

The Highland Licensing Board

Meeting – 5 December 2017

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| Agenda Item | 10.2 |
| Report No | HLB/136/17 |

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

The Malt Room, 34 Church Street, Inverness, IV1 1EH

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by The Malt Room Bars Limited, 1 Marbaix Gardens, Isleworth, London, TW7 4FD.

1.0 Description of premises

1.1 A two storey mid terraced property accessed via a pedestrian lane (Market Close) which connects Church Street to the Victorian Market in the city centre.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Thursday: 1200 hours to 2400 hours
Friday to Sunday: 1200 hours to 0100 hours

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Amend on sales terminal hour Monday-Thursday to be increased to 0100 hours rather than 2400 hours.
- (2) Off sales to commence at 1200 hours and terminate at 2200 hours Monday-Sunday.
- (3) Inclusion within operating plan at section 5(f) 'tutored tastings.'
- (4) Seasonal variations to allow premises to operate in line with festive policy and any other extensions granted by the Board.

(5) Live performances to be added to operating plan.

4.0 Background

- 4.1 On 28 September 2017 the Licensing Board received an application for a major variation of a premises licence from The Malt Room Bars Limited.
- 4.2 The application was publicised during the period 4 October until 25 October 2017 and confirmation that the site notice was displayed has been received.
- 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, 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://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 concerned are a small boutique whisky bar situated off Church Street, Inverness in the entrance to the Victorian arcade. The premises opened in 2017 as a bar specialising in malt whiskies. From the initial months of trading the owners have assessed the demand for their service and consequently, are now varying their premises licence accordingly.

(ii) The premises have been visited by the LSO and they are fitted out to a very high standard. The DPM has been interviewed and has a strong approach to licensing compliance.

(iii) Application is made to increase the core hours for on sales to 0100 hours Monday to Thursday's. Off sales are to commence from 1200 hours until 2200 hours Monday to Sunday. These hours are within the current policy hours operated by the Highland licensing board.

(iv) Amendment to section 5 of the operating plan is requested to allow live performances. The floor area of the premises is such that this is likely to be a solo guitarist or duo. The area in which the premises are situated is largely commercial, and this type of activity is unlikely to threaten the licensing objectives. Tutored whisky tastings are requested to be added to section 5(f) of the operating plan, to reflect what is likely to become a regular activity, particularly during the main tourist season.

(v) Seasonal variations are requested to allow the premises as a matter of course, to take advantage of increased trading hours offered by the Board during the festive season. The applicants accept the additional local licensing condition, requiring notification of operating dates to the Licensing Board and Police Scotland.

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

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

(q) The licence holder shall submit to the board and to Police Scotland, prior to 1 December each year, notice of the dates within the festive period on which it is intended that the premises remain open until the festive period terminal hour stated for that category of premises in the Board's policy statement. The premises may remain open until the festive period terminal 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 Special conditions

The Board may wish to consider attaching the following special condition(s):

- (1) A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hours (mandatory condition).
- (2) A designated person who is the holder of a personal licence must be present on the premises from 0100 hours (local condition) (licensing objectives 1 and 2).

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/special condition(s) detailed at para(s) 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/601

Date: 3 November 2017

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