

## The Highland Licensing Board

Meeting – 4 February 2014

Agenda Item	11.5
Report No	HLB/018/14

### Application for a Major Variation of Premises Licence under the Licensing (Scotland) Act 2005

Little Italy Italian Tapas and Prosecco Bar, 4A-6 Stephen Brae, Inverness IV2 3JN

#### Report by the Clerk to the Licensing Board

##### Summary

REF: HC/INBS/48

This Report relates to an application for a Major Variation of Premises Licence.

**Premises:** Little Italy Italian Tapas and Prosecco Bar, 4A-6 Stephens Brae, Inverness IV2 3JN

**Applicant:** Mr Chas de Vita, 7 Burnbrae, Westhill, Inverness IV2 5TN

## 1 Description of Premises

Small City Centre Italian Restaurant with 9 Interior dining tables. (Previously operated as 'The Larder' under another licence holder). It sells a small range of alcohol to accompany meals. The premises have an outside drinking area on Stephens Brae adjacent to the premises and covered by a pavement permit.

### 1.1 Previous Core Operating Hours

#### On Sales:

Mon – Sat 11.00 hrs to 22.00 hrs

Sunday 12.30 hrs to 22.00 hrs

## 2 Summary of Variation Application

### 2.1 Variation Sought

Operating plan:

1. Amend On Sales hours on Monday to Sunday to permit trading from 11.00 hrs to 01.00 hrs

2. Addition of Off Sales hours Monday to Sunday from 11.00 hrs to 22.00 hrs

3. Allow live performances during licensed hours.

4. Allow outdoor facilities within and outwith core hours.

Premises Licence:

Existing description with additional paragraph:

The premises have an outside drinking area on Stephen's Brae adjacent to the Premises and covered by a pavement permit.

### **3 Background**

3.1 On 3 December 2013 the Licensing Board received an application for a Major Variation of a Premises Licence on behalf of the applicant, Mr Chas de Vita.

3.2 The Board has advertised the application on the Council's website for a period of 21 days and the applicant has to display the Notice on site for the same period (9 December to 30 December 2013). Confirmation of site notice has been received.

3.3 In accordance with standard procedure, Police Scotland, Highlands and Islands Fire and Rescue Service, The Council's TEC Services (Environmental Health), Planning and Building Standards were consulted on the application.

Notification and a copy of the application have been sent to NHS Highland and the local Community Council for the area.

3.4 Notice of the application has been sent to and all the people listed under S21(1) of the Act.

3.5 No objections have been received in respect of the application.

### **4 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. that 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. having regard to the number and capacity of (i) licensed premises of the same or similar description as the subject premises (taking account of the proposed variation), in the locality in which the subject premises are situated, the Board considers that, if the application were to be granted, there would, as a result, be over provision of licensed premises or licensed premises of that description in the locality.

4.2 The Board has power where, if they would refuse the application as made, but if a modification is proposed by them and accepted by the applicant, the application can be granted as modified.

## **5 Licensing Standards Officer's Comments**

The premises in question are a boutique small restaurant premises situated on the popular Stephen's Brae area of Inverness in the City Centre. The premises have recently transferred into the ownership of Mr Charles De Vita who owns the Little Italy licensed premises next door and wishes now to run a complementary business on an Italian theme. The location is mainly a commercial district.

As a consequence, application is made to extend the trading hours from Monday through to Sunday to allow trading each night until 01.00 hrs. This is in line with current Licensing Board Policy. The Applicant also seeks to be allowed to sell off sales between the hours of 11.00 hrs and 22.00 hrs daily. It is envisaged that trade in off sales will be minimal and only occasional bottles of wine/liquors will be sold to customers.

The Applicant also seeks to be allowed to have live performances included within the list of approved activities on the Operating Plan as on occasion an Italian musician /singer will be engaged for the entertainment of customers.

In addition the application seeks to establish an outside drinking area on a purpose built terrace of which there are several already in operation along Stephen's Brae. The neighbouring premises, Little Italy, has successfully operated such a facility for the past year. A current Pavement Permit already exists until the Spring and will be renewed by the Applicant.

The variations within the application in the opinion of the LSO will not in any way compromise the licensing objectives. The Application is within the Highland Licensing Board's Policy hours. The proposed conditions are accepted by the Applicant.

## **6.0 HLB Local Policies**

The following policies are relevant to the application:-

- (i) Highland Licensing Board Policy Hours
- (ii) Highland Licensing Board Policy Statement
- (iii) Schedule of Local Conditions
- (iv) Highland Licensing Board combined Equality Scheme

## **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**

a).Children under the age of 16 are excluded from any room where there is a bar counter after 22.00hrs except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This condition does not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress. (Licensing Objective 5).

b).Whilst in any room with a bar counter all children must be in the company of, or supervised by an appropriate responsible adult. This condition does not apply to children of the Licence Holder or children who are resident on the premises. (Licensing Objective 5).

c).Notwithstanding conditions (a) and (b) children must not sit or remain at the bar counter at any time. (Licensing Objective 5)

e).After 23.00hrs alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area. (Licensing Objective 3).

m).The Licence Holder shall ensure that all outdoor tables are regularly cleared of all used glassware and crockery. (Licensing Objective 2).

## **8 Recommendation**

The Board is invited to determine the above application.

Designation: Clerk to the Licensing Board

Reference: HC/INBS/480

Date: 3 December, 2013

Author: Wendy Grosvenor

Background Papers: The Licensing (Scotland) Act 2005/Application Form.

Licensing Board Policy Statement from 1 December 2013 to 30 November 2016