

## The Highland Licensing Board

Meeting – 1 December 2020

Agenda Item	7.1
Report No	HLB/075/20

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

Old Market Inn, 32 Church Street, Inverness, IV1 1EH

### Report by the Clerk to the Licensing Board

#### Summary

This report relates to an application for a major variation of premises licence by John Henderson Shepherd, [REDACTED].

#### 1.0 Description of premises

1.1 Traditional four storey building located in Inverness City Centre at the back entrance to the Victoria Market. It consists of two bars, a public bar at ground level and a lounge bar on the upper floor.

#### 2.0 Summary of variation application

##### 2.1 Variation sought

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

1. Outside drinking area requested outside frontage of public bar.
2. Outside drinking to be incorporated in revised layout plan.
3. Description to include; 'small outside drinking area situated at the front of premises.'

#### 3.0 Background

- 3.1 On 10 September 2020 the Licensing Board received an application for a major variation of a premises licence from John Henderson Shepherd.
- 3.2 The application was publicised during the period 2 October until 23 October 2020 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 virtual 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](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) An application has been received from the licence holder of the Old Market Inn, Church Street, Inverness to site a small outside drinking area to the front of the premises.
- (ii) This outside drinking area has been trialled during the current Covid restrictions and has operated without issue. It has been viewed by the LSO who is satisfied that, the application complies with the requirements of the licensing objectives. The area operates a very small capacity of 12 persons.
- (iii) Police Scotland have been consulted and have raised no objections provided that the operation of this area is appropriately conditioned.
- (iv) The relevant site notice has been displayed for 21 days. No public objections or representations have been received.

## **6.0 HLB local policies**

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2018-23
- (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 it is recommended that the following additional local condition(s) be attached:

- (l) The boundaries of any outside area will be effectively demarcated to the satisfaction of the Licensing Standards Officer.
- (m) After 2200 hours, alcoholic or non-alcoholic drinks shall not be consumed in any outdoor drinking area.
- (ni) No live music or recorded music shall be played in any outdoor drinking area.

- (o) The licence holder shall ensure that consumption of drinks (alcohol or non-alcoholic) in any outside drinking area is permitted only by customers seated at the tables and chairs provided in the outside drinking area and not by customers standing in the area.
- (p) The licence holder shall ensure that all outdoor tables are regularly cleared of all used glassware, crockery, cutlery and refuse.
- (q) Within 15 minutes of the conclusion of permitted hours for any outside drinking area situated on the public footpath, all tables, chairs, parasols and other moveable furniture will be removed.

### 7.3 Special conditions

No special 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. 7.2 and 7.3 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/385  
Date: 4 November 2020  
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