

**The Highland Licensing Board**

**Meeting – 28 March 2017**

Agenda Item	<b>10.4</b>
Report No	<b>HLB/039/17</b>

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

**Cairngorm Brewery, Unit 12, Dalfaber Industrial Estate, Aviemore, PH22 1ST**

**Report by the Clerk to the Licensing Board**

**Summary**

This Report relates to an application for a major variation of premises licence by Cairngorm Brewery, Unit 12, Dalfaber Industrial Estate, Aviemore.

**1.0 Description of premises**

1.1 Cairngorm Brewery operate as an off-sales facility for visitors to the brewery in which it is housed, both are contained in an industrial style building on an industrial estate on the outskirts of Aviemore.

**2.0 Current operating hours**

2.1 The premises currently enjoys the following operating hours:

**Off sales:**

Monday to Sunday: 1000 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) Change operating plan to sell alcohol on and off the premises.
- (2) Core off sales hours amended to 1000 hours to 2200 hours Monday to Saturday and 1230 hours to 2200 hours on Sunday.
- (3) Core on sales hours amended to 1100 hours to 2200 hours Monday to Saturday and 1230 hours to 2200 hours on Sunday.
- (4) The car park and hardstanding area is to be included on the layout plan.

- (5) Description of the premises to be amended to read:  
“The premises operate as an on and off sales facility for visitors to the brewery in which it is housed, both are contained in an industrial style building on an industrial estate on the outskirts of Aviemore.  
On sales would only be part of a tour package.”
- (6) Seasonal variation terminal hours to be 1800 hours rather than 1700 hours, unless there is an evening tour booking.
- (7) Outdoor drinking facility to be added to the operating plan.
- (8) 5(f) Private group bookings on the same basis outwith existing operating hours to be added.
- (9) Children to be admitted as follows:
- 6(b) Children and young persons between the ages of 8 and 18 will be permitted on tours if they are accompanied by an adult but they will not be allowed to partake in any tastings of alcohol.
  - 6(c) See above.
  - 6(d) As per core on sale and off sale times.
  - 6(e) N/A.
- (10) Capacity of premises – 25 persons per tour.

#### **4.0 Background**

- 4.1 On 30 January 2017 the Licensing Board received an application for a major variation of a premises licence from The Cairngorm Brewery Company.
- 4.2 The application was publicised during the period 6 February until 27 February 2017 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.
- 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/file/11696/guidance\\_note\\_on\\_hearings\\_before\\_the\\_highland\\_licensing\\_board](http://www.highland.gov.uk/downloads/file/11696/guidance_note_on_hearings_before_the_highland_licensing_board)

## **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:-

(i) The Cairngorm Brewery is situated in an industrial estate at the north end of Aviemore. They have held an alcohol premises licence since 2009 and have always operated responsibly.

(ii) The premises comprise the brewery and a bespoke gift shop which at present, sells to the public solely by way of off sales. The premises have been inspected regularly by the LSO, who has found the operators to be diligent in all licensing matters.

(iii) Following many requests from customers to be able to sample beers by way of legal units, third, half and pint measures when group bookings are made, the applicants have submitted a major variation request. The LSO is of the opinion that this will cause no issue in respect of the licensing objectives and indeed, it follows the example of many distillery visitor centres which now serve their product in legal measures by way of on sales.

(iv) The premises are suitable for the sale of alcohol in this way. Request has been made to amend the existing core hours for off sales to 1000 hours to 2200 hours Monday to Saturday and commencing at 1230 hours on Sunday, and terminating at 2200 hours. On sales will terminate co-terminously at 2200 hours, but will commence Monday to Saturday at 1100 hours and on Sundays at 1230 hours. These amendments are well within the parameters of the current Highland Licensing Board policy hours.

(v) At present, the licensed area is solely the shop area, request has been made, to extend the licensed area to cover the outside car park, this is because particularly in summer, a small number of picnic tables can be sited for the comfort of visitors who may on occasion, take their drink outside. The premises are also adjacent to the popular hiking route “the Speyside way” and very often walkers visit to purchase a couple of beers. The outside area is directly in front of the shop windows and is capable of being well supervised.

(vi) As the premises are in an entirely commercial area, no restriction is recommended on the outside drinking area.

(vii) The description of the premises has been suitably amended to reflect these changes.

## **7.0 HLB local policies**

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-18
- (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**

No local licensing conditions are recommended.

### 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/95

Date: 29 February 2017

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