

The Highland Licensing Board

Meeting – 6 October 2015

| | |
|-------------|------------|
| Agenda Item | 11.1 |
| Report No | HLB/104/15 |

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

Simpsons Garden Centre, Inshes, Inverness, IV2 5BA

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of Premises Licence by Simpson Highview Limited, Highview House, Inshes, Inverness, IV2 5BA per Macleod and MacCallum, Solicitors, 28 Queensgate, Inverness IV1 1YN.

1.0 Description of Premises

1.1 The premises comprise a restaurant located in a garden centre and plant nursery, serving a wide range of hot and cold meals, drinks, snacks and baking products. The garden centre is a modern purpose-built range of connected buildings located in a semi-rural location on the outskirts of Inverness.

2.0 Current Operating Hours

2.1 The premises currently enjoys the following operating hours:

On Sales:

Monday to Wednesday: 0900 hours to 1800 hours

Thursday: 0900 hours to 2000 hours

Friday to Sunday: 0900 hours to 1800 hours

Off sales:

Monday to Wednesday: 1000 hours to 1800 hours

Thursday: 1000 hours to 2000 hours

Friday to Sunday: 1000 hours to 1800 hours

3.0 Summary of Variation Application

3.1 Variation Sought

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

Operating Plan:

1. Amend Thursdays on and off sales hours to 19.00 hours.
2. Additional seasonal variation: during months of April to June inclusive, the premises will open on Mondays to Fridays inclusive until 19.00 hours

Layout Plan:

1. Off Sales area is relocated to area shown hatched in blue on the layout plan.

4.0 Background

- 4.1 On 25 August 2015 the Licensing Board received an application for a major variation of a Premises Licence from Simpson Highview Ltd, per Macleod and MacCallum, Solicitors, 28 Queensgate, Inverness IV1 1YN
- 4.2 The application was publicised during the period 31 August 2015 until 21 September 2015 and confirmation that the site notice was displayed has been received.
- 4.3 In accordance with standard procedure, Police Scotland, the Scottish Fire and 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, Westhill.
- 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:

http://www.highland.gov.uk/downloads/download/428/liquor_licence_objections_appeals_notices_of_determination

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. having regard to the number and capacity of 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 overprovision of licensed premises or licensed premises of that description in the locality.

5.2 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.

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:-

Simpsons Garden Centre has traded as licensed premises from November 2011 and has a trouble free operating history.

Alcohol is sold by way of on sales at an extensive self- service restaurant and off sales from a display area located elsewhere in the store. The operating history of the premises is entirely trouble free. Inspection visits carried out by the Licensing Standards Officer have shown good standards of diligence on behalf of the premises licence holder.

A major variation application has been submitted to vary the Licensed hours for alcohol sales on Thursdays to a terminal hour of 19.00hrs and add an additional seasonal variation for the summer months to reflect increased trading hours when during the months April to the end of June, the premises in terms of alcohol sales would wish to trade till 19.00hrs. These changes are within the Highland Licensing Board policy hours.

In addition the off sales single agreed public area has been moved to a different area of the store, albeit that the capacity remains the same at 38 square metres. Updated lay out plans have been submitted to record this change in the licensing footprint.

There is nothing within this variation application which adversely affects the Licensing Objectives.

7.0 HLB Local Policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-16
- (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/INBS/527

Date: 23 September 2015

Author: Wendy Grosvenor

Background Papers: The Licensing (Scotland) Act 2005/Application Form.