

The Highland Licensing Board

Meeting – 4 August 2020

Agenda Item	8.1
Report No	HLB/045/20

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

Eden Court Theatre & Cinemas, Bishop's Road, Inverness, IV3 5SA

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Eden Court Highlands Ltd, Eden Court Theatre, Bishop's Road, Inverness, IV3 5SA.

1.0 Description of premises

1.1 Eden Court is an arts complex, comprising of theatres, cinemas, education/dance studios, bars, restaurant and meeting rooms situated in its own grounds overlooking the River Ness and a short walk into the City Centre.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Saturday: 1100 hours to 0100 hours
Sunday: 1200 hours to 2400 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) Outside drinking area to include all outside areas of the grounds and car parks to allow the licence holder more flexibility in hosting events within the grounds.

(2) Sunday on sales hours to commence from 1100 hours.

(3) Description to be amended to include "The entire grounds inclusive of all car parking areas are included within the licensed area to allow for maximum flexibility when catering for events required to be accommodated in whole or in part within the grounds."

4.0 Background

4.1 On Friday, 13 March 2020 the Licensing Board received an application for a major variation of a premises licence from Eden Court Highlands Ltd.

4.2 The application was publicised during the period 23 March until 13 April 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, the Licensing Board was copied into correspondence between Helen Smith on behalf of the local Community Council and the applicant relating to concerns about a late closure of any outside licensed areas.

4.6 As a hearing cannot be held in person due to coronavirus, the Licensing Board, before reaching a decision, must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by alternative methods. Consequently, the applicant and the Community Council have been invited to submit a written representation to state their case.

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) Eden Court theatre and cinema complex has held an alcohol premises licence since the inception of the Licensing (Scotland) Act 2005. The premises having an excellent operating history and compliance checks by the LSO have shown the premises to be managed in a responsible and diligent manner.
- (ii) Application has been made to vary the premises licence operating plan, the on sales hours are requested to commence from 1100 hours in line with current Board policy. The LSO is of the opinion, that this change will not compromise the licensing objectives.
- (iii) The premises have extensive external grounds and car parks surrounding the venue, parts of these grounds are already covered by the existing licence, whereas other areas operate under occasional licences for specific events. It is now requested to rationalise this, by including all grounds and car parking areas to be covered under the licensing footprint. The description of the premises will be amended as follows;

"The entire grounds inclusive of all car parking areas are included within the licensed area to allow for maximum flexibility when catering for events required to be accommodated in whole or in part within the grounds".

This will allow extensive use of the grounds for Christmas markets, trade fairs, summer cultural performances and exhibitions. The LSO having interviewed the applicants, is confident that they strongly respect their social responsibility to neighbouring property to ensure neighbours are not unduly disturbed.

- (vi) Following the public consultation phase of the application, representations were received via Helen Smith on behalf of the local Community Council, expressing slight concern, that events which may entail a late closure outside the main premises may cause a degree of public nuisance. The matter was discussed with the LSO, who recognised there was fairness in this submission. Thereafter, followed a period of negotiation between the applicants and the Community Council and a compromise was subsequently reached whereby, no issue would be raised in respect of two specific events namely; the annual Hogmanay “Highland Fling” which would operate to timescales agreed in any public entertainment licence and the summer time “Under Canvas” event between 1 May and 30 September annually, where the bar provision would continue until 2300 hours.
- (v) Aside from these two specific events which have a City wide benefit, any outdoor event in terms of licensing shall cease at 2200 hours

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:

Any event hosted within the outside grounds of Eden Court Theatre will require to finish at 2200 hours with the exception of Hogmanay celebrations which will be allowed to operate on timescales contained within the public entertainment licence and the Under Canvas event running from 1 May to 30 September each year, whereby the bar facilities and music will stop at 2300 hours.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local and special conditions detailed at para. 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/338

Date: 16 July 2020

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