

The Highland Licensing Board

Meeting – 15 May 2018

Agenda Item	8.3
Report No	HLB/045/18

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

Deli Mair, Grampian Road, Aviemore, PH22 1RH

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Upland Properties Limited, Myrtlefield House, Grampian Road, Aviemore, PH22 1RH.

1.0 Description of premises

1.1 Deli Mair is a licensed delicatessen within a small shopping complex in central Aviemore, offering a full range of food and alcohol, with a small outside drinking area situated at the front of the premises.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

Off sales:

Monday to Sunday: 1000 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 commence 1000-2400 hrs Monday-Sunday.
- (2) Outside drinking area to be included within licensed area.
- (3) Children's policy to be included within operating plan to read:
6(b) Children of appropriate age and maturity will be allowed unaccompanied at management discretion. Very young children will require adult supervision. Young persons will be permitted unaccompanied at all times.
6(c) 0-17 years.

6(d) At all times when business is open subject to section 6(b).

6(a) All areas accessible to the public.

(4) Additional activities to include: restaurant facilities, receptions and music.

(5) Capacity to reflect number of customers at tables (32).

(6) Layout Plans to be amended, to show internal and external seating areas.

(7) Description of premises to read: "Deli Mair is a licensed delicatessen within a small shopping complex in central Aviemore. The premises offer a full range of food stuffs, alcohol is offered to both diners on the premises and there is also the facility for off sales.

A small outside drinking area is situated at the front of the premises."

4.0 Background

4.1 On 19 February 2018 the Licensing Board received an application for a major variation of a premises licence from Upland Properties Limited.

4.2 The application was publicised during the period 5 March until 26 March 2018 and confirmation that the site notice was displayed has been received.

4.3 In accordance with standard procedure, Police Scotland, the Scottish Fire and 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:

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. 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) Deli Mair is a licensed delicatessen, situated within a small shopping precinct in Aviemore. The premises currently sell alcohol solely by way of off sales. The operating history of the premises is trouble free and inspection visits carried out by the LSO reveal strong levels of compliance with the Licensing (Scotland) Act 2005.

(ii) Application has been made to add on sales to the premises licence. Already the premises operate a small number of tables for food provision and coffees. They now seek to be able to offer customers the facility to take a glass of wine or craft beer. In addition, the premises also wish to license a small outside drinking area directly outside their premises, to accommodate a small number of tables for use particularly during the summer.

(iii) The on sales hours requested by the applicant are 1000-2400 hrs which is within Board Policy for "food led" premises; these premises fulfil that description by offering a full menu throughout the operating hours.

(iv) A children and young person policy has been added into the operating plan which in the opinion of the LSO, is compliant with the fifth licensing objective.

(v) The description of the premises has been updated in order to reflect these changes. Similarly, refreshed layout plans have been submitted.

(vi) It is the opinion of the LSO, that the application meets the requirements of the licensing objectives.

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

There are no existing local conditions but the following local condition is now recommended:

(e) After 2200 hours alcoholic and non-alcoholic drinks shall not be consumed in an outdoor drinking area.

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 condition 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/217
Date: 28 March 2018
Author: Marjory Bain