

The Highland Licensing Board

Meeting – 5 September 2023

Agenda Item	9.2
Report No	HLB/101/23

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

Gellions, 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 The Gellions is a traditional public house located in a primarily commercial area of Inverness City Centre.

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. 1100 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 hour for on sales to 03.00 hrs daily.
- (2) Amend seasonal wording to add 'and any other time the Board declare.'

- (3) Q5 - permit dance facility within core hours.
- (4) Q5 add 'Breakfast service may occur but not before 08.00 hrs and column 4 activities will be ancillary to same.
- (5) Q5(g) change 85 DB to yes.
- (6) Q6(d) add permission to watch live music/entertainment until 21.00 hrs.
- (7) Description to read: 'Bar/restaurant and late night music bar, located in a primarily commercial area of Inverness City Centre.

4.0 Background

- 4.1 On 22 June 2023 the Licensing Board received an application for a major variation of a premises licence from Invopco Limited.
- 4.2 The application was publicised during the period 17 July until 7 August 2023 and confirmation that the site notice was displayed has been received.
- 4.3 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.
- 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, a representation was received from Police Scotland and is attached as appendix 1 to this report.
- 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:

www.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 public house is a well-established city centre venue in Inverness. The premises are operated by Invopco Ltd through Gavin Stevenson. The premises have a satisfactory operating history and currently trade on Thursday to Saturday until 03.00 hrs with late hours entitlement.

(ii) Application has been made by the operators, to extend this late hours operation to include Sunday to Wednesday evenings inclusive, until 03.00 hrs, however, following discussion would be open to a compromise of 03.00 hrs for a Wednesday and 02.00 hrs Sunday to Tuesday inclusive. Such an application is currently outwith HLB Policy which provides for late opening solely, on a Thursday to Saturday basis.

(iii) The reason for the application is both economical and to provide late night entertainment for tourists and locals alike, hoping to capture additional trade, by having additional night's late operation. The Board has previously stepped outwith HLB Policy by granting extension on Wednesday evenings until 03.00 hrs and it will be a matter for the Board to decide, if they are willing to step outside their current policy, to permit seven days trading until 03.00 hrs.

(iv) The representations of Police Scotland will also be relevant as the late hours policy was developed to ensure Police resources were not overburdened with City centre policing.

(v) The premises are a busy and popular venue which has been well operated by the current tenant. The premises are members of the Inverness pub watch and have regularly secured national awards at the 'Best Bar None' trade awards and have recently won the National Entertainment Award amongst other recognition of their operational. The applicants, Invopco, are the largest booker of 'live entertainment' in Scotland within the region of 1,200 bookings per annum across their licenced establishments.

(vi) Ostensibly, the premises have operated a public bar at street level, where regular live entertainment, provided by bands with a cadre of local support has been a substantial feature. The premises pre-advertise this entertainment and it is a principal reason for attracting a large gathering of patrons each day of the week. On the second floor, the premises have a function suite with a separate bar counter, and which is now included as a late-night venue, together with the downstairs bar. The venue on the second floor is accessed by a separate entrance at street level, it has its own dedicated suite of toilets.

(vii) A visit to the premises in respect of this application, has been conducted by the LSO. The bar is equipped with a dedicated digital system of CCTV cameras, covering all areas of the premises inside, outside, upstairs, downstairs and back bar, the infrastructure of the bar for providing live music is established, with a small, yet well used dance area. The entertainment is already pre-advertised and genuinely forms a "significant" part of the operation, which is where the late hours will apply.

(viii) The premises manager, has already ensured there is a sufficiency of personal licence holders and first aid trained personnel among his staff. Stewarding is already provided seven days a week by a firm of SIA registered door stewards.

(ix) The applicants own and run a suite of three luxury self-catering holiday apartments, conveniently located nearby. The premises are located near other residential properties and have previously had noise complaints from residents which required them to complete a noise management plan. There have been no known recent noise complaints since pre- covid operations.

(x) During the public consultation phase of this application, no objections or representations were received by the Board.

(xii) From an LSO perspective the premises have proved fully able to meet the late opening conditions and operate in a responsible way. Currently there are other City Centre venues able to open for late hours on Wednesday through “grandfather rights”.

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 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. 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/MB
Date: 23 August 2023
Author: Marjory Bain

02/08/2023

Your Ref: HC/INBS/254

Our Ref: 741838

Clerk to the Highland Board
Town House
High Street
Inverness
IV1 1JJ



**POLICE
SCOTLAND**

Keeping people safe

Divisional Co-ordination Unit
Highland and Islands Division
Police HQ
Old Perth Road
INVERNESS
IV2 3SY

FOR THE ATTENTION OF Iain Meredith

Dear Sir,

**LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE
GELLIONS 14 BRIDGE STREET, INVERNESS, HIGHLAND, IV1 1HD.
INVOPCO LTD**

I refer to the above application for the variation of a premises licence under terms of Section 29(5) of the Licensing (Scotland) Act 2005.

The variation requested consists of

1. Amend Q2 to terminal on sale hours of 0300 daily
2. Amend seasonal wording to add "and any other time the Board declare"
3. Amend Q5 matrix to permit dance facility within core hours
4. Amend Q5 more information to add – Breakfast service may occur but not before 8am and column 4 activities will be ancillary to same
5. Amend Q5(g) – change 85DB to YES
6. Amend Q6(d) to add permission to watch live music/entertainment until 9pm

In terms of Section 29(5) of the Act this request can be considered a variation.

In terms of Section 22(1)(b)(ii) and (iii) of the same Act, I make the following representation.

The first request asks for the on sales terminal hour each day to 0300 hours.

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This is out with Highland Council Licensing Policy and would mean the premises are operating beyond a continuous 14 hours each day when they utilise that end time.

The premises have not provided good reason in the application as to why they require a 0300 terminal hour for on sales every day of the week.

Highland Licensing Policy is clear that late opening premises can apply and utilise till 0300 hours on Thursday, Friday and Saturdays.

In terms of Section 22(1)(b)(ii) and (iii) of the Licensing (Scotland) Act 2005, I am of the opinion that the variation in its current form should be modified so that the premises continue to end on sales hours at 0100 through the week and benefit from the 0300 hours for the Thursday, Friday, Saturday.

Police would accept a 0300 for Wednesday, if the committee see fit to allow this. This appears to be a reasonable compromise.

This would allow the premises to further benefit economically and allow a more vibrant city centre. Including Monday and Tuesday 0300 hours end appears excessive with no explanation from the premises as to why they feel this is required.

Police Scotland believe a terminal hour of 0300 each day would be inconsistent with our Licensing Objectives, namely

1. Prevention of public nuisance – noise from music, litter and light pollution especially during week days where many members of the public passing through or living in the area are least expecting it.
2. Prevention of crime and disorder – the consumption of alcohol is clearly linked to acts of disorder, drunkenness and antisocial behaviour. Having a premises in the town centre of Inverness which is allowing late night consumption of alcohol adds to the risk of crime and disorder.

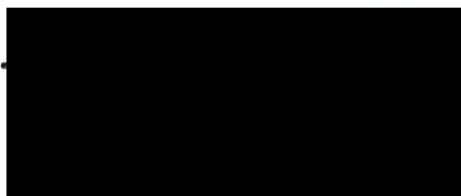
A recent incident connected to the premises demonstrates the above objectives and how these can be breached.

On the 14th of June 2023 around 0025 hours a patron left the premises and appeared to urinate outside the premises, exposing himself to persons in the street. He was located and arrested for public indecency.

This representation is submitted for your attention in considering this application.

Yours faithfully

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Chief Superintendent Rob Shepherd
Divisional Commander

For enquiries please contact the Licensing Department on 01463 720817.

