

The Highland Licensing Board

Meeting – 9 May 2023

Agenda Item	8.1
Report No	HLB/052/23

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

The Imperial, 1 Academy Street, Inverness, IV1 1JN

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Rosemount Estates Ltd, 5 Fitzroy Place, Glasgow, G3 7RH.

1.0 Description of premises

1.1 Imperial is situated on the corner facing on to Academy Street, in Inverness City Centre opposite the Railway Station and Shopping Centre.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Saturday: 1100 hours to 0100 hours
Sunday: 1200 hours to 2400 hours

Off sales:

Monday to Saturday. 1100 hours to 2200 hours
Sunday: 1200 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) Extended core on sales hours to commence 0900 hours Monday to Saturday.
- (2) Section 5(f) of operating plan updated to show full food menu operates throughout operating hours.

4.0 Background

- 4.1 On 15 February 2023 the Licensing Board received an application for a major variation of a premises licence from Rosemount Estates Ltd.
- 4.2 The application was publicised during the period 27 March until 17 April 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, no timeous objections or representations have been received.
- 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 Imperial formerly Bar One, Inverness, is a well established city centre licensed venue, which has a sound operating history. Compliance checks carried out by the LSO have shown good levels of diligence.

(ii) Application has been made by the premises licence holder to increase the on sales hours of operation by allowing for alcohol sales from 09.00 hours each day from Monday to Saturday.

(iii) Currently allowance is made for early hours opening in the Board's current policy statement for "food led" premises to operate from 09.00 hours provided a substantial food offering was provided, alongside the availability of alcohol. The premises have provided information that a full menu offering will be available to customers throughout the entirety of its operating hours.

(iv) The premises in addition, still seek to retain their closure time of 01.00 hours which exceeds the current threshold of 14 hours operation specified again, within the Board's Policy Statement. However, allowance is given whereby operators can demonstrate a specific requirement for such hours. In these circumstances it is fair to say, that throughout the day, the premises within the city centre will be catering to different customer groups throughout its hours of operation; customers coming in for brunch will not be the same customers requiring service mid evening.

(v) These operating hours have already been tested for several months under the authority of occasional licences without any adverse issue.

(vi) It is the LSO's opinion, that such a change to the operating plan still complies with the 5 licensing objectives.

(vii) During the public consultation stage of the application no objections or representations have been received by the Board.

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 it is recommended that the following additional local condition be attached:

- (e) Premises opening for the sale of alcohol for consumption on the premises prior to 11.00 hours shall have available a selection of hot and cold food and shall advertise this within the premises.

8.3 Special conditions

No 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 conditions detailed at para. 8.2 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/399
Date: 19 April 2023
Author: Marjory Bain