

## The Highland Licensing Board

Meeting – 8 December 2015

Agenda Item	8.3
Report No	HLB/126/15

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

The Star Inn, (formerly the George Inn) 8 High Street, Ardersier, IV2 7QB

#### Report by the Clerk to the Licensing Board

##### Summary

This Report relates to an application for a major variation of premises licence by Ms K MacDonald per The Star Inn (Ardersier) Limited, Elm House, Cradlehall Business Park, Inverness IV2 5GH.

#### 1.0 Description of Premises

1.1 The premises form a traditional public house in a highland village, catering for the needs of local residents and visitors. It operates a lounge bar and a public bar with an off-sales facility and sells alcohol for consumption on or off the premises. In addition, patrons may consume their drinks at the two designated outside seating areas.

#### 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 hours to 2400 hours

##### Off sales:

Monday to Saturday: 1100 hours to 2200 hours  
Sunday: 1230 hours to 2200 hours

#### Summary of Variation Application

#### 3.1 Variation Sought

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

- (1) Amend on sales hours for Saturday and Sunday to terminate at 0100 hours.
- (2) Amend on sales hours on Sunday to commence at 1100 hours.
- (3) Amend off sales hours on Sunday to commence at 1100 hours.
- (4) Seasonal variations to include statement that premises will operate periods of extended hours as granted by the Highland Licensing Board.
- (5) Section 5 of the operating plan to be amended to allow restaurant facilities, bar-meals, dance facilities and indoor sports all within and out-with core hours.
6. Alter Children's Policy: Children and Young Persons will be allowed in public bar at management's discretion until 1700 hours. Children and Young Persons will be allowed access to the lounge bar until 2300 hours or in the case of a privately booked function for the duration of the function, and at management's discretion.
- (7) Amended wording as S 5(f): 'Restaurant facilities may operate out-with core hours to provide meals such as breakfasts. Dance facilities may be offered according to customer demand. Indoor Sports such as pool and darts maybe played at any time at management's discretion.'
- (8) Amend licence description. Final sentence of existing description to be deleted. New sentence to be inserted: 'The premises offer an extensive restaurant/bar meal facility to customers'.
- (9) Amend premises name to The Star Inn.

#### **4.0 Background**

- 4.1 On 14 October 2015 the Licensing Board received an application for a major variation of a premises licence from The Star Inn (Ardersier) Ltd, Elm House, Cradlehall Business Park, Inverness IV2 5GH, per Katie MacDonald, The Star Inn, 8 High Street, Ardersier IV2 7BQ.
- 4.2 The application was publicised during the period 26 October until 16 November 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 (Ardersier and Petty).
- 4.5 Further to this publication and consultation process, the following timeous notice of representation has been received and is appended:
  - Letter received 13 November 2015 from Mr and Mrs C and M Drake, 10a High Street, Ardersier IV2 7QB.

- 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](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:-

Recently the ownership of the Star Inn, Ardersier has changed hands by way of transfer and the new owners have now sought to modernise the premises licence and its associated operating plan to accurately reflect how they wish to operate.

The licensing history under the former owners is trouble free and visits by the Licensing Standards Officer have shown a good level of compliance.

The applicant wishes to increase the trading hours of the premises to allow trading on Saturday and Sunday to continue until 0100 hours. Sunday trading is asked to commence at 1100 hours in line with current policy and off sales are similarly requested to be allowed to be sold from 1100 hours on Sundays.

A timeous representation has been received from Mr and Mrs C. M Drake, 10a High Street, Ardersier who are neighbours of the premises reporting noise nuisance and instances of anti-social behaviour by customers. From the proximity of their property the LSO is of the opinion that this observation is fair and reasonable. At the time of writing this report the applicant has been requested to complete a noise management plan to demonstrate how the operators will ensure their Premises comply with the licensing objectives. It is recommended that this plan should it be deemed robust and sufficient be conditioned to form part of the operating plan of the premises.

Similarly the condition to ensure windows and doors remain closed during the playing of any live or recorded music is recommended to ensure compliance with the third licensing objective concerning public nuisance.

Over and above this it will be down to the management to control their customers and their behaviour and ensure adequate supervision of the curtilage area as well as the premises. Simple listening tests on evenings where entertainment is being provided should establish what is a reasonable sound level.

Seasonal variations are requested to be allowed to take advantage of periods of extended hours offered by the Highland Board such as during the festive season. The operators are aware of the associated conditions in respect of this and are willing to accept them.

The activities section is requested to be amended. The new owners intend to operate a full food provision both within and out with core hours to cater for breakfasts, lunch and evening meals. The entertainment categories of dance facilities and indoor sports are requested to cater for functions on the premises, particularly in the public bar and also the playing of pool and darts again in the public bar environs. The LSO sees nothing contentious with this increase of activities provided they are conducted in line with the approved noise management plan.

Lastly the children and young person's access is asked to be expanded mainly to allow for these categories of persons to dine with adults and be afforded comfortable hours for finishing meals. In the case of functions children and young person's access maybe allowed for the duration of the function.

## **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**

Existing local conditions (b, c e and j) will continue to apply and it is recommended that the following additional local condition(s) be attached:

- (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. (Licensing Objective 5).
- (e) After 2300 hours alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area. (Preventing Public Nuisance)
- (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 Objective 2).

### **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. (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)
- (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/381  
Date: 18 November 2015  
Author: Wendy Grosvenor

#### Background Papers:

- The Licensing (Scotland) Act 2005/Application Form.
- Letter received 13 November 2015 from Mr and Mrs C and M Drake, 10a High Street, Ardersier IV2 7QB.

11 Nov. 15

RECEIVED  
13 NOV 2015

10a High Street

Ardersier

Inverness

IV2 7QB

Tel: 01667460036

You're Ref AM/WDG/HC/INBS/381

(Major variation of premises licence the Star Inn 8 High Street Ardersier IV2 7QB)

Dear Sir / Madam

We are writing to you over concerns to the above mentioned application, as you can see from the above address we reside next door to the Star Inn, and have done so since 2003.

Prior to purchasing our property we investigated the Star for noise levels, which although had music some weekends was not excessive, so we proceeded with the purchase.

Originally the door from the Star on to the main road was permanently closed, but once the next landlord took over it was reopened and due to the smoking ban customers now stand outside our gate smoking being very loud and our entrance is often covered in cigarette butts and broken glass, we have also had vomit over our gate, and on the odd occasion customers have used our entrance way as a urinal which is very unpleasant.

Also since the previous landlord has taken over the music level has become exceptionally loud worsened by the above mentioned door being permanently open.

As the years have progressed so has the loudness of the music, which can be heard above the TV in our bedroom, with a constant thump, thump, along with the excessive noise from the younger customers.

As this continues till 1 am on a Saturday and Sunday morning, and the occasional functions during the week we believe this is unacceptable, on top of which is often the commotion caused by some customers leaving after closing time due to over indulgence and the occasional fights, we have had cause to call the police to deal with the noise levels.

And if the licence is granted to serve alcohol till 01:00 the noise level could go on till 02:00 if not longer to allow for drinking up time etc.

We do also have concerns over to allow children to be allowed in to the bar even though this will be at the Stars discretion with the possibility of being unsupervised could lead to the children being outside on the main road at a busy junction.

We appreciate that customers like music when they go out for a drink, but this can be a very quiet village and being in the middle of a residential area the exceptionally loud music / discos is not appropriate, If the premises were soundproof it may help with the noise factor prior to closing.

But if the licence is granted for the extension it will have a knock on effect of devaluing the properties within the surrounding area and therefore make it harder to sell or even rent

Yours faithfully

Mr & Mrs C & M Drake

