

The Highland Licensing Board

Meeting – 9 August 2016

Agenda Item	8.8
Report No	HLB/073/16

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

Jacko's, 44 Harbour Street, Nairn, IV12 4NU

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of premises licence by Greene King Brewing and Retailing Ltd, Westgate Brewery, Bury St Edmonds, Suffolk, IP33 1QT per TLT LLP, 140 West George Street, Glasgow, G2 2HG.

1.0 Description of premises

1.1 Two storey end terraced property with car parking. The premises are ideally located to serve the local community. On the ground floor there is a lounge bar, kitchen and beer cellar.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Wednesday: 1100 hours to 2400 hours
Thursday to Saturday: 1100 hours to 0030 hours
Sunday: 1200 hours to 2400 hours

Off sales:

Monday to Saturday: 1100 hours to 2200 hours
Sunday: 1200 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) On sales to terminate at 0100 hours rather than 0030 on Saturdays.

(2) On and off sales to commence at 1100 hours rather than 1200 hours on Sundays.

4.0 Background

- 4.1 On 26 May 2016 the Licensing Board received an application for a major variation of a premises licence from Greene King Brewing and Retailing Ltd.
- 4.2 The application was publicised during the period 6 June until 28 June 2016 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.
- 4.5 Further to this publication and consultation process, the following timeous notice of objection has been received and is appended:
- Arthur Hynes and Bridget Hallinan
- 4.6 The applicant and the objectors 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:-

(i) Jacko's is a detached bar situated within the fishertown district of Nairn. The premises licence is held by Greene King Brewing and Retailing Ltd and is leased to tenants. Currently the tenant is Wendy McCallum who has been installed as the premises manager.

(ii) The premises are a popular and, on occasion, lively local bar. In the past there have been noise nuisance issues complained of by nearby residents, as well as instances of anti-social behaviour. These matters have been dealt with by the LSO, who has worked closely with past tenants and the licence holders, to resolve these issues. This has been successful and the recent operating history of the premises has been complaint free.

(iii) Application has now been made by the licence holders to increase the trading hours until 0100 hours on Saturdays and commence trading from 1100 hours on Sundays. Both these changes are within the current policy hours of the Highland Licensing Board. The proximity of residential properties in what is a very closely packed residential area will require the premises to be effectively managed, especially during busy trading times. The licence holders have been requested to complete a noise management plan by the LSO to cover these issues. At the time of completing this report it is still to be received from the licence holder.

(iv) A timeous objection to the application has been received from Arthur Hynes and Bridget Hallinan, citing that potentially an extension of hours may lead to an increase in anti social behaviour.

7.0 HLB local policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-18
- (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.

Existing local conditions will continue to apply and no additional local conditions are considered necessary.

8.3 Special conditions

The Board may wish to consider attaching the following special conditions:

- (1) During the playing of any live or recorded music all windows and doors will remain shut. (licensing objective 3)
- (2) No glass disposal shall take place after 2300 hours or before 0700 hours. (licensing objective 3)
- (3) 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)

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed special conditions detailed at para 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/313

Date: 6 July 2016

Author: Marjory Bain

Background Papers: The Licensing (Scotland) Act 2005/Application Form.
Objection from Arthur Hynes and Bridget Hallinan

[REDACTED]

Susan Blease
Clerk to the Licensing Board
Regulatory Services
The Town House
Inverness IV1 1JJ

RECEIVED
20 JUN 2016

17 June 2016

Dear Madam

**Re: APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE
JACKO'S, 44 HARBOUR STREET, NAIRN, IV12 4NU**

We live next door to Jacko's, separated only by a narrow lane, and are deeply concerned about the consequences to this residential area should the opening hours be extended to the early hours of the morning. Accordingly we object to the Application for Major Variation of Premises Licence. There has been no indication as to whether the application includes a Variation to the Music Licence.

Our objection is based on SUMMARY OF GROUNDS FOR REFUSAL notes.

3. Inconsistent with Licensing Objectives:

Some of the customers leaving Jacko's in the early hours of the morning may have consumed excessive amounts of alcohol resulting in behaviour which would contravene one or more of the five licensing objectives.

4. Activities/ Premises/ Customers:

Next door to Jacko's, on the other side from ourselves, is another Licensed Premises, The Brackla Hotel (known locally as The Canteen) and it would seem almost inevitable that there would be a movement of customers,

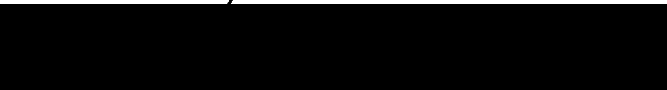
mainly young, from The Brackla to Jacko's at around midnight. Whilst such free movement of drinkers could be quiet and orderly, the possibility of friction between the two different groups should be considered.

The current closing time of 12.30am does not mean that the patrons leaving Jacko's also leave the area promptly, in fact it can be a slow and noisy dispersal.

The 11am Sunday opening will provide an extra hour of drinking prior to midday football games, including Old Firm games. We have been given to believe that to prevent this from happening is why such games are played at this time.

Whilst writing we would advise that, during the process of viewing the Application we discovered there have previously been issues regarding noise emanating from Jacko's whilst live music is being played, also the mess created by cigarette ends and other discarded items and it would appear that the requisite proposals to deal with same have not been met or have not had the required effect.

Yours faithfully

A solid black rectangular box redacting the signature of Arthur Hynes & Bridget Hallinan.

Arthur Hynes & Bridget Hallinan

[REDACTED]

Susan Blease
Clerk to the Licensing Board
Regulatory Services
The Town House
Inverness IV1 1JJ

RECEIVED
21 JUN 2016

20 June 2016

Dear Madam

**Re: APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE
JACKO'S, 44 HARBOUR STREET, NAIRN, IV12 4NU**

In our letter to your goodself of 17 June 2016 with respect to the above, we objected to the proposed opening time of 11am on Sunday mornings which is included in the Major Variation Application published on 6 June 2016 (copy enclosed for your convenience).

However, in the course of a discussion with Wendy McCallum, The Lessee of Jacko's, on Saturday 18 June 2016, Mrs McCallum informed us that she had never applied for such an extension.

Accordingly we should be obliged if the relevant paragraph is not considered by The Licensing Board.

Thank you for your kind assistance.

Yours faithfully

[REDACTED]

Arthur Hynes & Bridget Hallinan