

## The Highland Licensing Board

Meeting – 12 August 2014

Agenda Item	11.12
Report No	HLB/104/14

### Application for a major variation of a Premises Licence under the Licensing (Scotland) Act 2005

Lidl UK GmbH, South Road, Wick

#### Report by the Clerk to the Licensing Board

#### Summary

This Report relates to an application for a major variation of Premises Licence for Lidl UK GmbH, South Road, Wick.

#### 1.0 Description of Premises

1.1 The premises operate as a supermarket and are currently undergoing a store refurbishment. The off-sales capacity is currently 32.15m<sup>2</sup> following a temporary reduction from 38.11m<sup>2</sup> during the refurbishment. The supermarket was granted a premises licence, on transition, on 1 September 2009.

#### 2.0 Summary of Variation Application

##### 2.1 Variation Sought

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

- (1) increase the alcohol display capacity. The applicant initially sought an increase to 42.62m<sup>2</sup> but now wishes to reduce that figure to 38.3m<sup>2</sup>. It is requested that the Board accepts this amendment;
- (2) change the layout of the store due to the refurbishment;
- (3) include recorded music during and outwith core hours on the list of activities to be provided.

#### 3.0 Background

3.1 On 23 June 2014 the Licensing Board received an application for a major variation of Premises Licence from the Licence holder, Lidl UK GmbH.

3.2 The application was publicised during the period 4 to 25 July 2014. I am awaiting confirmation that the site notice has been displayed.

- 3.3 In accordance with standard procedure, Police Scotland, Scottish Fire and Rescue Service, the Council's Environmental Health and Planning were consulted on the application.
- 3.4 Notification and a copy of the application were also sent to NHS Highland and to the local Community Council.
- 3.5 No objections or representations have been received in respect of the application.

#### **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 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, if the Board considers the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation.
  3. having regard to the number and capacity of (i) licensed premises of the same or similar description as the subject premises (taking account of the proposed variation), in the locality in which the subject premises are situated, the Board considers that, if the application were to be granted, there would, as a result, be over provision of licensed premises or licensed premises of that description in the locality.
- 4.2 The Board has only power to either grant the application and make a variation of the conditions to which the licence is subject or, refuse the application.
- 4.3 If the Board refuses 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 objection in question.

#### **5.0 Licensing Standards Officer's Comments**

- 5.1 The applicant initially sought an increase of capacity from 32.15m<sup>2</sup> to 42.62m<sup>2</sup> which would exercise the Board's over-provision policy of a rebuttable presumption against granting a variation to increase off-sales capacity to more than 40m<sup>2</sup>.
- 5.2 The applicant now wishes to amend the variation application and reduce the capacity to 38.3m<sup>2</sup> so as to be within Board policy and it is requested that the Board allow the amendment.

**5.3** The addition of recorded music to the list of activities is appropriate for the premises

**5.4** The change to the layout of the premises reflects the alterations following refurbishment and the alteration to the capacity.

**6.0 HLB Local Policies**

The following policies are relevant to the application:-

- (i) Highland Licensing Board Policy Hours
- (ii) Highland Licensing Board Policy Statement
- (iii) Schedule of Local Conditions
- (iv) 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**

No local conditions apply.

**Recommendation**

The Board is invited to determine the above application.

Designation: Clerk of the Highland Licensing Board  
Reference: HC/CSER/0798  
Date: 28 July 2014  
Author: G Sutherland

Background Papers: The Licensing (Scotland) Act 2005