

**The Highland Licensing Board**

**Meeting – 4 October 2016**

Agenda Item	10.1
Report No	HLB/089/16

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

**Sunny's Sports Bar, 19 Middle Street, Fort William, PH33 6DP**

**Report by the Clerk to the Licensing Board**

**Summary**

This report relates to an application for a major variation of premises licence by Iain Rodger, t/a Sunny's Sports Bar Limited.

**1.0 Description of premises**

1.1 The premises are situated at the rear of 23 High Street within the Fort William town centre. The entrance to the premises is from Middle Street. The premises comprise a lounge bar with a designated dance floor, office, cellar and ladies and gents toilets.

**2.0 Current operating hours**

2.1 The premises currently enjoys the following operating hours:

**On sales:**

Monday to Sunday: 1100 hours to 0100 hours

**Off sales:**

Monday to Sunday: 1100 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) Increase core terminal on-sale hour on Saturday evenings to 0200 hours.
- (2) Revise description of premises to reflect operation as late opening premises on Saturday evenings.
- (3) Revise children's policy to reflect change to operation of premises on Saturday evenings.

## **4.0 Background**

- 4.1 On 1 August 2016 the Licensing Board received an application for a major variation of a premises licence from Iain Rodger, t/a Sunny's Sports Bar Limited.
- 4.2 The application was publicised during the period 29 August 2016 until 19 September 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. At the time of consultation, the local Community Council was not constituted.
- 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: [www.highland.gov.uk/liquorlicence](http://www.highland.gov.uk/liquorlicence)

## **5.0 Legislation**

### **5.1 Late opening premises**

The late opening mandatory conditions apply to late opening premises pursuant to the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007. These premises are defined in the Regulations as premises, the capacity of which, is at least 250 people and which:-

- (a) will regularly provide at any time in the period between 1:00 am and 5:00 am—
  - (i) live or recorded music with a decibel level exceeding 85dB;
  - (ii) facilities for dancing; or
  - (iii) adult entertainment, or
- (b) when fully occupied, are likely to have more customers standing than seated.

They do not include, however, premises which have as their primary function the service of food, or which include, or are part of larger premises which include at least 6 letting bedrooms, or in respect of which a licence under section 12 of the Theatres Act 1968(1) or section 1 of the Cinemas Act 1985(2) is in force, or which are, or are part of, an art gallery.

5.2 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.

5.3 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) The premises in question is a well established venue in the centre of Fort William. The operating history has been satisfactory and compliance checks by the LSO(s) have shown good levels of compliance and diligence.
- (ii) The premises previously enjoyed a late hours entitlement with the current licence holder and were trouble free. Recently the licence holder relinquished the late hours part of his licence in order to trade under more conventional hours, since which time the licence holder has been approached by his customers to ask if late hours could be re-instated solely for Saturday evenings.

- (iii) The premises were visited by the LSO on 7 September 2016 and were found to be compliant with CCTV provision. Drug and evacuation policies have been lodged with the Board with the application. The licence holder confirmed his ability to resource SIA registered stewarding and first aid coverage. It has been confirmed that significant entertainment as described within the Board's current Policy Statement will be continuously provided from 2200hrs until the premises close on any night where the premises are to open beyond 0100hrs.
- (iv) The premises have enjoyed, within the past month, two sets of extended hours until 0200 hours, during which time the premises have been well run and compliant with local and mandatory licence conditions.

## **7.0 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 Late opening conditions**

If the application is approved the attached mandatory late opening conditions will apply.

### **8.3 Local conditions**

In addition to the local conditions currently attached to the premises licence, namely local conditions (A), (B), (C), (H) and (Q), the Board may wish to consider attaching the following additional local conditions:

- (G) Premises open for the sale of alcohol after 0100 hours shall have available a selection of hot and cold foods and shall advertise this within the premises.
- (I) Any music or live performance will cease at 0145 hours.
- (J) After 2200 hours, when the premises is operating as late opening premises, the premises licence holder shall ensure that there is adequate stewarding at all relevant entrances and egresses to the premises and within the premises.
- (N) The licence holder shall ensure the provision of an effective means of recording the capacity during the premises hours of operation.

- (O) On any day for which the terminal hour specified in this licence is later than 0100 hours the following day, alcohol may be sold on the premises after 0100 hours only while entertainment as detailed in the operating plan is being provided and has been provided continuously from no later than 2200 hours.

#### 8.4 HLB special conditions

Should the Board grant the application as applied for, the Board may wish to consider attaching the following special conditions:

- All glass disposal operations shall cease between the hours of 2300 hours and 0800 hours the following day.
- All live vocals or amplified music will be so controlled after 2300 hours that it shall be inaudible in nearby residential property.

8.5 Should the Board grant the application as applied for, the Board may wish to consider attaching the following additional special condition to reduce noise levels emanating from the premises when patrons vacate the premises at the termination of core hours:

- At the termination of core hours patrons should leave the premises via the High Street entrance of the premises.

#### **Recommendation**

The Board is invited to determine the above application and:

- (i) if the Board are minded to grant the application, to update the existing local conditions as referred to at para. 8.3 of the report, and
  - (ii) in addition to the mandatory, late opening and local conditions, to attach the proposed special conditions as referred to at Paras 8.4 and. 8.5 of the report;
- or
- (iii) If the Board are 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/RSL/1570

Date: 20 September 2016

Author: IC/JT

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

Appendix: Mandatory late opening conditions

## LATE OPENING MANDATORY CONDITIONS

The following mandatory conditions apply to late opening premises pursuant to the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007. These premises are defined in the Regulations as premises the capacity of which is at least 250 people and which—

(a) will regularly provide at any time in the period between 1:00 am and 5:00 am—

- (i) live or recorded music with a decibel level exceeding 85dB;
- (ii) facilities for dancing; or
- (iii) adult entertainment, or

(b) when fully occupied, are likely to have more customers standing than seated.

They do not include, however, premises which have as their primary function the service of food, or which include, or are part of larger premises which include, at least 6 letting bedrooms, or in respect of which a licence under section 12 of the Theatres Act 1968(1) or section 1 of the Cinemas Act 1985(2) is in force, or which are, or are part of, an art gallery.

Although imposition of the late opening mandatory conditions is not mandatory where extended hours are granted to a premises (other than a late opening premises) to permit the sale of alcohol after 0100 hours for a particular special event or occasion, the Board may impose similar conditions as local conditions applicable to such premises during the period for which extended hours have been granted.

Mandatory conditions:

1. A person trained to the satisfaction of the Licensing Board in administering First Aid<sup>1</sup> must be present on the premises from 0100 hours (on any day when the premises are open at 0100 hours) until whichever is the earlier of:-
  - (a) the time at which the premises next close; and
  - (b) 0500 hours

---

<sup>1</sup> Until such time as the amendment to the Health and Safety (First Aid) Regulations 1981 is brought in to remove the requirement for HSE approval of first aid training and qualifications (which it is anticipated will take place with effect from 6 October 2013), the minimum level of first aid training which the Board will generally accept as satisfactory for the purposes of this mandatory condition is Emergency First Aid at Work (EFAW) training approved by the HSE. Guidance on the training which the Board will accept as satisfactory for Late Opening Premises applications lodged after that amendment takes effect will be prepared to coincide with the date on which the amendment comes into effect.

2. A designated person who is the holder of a personal licence must be present on the premises from 0100 hours (on any day when the premises are open at 0100 hours) until whichever is the earlier of:-
  - (a) the time at which the premises next close; and
  - (b) 0500 hours or such other time as the Licensing Board may specify.
3. There must be written policies in existence concerning:-
  - (a) the evacuation of the premises; and
  - (b) the prevention of the misuse of drugs on the premises
4. A CCTV system must be installed on the premises to the satisfaction of the appropriate Chief Constable and must be kept in good working order.
5. There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.
6. A person who holds a licence granted under Section 8 of the Private Security Industry Act 2001 must be positioned at every entrance to the premises from 0100 hours (on any day when the premises are open at 0100 hours) until whichever is the earlier of:-
  - (a) the time at which the premises next close; and
  - (b) 0500 hours or such other time as the Licensing Board may specify.