

The Highland Licensing Board

Meeting – 9 August 2022

Agenda Item	8.4
Report No	HLB/073/22

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

Spar, The Harbour, Arisaig, PH39 4NH

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by C J Lang & Son Limited, 78 Longtown Road, Dundee, DD4 8JU.

1.0 Description of premises

1.1 The premises is a ground floor shop attached to a separately operated cafe and with a separately owned flat above. The shop is situated in a rural village location and trades as a local convenience store with off-sales.

2.0 Summary of variation application

2.1 Variation sought

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

- (1) At Q5 - add gaming as an activity during and outwith core hours.
- (2) At Q5 - amend and add the following wording – “The premises may open for general trade prior to the commencement of core hours. Recorded music may be played, such as Spar Radio prior to the commencement of core hours. This is background level only. National Lottery tickets/cards can be purchased prior to core hours.”
- (3) At Q5 (f) - amend and add the following wording – “The primary activity undertaken in the premises is the general retail sale of the following: Groceries; confectionery, bread & cakes, crisps/snacks, non-foods, toiletries, frozen & chilled foods, fruit/vegetables/flowers, news & magazines, toys, tobacco & cigarettes, beers/wines/spirits and other alcoholic products, non-alcoholic drinks. Charity collection point and charitable events take place. Food to Go. Click & collect. Home Deliveries. Paypoint payment. National Lottery outlet. External automated cash machine. Sampling & promotional activities.”

3.0 Background

- 3.1 On 19 April 2022 the Licensing Board received an application for a major variation of a premises licence from C J Lang and Son Limited.
- 3.2 The application was publicised during the period 20 June 2022 until 11 July 2022 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:

https://www.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. 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.

4.2 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.

4.3 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.

4.4 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.

5.0 Licensing Standards Officer

5.1 The LSO has provided the following comments:-

- (1) The premises in question are a busy general merchant. The premises have held an alcohol premises licence since 2009. Compliance checks by LSO(s) have shown good standards of diligence. Spar as a company are particularly protective of their licence(s) and have robust training and age verification training.
- (2) Application has been made to update Section 5 of the Operating Plan of the Premise Licence to reflect this full range of services operated by the Store, which includes "Click and Collect" and "Home Delivery", which may involve alcohol sales.
- (3) The LSO is satisfied that this does not adversely impact on the licensing objectives.
- (4) During the public consultation phase of this application no objections or representations have been received by the Board.

6.0 HLB local policies

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2018-23
- (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

There are no existing local conditions and it is not considered necessary to attach any.

7.3 Special conditions

No special conditions are considered necessary.

Recommendation

The Board is invited to determine the above application.

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/RSL/0655
Date: 18 July 2022
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