

The Highland Licensing Board

Meeting – 5 September 2023

Agenda Item	9.1
Report No	HLB/100/23

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

Corner on the Square, 1 High Street, Beauly, IV4 7BY

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Lewis Michael Jaffrey, 36 Kintail Place, Dingwall, IV15 9RL.

1.0 Description of premises

1.1 Corner on the Square is a delicatessen and eatery overlooking The Square in the centre of Beauly some 11 miles west of Inverness.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Saturday: 0900 hours to 2300 hours
Sunday: 1230 hours to 2300 hours

Off sales:

Monday to Saturday. 1000 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) Amend Sunday on sales to commence from 09.00 hrs.
- (2) Amend Sunday off sales to commence from 10.00 hrs.

- (3) Add facility for outside drinking area to Section 5 of operating plan.
- (4) Add additional wording at 5(f) of operating plan. 'The premises offers takeaway meals and may offer home delivery of alcohol.'
- (5) Add capacity figure for outside area to Section 7 of the Operating Plan.
- (6) Amend terms of Children and Young Persons Policy.
- (7) Remove existing wording for 'outwith core hours' at Section 5.

4.0 Background

- 4.1 On 26 June 2023 the Licensing Board received an application for a major variation of a premises licence from Lewis Michael Jaffrey.
- 4.2 The application was publicised during the period 17 July until 7 August 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) The premises are a well established, restaurant and delicatessen situated in the centre of Beaulieu. The premises have traded under an Alcohol Premises Licence since 2009.

(ii) The operating history is very satisfactory and compliance visits carried out by the LSO have shown the premises to be well run; the current proprietors have owned the business since 2022.

(iii) Application has been made to modernise the premises licence by way of application for a major variation. Currently as a fully functioning restaurant offering breakfasts the premises trade from 0900 hrs daily, Monday to Saturday, application is now made to include Sundays.

In conjunction, Sunday off sales hours are requested to commence from 1000 hrs. Both changes comply with current HLB policy and offer no compromise to the licensing objectives.

(iv) Section 5 of the operating plan is updated to reflect the offer of takeaway food and offer a home delivery service for alcohol, complimenting a substantial part of the premises trade as a wine merchant. The operators will practice robust proof of age procedures.

(v) The premises have long operated a small outside area on the pavement to the front of the premises, having secured the necessary pavement permit, the operators have used this area for food and non-alcoholic beverages, now permission for alcohol sales is requested. It is the opinion of the LSO that this is a suitable expansion of the operating plan; presence of residential premises nearby in the LSO's opinion make a 2200 hr closure to this outside area reasonable. The outside area has capacity for 18 covers.

(vi) Lastly, the children and young persons policy has been updated to allow children of sufficient maturity, access unaccompanied to the premises, at management discretion until 2000 hrs.

(vii) All aspects of the variation are in step with the principles of the 5 licensing objectives in the opinion of the LSO.

(viii) Following the public consultation phase of this 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

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

(e) Premises opening for the sale of alcohol for consumption on the premises prior to 1100 hours shall have available a selection of hot and cold food and shall advertise this within the premises

(m) After 2200 hours, alcoholic or non-alcoholic drinks shall not be consumer in any outdoor drinking area.

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

(o) The licence holder shall ensure that consumption of drinks (alcoholic or non-alcoholic) in any outside 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.

(p) The licence holder shall ensure that all outdoor tables are regularly cleared of all used glassware, crockery, cutlery and refuse.

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/315
Date: 21 August 2023
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