

The Highland Licensing Board

Meeting – 7 October 2014

Agenda Item	9.10
Report No	HLB/127/14

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

The Caledonian, 9-11 High Street, Inverness IV1 1HY

Report by the Clerk to the Licensing Board

Summary

REF: HC/INBS/323

This report relates to an application for a major variation of premises licence.

Premises: The Caledonian, 9-11 High Street, Inverness IV1 1HY

Applicant: Stonegate Pub Company Ltd, c/o Codan Trust Company (Cayman) Ltd, per Hill Brown Licensing, Glasgow.

1 Description of Premises

A public house premises with conference, restaurant, bar meals and other facilities on the ground floor. The premises are situated between retail units in a mixed residential and commercial area in the city centre. The licence offers on and off sales.

1.1 Current Core Operating Hours

On Sales:

Monday to Sunday: 11.00 hrs. to 01.00 hrs.

Off Sales

Monday to Sunday 11.00 hrs. to 22.00 hrs

2 Summary of Variation Application

2.1 Variation Sought

Amend on sales hours on Thursday, Friday and Saturday to 03.00 hrs. the following morning.

3 Background

3.1 On 26 August 2014 the Licensing Board receipted an application for a major variation of a premises licence from the applicant's agent, Hill Brown, Glasgow.

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 period (1 September to 22 September 2014). Confirmation of display of the 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), and Planning and Building Standards were consulted on the application.

Notification and a copy of the application have been sent to NHS Highland.

The local Community Council for Inverness Central is not currently formed.

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

3.5 Two letters of objection have been received, from:

1. CFG Leisure 6 Ltd, trading as Ultra Violet, operators of G's and Vinyl, 9-21 Castle Street, Inverness, per Brunton Miller Solicitors, 22 Herbert Street Glasgow,
 2. Garry Walker Dinnes, c/o Inverness City Suites, 2-7 High Street, Inverness IV1 1HY;
- and these are attached as Appendix 1 to the report.

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. that 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. that 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 only has power to either grant the application and make a variation of the conditions to which the licence is subject or refuse the application.

If the Board refuses 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.

5 Licensing Standards Officer's Comments

The Caledonian is a large bar/restaurant operating within the High Street of Inverness. It is a popular bar and is well run. History shows that there has been very little issue in respect of matters relating to the Licensing Objectives. The management have been consistently co-operative with the LSO.

Currently the premises trade as a food/drink venue from opening until late evening. When the food provision stops, the emphasis shifts to wet sales and at the weekend bespoke entertainment is provided for customers. The management employ SIA registered door stewards at the weekends as per the conditions of their licence. The premises are active members of the City Centre Pub Watch and take part in the Best Bar None Awards.

The LSO has met with the premises manager and confirmed that the applicants are able to meet the full range of Mandatory Late Night Conditions and the Local Condition requiring the late night provision of food.

The applicants state that they will provide substantial entertainment, pre advertised, in the form of live entertainment and discotheques. They have a bespoke dance floor area within the downstairs bar area.

The application complies with the Board's Policy in terms of Late Opening Premises. The management of what has already proved to be a busy City Centre establishment gives the LSO confidence that should the Board be minded to grant the application, that there would be no adverse effect on the Licensing Objectives within the City Centre environment. At this time the applicants do not have draft misuse of drug policies or evacuation policies for perusal. The premises manager has been advised to source these and have them available for the Board's information at the forthcoming meeting.

One small issue that has recently arisen has been complaints of noise suffered by residents in Baron Taylors Street properties from the use of the outside drinking area as a smoking terrace particularly in the late evening. Currently this area of the premises is constrained in terms of alcohol provision to 9pm. However this does not preclude its use by smokers. The advent of this application is timely in that a suggested solution, as the premises are potentially going to be busier, is to close completely the outside drinking area at 9pm and thereafter patrons would be able to use the area outside the main entrance to smoke which is under the direct scrutiny of the SIA registered door staff and covered by CCTV. This suggestion has

been broached to the premises manager who has indicated that such a proposal could be accommodated; subsequent confirmation has also been received from the Agents acting for the Applicants that such a condition is acceptable on behalf of their clients.

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.

Should the application be granted the conditions contained within the Licensing Conditions (Late Opening Premises) (Scotland) (Regulations) 2007 will also 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).

g) Premises open for the sale of alcohol after 01.00hrs shall have available a selection of hot and cold foods and shall advertise this within the Premises (Licensing Objective 4).

i) Any music or live performance will cease at 02.45hrs on any occasion when the Premises are open after 1am. (Licensing Objective 3).

n) The Licence Holder shall ensure the provision of an effective means of recording the capacity during the premises hours of operation.

o) On any day for which the terminal hour specified in this Licence is later than 01.00hrs the following day, alcohol may be sold on the Premises after 01.00hrs only while entertainment as detailed in the operating plan is being provided and has been provided continuously from no later than 22.00hrs. (Licensing Objective 4).

Specific Local Conditions

All glass disposal should cease by 23.00hrs.(Licensing Objective 3).

The outside drinking area as detailed within the layout plan for the Premises shall be closed to customers from 21.00 hrs daily.(Licensing Objective 3).

8 Recommendation

The Board is invited to determine the above application and the local conditions and specific condition recommended at paragraph 7.2..

If the Board refuses 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.

Designation: Clerk to the Licensing Board

Reference: HC/INBS/323

Date: 12th September 2014

Author: Wendy Grosvenor

Background Papers: The Licensing (Scotland) Act 2005/application form.

Licensing Board Policy Statement from 1 December 2013 to November 2016



RECEIVED

REPRESENTATIONS OR OBJECTIONS IN RELATION TO A PREMISES LICENCE APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005

Please read the Board's Guidance Notes on How to Object or make Representations in relation to a Premises Licence Application before completing this form. This form when completed should be returned to the nearest office of the Licensing Board using the contact details in the guidance notes. Remember, if an objection is rejected by the Board as frivolous or vexatious, the Board may seek to recover expenses from the objector or person making representations

1. Full Name and Address of person making objection/representation:

GARRY WALKER DINNES c/o INVERNESS CITY SUITES 2-7 HIGH STREET INVERNESS		IV1 1HY
Telephone Number:	01463 715218	
Email Address:	stay@invernesscitysuits.co.uk	

2. Address of Premises in respect of which objection / representation is made:

THE CALEDONIAN 9-11 HIGH STREET INVERNESS IV1 1HY

3. Details of any **OBJECTION**: (complete only if you consider one of the ground for refusal apply)

State ground of objection (refer to ground of objection by number, see guidance notes, and give details): (Continue on separate sheet if necessary)		
1.	Excluded Premises	- SEE ATTACHED
2.	Off-Sales Hours/24 hour drinking	
3.	Licensing Objectives	
4.	Activities/Premises/Customers	
5.	Over Provision	

4. Details of any **REPRESENTATION**: (complete only if you wish to make a representation in respect of the application)

State details of any representation (refer to representation by number, see guidance notes, and give details): (Continue on separate sheet if necessary)		
1.	in support of application	
2.	seeking an amendment to the operating plan, or	
3.	seeking to add additional conditions to the licence	

Signature:...

Date..... 20/9/14

In addition, externally created noise from the rear of the Caledonian Pub (smokers area) and on the High Street (smokers congregating outside the pub entrance) creates noise nuisance and fear / safety concerns to apartment guests unfamiliar with the city. This noise nuisance and personal safety concern would only increase with late night revelers attempting to access the bar and departing during the requested extensions to trading hours. This noise nuisance increases significantly every time a front or rear pub door is opened.

As a tourist town Inverness needs to address these issues. Increased late night noise nuisance and public safety concerns will have a devastating impact on our ability to trade and leave the tourist with a very negative view of our city.

5 - Over provision:

We believe there is currently more than adequate provision of late night licensed premises in the city centre and this is surely supported by the closure of the Miami Night Club which, we understand, was closed as a result of lack of demand.

Garry W Dinnes

Managing Director

Inverness City Suites



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2-7 High Street
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www.invernesscitysuites.co.uk

Reference: The Caledonian, 9-11 High Street, Inverness IV1 1HY

Amendment to On sales hours on Thursdays, Fridays and Saturdays to terminate at 03.00 hrs the following morning

Grounds of Objection:

3 - Inconsistent with Licensing Objectives

Preventing Crime and Disorder: There is a history of late night damage to the ground floor window glass to our property and to many properties on the High Street. At weekends we regularly have to clean up urine and vomit from our entrance doors; our concern is that allowing this extension of licence would create an environment where crowds would congregate, rather than disperse (pedestrian precinct and public seating) and this unacceptable behaviour would only increase.

Securing Public Safety Inverness City Suites accommodates guests / families visiting Inverness from every corner of the globe and it is disappointing to read guest on-line reviews that state they "DO NOT FEEL SAFE" on the High Street / within the location of the apartments.

Preventing Public Nuisance: Inverness City Suites is a luxury serviced apartment operator catering to short stay tourists, visitors and corporate guests and is currently No 1 on Tripadvisor for speciality lodgings in Inverness.

The Caledonian Pub and Inverness City Suites have main entrance doors next to each other on the High Street and the buildings are linked by an internal party wall. There is a history of nuisance from late night noise disturbance to apartment residents. This noise nuisance is generated from loud music (bass beat) reverberating through the internal wall and being audible to a level that disturbs / prevents guests sleep. Whilst many guests understand city centre noise they will not accept noise disturbance throughout the night.



BruntonMillerSolicitors

○ Glasgow Office 22 Herbert Street Glasgow G20 6NB tel 0141 337 1199 fax 0141 337 3300

Our Ref: ADM/EB

Your Ref:

RECEIVED
15 SEP 2014

The Clerk
Highland Licensing Board
Town House
Inverness
IV1 1JJ

11 September 2014

Dear Sir

Gs & Vinyl
The Caledonian, 11 High Street, Inverness
Application for Variation of Licence

We act for CFG Leisure 6 Limited trading as Ultra Violet, the operators of Gs and Vinyl located at 9 – 21 Castle Street, Inverness. We are instructed to object to the application for Variation lodged by Stonegate Pub Limited in relation to The Caledonian, 11 High Street, Inverness in which the applicants seek to extend their trading hours to 3.00 a.m. on Thursdays, Fridays and Saturdays.

Our clients would point out that already within the locality of Inverness Town Centre, there are at least ten premises which enjoy a 3.00 a.m. extension. These as are undernoted. Of those listed, we understand that three are currently closed. The area is already saturated with 3.00 a.m. extended premises and it is our clients' contention that having regard to the number and capacity of such premises in the locality in which the subject premises are situated, if granted, there would as a result be over-provision of licensed premises of this type in the locality.

Secondly, the addition of another 3.00 a.m. extended premises will lead to more people moving around the Town Centre in the early hours of the morning as they migrate from premises to premises. Given there is no longer a midnight curfew in place, patrons are free to move between units at will. The grant of yet another 3.00 extended premises will lead to a likely increase in public nuisance and crime and disorder and as such the granting of the application would be inconsistent with the licensing objectives of Preventing Crime & Disorder and Preventing Public Nuisance as stated in paragraph 4(1)(a) and (c) of the Licensing (Scotland) Act 2005.

Thirdly, in terms of the Board's policy, 3.00 a.m. extensions would be considered for premises or parts of premises which offer significant entertainment facilities and where the provision of alcohol for consumption on the premises is ancillary to the significant entertainment provided. Specifically nightclubs and discoteques are referred to within the Policy although reference is made to "hybrid" premises as being suitable provided certain circumstances relating to "significant entertainment" being provided are met. It is submitted that this particular

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application does not sit well with the policy requirements, given that the premises currently trade in essence as a public house and the mere introduction of a DJ does not change that.

It is our understanding that a similar application for these premises has been refused on previous occasions and it is submitted that there has been no change to the nature of the operation which would justify a different decision on this occasion. As such, the Board is invited to refuse the application.

Yours faithfully
Brunton Miller

Partner.

Note referred to:-

Foxes & Den
Hootn'anny
Karma
Kake Old Blue
Miami
Aces
Ironworks
Private Eyes
Gs & Vinyl
Portland Club