

The Highland Licensing Board

Meeting – 2 October 2018

Agenda Item	10.2
Report No	HLB/098/18

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

The Kings Highway, 72-74 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 The Kings Highway, 72-74 Church Street, Inverness, IV1 1EN.

1.0 Description of premises

1.1 Located in Inverness City Centre, surrounded by commercial and residential properties.

2.0 Summary of variation application

2.1 Variation sought

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

(1) Q5(d) of operating plan, the answer to 'Outdoor Drinking Facilities' will be changed to Yes, Yes, Yes.

(2) Application is sought to amend the layout plan to include a new external customer area to the rear of the premises as per drawing number 2016-115-L01 Rev B, with no change to capacity.

3.0 Background

3.1 On 6 July 2018 the Licensing Board received an application for a major variation of a premises licence from JD Wetherspoon (Scot) Ltd.

3.2 The application was publicised during the period 16 July until 6 August 2018 and confirmation that the site notice was displayed has been received.

3.3 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.

- 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 Kings Highway is a large city centre premises which serves a high customer volume for both food and wet sales.

(ii) The premises have a sound operating history and LSO visits have evidenced very good levels of compliance with the Licensing (Scotland) Act 2005. The premises are active members of the city centre pub watch.

(iii) Application has been made to extend the licensed footprint of the premises by the addition of an outside drinking area at the rear of the premises, which is accessed by customers via the main building.

(iv) The premises are situated within a mixed residential and commercial area of Inverness. With residents in mind, it is the opinion of the LSO, that it is necessary to impose clear limits on the operation of this outside area. In order to prevent public nuisance through noise, particularly into the evening, as such; a terminal hour of operation is suggested at 2100 hours.

(v) Appropriately amended layout plans have accompanied the application.

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 conditions:

(1) After 2100 hours the outside drinking area shall be closed and unavailable to customers. (Licensing Objective 3).

(2) No live performance or playing of recorded music will occur in the outside drinking area. (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 conditions 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/110
Date: 6 September 2018
Author: Marjory Bain