

The Highland Licensing Board

Meeting – 7 October 2014

Agenda Item	9.6
Report No	HLB/123/14

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

1097 (formerly Ptarmigan) Cairngorm Mountain, Cairngorm Ski Area, Aviemore PH22 1RB

Report by the Clerk to the Licensing Board

Summary

REF: HC/INBS/413

This report relates to an application for a major variation of premises licence.

Premises: 1097, Cairngorm Mountain, Ski Area, Aviemore PH22 1RB

Applicant: Cairngorm Mountain Ltd, Cairngorm Ski Area, Aviemore PH22 1RB per Douglas Somerville, 8 Grampian View, Aviemore PH22 1TF

1 Description of Premises

Located on Cairngorm Mountain, part of two buildings, 1 at top and 1 at bottom of mountain railway. 1097 is at the top of the railway with a shop and bar/restaurant on separate floors. The premises are a visitor attraction and a winter sports centre operating as part of the Cairngorm Ski Area complex which also incorporates the Storehouse (Day Lodge).

1.1 Current Core Operating Hours

On Sales:

Monday to Sunday 11.00 hrs. to 20.00 hrs.

Off Sales:

Monday to Sunday 10.00hrs to 20.00 hrs

2 Summary of Variation Application

2.1 Variation Sought

1. Change of name of premises from the Ptarmigan to 1097.
2. Amendment of on sales hours, Monday to Sunday to 11.00 hrs to 23.00 hrs
3. Moving bar area and off-sales shelving.
4. Increase in off sales capacity from 0.45 square metres to 12.44 square metres.

3 Background

- 3.1 On 27 August 2014 the Licensing Board received an application for a major variation of a premises licence from the applicant, Cairngorm Mountain Ltd and Douglas Somerville.
- 3.2 The Board has advertised the application on the Council's website for a period of 21 days and the applicant has to display the Notice on site for the period (1 September to 22 September 2014). Confirmation of display of the site notice has been received.
- 3.3 In accordance with standard procedure, Police Scotland, Highlands and Islands Fire and Rescue Service, The Council's TEC Services (Environmental Health), and Planning and Building Standards were consulted on the application.

Notification and a copy of the application have been sent to NHS Highland.

Notification has been sent to the local Aviemore and Vicinity Community Council.

- 3.4 Notice of the application has been sent to all the people listed under S21 (1) of the Act.
- 3.5 No objections have been received in respect of the application.

4 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. that the grant of the application will be inconsistent with one or more of the licensing objectives;
2. that 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 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 only has power to either grant the application and make a variation of the conditions to which the licence is subject or refuse the application.

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 objective in question.

5 Licensing Standards Officer's Comments

The Ptarmigan restaurant and bar is situated at the top of the Cairngorm funicular railway. It is an extremely popular tourist and winter sports venue. It has operated successfully for a number of years and has enjoyed a trouble-free operating history. Compliance visits have shown the operators to be running the premises according to the terms and conditions of their operating plan.

Application has been made to vary the core on sales hours to terminate at 23.00 hrs Monday to Sunday. This is within Board Policy on hours and no adverse issue is posed in respect of the Licensing Objectives.

The name of the premises has been amended following transfer of the Licence. The interior layout of the premises has been preconfigured and includes a larger off sales display, ostensibly for tourist demand. Layout plans compliant with the mandatory conditions have been submitted and no issue is caused in respect of the Licensing Objectives.

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 combined Equality Scheme

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

A) Children under the age of 16 are excluded from any room where there is a bar counter after 22.00 hrs except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This condition does not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access

or egress. (Licensing Objective 5).

C) Notwithstanding conditions (a) children must not sit or remain at the bar counter at any time.(Licensing Objective 5)

8 Recommendation

The Board is invited to determine the above application and the local conditions recommended at paragraph 7.2.

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 objective in question.

Designation: Clerk to the Licensing Board

Reference: HC/INBS/413

Date: 11th September 2014

Author: Wendy Grosvenor

Background Papers: The Licensing (Scotland) Act 2005/application form.

Licensing Board Policy Statement from 1 December 2013 to November 2016