity of the premises by 35. This bar would trade on coterminous hours with the ground floor Hootananny Bar, namely Sunday to Thursday 1100 hours to 0100 hours and Friday and Saturdays 1100 hours until 0200 hours. The area where the new Bar is to be installed is suitable for the sale of alcohol and has been inspected by the LSO. A representation has been received from Highland Council Building Standards Department that the new bar cannot open until such time as the Building Warrant and Completion Certificate have been approved and accepted. (Appendix 3).

Originally this application sought to establish an outside smoking and drinking terrace at first floor level. Instruction has subsequently been received via the applicant's agent that this part of the application has been formally withdrawn at this time. An amended layout plan is appended.

At the time of writing this report the operators via their agent have been requested to furnish a noise management plan.

The description of the premises has been amended to reflect the variation within the licence. Refreshed lay out plans of acceptable quality have been submitted.

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

The existing local licensing conditions should be retained with the addition of the following:

(1) During the playing of any live or recorded music all windows and doors will require to be kept closed. (Licensing Objective 3)

(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.(Licensing Objective 3)

8.3 Special Conditions

None.

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.

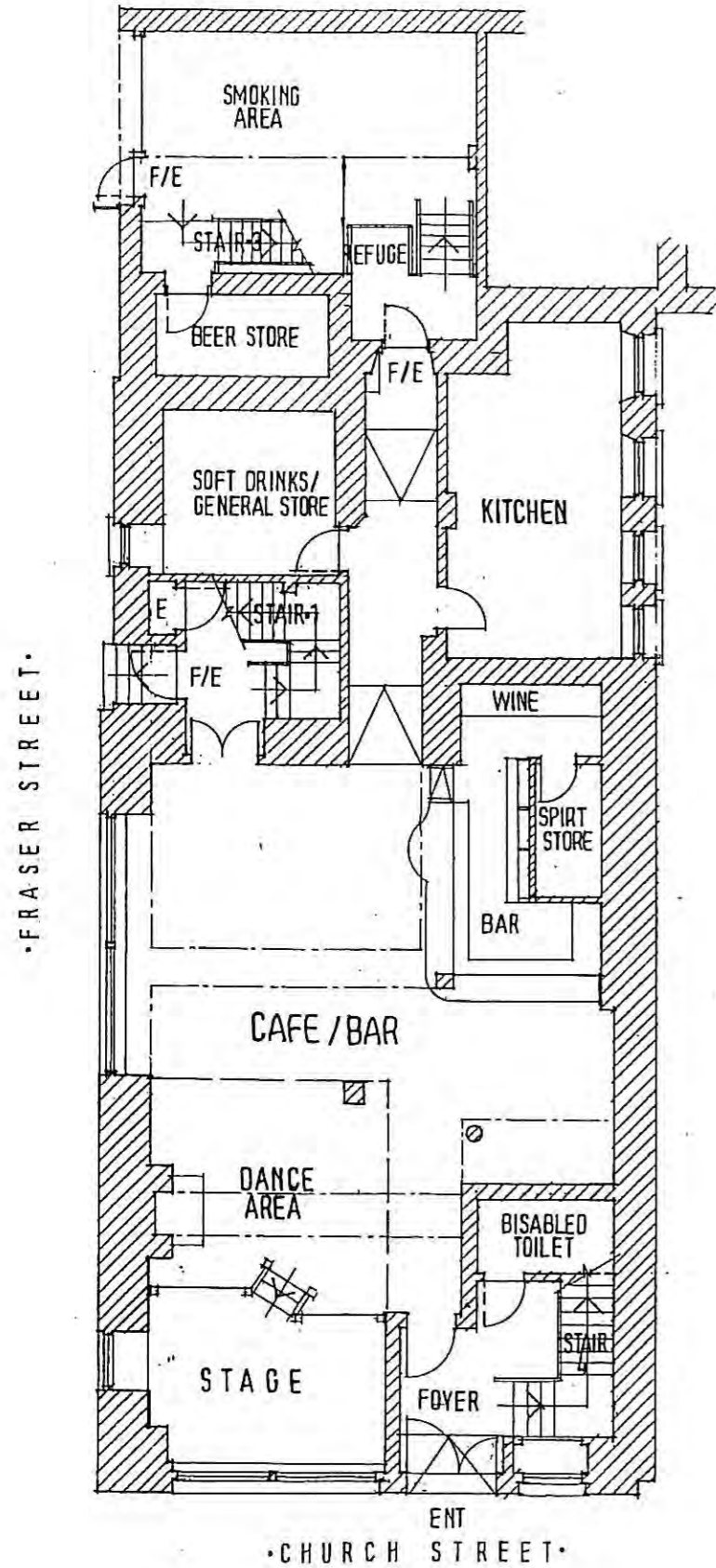
Reference: HC/INBS/276
Date: 22 October 2015
Author: Wendy Grosvenor

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

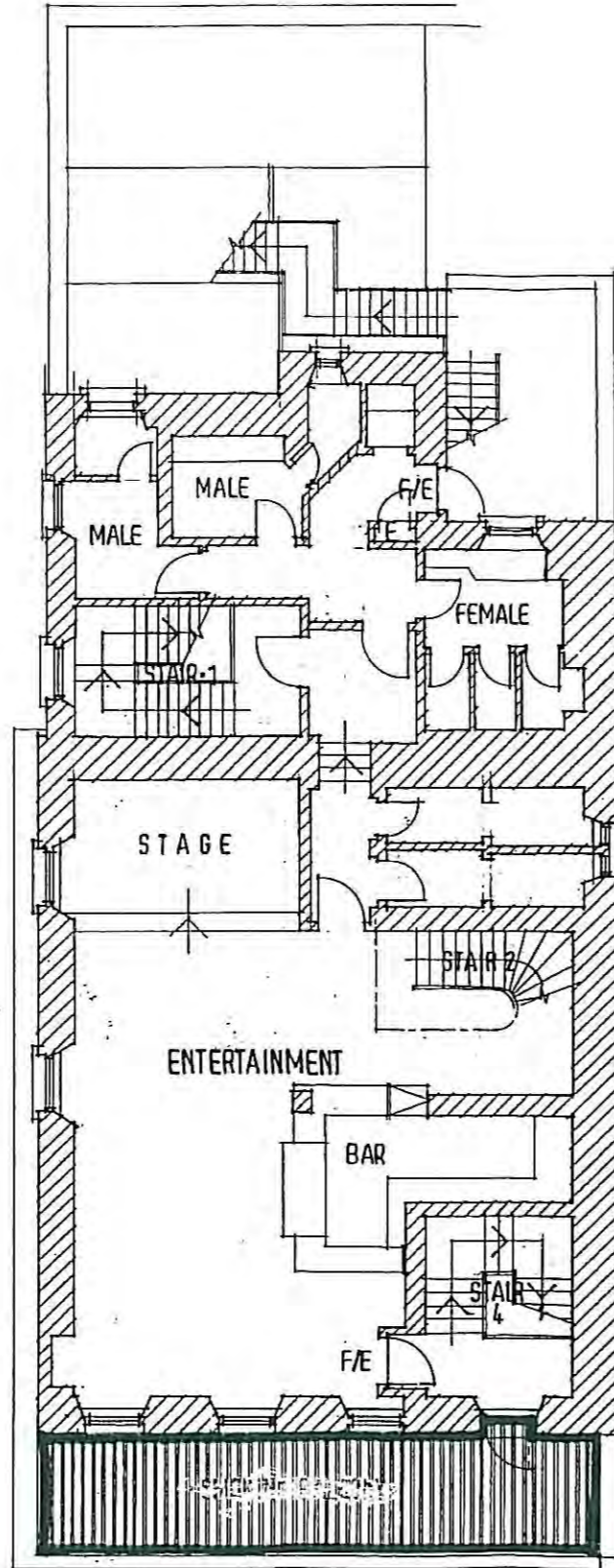
Appendix 1: Amended Layout Plan

Appendix 2: Representation dated 14 October 2015 from Fire Safety Enforcement Officer

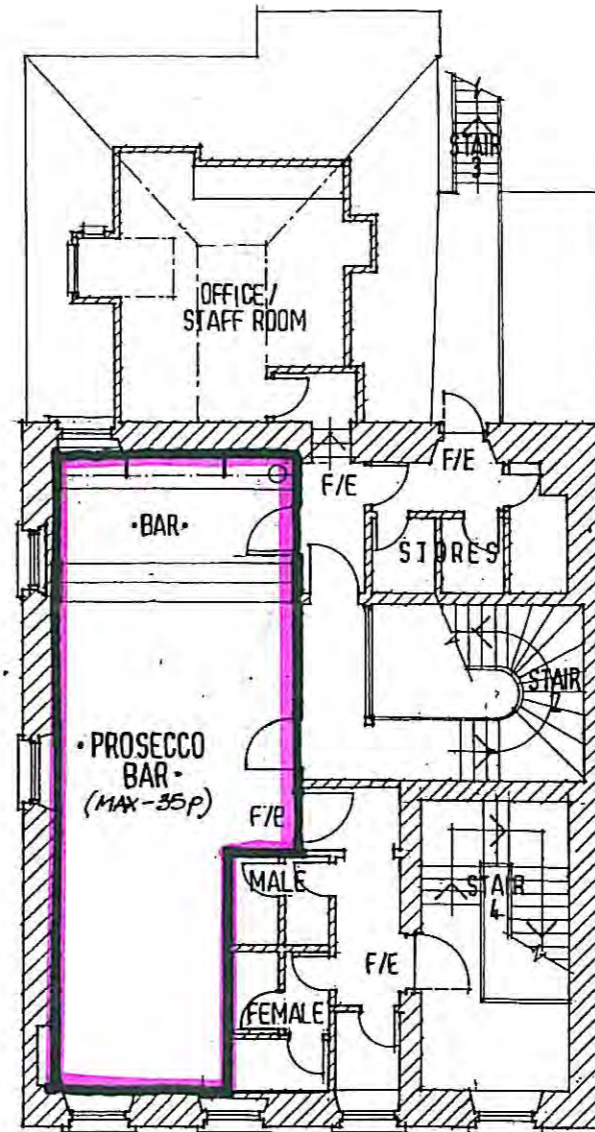
Appendix 3: Representation dated 14 October 2015 from Building Standards



•GROUND FLOOR PLAN•



•FIRST FLOOR PLAN•



•SECOND FLOOR PLAN•

A3-SHEET
SCALE
MARCH 2015

CAFE / BAR & ENTERTAINMENT
VENUE AT HOOTANANNY
67 CHURCH STREET
INVERNESS IV1 1ES

DRG. NO. 2015/KF/02
LICENSING FLOOR PLANS

Marjory Bain

From: Bassindale, Steven <Steven.Bassindale@firescotland.gov.uk>
Sent: 14 October 2015 14:30
To: Marjory Bain
Cc: MacKay, Diane
Subject: Hootananny HC/INBS/275
Attachments: SFRS Consultation respons.pdf; Fire Safety Audit

Good Afternoon Marjory,

Please see the attached documents in response to the consultation request.

Just to advised you of the current timeline;

I carried out a post fire audit on 6th February 2014, following a small electrical fire in an annex at the rear. I sued a letter following that audit (copy in attached document) which identified several areas which required improvement, most notably the fire alarm system and the external escape stair to the rear, serving the 1st and 2nd floors.

I visited the premises again on Monday and met with the manager Mr Stuart Skinner as part of the consultation process and found that several issues had not been addressed as yet. I have subsequently emailed him further copies of the initial letter and action plan for his completion and return. Following that I will carry out a further audit to confirm if all outstanding deficiencies have been addressed.

From a fire safety perspective, it would be beneficial if all outstanding works were completed prior to occupation of the proposed new bar area on the 3rd floor.

Kind Regards

Steven

Steven Bassindale, Watch Manager B – Prevention and Protection, Highland, Scottish Fire and Rescue Service
T: 01463 227058 / M: 07789063889 Steven.Bassindale@firescotland.gov.uk

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Marjory Bain

From: Bassindale, Steven <Steven.Bassindale@firescotland.gov.uk>
Sent: 14 October 2015 13:32
To: stuart@hootananny.co.uk
Subject: Fire Safety Audit
Attachments: 02-01-0717 - SL-3 Hootananny 67 Church Street Inverness.20140211.JFM.doc;
Appendix A - Hootananny.docx

Hi Stuart,

Thank you for meeting with me on Monday afternoon.

As discussed, I have attached a copy of letter which was sent out following my post fire audit on 6 February 2016, which identifies the areas requiring attention following that audit. I have also attached an Appendix A – Action Plan, which should have been completed by the duty holder within 28 days of receipt of that letter.

Can I please ask you to complete and return the attached Appendix A, detailing the actions taken thus far and the anticipated completion dates of the outstanding works required to address all the deficiencies detailed within the letter.

Once all the works have been completed, I intend to carry out a follow up audit, as per our procedures.

Just to clarify the position regarding the fire alarm system and external escape stair:

Automatic smoke detectors linked to the existing fire alarm system, should be provided within all escape corridors and escape stair enclosures;

It is also recommended that the sound levels throughout the premises be assessed for adequacy, as the office and top bar area don't appear to have any provision at present.

The external escape stair at the rear requires the handrails at the top level be secured and the handrails and treads treated and painted to address the corrosion which is beginning to show at all levels. It was noted that new emergency lighting units have been fitted to this area.

I look forward to receiving your anticipated completion dates for the outstanding areas requiring attention

Kind Regards

Steven

Steven Bassindale, Watch Manager B – Prevention and Protection, Highland, Scottish Fire and Rescue Service
T: 01463 227058 / M: 07789063889 Steven.Bassindale@firescotland.gov.uk

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SCOTTISH FIRE AND RESCUE SERVICE

Working together for a safer Scotland

Scottish Fire and Rescue Service
Scottish Delivery Area North
16 Harbour Road, Longman West
Inverness IV1 1TB

www.firescotland.gov.uk

Mr Stuart Skinner
Hootananny
67 Church Street
INVERNESS
IV1 1ES

Telephone 01463 227000
Fax 01463 236979
E-mail
Our Ref 70/02/01/0717/SB/JFM
Your Ref
If phoning or
calling ask for Watch Manager
S Bassindale
Date 11 February 2014

Dear Sir

FIRE (SCOTLAND) ACT 2005 AS AMENDED AND THE FIRE SAFETY (SCOTLAND) REGULATIONS 2006

NAME AND ADDRESS OF PREMISES: HOOTANANNY, 67 CHURCH STREET, INVERNESS, IV1 1ES

NAME OF DUTY HOLDER: MR KIT FRASER

TYPE OF OCCUPANCY: PUBLIC HOUSE

NOTIFICATION OF UNSATISFACTORY STANDARD OF FIRE SAFETY

Following the visit to the above mentioned premises carried out on 6 February 2014 by Watch Manager S Bassindale you are hereby informed that the existing fire safety arrangements as audited on the aforesaid date, which are made to comply with the above Act and Regulations are considered **unsatisfactory**.

The enclosed action plan/programme of works (appendix A) should be completed and returned to this office within 28 days. Details of how each of the deficiencies listed in this letter are to be addressed along with their completion date together with any interim control measures which you wish to be considered.

Should an extension of time be required to carry out the action plan/programme of works, it should be made in writing and reach this office no later than 28 days prior to the agreed completion date.

It should be noted that failure to implement the action plan in the time scale stated, could result in formal action being taken to ensure compliance with the above legislation.

In order to comply with the above legislation effect should be given **without delay** to the following:

Sections 53, 54

Inadequate application of the fire safety risk assessment process.

1. The fire safety .../

2.

11 February 2014

Mr Stuart Skinner, Re Hootananny, 67 Church Street, Inverness

1. The fire safety risk assessment record should be reviewed to take account of the under noted matters.

You are reminded that the process of risk assessment should be ongoing and hereafter where there is reason to suspect that the current fire safety risk assessment is:

- a) No longer valid, or
- b) If there has been a significant change in the matters to which it relates,

then the assessment should be reviewed and any required changes must be made to ensure continued compliance with the said Act and Regulations.

Regulations 18 & 20

Inadequate provision of information and training to employees

2. Employers should ensure that they provide adequate information to employees with regard to the risks to them identified by the fire safety risk assessment and the fire safety measures in place
3. Each staff member should receive instruction and regular training in the emergency and evacuation procedures employed within the premises. This instruction and training should be recorded.

Regulation 13

Inadequate provision of means of escape and means for securing the means of escape.

4. The external escape stairs provided at the rear the premises should be maintained and kept free of all slip hazards and obstructions. Consideration should be given to weather protection measures.
5. The external escape stair should be provided with adequate escape route lighting and emergency lighting.

Sections 53 &54

Inadequate provision of reasonable measures taken to reduce the risk of fire.

6. Recommendation is made that a competent person should inspect the electrical mains installation within the premises at suitable intervals in accordance with the Institution of Electrical Engineers "Code of Practice" for In-service Inspection and Testing of Electrical Equipment" to BS7671: 2008, or equivalent
7. Recommendation is made that a competent person should inspect the portable electrical appliances within the premises at suitable intervals in accordance with the Institution of Electrical Engineers "Code of Practice for In-service Inspection and Testing of Electrical Equipment" to BS7671: 2008, or equivalent.

Sections 53 & 54

Inadequate provision of reasonable measures taken to reduce the spread of fire

8. The self-closing .../

3.

11 February 2014

Mr Stuart Skinner, Re Hootananny, 67 Church Street, Inverness

8. The self-closing fire door leading from the Bothy room into the toilet escape corridor should be made close fitting into the frame and fitted with adequate intumescent strips and smoke seals.
9. The store area at the top of the emergency escape stair enclosure should be separated from the escape stair by a wall providing short duration (30 minutes) fire resistance and any door within the wall should be an FD30s.

Regulation 12

Inadequate provision of fire warning, fire detection and/or firefighting arrangements

10. The existing automatic fire detection system should be extended by the provision of;
 - Automatic smoke detectors within the escape stair enclosures and escape corridors
 - It is also recommended that an automatic heat detector is provided within the beer pump room

The extension to the automatic fire detection system should comply with British Standard 5839: Part 1 current edition

The above risk control measures should not be regarded as the only option for achieving the benchmark standards. Other fire safety risk assessment methods or fire safety measures which achieve the same end should be considered.

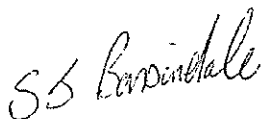
Where to get advice or further information

More detailed guidance on the Act and Regulations and fire safety risk assessment is available on the Scottish Executive Website, www.scotland.gov.uk

Free advice is available from the Scottish Fire and Rescue Service on technical details and options for compliance, but it must be remembered that the duty holder is responsible for carrying out the fire safety risk assessment for their premises and identifying the fire safety measures necessary as a result of the fire safety risk assessment outcomes.

Should you require further information or clarification in relation to this letter please do not hesitate to contact the above named officer.

Yours faithfully



**WATCH MANAGER STEVEN BASSINDALE
ENFORCEMENT OFFICER**

Enc Appendix A

Appendix A

SCOTTISH FIRE AND RESCUE SERVICE

FAO: WM Steven Bassindale, Scottish Fire and Rescue Service, 16 Harbour Road, INVENESS, IV1 1TB

FIRE (SCOTLAND) ACT 2005: PART 3
THE FIRE SAFETY (SCOTLAND) REGULATIONS 2006

Action Plan

With reference to the fire safety audit dated 6TH February 2014 for the following premises:

NAME: Mr KIT FRASER

ADDRESS: 67 CHURCH STREET, INVERNESS

PREMISES: HOOTANANNY

The Scottish Fire and Rescue Service have considered and discussed with you the items at the above premises considered to be deficient in the fire safety provisions as required by the above legislation, and the projected time scales for completion/implementation of the measures identified. These are listed on the accompanying letter and should be placed, by you, in order of priority for completion (and may include interim measures prior to long term or permanent measures being implemented). It is important that the details written in this action plan are implemented as stated. Failure to do so may result in further action being taken.

Wendy Grosvenor

From: Alasdair Murray - Building Standards
Sent: 14 October 2015 16:10
To: Wendy Grosvenor
Cc: Scott Willox
Subject: 2014 Standard Letter Template
Attachments: 2014 Standard Letter Template.docx

Hi Wendy,

I refer to the application by Hootananny's for a variation of their licence for the formation of a new bar and smoking area on the balcony to the Church Street Elevation.

I have written to them (copy of letter attached) advising that a building warrant will be required and that these areas must not be used until the building warrant and completion certificates have been issued. We are also concerned about the safe access and egress to the balcony and would request that a condition of the licence is this area must not be used until the appropriate approvals have been issued.

Please do not hesitate to contact me if you have any queries in this regard.

Regards,

Alasdair

*Alasdair Murray
Principal Building Standards Surveyor
Highland Council
2nd Floor Kintail House,
Beechwood Business Park,
Inverness
IV2 3BW*

Tel:01463 255188
Fax:01463 711332
alsadair.murray@highland.gov.uk

Please complete our customer survey by clicking on the link below

https://www.surveymonkey.com/s/THC_BS

Mr Stuart Skinner
Hootananny
67 Church Street
Inverness
IV1 1ES

Please ask for: Alasdair Murray
Direct Dial: 01463 255188
E-mail: alasdair.murray@highland.gov.uk
Our Reference:
Your Reference:
Date: 14th October 2015

Dear Sir/Madam,

Building Scotland Act 2003
Alterations to Hootananny's, 67 Church Street, Inverness IV1 1ES

I refer to your recent application for a variation to the licence for the above-mentioned property that involves the formation of a bar in the VIP area on the top floor and the use of the balcony on the Church Street elevation as a smoking area with public access.

These alterations will require building warrant approval and we have advised our colleagues in licencing both areas should not be used until such time as the building warrant and completion certificate for the works have been issued.

With regards to the balcony we have concerns over the structural integrity of the deck/protective barriers, the height of the protective barriers, access to the balcony, means of escape and general access/use by the public.

I would be happy to meet you on site to discuss the proposals and advise what works may be required to achieve compliance with the building standards.

I look forward to hearing from you.

Yours Faithfully

Alasdair Murray
Principal Building Standards Surveyor