

The Highland Licensing Board

Meeting – 6 January 2017

Agenda Item	8.2
Report No	HLB/006/17

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

The Black Isle Bar, 68 and 68A Church Street, Inverness, IV1 1EN

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of provisional premises licence by Black Isle Brewing Co. Ltd., Taebclair, Munlochy, Ross-shire, IV8 8NZ per Lorna Murray, Solicitor, 45 Culduthel Road, Inverness, IV2 4HQ.

1.0 Description of premises

1.1 Ground floor bar with beer garden on the first floor part of a larger tenement in Inverness City Centre.

2.0 Summary of variation application

2.1 Variation sought

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

(1) Allow the outside drinking area (the roof garden) of the premises to remain open until 2400 hours daily. No music will be played in the roof garden.

(2) Capacity to be increased to 154.

(3) The layout of the premises has altered to a material extent since the grant of the provisional premises licence (see plans which accompany this application).

3.0 Background

3.1 On 25 October 2016 the Licensing Board received an application for a major variation of a provisional premises licence from Black Isle Brewing Co Ltd.

3.2 The application was publicised during the period 7 November until 28 November 2016 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 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

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. having regard to the number and capacity of 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 overprovision of licensed premises or licensed premises of that description in the locality.
- 4.2 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.

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) The Black Isle Bar, 68 and 68A Church Street was granted a provisional premises licence by the Highland Licensing Board at their meeting of 6 October, 2016. Since October, the premises have operated under occasional licences. The premises have been well run and no problems have arisen. The LSO has visited and given advice on the requirements imposed by the Licensing (Scotland) Act 2005.

(ii) At the stage of the provisional application, the LSO made a recommendation that the roof top outside drinking area should be required to close for the consumption of alcoholic and non-alcoholic drinks at 2100 hours in line with licensing objective 3 (public nuisance). This was supported by the planning department of Highland Council who imposed a similar planning condition.

(iii) During the operational phase since the premises have been opened, the outside drinking area has been utilised by patrons and no adverse complaints or reports have been received from the occupiers of neighbouring properties. The premises have been inspected during the course of business and the area has been seen to be functioning satisfactorily in line with the licensing objectives. Appropriate supervision and diligence to the area has been maintained by staff. From the information gleaned thus far, the LSO is of the opinion that the current local condition can be relaxed to allow use until midnight. An appropriate condition will be attached, preventing any live or recorded music from being played in the outside drinking area. Planning and building standards have been consulted and confirm, they are content to have the current condition relaxed.

(iv) In addition the internal lay out of the premises have been re-configured which has increased the internal capacity to 154. Amended layout plans have been submitted by the applicant.

6.0 HLB local policies

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-18
- (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 no additional local conditions are considered necessary.

7.3 Special conditions

The Board may wish to consider attaching the following special condition:

- (1) "After 2100 hours the outside drinking area of the premises shall be closed to all persons" should be removed and the following amended local licensing condition inserted in its place: "After 2400 hours the outside drinking area of the premises shall be closed to all patrons".

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed special condition detailed at para 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/583

Date: 30 November 2016

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