

The Highland Licensing Board

Meeting – 12 January 2018

Agenda Item	7.1
Report No	HLB/004/18

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

Black Isle Bar, 68 and 68A Church Street, Inverness, IV1 1EN

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Black Isle Brewing Company Limited, Ta Blair, Munloch, Ross-shire, IV8 8NZ.

1.0 Description of premises

1.1 City centre ground floor bar with beer garden on the first floor, part of larger tenement building.

2.0 Summary of variation application

2.1 Variation sought

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

(1) Application to allow outside drinking area (the roof garden) of the premises to remain open until 0100 hrs daily.

3.0 Background

3.1 On 17 November 2017 the Licensing Board received an application for a major variation of a premises licence from Black Isle Brewing Company Limited.

3.2 The application was publicised during the period 23 November until 14 December 2017 and confirmation that the site notice was displayed has been received.

3.3 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.

3.4 Notification of the application was also sent to NHS Highland and the local Community Council.

- 3.5 Further to this publication and consultation process, no timeous objections or representations have been received.
- 3.6 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

4.0 Legislation

- 4.1 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.
- 4.2 For the purposes of the Act, the licensing objectives are-
- (a) preventing crime and disorder,
 - (b) securing public safety,
 - (c) preventing public nuisance,
 - (d) protecting and improving public health, and
 - (e) protecting children and young persons from harm.
- 4.3 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.
- 4.4 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.

5.0 Licensing Standards Officer

5.1 The LSO has provided the following comments:-

(i) The Black Isle bar is a busy and popular city centre bar, operating at the junction of Church Street and Post Office Lane. The premises were granted a confirmation of a provisional premises licence on 9 January 2017. Since then, the premises have enjoyed an incident free licensing history. Compliance checks made by the LSO have revealed sound levels of diligence in respect of the licensing legislation.

(ii) In particular, the premises operated an outdoor drinking area on an upstairs rooftop, this was constrained by planning representations to a maximum operating time of 2400 hrs, solely with a view to preventing noise nuisance to neighbouring property. Since opening, the rooftop area has proved to be a popular feature of the premises operation and it has operated throughout the summer months.

The premises management have ensured diligent internal management practices to ensure proper supervision and compliance with the third licensing objective, preventing public nuisance.

(iii) Subsequently, notification has been received from the planning service relaxing the requirement for midnight closure and accordingly, application has been made to vary the existing local condition to extend the opening of the outside drinking area until 0100 hrs, in line with the termination of core on sales hours. The LSO is of the opinion that, from the track record of the operating history, the licence holder will continue to comply with the licensing objectives and manage customers successfully. In addition the premises also comprise an accommodation block, therefore it is self-defeating to annoy their own customers.

(iv) The neighbour notification and consultation exercise carried out in conjunction with this application did not receive any objections or representations.

6.0 HLB local policies

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-18
- (2) Highland Licensing Board Equality Strategy

7.0 Conditions

7.1 Mandatory conditions

If the application is approved the mandatory conditions set out in Schedule 3 of the Act will apply.

7.2 Local conditions

Existing local conditions will continue to apply and no additional local conditions are considered necessary.

7.3 Special conditions

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

- (1) After 0100 hrs the outside drinking area of the premises shall be closed to all patrons. (licensing objective 3).

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed special condition detailed at para. 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/583
Date: 14 December 2017
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