

## The Highland Licensing Board

Meeting – 9 June 2017

Agenda Item	12.8
Report No	HLB/066/17

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

The Star Hotel, 3 Church Street, Nairn, IV12 4AP

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

##### Summary

This Report relates to an application for a major variation of premises licence by The Partnership of Andrea Raynsford and Mark Robertson, The Star Hotel, 3 Church Street, Nairn, IV12 4AP.

#### 1.0 Description of premises

1.1 Detached premises situated in the centre of Nairn surrounded by a mix of commercial and residential properties.

#### 2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

##### On sales:

Monday to Wednesday: 1100 hours to 2400 hours  
Thursday to Sunday: 1100 hours to 0100 hours

##### Off sales:

Monday to Saturday: 1100 hours to 2200 hours  
Sunday: 1230 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) On sales to terminate at 0300 hours rather than 0100 hours on Thursday, Friday and Saturday.

(2) Childrens' Policy amended to allow children and young persons' access for private functions only.

(3) New bar area and layout has been created in the function suite – new layout plans prepared.

(4) Description to read: "The Star Hotel comprises six letting bedrooms, traditional public bar, outside smoking area, dedicated function suite and lounge bar. Also manager flat at top of the building."

(5) Capacity to be increased from 170 to 176.

(6) Seasonal Variations in accordance with the Licensing Board's policy.

#### **4.0 Background**

4.1 On 10 April 2017 the Licensing Board received an application for a major variation of a premises licence from The Partnership of Andrea Raynsford and Mark Robertson.

4.2 The application was publicised during the period 17 April until 8 May 2017 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, the following timeous notices of objection have been received and are appended:

Iona and Colin Hampson, Flat 2, 36 High Street, Nairn, IV12 4AU  
Carol Leiper, Flat 1, 36 High Street, Nairn, IV12 4AU

4.6 The applicant and the objectors have been invited to attend the hearing. Both have been advised of the hearings procedure which will be followed at the meeting and which may also be viewed via the following link:

[http://highland.gov.uk/hlb\\_hearings](http://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. 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.

5.2 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.

## **6.0 Licensing Standards Officer**

6.1 The LSO has provided the following comments:-

(i) The Star Hotel is a detached premises situated centrally in Nairn on Church Street. The premises have held an alcohol premises licence since the inception of the Licensing (Scotland) act 2005. The licensing history of the premises is satisfactory and compliance checks have shown that the requirements of the licensing legislation are being adequately complied with.

(ii) Application has been made by the licence holders to operate "late opening" hours from Thursday to Saturday, in line with the board's current policy for this category of premises. The premises have been visited by the LSO and conform with the guidance within the policy, in respect of dedicated dance floor and "significant" entertainment. CCTV is already installed and Police Scotland have been advised, in order that it can be inspected to ascertain if it meets their standards. The applicant has been required to submit policies concerning drugs and evacuation as required by the mandatory late opening conditions.

(iii) As "significant entertainment" will involve the playing of live and recorded music, a noise management plan is required to ensure that the third licensing objective, concerning public nuisance, has been taken into account and mitigated. Several residential units are close at hand, complaints of noise have been received in the past, which have been dealt with by informal resolution.

This requires to be more formally managed, with the prospect of regular entertainment. At the time of compiling this report the Noise Management Plan is still awaited.

(vi) The applicant has requested the children and young persons' policy be amended, to allow children and young persons to access privately booked functions within the function suite, at management discretion. This is seen as in keeping with the fifth licensing objective by the LSO.

(v) Some minor alterations within the function suite have been carried out in moving the position of the bar counter. This has been recorded on revised layout plans submitted with the application.

(vi) The applicants are fully aware of their responsibilities to provide SIA stewards and licensed first aid personnel during the operation of late hours.

## **7.0 HLB local policies**

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-18
- (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 condition (q) will continue to apply and it is recommended that the following additional local condition(s) be attached:

(g) Premises open for the sale of alcohol after 0100 hours shall have available a selection of hot and cold foods and shall advertise this within the premises.

(i) Any music or live performance to terminate at 0245 hours.

(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 0100 hours the following day, alcohol may be sold on the premises after 0100 hours only while entertainment as detailed in the operating plan is being provided and has been provided continuously from no later than 2200 hours.

(q) The licence holder shall submit to the board and to Police Scotland, prior to 1 December each year, notice of the dates within the festive period on which it is intended that the premises remain open until the festive period terminal hour stated for that category of premises in the Board's policy statement. The premises may remain open until the festive period terminal hour only on those dates for which notice has been given by the licence holder to the board and to Police Scotland in accordance with this condition.

### 8.3 Special conditions

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

- (1) During the playing of any live or recorded music all windows and doors will remain shut. (licensing objective 3).
- (2) No glass disposal shall take place after 2300 hours or before 0700 hours. (licensing objective 3).
- (3) A written noise management plan acceptable to the Highland Licensing Board must be in place for the premises and any relevant activity or service being provided must be conducted in accordance with that plan. (licensing objective 3).
- (4) The late hours entitlement contained within this licence will only come into effect when acceptable drug and evacuation policies have been lodged with the Board and confirmation has been received that a CCTV system approved by Police Scotland has been installed within the premises. (licensing objectives 1 and 2).

#### **Recommendation**

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local and 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/142

Date: 9 May 2017

Author: Marjory Bain

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

## Licensing

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**From:** Iona Hampson <craftyweebirdie@btinternet.com>  
**Sent:** 08 May 2017 15:05  
**To:** Licensing; Licensing  
**Subject:** Liquor licence applications - Nairn, The Star Hotel, 3 Church Street, Major Variation

Dear Sir,

We would like to object about the proposal from The Star Hotel, 3 Church Street, Nairn to increase their hours to 0300 on a Thursday, Friday and Saturday night. We currently find the noise level unacceptable at closing time. We regularly get woken by shouting, singing and general drunken behaviour. We feel if it is something they cannot currently control then they should not be entitled to extend their opening hours even later. We feel it is unfair on residents to have to be subjected to this later into the night, or rather into the early hours. The proposed 0300 finish will also coincide with The Playhouse (nightclub across the road) closing. We feel that both bars closing at that time will result in even more loud anti-social behaviour. Resulting in further lack of sleep for our family. We have 2 children who often get woken by the shouting and singing that takes place on a Friday and Saturday night after customers leave these premises. We cannot have our windows open on these evenings as it is. We do not object to their other proposals of change.

Yours faithfully

Iona & Colin Hampson

Flat 2, 36 High Street, Nairn, IV12 4AU



**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 or emailed to [licensing@highland.gov.uk](mailto:licensing@highland.gov.uk). 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:**

CAROL LEIPER, FLAT 1, 36 HIGH ST, NAIRN, IV12 4AU.	
Telephone Number:	01667 451172.
Email Address:	carol.a26@yahoo.com.

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

THE STAR HOTEL, 3 CHURCH ST, NAIRN, IV12 4AP
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**3. Details of any OBJECTION:** (complete only if you consider one of the ground for refusal apply)

<b>State ground of objection (refer to ground of objection by number, see guidance notes, and give details):</b> (Continue on separate sheet if necessary)	
1. Excluded Premises	PREVENTING PUBLIC NUISANCE PREVENTING CRIME & DISORDER
2. Off-Sales Hours/24 hour drinking	
3. Licensing Objectives ✓	* PLEASE SEE OVER
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)

<b>State details of any representation (refer to representation by number, see guidance notes, and give details):</b> (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:.....*Carol Leiper*..... Date:.....*08/05/17*.....

- **Submission of Objections/Representations:**

- **By e-mail:**

Objections/Representations should be addressed to the Clerk to the Licensing Board and may be e-mailed to [licensing@highland.gov.uk](mailto:licensing@highland.gov.uk) before the end of the period for objections or representations in relation to the particular application.

- **By Post or Hand Delivery:**

Objections/Representations should be addressed to the Clerk to the Licensing Board and may be posted or hand-delivered to the nearest area office listed below before the end of the period for objections or representations in relation to the particular application:-

<b>Inverness, Nairn, Badenoch &amp; Strathspey Area at</b>	
Town House High Street Inverness, IV1 1JJ	
Tel: (01463) 724265	
<b>Caithness, Sutherland &amp; Easter Ross Area at</b>	
Council Offices Caithness House Market Place Wick KW1 4AB	Council Offices Main Street Golspie, KW10 6RB
Tel: (01955) 609508	Tel: (01408) 635205
<b>Ross, Skye &amp; Lochaber Area at</b>	
Council Offices Tigh na Sgìre Park Lane Portree, IV51 9GP	Council Offices Lochaber House High Street Fort William, PH33 6EL
Tel: (01478) 613826	Tel: (01397) 707233

\* LIVING ON THE HIGH STREET YOU ACCEPT A LEVEL OF NOISE. IT SEEMS A BIT EXCESSIVE TO HAVE A LICENSE TILL 3AM. I UNDERSTAND THAT THE PLAYHOUSE ARE ALREADY OPENING TILL THIS TIME BUT THEY HAVE A DIFFERENT CLIENTELE. ALSO IF SOMEONE IS EJECTED FROM PLAYHOUSE THEY CAN THEN GO TO THE STAIR. INSTEAD OF MAKING THEIR WAY HOME. THE NOISE LEVEL CAN BE HORRENDOUS EVEN WITH DOUBLE GLAZING, SOUND PROOF CURTAINS & EAR PLUGS !!!