

## The Highland Licensing Board

Meeting – 4 October 2016

Agenda Item	10.8
Report No	HLB/096/16

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

Dingwall Tandoori Restaurant, 4 High Street, Dingwall

Report by the Clerk to the Licensing Board

#### Summary

This Report relates to an application for a major variation of premises licence by D A Stephen Associates Ltd.

#### 1.0 Description of premises

1.1 The Dingwall Tandoori Restaurant was granted a premises licence, on transition, on 1 September 2009. The premises operate as a restaurant but offering limited activities and services and are subject to a local condition that alcohol may only sold to persons taking table meals on the premises.

#### 2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

##### On sales:

Mondays to Saturdays: 1200 hrs to 1400 hrs and 1700 hrs to 2300 hrs  
Sundays: 1230 hrs to 1400 hrs and 1830 hrs to 2300 hrs

#### 3.0 Summary of variation application

##### 3.1 Variation sought

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

- (1) Delete existing local condition to allow persons other than those consuming a meal to purchase and consume alcohol.
- (2) Increase on-sales licensed hours on any day to commence at 1200 hrs and terminate at 0100 hrs the following day.
- (3) Change the name of the premises to The Victoria.

- (4) To the list of activities to be carried during and out with core licensed hours add – clubs and other group meetings, music, live performances, charity and fundraising events and that the premises may be open from 1000 hrs daily.
- (5) Alterations to layout following removal of booth seating resulting in an increase in capacity from 58 to 80 persons.
- (6) Change description of the premises to show operation of the premises as being primarily food-led but with sales of alcohol not being restricted to persons taking table meals on the premises in which there is no bar counter.
- (9) Add a seasonal variation that the holder may take advantage of any period of extended hours agreed by the Board over the festive period.
- (10) Amend the terms of entry for children and young persons to allow children to be permitted at all times, in all public parts of the premises but must be accompanied by a suitable, appropriate adult. At the discretion of the management unaccompanied young persons may also be permitted on the premises failing which they must be accompanied by a suitable, appropriate adult.

#### **4.0 Background**

- 4.1 On 29 July 2016 the Licensing Board received an application for a major variation of a Premises Licence from D A Stephen Associates Ltd.
- 4.2 The application was publicised during the period 26 August to 16 September 2016 and confirmation that the site notice was displayed during this time 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, 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:

[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:-

- a. The premises are situated in the centre of Dingwall and had been closed for some time following a fire in neighbouring premises. The new operator has carried out some refurbishment and intends to operate as a traditional restaurant/café with increased opening hours. The additional range of services and activities to be provided are to compliment the principal operation as food-led business.
- b. The variations sought are reasonable and appropriate for this type of business and there should be no conflict with any of the licensing objectives.

## **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**

Delete existing local condition and add:-

- q. The licence holder shall submit to the Board and to Police Scotland, no later than 21 days before the relevant date each year, notice of the dates within the festive period or other special event or occasion specified by the Board on which it is intended that the premises remain open until the terminal hour stated for that category of premises in the Board's Policy Statement or its Supplementary Policy Statement on Extended Hours for Special Events. The Premises may remain open until the specified 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 Late opening premises conditions**

The following shall apply on any occasion that the premises are open after 0100 hrs.

1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hrs (on any day when the premises are open at that time) until whichever is the earlier of-
  - (a) the time at which the premises next close; and
  - (b) 0500 hrs; and
2. A designated person who is the holder of a personal licence must be present on the premises from 0100 hours (on any day on which the premises are open at that time) until whichever is the earlier of-
  - (a) the time at which the premises next close; and
  - (b) 0500 hrs

## **Recommendation**

The Board is invited to determine the above application and if minded to grant the application, and to agree the proposed local/special conditions detailed at paras 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/CSR/1037

Date: 20 September 2016

Author: G Sutherland

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