

The Highland Licensing Board

Meeting – 30 November 2021

Agenda Item	10.1
Report No	HLB/100/21

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

La Taverna, High Range Holiday Complex, Grampian Road, Aviemore, PH22 1PT

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by La Taverna (Aviemore) Ltd, Grampian Road, Aviemore, PH22 1PT.

1.0 Description of premises

1.1 La Taverna is a family run Italian Restaurant situated close to the centre of Aviemore.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Sunday to Thursday: 1200 hours to 2330 hours
Friday to Saturday: 1200 hours to 0100 hours

Off sales:

Monday to Saturday: 1200 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. Increase core off-sales hours on Sunday to commence from 1100 hrs Monday to Sunday (previously 1200 hrs Mon to Sat and 1230 hrs on Sun)
2. increase core on-sales hours to commence from 1100 hrs Mon to Sun (previously 1200 hrs Mon to Sun)

3. Update Seasonal Variation to take advantage of festive season policy and any general extensions granted by the Licensing Board.

- Q5:

4. Accommodation - change to NO (error in present activities)

5. Restaurant Facilities, Recorded Music, Televised Sport and Outdoor Drinking Facilities - add activities to take place 'outwith' core licensed hours.

6. Add additional activities - Receptions and Club or other group meetings to be provided both during and outwith core licensed hours.

7. Q5: provide details of Column 4 activities taking place outwith core hours.

8. Q5(f): add the following additional activity : Takeaway food and home deliveries of alcohol if accompanied by food.

9. Capacity : Increase outdoor capacity from 46 persons to 158 resulting in total capacity of 298 persons (previously 186 persons).

10. Layout Plan : Amend to include two 2 additional outside drinking areas, respectively 76 and 240 square metres shown coloured dark green on layout plan.

11. Premises Description: Update to reflect new external drinking areas.

12. Substitution of premises manager.

4.0 Background

4.1 On 11 October 2021 the Licensing Board received an application for a major variation of a premises licence from La Taverna (Aviemore) Ltd.

4.2 The application was publicised during the period 25 October until 15 November 2021 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 As a hearing cannot be held in person due to coronavirus, the Licensing Board, before reaching a decision, must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by alternative methods. Consequently, both the applicant and the objector have been invited to submit a written representation to state their case.

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) La Taverna Restaurant, Aviemore is a substantial family friendly Italian restaurant situated on the outskirts of Aviemore.

(ii) The premises have run successfully since 2009 and comprise a restaurant with associated waiting area and bar, an existing outside service area. Compliance visits have shown the premises to be well run and adhering to the conditions of their alcohol premises licence.

(iii) Application is made to increase ore trading hours on a Monday to Sunday base to commence from 1100hrs for both on and off sales. This is within current HLB policy and the LSO foresees no difficulty in adhering to the licensing objectives.

(iv) Application is made to include allowance under seasonal variations in the operating plan to allow automatic entitlement to take advantage of HLB extended hours policy as offered during the festive season.

(v) Following the restrictions for on sale operations imposed during the current pandemic, the premises wish to be able to include within their operating plan the ability to offer takeaway food and home delivery services, inclusive of alcohol provision. The LSO sees this as reasonable for this category of restaurant, as this is an operational strategy offered by many restaurants following adverse trading conditions during the pandemic.

(vi) Permission is also sought to incorporate two additional outside drinking areas into the licensing footprint, increasing the outside capacity to 158 persons from 46 persons. These outside areas have been trialled throughout the summer under the authority of occasional licences without issue.

(vii) Alteration to the facilities section of the operating plan has also been applied for to accurately reflect the extent that facilities maybe offered to customers.

(viii) The LSO is satisfied that the amendments to the operating plan compliment the licensing objectives.

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 conditions be attached:

(m) After 2230 hours alcoholic or non-alcoholic drinks shall not be consumed in any outdoor drinking area.

(n)i No live or recorded music shall be played in any outdoor drinking area.

(k) 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.

(o) The licence holder shall ensure that consumption of drinks (alcoholic and non-alcoholic) in any outdoor drinking area is permitted only by customers seated at the tables and chairs provided in the outside drinking area and not by customers standing in that area.

8.3 Special conditions

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

(1) On any occasion the premises are open after 01.00hrs a Person who holds a Scottish Personal Licence shall be present on the Premises until they close.

(2) On any occasion the premises are open after 01.00hrs a Person who holds a current first aid certificate shall be present on the Premises until they close.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/special conditions detailed at pars. 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/294
Date: 16 November 2021
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