

The Highland Licensing Board

Meeting – 7 February 2017

Agenda Item	10.7
Report No	HLB/042/17

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

The Mallard, Station Square, Dingwall

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 Retailing Limited.

1.0 Description of premises

- 1.1 Single storey public house premises, located in the centre of Dingwall, operating a single bar with dining area.

2.0 Current operating hours

- 2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Saturday: 1000 hrs to 0100 hrs
Sunday: 1100 hrs to 0100 hrs

Off sales:

Monday to Saturday: 1000 hrs to 2200 hrs
Sunday: 1100 hrs to 2200 hrs

3.0 Summary of variation application

3.1 Variation sought

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

1. Increase licensed hours to terminate at 0300 hrs the following day for hours commencing on a Friday and a Saturday
2. To the list of activities add dance facilities during core hours.
3. To the list of other activities add live bands, singers, disco and dancing, DJ, cabaret, party nights, charity and other community events, quiz nights, dominoes or other social activities and the like.

4.0 Background

- 4.1 On 7 February 2017 the Licensing Board received an application for a major variation of a premises licence from Greene King Retailing Limited.
- 4.2 The application was publicised during the period from 17 February to 10 March 2017 and confirmation that the site notice was displayed is awaited.
- 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 and the local Community Council.
- 4.5 Further to this publication and consultation process, an objection was received from Dingwall Community Council (copy attached)
- 4.6 The applicant and the Community Council have been invited to attend the hearing. All 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://highland.gov.uk/hlb_hearings

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.
- 5.3 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:-
- 6.2 The premises currently operate as a public house which may also serve bar meals. The licence was granted with grandfather rights in September 2009.
- 6.3 The premises currently have licensed hours Monday to Saturday of 1000 hrs to 0100 hrs the following day and, on a Sunday, 1100 hrs to 0100 hrs the following day. The earlier hour was permitted by the former Ross, Skye and Lochaber Divisional Board and the daily trading period of 15 hours is in excess of the current Board's policy of 14 hours on any day.
- 6.4 The premises are regularly busy and are well run. Licensed door stewards are used during particularly busy periods and the premises is an active member of the local "Pubwatch" scheme.
- 6.5 The applicant now seeks to be treated as a hybrid premises in terms of the Board policy on late opening premises and seeks a terminal hour of 0300 hrs the following day for hours commencing on a Friday or Saturday.
- 6.6 Plans are in place to upgrade sound and light systems and to provide a dedicated dance area and small stage to satisfy the terms of Board policy requiring that significant facilities within the premises will be dedicated to the provision of entertainment.
- 6.7 Some of the proposed changes to the layout will require submission of a further variation to change the layout of the premises. In particular the removal of fixed bench seating and alterations to an existing raised area to form the *ad hoc* dance floor/performance area. Until such changes are made it is my opinion that the premises will not be able to take advantage of the additional licensed hours.
- 6.8 The applicant has been sent a noise management checklist for completion. The Board may choose to require that a copy of the checklist is submitted to the Board who may choose to impose a condition requiring that the detail of the checklist be followed.
- 6.9 The applicant has confirmed that he is aware that the additional hours may only be used when significant entertainment is provided and has also confirmed that such events will be advertised in advance through social media.
- 6.10 There are currently no late night entertainment premises in Dingwall with persons seeking to enjoy such facilities often leaving the Mallard to travel by the last train, at 2330 hrs, to Inverness. If such customers remain in Dingwall there

might be an effect on levels of noise or other nuisance in the surrounding area at closing time however experience during periods of extended hours during the festive period has identified no significant issues.

- 6.11 The premises currently take advantage of the Board's policy for the Festive Period. If this variation is granted the premises would be permitted to remain open on Friday and Saturday nights until 0400 hrs the following day during that period subject to compliance with the relevant conditions.
- 6.12 I have had sight of the objection/representation submitted on behalf of the Dingwall Community Council. Regarding the concerns about customers overspilling onto the platform, such a possibility exists during current operating hours. In respect of this application I confirm that the railway platform is covered by CCTV and that SIA licensed stewards must be present on the premises at least during the period of additional hours and it would be expected that they would be alert to any possible dangers.

I am satisfied that the operator of the premises has given due regard to the licensing objectives. I acknowledge that there is no precedent for such late hours in Dingwall however I am not aware of any evidence-based or reasonable conclusion that grant of the variation will conflict with the 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
- (3) Highland Licensing Board Policy Hours

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 and

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

8.3 Special late hours conditions

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

2. A designated person who is the holder of a personal licence 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 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(a) must be positioned at every entrance to 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 or such other time as the Licensing Board may specify.

8.4 **Special condition**

1. 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.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local and special conditions detailed at paragraphs 8.2, 8.3 and 8.4 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/0559
Date: 14 March 2017
Author: G Sutherland
Background Papers: The Licensing (Scotland) Act 2005/Application Form

Appendix: Objection dated 9 March 2017 from Dingwall Community Council



REPRESENTATIONS OR OBJECTIONS IN RELATION TO A PREMISES LICENCE APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005

Please read the Board's Guidance Notes on How to Object or make Representations in relation to a Premises Licence Application before completing this form. This form when completed should be returned to the nearest office of the Licensing Board using the contact details in the guidance notes or emailed to licensing@highland.gov.uk. Remember, if an objection is rejected by the Board as frivolous or vexatious, the Board may seek to recover expenses from the objector or person making representations

1. Full Name and Address of person making objection/representation:

MARY FOLEY (ON BEHALF OF DINGWALL COMMUNITY COUNCIL)	
63 OLD EVANTON RD	
DINGWALL IV15 9RB	
Telephone Number:	[REDACTED]
Email Address:	[REDACTED]

2. Address of Premises in respect of which objection / representation is made:

THE MALLARD STATION SQUARE DINGWALL IV15 9JD
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3. Details of any OBJECTION: (complete only if you consider one of the ground for refusal apply)

State ground of objection (refer to ground of objection by number, see guidance notes, and give details): (Continue on separate sheet if necessary)		
1.	Excluded Premises	3- Securing public safety:- Public could overspill onto railway platform. Preventing public nuisance:- Noise pollution for neighbouring residential area and noise from public leaving premises in the early hrs etc.
2.	Off-Sales Hours/24 hour drinking	
3.*	Licensing Objectives	
4.	Activities/Premises/Customers	
5.	Over Provision	

4. Details of any REPRESENTATION: (complete only if you wish to make a representation in respect of the application)

State details of any representation (refer to representation by number, see guidance notes, and give details): (Continue on separate sheet if necessary)	
1.	in support of application
2.	seeking an amendment to the operating plan, or
3.	seeking to add additional conditions to the licence

Signature:.....
[REDACTED]

Date..... 9TH MARCH 2017.