

The Highland Licensing Board

Meeting – 9 May 2023

Agenda Item	8.5
Report No	HLB/056/23

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

Balmacara Stores, Reraig, Balmacara, Ross-shire, IV40 8DH

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 and Son Limited, 28 Longtown Road, Dundee, DD4 8JU.

1.0 Description of premises

1.1 The premises is a rural detached community shop and post office with off sales in the village of Balmacara.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

Off sales:

Monday to Sunday: 1000 hours to 2100 hours

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Q3 – To amend the terminal hour for off sales to 2200 hours Monday to Sunday;
- (2) Q5 – To add recorded music and gaming as activities within and outwith core hours;
- (3) 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;

- (4) Q5f - 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.

4.0 Background

- 4.1 On 8 March 2023 the Licensing Board received an application for a major variation of a premises licence from C J Lang and Son Limited per TLT Solicitors.
- 4.2 The application was publicised during the period 15 March 2023 until 5 April 2023 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) Balmacara Stores is a local convenience store with post office facilities operated by C J lang and Son Limited under the Spar banner.
- (ii) The variations sought are to amend off sales to terminate at 2200 hours Monday-Sunday and the addition of recorded music and gaming to activities within and without core hours. They also seek to amend and add various wording to the licence to reflect the current business model that the premises are now trading under and to tidy up some wording on the existing licence.
- (iii) All variations sought are within the licensing objectives.
- (iv) No objections have been received in respect of this application.
- (v) I have no objections to this application.

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

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

8.3 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/0783
Date: 17 April 2023
Author: Carol Nicolson