

The Highland Licensing Board

Meeting – 14 January 2020

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| Agenda Item | 8.2 |
| Report No | HLB/006/20 |

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

Gellions, 14 Bridge Street, Inverness, IV1 1HD

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Invopco Limited, 267 Clifton Road, Aberdeen, AB24 4HJ.

1.0 Description of premises

1.1 City centre bar and restaurant located close to the river in a commercial/residential area.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Thursday: 1100 hours to 0100 hours
Friday to Saturday: 1100 hours to 0200 hours
Sunday: 1100 hours to 0100 hours

Off sales:

Monday to Sunday: 1000 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) Amend terminal hours Thursday, Friday and Saturday to 0300 hours.
- (2) Amend seasonal wording to add “and any other time the Board declare”.

(3) Permit dance facility within core hours.

(4) Change 85DB to 'Yes'.

4.0 Background

4.1 On 29 August 2019 the Licensing Board received an application for a major variation of a premises licence from Invopco Limited, 267 Clifton Road, Aberdeen, AB24 4HJ.

4.2 The application was publicised during the period 16 September until 7 October 2019 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 objection have been received and are appended:

Rona MacKenzie, [REDACTED]

Roslyn MacKenzie, [REDACTED]

4.6 The applicant and the objectors have been invited to attend the hearing. Both 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. 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 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.

5.3 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.

5.4 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.

6.0 Licensing Standards Officer

6.1 The LSO has provided the following comments:-

- (i) The Gellions, is a very busy City Centre public house in Inverness. It has a three storey construction. On the ground floor is the public bar where regular live entertainment is provided for customers and on the second storey is a function suite with bar facilities which is used on a more sporadic basis.
- (ii) The premises are well run and compliance visits conducted by the LSO bear out that due diligence is carried out by management. The premises are members of the Inverness Pub Watch which covers the majority of city centre premises. They also frequently enter the Best Bar None Awards and have regularly attained and been awarded the gold standard.
- (iii) Currently the premises are entitled to operate late hours until 0200 hours on Friday and Saturday evenings. The main thrust of the variation application is to increase the late hours portion of the licence to 0300 hours on Thursday to Saturday which is currently in line with Highland Licensing Board policy. Such hours could in theory be operated in both bars of the premises.
- (iv) During the public consultation phase of the application, objections were received from Rhona and Roslyn Mackenzie who own and operate rental properties at 4 Bridge Street, Inverness which comprise of 3 flats, one is a tourist let, the other two are residential. One is occupied by Rhona Mackenzie. The objections in summation are concerned about the amount of sound leakage from the bars, particularly the one on the second floor which is in close proximity to the accommodation.

- (v) Accordingly, the LSO hosted a meeting with the applicant, Rhona Mackenzie and an officer from Environmental Health to debate the issue. The parties were openly co-operative and agreed to work together to hopefully progress a solution suitable to both. This would take the form of sound testing which would be overseen by Environmental Health. Subsequent sound testing was carried out and the complainer has stated she is comfortable with the late hours being granted to the downstairs bar, which is the main venue for live music. However, she remains opposed to such use being extended to the upstairs bar where sound levels still remain disruptive. This is borne out by sound recordings carried out by the Environmental Health Officer which supports there being a case of statutory noise nuisance.
- (vi) Accordingly, at this stage, it is the view of the LSO, that should the applicant be willing to amend the application for the extended hours until 0300 hours to apply to the downstairs bar only at this time then this would receive the objectors' support. At present, although contact has been maintained with the agent acting for the applicant, no formal instruction has been issued prior to penning this report. Should further information be provided prior to the Licensing Board, the LSO will provide a further verbal update.
- (vii) Other small alterations to the operating plan contained within the application are agreed to by the LSO.

7.0 HLB local policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2018-23
- (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 no additional local conditions are considered necessary.

8.3 Special conditions

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

- (1) A terminal hour of 0300 hours Thursday to Saturday will apply solely to the downstairs bar of the premises.

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/254

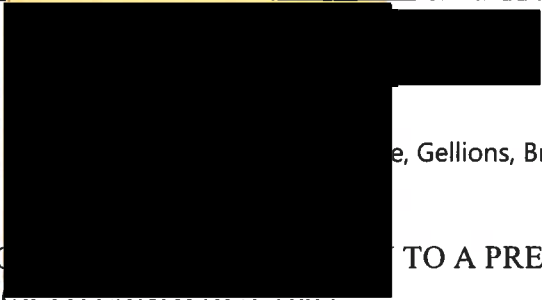
Date: 18 December 2019

Author: Marjory Bain

Appendices: Rona MacKenzie, [REDACTED]
Roslyn MacKenzie, [REDACTED]

Marjory Bain

From:
Sent:
To:
Subject:



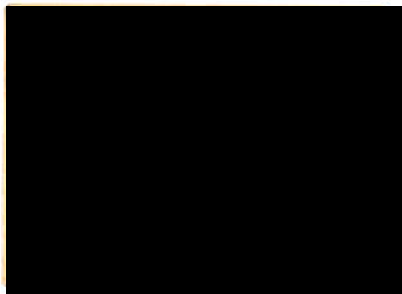
e, Gellions, Bridge Street, Inverness IV1 1HD.

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

Details of person making objection/ representation



IV1 1HD



Address of premises

Gellions

Bridge Street

Inverness

IV1 1HD

Details of any OBJECTION

1. Over provision

There are currently six bars with late licences and dance floors within 100m of my flat. Revolution, The Caledonian, Johnny Foxes, The Den and The Gellions itself, which already has two bars operating a late licence seven nights a week. In addition to these, the former Gs nightclub is being refurbished ready for re-opening as a late night club. There are also numerous bars in Church Street - most with late licences at the weekend, if not all week.

I therefore question whether yet another venue is necessary in this already oversubscribed area?

Details of any REPRESENTATION

1. In support of application

The application states a "primarily commercial area". There are around 30 residential flats between The Caledonian and The Den.

I live in [REDACTED] the same building as The Gellions. I manage the flats for the owner, Roslyn MacKenzie, and live in [REDACTED]. I have a long term tenant in [REDACTED] and I currently rent out [REDACTED] short term to visitors holidaying in the city.

[REDACTED]

The last time there was a function the whole building shook with the noise level from a heavy bass, culminating in live bagpipes to close. Everything on the shelves in my flat vibrated throughout a very unpleasant evening. If this were to become a regular occurrence it would severely impact on the quality of life of both myself and my tenant and would negate my ability to rent out the third flat.

I have attached screenshots of comments in reviews left by some of my guests. Most refer to the level of noise from a normal night in The Gellions. The final one describes the experience of the guests in [REDACTED] on the night that the function room was in use (as noted above). There is also a screenshot of a short text dialogue between this guest and myself on the subject.

 **Private Feedback:**

It may be worth advising your guests that you are next to a live music venue, and may not be suitable for anyone who is sensitive to loud noise. My daughter has autism and the loud music and drunks shouting in the street caused her a lot of alarm. I would suggest this is not suitable for people who need to get to sleep before 2am if they are sensitive to noise at all. You have a beautiful home and in another location (or if I was staying myself) it would have been spectacular. Unfortunately as my daughter (19) has huge sensory difficulties the pub scene and very creaky loud flooring just sent her into many meltdowns. Sorry sounds like the worst review ever, the same place in a different location would have been bliss, it truly was a stunning home, well set out and beautifully decorated, everything anyone could need but just didn't work for our scenario.

 **Private Feedback:**

Dear Rona. We were very Comfortable, and had absolutely everything we needed. Coffee fixings in-house was the best. We walked everywhere and loved the area. I do think u should alert guests to the pub downstairs... they rocked out til 2am a couple nights. Other than that, it was a flawless visit. Thank u

September 2019

 **Private Feedback:**

Beautifully decorated apartment with all the things that make a difference (such as Nespresso coffee machine!). Really liked the apartment and the style - only challenge is the noise from the outside on a busy weekend until the morning hours. If this doesn't disturb you, then definitely a perfect location and place to stay!

August 2018

Fantastic centralized location made it easy to explore the town. The flat itself was larger than I expected. Very clean and bright. The self check-in process was easy and Rona provided quick responses to my questions. The only drawback, was the volume of music coming from the adjacent downstairs bar at night, which was louder than standard city street noise. Overall, we really enjoyed our stay.

Leave Public Response

September 2019

 **Private Feedback:**

Hi Rona, thanks for having us stay at your place. The only thing we were slightly disappointed about was the noise coming from the pub/nightclub next door. Perhaps we should've picked this up in research on location but it might be worth flagging for future guests. Thanks

October 2018

This one is from the guest on the night the function room was in use....

The noise is quite outrageous on a weekend night, but the flat has a nice kitchen, big windows (right on the busiest street so not a lot of privacy, and a giant island counter to cook dinner. The showers were nice and Rona was responsive to our messages. Thank you, Rona, for our stay.

 **Private Feedback:**

Rona, Thank you for your responsiveness in helping to guide parking and responding to the noise. If the price were less expensive, I think it would be easier to have overlooked the intense music coming from the club that felt like it shared a wall with our bedroom, and the twin beds that were not as advertised (the photo on your site is a king or queen). But, because this room was 1.5X the price of any hotel in town, my expectations for a nice apartment for my mom and I were just really not met. Unfortunately, the music did not quiet down and the weekend that was supposed to be a relaxing getaway (me from my studies and my mom on vacation) kept us awake to the wee hours of the morning. We had to move to the couches and close the bedroom door even to fall asleep. Perhaps you can lower the price on nights where the music is going to be loud. Or, just really set expectation on the volume level. I just can't believe how expensive the price was after our experience of sleeping on couches! I hope you do not take this review personally, I just want to do my part to set expectations to your future visitors. I am grateful for your responsiveness and willingness to text back and forth—and hope you are feeling better from being sick! Grace

Any chance you know when the music will stop? 😞

Hi Grace. The pubs will be open and playing live music until about 1am. It's Friday night and you are right in the centre of town.

I've just turned off my tv and that beat is way worse than usual. Normally it's bearable soft rock. Hopefully it won't last long. 😞



Text Message



Marjory Bain

From:
Sent:
To:
Subject:
Attachments:

To whom it may concern

I wish to object to the application for New Grant of Premises Licence by **Gellions, Bridge Street, Inverness IV1 1HD.**

Currently, one flat is let as tourist accommodation and the other two are residential.

Between the flats and the Gellions there is a shared stairwell onto which the fire escape doors open from the 3 flats. This stairwell is basic but sound, and insulated to 1 hour fire protection standard. There is emergency lighting and a further fire escape door onto the street, but it is not soundproofed and the Gellions have made no attempt to insulate themselves from residents living in close proximity to the pub.

It would be simpler for me if this stairwell didn't exist, but it does - and the Gellions and I are supposed to share the maintenance - although, to date, it is I who has contributed the much larger share of refurbishment costs. In addition, there are empty, almost derelict, flats above the Gellions which also share access to the stairwell.

When things are in full swing at the Gellions - with music and customers' voices - it is, as it stands - with no extension of the licence, stressful, loud and sometimes unbearable for people trying to relax on holiday or to simply sleep, with work the next day.

At times, too, Gellions customers will spill out onto the stairwell (and the empty flats) to smoke, drink and shout. Often, huge speakers and other pub- related paraphernalia are 'stored' here, potentially blocking

the safe passage of my tenants, should a fire break out. They have also been disturbed by drunk people knocking on their doors - and glasses, bottles and cigarette ends can litter the stairwell for days. My Title Deed explicitly states that the stairwell should be used by both parties for access and emergency use only.

With a Licence Extension, there is no doubt that these concerning issues would increase significantly for me. Inverness seems to cater extremely well for late night drinking until 3am, especially within a 100 - 200 meter radius of my property.

Yours Sincerely

A solid black rectangular redaction box covering the signature area.