

The Highland Licensing Board

Meeting – 3 October 2017

Agenda Item	9.1
Report No	HLB/108/17

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

R&Bs, 73 Queensgate, Inverness, IV1 1DG

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by R&B (Inverness) Ltd, Strath Bay House, Gairloch, IV21 2BP per Lorna Murray, Solicitor, 45 Culduthel Road, Inverness, IV2 4HQ.

1.0 Description of premises

1.1 Licensed public house, restaurant and late night entertainment venue occupying part of the ground floor of a mixed commercial and residential building in the centre of Inverness.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Saturday: 1100 hours to 0100 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) Change the premises trading name to 'R&Bs'.

(2) Delete existing description of the premises and add 'Licensed public house, restaurant and late night entertainment venue, occupying part of the ground floor of a mixed commercial and residential building in a central location in the city of Inverness.

(3) Amend on-sales core hours each Friday and Saturday to commence at 1100 hours and terminate at 0300 hours the following day.

(4) On sales on Sunday to commence at 1100 hours rather than 1200 hours and terminate at 0100 hours rather than 2400 hours.

(5) Off sales on Sunday to commence at 1100 hours rather than 1200 hours.

(6) Amend 5(g) as follows: 'the music level will not exceed 85Db and when fully occupied there are not likely to be more customers standing than seated.

The entertainment to be provided each Friday and Saturday evening is a mixture of karaoke and DJ (and occasional bands). After 0100 hours the only entertainment to be provided will be DJ. The entertainment programme is advertised on social media and in house advertising. The premises offer a programme of entertainment each weekend. The entertainment commences no later than 2100 hours.

The premises have a dance floor and DJ booth (see attached marked layout plan), professional lighting and sound system.

(7) Under activities outwith core hours add: 'The premises may open earlier than their core on sales times in connection with breakfasts, teas and coffees, club meetings, functions, receptions, parties or funeral teas, when music and live performances may be provided and the amusement with prizes machines may be available for customer use. Low level background music may be provided at any time.'

4.0 Background

4.1 On 3 July 2017 the Licensing Board received an application for a major variation of a premises licence from R&B (Inverness) Ltd.

4.2 The application was publicised during the period 10 July until 31 July 2017 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 notices of objections have been received and are appended:

Lynda Fraser, 55 Queensgate, Inverness, IV1 1DG
Sophia Lennox, 4 Zion Chapel, Osborne Street, Hebden Bridge, HX7 8DT
Gary MacLean, 50b and 50c Church Street, Inverness, IV1 1EH
Robert Smith, 50A Church Street, Inverness, IV1 1EH

- 4.6 The applicant and the objector(s) have been invited to attend the hearing. They have all 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. that 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 the same or similar description as the subject premises, 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) The premises currently operate as a public house and restaurant. The licence was granted with grandfather rights in September 2009 and was transferred to the current operator on 6 April 2016.

(ii) The premises currently have on-sales licensed hours Monday to Saturday of 1100 hours to 0100 hours the following day and, on a Sunday 1200 hours to 2400 hours. Off-sales hours are 1100 to 2200 hours Monday to Saturday and 1200 to 2200 hours on a Sunday.

(iii) 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 "Pub Watch" scheme. The applicant formerly ran other popular premises offering DJ entertainment and karaoke in the city centre, and I am advised that those premises were well run and attracted no complaints.

(iv) 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 hours the following day for hours commencing on a Friday or Saturday.

(v) Plans are in place to create a DJ booth and define a dedicated dance area. The premises currently operate with professional sound and light systems and will satisfy the terms of Board policy, requiring that significant facilities within the premises will be dedicated to the provision of entertainment.

(vi) Referring to the application entry in respect of Late Night Premises opening after 0100 hours I note that the applicant has declared that the music level on the premises will not exceed 85Db, and that there will not be more persons standing than seated. I have queried those responses with the applicant and his agent but, as yet, have had no reply. In my experience, similar types of operation have music noise levels exceeding that Db level and I would expect there to be more persons standing than seated, particularly if seating is removed to facilitate dancing.

(vii) In discussion with the applicant, I highlighted that the additional hours may only be used when significant entertainment is provided and that, in terms of Board policy, karaoke is not accepted as relevant entertainment. I note that the applicant has referred to karaoke as being part of the mixture of entertainment to be provided. If karaoke is performed at any time after 2200 hours the premises would not be permitted to remain open until 0300 hours.

(viii) 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 hours the following day during that period subject to compliance with the relevant conditions.

(ix) The premises occupy a corner site at the junction of Queensgate with Church Street. Most of the ground floors of buildings in the area are occupied by commercial businesses, however, there are residential properties directly above the applicant's premises and on the upper floors of premises in nearby streets.

(x) Another licensed premises with late opening hours is situated on Church Street adjacent to Fraser Street more or less opposite the applicant's premises. In total there are currently 5 licensed premises with late opening at weekends in the centre of Inverness, and another premises on the west side of the river

(xi) I have had sight of various letters of objection or representation from persons occupying residential properties above or near to the applicant's premises or the landlords of such properties.

(xii) I am aware that the applicant has not taken advantage of periods of extended hours to which he was entitled to use in recent months. The premises have been closing at 0100 hours at weekends and any recent street noise cannot be directly attributed to the premises.

(xiv) It is fair to say that the majority of the points raised by the objectors do not relate specifically to the applicant's premises, but to alleged noise and nuisance which may be linked to the number of late opening premises in the town centre and customers moving between premises to which entry is generally free.

(xv) I note that one objector has stated that "music is audible at weekends and for this to continue until 0300 hours would be unfair to residents in both Queensgate and Church Street". I understand that the applicant has been in contact with some neighbours and interested parties and has explained noise mitigation measures which he has installed and, to some extent has been able to reassure them that music noise should not be a nuisance.

(xvi) The applicant has completed a noise management checklist and plan which has been passed to Environmental Health for comment. At the date of this report no comments have been received.

(xvii) I am satisfied that the applicant has given due regard to the licensing objectives. Until such time as the premises operate to the full extent of licensed hours, services and activities it will not be possible to confirm that, in particular, persons residing nearby will not be affected by music noise nuisance. If a problem is revealed, the matter may be taken back to the Licensing Board for review.

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 will continue to apply, with the addition of late opening mandatory conditions as follows:

Late opening mandatory conditions

1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1:00 am (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) 5:00 am.

2. A designated person who is the holder of a personal licence must be present on the premises from 1:00 am (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) 5:00 am 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 1:00 am (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) 5:00 am or such other time as the Licensing Board may specify.

8.2 Local conditions

Existing local conditions will continue to apply and it is recommended that the following additional local condition be attached:

- 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.

8.3 Special conditions

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.
2. All glass disposal operations shall cease between the hours of 2300 hours and 0800 hours the following day.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, 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/INBS/332

Date: 18 September 2017

Author: Marjory Bain

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

55 Queensgate
Inverness
IV1 1DG

13th July 2017

The Clerk to the Licensing Board
Town House
High Street
INVERNESS
IV1 1JJ

Dear Sir/Madam,

I object to this application on the following grounds:-

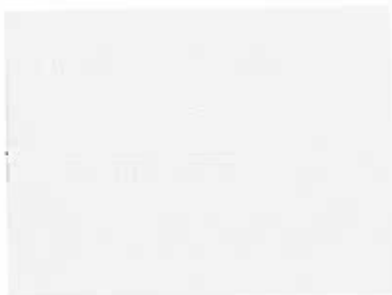
(3) preventing public nuisance; and

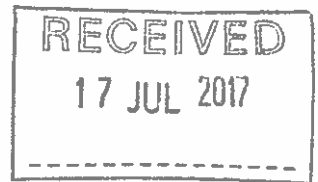
(4) nature of activities and location of premises.

I don't think that a licence extension until 3am is appropriate for a licenced premises located underneath residential properties.

Music is audible at the weekends and for this to continue until 3am would be unfair to all residents in both Queensgate and Church Street.

Yours sincerely,





**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:

LYNDA FRASER	
[REDACTED]	
Telephone Number:	[REDACTED]
Email Address:	[REDACTED]

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

R+B5, 73 QUEENSGATE, INVERNESS, IV1 1DG

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	Please see attached sheet.
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

..... Date... 13th July 2017

Sophia Lennox



July 24th, 2017

Dear Ms Blease,

**REF: APPLICATION FOR A MAJOR VARIATION OF PREMISES LICENCE R&BS, 73
QUEENSGATE, INVERNESS, IV1 1DG**

As the landlord of 48B Church Street, Inverness, IV1 1EH I am writing to object and express concern at the recent application for a 3am license extension at R&Bs, Inverness.

I have owned the first-floor flat above R&Bs since 2006, and in that time rented the property to young professionals and a young family. Unfortunately, I have also witnessed the decline of the city centre in line with the promotion of the drinking culture.

My tenants have already given notice that they will not be renewing their lease from October; the noise of revellers leaving the bar will only be exacerbated by the clear intention to consume more alcohol which is possible with a late license. Tenants above my property have already given notice due to the noise.

As the landlord of a city centre flat here are a handful of the complaints I've received – 90% of which are fuelled by alcohol irrespective of WHERE this has been obtained:

- Pub goers urinating in our communal stairwell which is the ONLY access to the flats
- Drunks and drug users sitting in our stairwell injecting drugs
- Abandoned takeaways dropped and spilled on the stairwell
- Regular smell of cigarette smoke and cannabis in the stairwell
- Vomit on the stairs
- Smashed glass
- Repeatedly broken security entrance door by people coming out of the pubs and looking for a private area (for what remains unknown)
- Uninvited people knocking on private flats in the middle of the night

I would like to see an immediate halt put on this application for the following reasons as stipulated by you:

It will be INCONSISTENT with LICENSING OBJECTIVES

- Alcohol is known to add to city centre crime and disorder – evidenced by the added police presence in the city centre at weekends and late at night. You will
- Public safety is not in any way supported by a 3am license
- Public nuisance is likely to heighten, not be reduced

- Protecting and improving public health – I worked alongside the Harm Reduction Team at NHS Highland for two years. There is absolutely NO benefit in making alcohol more readily accessible for longer in a city centre bar. It will contribute to the drinking culture, continue to affect the health and happiness of many, and add further strain to the NHS.
- If we continue to say we support the adage that prevention of illness is better than cure then we need to demonstrate this in our actions and turn down this application.

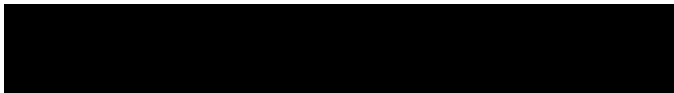
In addition to the above it will affect the rentability and saleability of my property, and of the other 8 landlords within the block. My tenants work split shifts, they don't deserve to have to run the gauntlet past a congregation of inebriated smokers to get to bed safely.

In the past I have spoken to licensees Robert and Rebecca at R&B's with regard to the communal gutter and I have found them to be both pleasant and helpful, but for the sake of my tenants, other city centre residents and the public at large I would urge you to reject this application on the grounds that it offers nothing of benefit other than profit to one business in the city centre.

As a local authority I know that you are keen to promote the Highlands and Inverness in particular as an area of culture. I urge you to spend an hour or two outside R&Bs (or any city centre pub or club) at closing time and realise that we are doing by accepting and extending this drinking culture is damaging now and in the future.

Kind regards,

Sophia Lennox



Licensing

From: liz maclean
Sent: 29 July 2017 17:49
To: Licensing
Subject: Application for variation of premises license R and B (formerly the Room) 73 Queensgate, Inverness IV1 1DG

F.A.O. : Clerk to the Licensing Board

As landlord of flats 50b and 50c Church Street, Inverness, IV1 1EH I wish to object to the 3am license extension applied for by R and B.

There are nine flats directly above R and B, and the majority of the bedroom windows overlook queensgate. The entrance is on the corner of Church Street and Queensgate and when the customers who wish to smoke come out of R and B, they congregate directly under the bedroom windows. (as there is nowhere else for them to go, other than onto the street)To make matter worse, when there is karaoke, the customers on the street join in with the singing.

When they close their premises on a Sunday morning, the customers make a rowdy exit, directly under bedroom windows.

It is frequently 4 am before peace resumes.

There are not only working adults in the flats but young children, can you imagine how disruptive this is, every weekend.

Anyone staying in a city centre flat expects some amount of noise but not to this extent when it affects their health and well being.

The tenants of flat 50c, gave notice and left in May this year, due to the noise.

They had young children and they they were wakened every Sunday morning with the noise from R and B customers.

R and B say they ask their customers to be quiet when leaving but people fuelled with alcohol until 3am do not seem to realise just how loud they are.

I wish to object under No3

C) preventing public nuisance and

D) protecting public health

Over the years we have had a lot of trouble from alcohol fuelled people, abusing our premises and have had police involvement in the past. We have paid a great deal of money to upgrade our entrance security system and control the people who can now enter the premises so it is very disappointing that the owners of the flats have this anti social noise to contend with now.

Mr Gary MacLean, registered landlord of 50b and 50c Church Street, Inverness.



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

MR. ROBERT SMITH	
[REDACTED]	
Telephone Number:	[REDACTED]
Email Address:	[REDACTED]

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

R&Bs (formerly The Room) 73 Queensgate Inverness
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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	I wish to object to a 3AM licence on the grounds that it would affect my sleep as I work week-end shifts. No objection to continuing at 1AM close.
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

..... Date 29 JUL 2017