

The Highland Licensing Board

Meeting – 12 May 2020

Agenda Item	7.1
Report No	HLB/28/20

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

Botanic House, 9-21 Castle Street, Inverness, IV2 3DX

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by IV1 Limited, Clava House, Cradlehall Business Park, Inverness, IV2 5GH.

1.0 Description of premises

1.1 Entertainment and restaurant premises spanning over three floors located in Inverness City Centre surrounded by commercial and residential properties.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Sunday: 1900 hours to 0300 hours

3.0 Summary of variation application

3.1 Variation sought

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

(1) Amend core opening hours from 11.00 hrs to 03.00 hrs Sunday-Saturday for the purposes of serving food downstairs.

(2) Add Bar meals - within core hours.

(3) Add Restaurant - within core hours.

(4) 6(b) Change of wording:-

Downstairs: Children and young persons will be permitted when accompanied by an adult for the purpose of having a meal or attending bone fide functions.

Upstairs: Children and young persons will be permitted entry when attending under 18 events.

6(c) Downstairs: 0-17 years of age
Upstairs: 12-17 years of age

6(d) Downstairs: Children and young persons attending for the purposes of having a meal to be permitted until 22.00 hrs.

Upstairs: Children and young persons will be permitted entry between 11.00 hrs and 22.00 hrs when attending an under 18 event or dedicated function.

Children and young persons' attending a private function (upstairs) permitted until 01.00 hrs.

(5) Change to description to read: 'entertainment and restaurant premises over 3 floors.

On the upper level, the premises offer live performance, dance facilities, recorded music and other facilities. Late hours will apply solely to this part of the premises.

On the ground floor of the premises, the operation is food led with restaurant facilities and bar meals offered to the public.

4.0 Background

- 4.1 On 23 January 2020 the Licensing Board received an application for a major variation of a premises licence from IV1 Limited.
- 4.2 The application was publicised during the period 24 February until 16 March 2020 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, 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 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) An application for a major variation to the existing premises licence for the Botanic House, Inverness has been received through agents acting on behalf of the licence holder.
- (ii) In the main, this variation will extend the core opening hours from 11.00 hrs to 03.00 hrs throughout the week. The premises have previously only operated as a late opening venue on the upper storey, providing significant entertainment and vertical drinking facilities within a nightclub setting.

- (iii) The licence holders now wish to develop the ground floor of the premises in order to offer meal provision in a seated restaurant area during more conventional licensed hours during the day and throughout the evening. The lower floor area of the premises are certainly suitable for these purposes. The facilities of restaurant and bar meals has been added to the operating plan at section 5.
- (vi) The children and young persons' policy has been amended in order to reflect appropriate levels of access and supervision to this new part of the premises. The premises description has been updated to reflect the diverse types of operation taking part in different areas of the premises.
- (v) Amended layout plans have been submitted with this application.
- (vi) The LSO is of the opinion that should this application be approved there will be no adverse effect on the licensing objectives.

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

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

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/147
Date: 17 March 2020
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