

The Highland Licensing Board

Meeting – 1 November 2017

Agenda Item	8.2
Report No	HLB/126/17

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

Lidl's UK GmbH, Camanachd Crescent, An Aird, Fort William, PH33 6XZ

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of a premises licence for Lidl UK GmbH, Camanachd Crescent, Fort William, PH33 6XZ.

1.0 Description of premises

1.1 The premises operate as a limited line discount supermarket located on the outskirts of Fort William town centre.

2.0 Summary of variation application

2.1 Variation sought

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

- (1) increase alcohol capacity from 38.12 m² to 46.44m² (non seasonal trading during period 3 January to 30 November).
- (2) increase alcohol capacity to 54.75m² (seasonal trading during period 1 December to 2 January).

3.0 Background

3.1 On 11 September 2017 the Licensing Board received an application for a major variation of a premises licence from Lidl UK GmbH, 19 Worple Road, London, SW19 4JS.

3.2 The application was publicised during the period 20 September 2017 until 11 October 2017 and confirmation that the site notice was displayed has been received.

3.3 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.

3.4 Notification of the application was also sent to NHS Highland.

Fort William Community Council were not constituted at the time of application.

3.5 Further to this publication and consultation process, the following timeous notices of objection and representation have been received and are appended:

- Representation from Police Scotland dated 15 September 2017
- Objection from NHS Highland dated 4 October 2017

3.6 The applicant and the objector have been invited to attend the hearing. Both have been advised of the hearings procedure which will be followed at the meeting and which may also be viewed via the following link:

http://highland.gov.uk/hlb_hearings

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 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.

4.2 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.

4.3 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.

4.4 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.

5.0 Licensing Standards Officer

5.1 The LSO has provided the following comments:-

5.2 An application for a major variation to the alcohol display area situated within the Lidl Store, Fort William has been submitted.

5.3 The premises have a history of responsible trading and the company have developed robust processes to ensure compliance with the requirements of the Licensing (Scotland) Act 2005. The company have several stores within the Highland area and all are well run. Several compliance checks have been made by LSOs with satisfactory results. The store does not stock any of the high ADV products widely associated with anti-social behaviour.

5.4 The variation application seeks to establish two thresholds for capacity for the designated alcohol display. For the majority of the year a capacity of 46.44 m² is requested and thereafter a seasonal variation during the period 1 December to 2 January is requested to boost the capacity to 54.75 m² to cover increased demand and festive season product lines. A copy of the layout plan submitted with the application is attached.

5.5 An issue is posed by the request to have two single areas which are applicable at different times of the year. Mandatory Condition 13 refers to a "single" area agreed between the applicant and the Board. Precedent exists from previous decisions of the Highland Licensing Board that this should be interpreted in the most literal sense that there can only be one area and as such would apply all the time.

5.6 The main issue is that the proposed variation exceeds the current maximum 40m² for alcohol displays within the Highland Licensing Board's Policy in both instances. This threshold was set following extensive research into public health issues and was brought in to support the fourth licensing objective, protecting and improving public health. The LSO is of the opinion that the current policy should remain to support the health objective.

6.0 HLB local policies

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-18
- (2) 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 are considered necessary.

7.3 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/RSL/1117

Date: 12 October 2017

Author: Ian Cox/Julie Traynor

Appendix: (i) Representation from Police Scotland dated 15 September 2017
(ii) Letter of objection from NHS Highland dated 4 October 2017
(iii) Proposed layout plan

15/09/2017

Your Ref: HC/RSL/1117:SB/JT

Our Ref: 265808



**POLICE
SCOTLAND**

Keeping people safe

Philip Gormley QPM
Chief Constable

RECEIVED

15 SEP 2017

CHIEF EXECUTIVE'S SERVICE
LOCHABER

Clerk to the Highland Board
Town House
High Street
Inverness
IV1 1JJ

Divisional Co-ordination Unit
Highland and Islands Division
Police HQ
Old Perth Road
INVERNESS
IV2 3SY

FOR THE ATTENTION OF SUSAN BLEASE

Dear Madam,

**LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE
LIDL UK GMBH
LIDL FOOD STORE, CAMANACHD CRESCENT, FORT WILLIAM, HIGHLAND
PH33 6XZ
LIDL UK GMBH**

I refer to the above application for the variation of a premises licence under terms of Section 29(5) of the Licensing (Scotland) Act 2005.

The variation requested consists of increasing the alcohol display area from 38.12m² to 46.44m² during the period 3 January to 30 November and to 54.75m² for seasonal trading during the period 1 December to 2 January. The stipulated capacity detailed on the current premises licence for these premises are 37.89m²

In terms of Section 29(5) of the Act this request can be considered a variation.

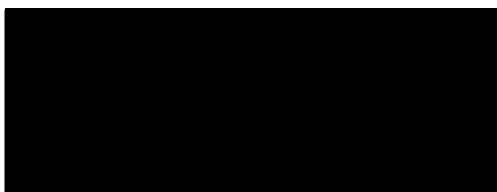
In terms of Section 22(1)(b)(ii) and (iii) of the same Act, I make the following representation.

The variation requested is outwith Board Policy.

In terms of Section 22(1)(b)(ii) and (iii) of the Licensing (Scotland) Act 2005, I am of the opinion that the variation in its current form should be modified in line with Board Policy and restricted to 40m² with no 'seasonal variation'.

This representation is submitted for your attention in considering this application.

Yours faithfully



Philip Gormley QPM
Chief Constable

For enquiries please contact the Licensing Department on 01463 720817.

**REPRESENTATIONS OR OBJECTIONS IN RELATION TO A PREMISES LICENCE
APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005**

Please read the Board's Guidance Notes on How to Object or make Representations in relation to a Premises Licence Application before completing this form. This form when completed should be returned to the nearest office of the Licensing Board using the contact details in the guidance notes. Remember, if an objection is rejected by the Board as frivolous or vexatious, the Board may seek to recover expenses from the objector or person making representations

1. Full Name and Address of person making objection/representation:

Elisabeth Smart, Consultant in Public Health, Larch House, Stoneyfield Business Park, Inverness. IV2 7PA	
Telephone Number:	014623 706 890
Email Address:	elisabeth.smart@nhs.net

2. Address of Premises in respect of which objection / representation is made:

Lidl Camanachd Cresecent Fort William [J33 6xz

3. Details of any OBJECTION: (complete only if you consider one of the ground for refusal apply)

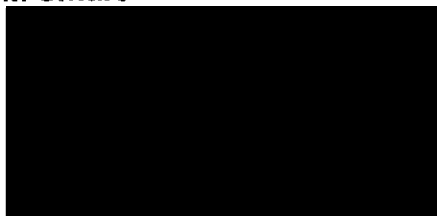
State ground of objection (refer to ground of objection by number, see guidance notes, and give details): (Continue on separate sheet if necessary)		
1.	Excluded Premises	I object on the grounds that this application is contrary to the Highland Licensing Board's overprovision statement agreed 27 August 2013.
2.	Off-Sales Hours/24 hour drinking	
3.	Licensing Objectives	
4.	Activities/Premises/Customers	
5.	Over Provision X	

4. Details of any REPRESENTATION: (complete only if you wish to make a representation in respect of the application)

State details of any representation (refer to representation by number, see guidance notes, and give details): (Continue on separate sheet if necessary)		
1.	in support of application	See additional information..
2.	seeking an amendment to the operating plan, or	
3.	seeking to add additional conditions to the licence	

Signature:... E.M Smart

Date.....4 October 2017



The Highland Overprovision Statement was based on a population based approach to dealing with the public health harms associated with alcohol misuse. Furthermore consideration was given to the importance of alcohol as Part of Highland culture and how it contributes to the economy although economic considerations are not an objective of the Scotland Alcohol Act

The following link will take you to the overprovision policy statement.

http://www.highland.gov.uk/downloads/file/3718/consultation_on_overprovision_policy_statement

The key issues outlined in the overprovision statement are:

- 1. The changing pattern of alcohol sales:** Patterns of alcohol consumption have changed over recent years with a move from alcohol being consumed in an on-sales setting to the home environment. This has been driven by the increase in availability and affordability through off-sales outlets. Off sales now accounts for 73% of all salesⁱ; this is an increase of 4% from the 69% cited in the overprovision statement.
- 2. Prevalence data:** An indicatorⁱⁱ has been agreed to measure the population exceeding weekly and/or daily recommended limits. This was changed in 2016 and men and women are now advised that it is safest not to regularly drink more than 14 units of alcohol per week. If people drink more than 14 units per week this should be spread evenly over 3 or more days. Furthermore women are advised to avoid consuming any alcohol when pregnant or when planning pregnancy.
Individuals currently exceeding the weekly drinking limit are 27% of the population. (Scotland = 25.8%).
Individuals binge drinking are 15.6% (Scotland = 19.5%).
Individuals problem drinking are 14.5% (Scotland = 17.8%).
- 3. Accessibility:** From local data we were able to calculate drive and walk times of the population from a licensed location. 94% of the population of Highland are within a 10 minute drive time and 66% are within a 10 minute walk time of a licensed location. For off-sales only the percentage falls slightly to 90% of the population being within a 10 minute drive time and 54% being within a 10 minute walk time.
- 4. Public opinion:** To understand public opinion about alcohol overprovision in Highland we carried out a number of surveys. We found that 71% of respondents strongly agreed with the statement that there are enough places selling alcohol in the area where they live.
- 5. Health harm:** The levels of alcohol related health harm in the Highland Council area remain of concern and the data shows for 2016 there were 61 alcohol related deaths, the highest number of deaths since 2010. Standardised Death Rates (SDR), comparing Scotland and selected European countries, show that Scotland has one of the highest SDR for chronic liver disease. It is estimated in Highland there are 11,400 males and 4640 females aged 18 and over who are alcohol dependant.

This evidence was accepted by the Licensing Board and to limit the supply, no more off-sales licenses are to be agreed, where the sales capacity is 40 square meters and over.

Recommendation

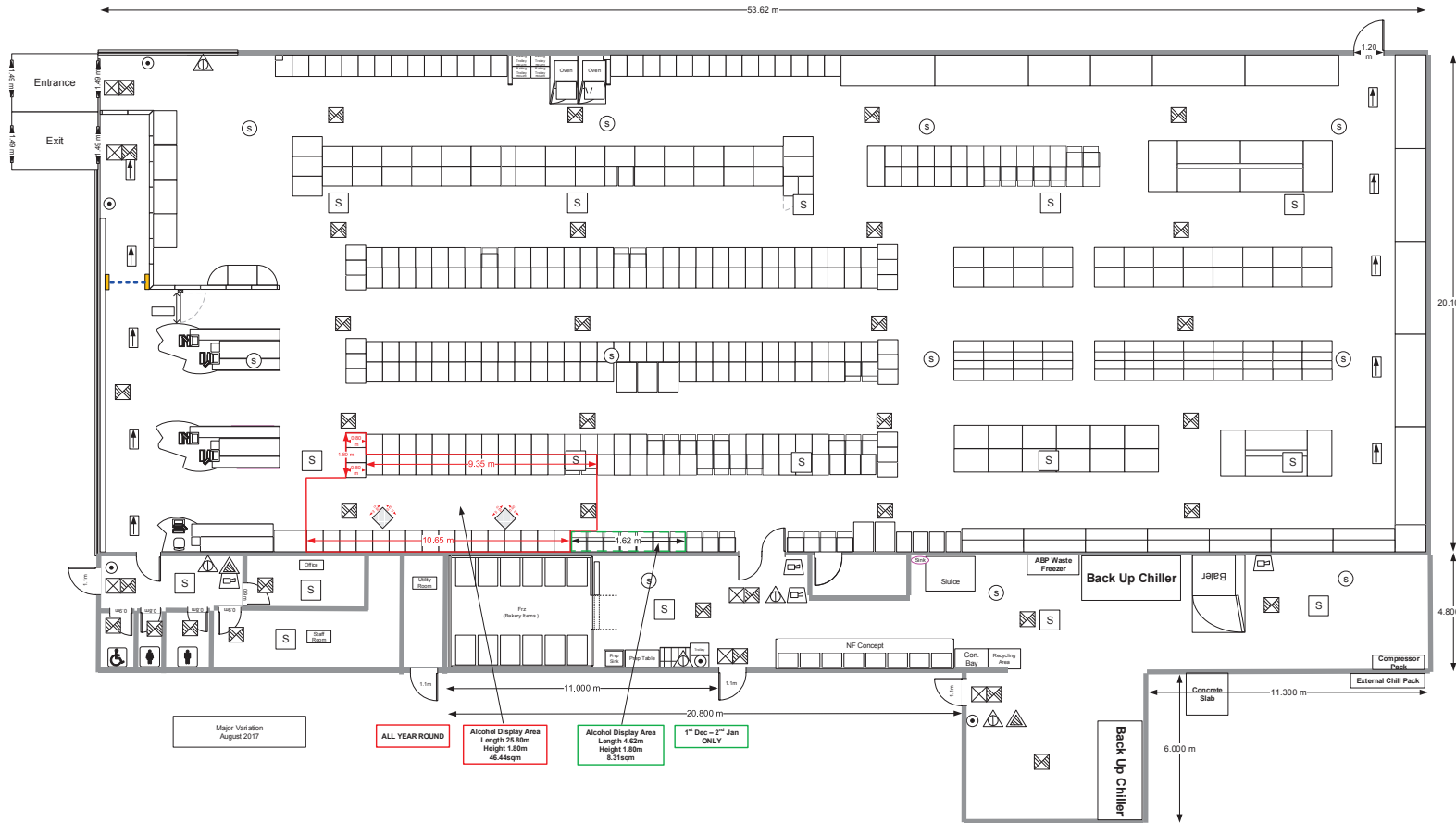
The above evidence underpinned the development of the alcohol overprovision statement and we recommend that the Licensing Board do not agree the application for a major variation of premise license Lidl, Camanachd Crescent, Fort William PH33 6XZ because it exceeds the off-sales capacity of 40m² for non seasonal and seasonal trading.

The following is **new** information available from the Highland Alcohol and Drug Partnership and therefore was not included in the overprovision statement. Analysis undertaken in 2017 shows that rates of alcohol-related deaths in Lochaber are significantly higher than for Highland as a whole, 33.1 per 100,000 population compared to 20.3 per 100,000 (2011-2015 5-year aggregate)ⁱⁱⁱ. This provides further evidence for restricting the availability of alcohol.

ⁱ Alcohol Sales in Scotland NHS Health Scotland 2016 Available Alcohol Focus:
<http://www.alcohol-focus-scotland.org.uk/media/263062/AFS-Resource-Section-1.pdf>

ⁱⁱ Scottish Health Survey Alcohol Data 2012-2015
<http://www.scotpho.org.uk/behaviour/alcohol/introduction/>

ⁱⁱⁱ Alcohol Related Deaths in Highland 2017 Highland and Drug Partnership.



Major Variation
August 2017

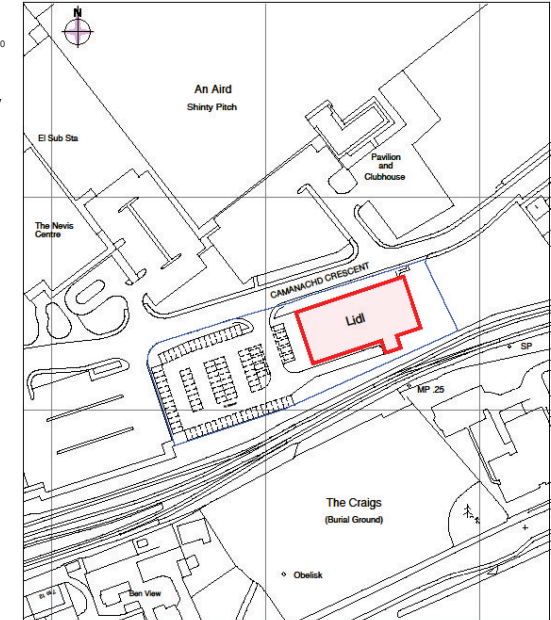
ALL YEAR ROUND
Alcohol Display Area
Length 25.50m
Height 1.80m
46.44sqm

Alcohol Display Area
Length 4.62m
Height 1.80m
8.31sqm

1st Dec - 2nd Jan
ONLY

FIRE SYMBOLS
Scale 1:100

- | | | | |
|--|---------------------------------------|--|---------------------------------|
| | Portable Water Extinguisher | | Emergency Light |
| | Portable Foam Extinguisher | | Emergency Exit Illuminated Sign |
| | Portable CO ₂ Extinguisher | | Call Point |
| | Portable Dry Powder Extinguisher | | Warning Device Visual |
| | Fire Blanket | | Fire Exit Directional Signage |
| | Smoke Detector | | Smoke Detector in ceiling void |
| | Heat Detector | | Fire Control Panel |
| | Warning Device Bell | All Fire Exits Have A Push Bar & Signage | |
| | Warning Device Sounder | | Sprinkler (water) |



Project Liquor Licence, Camanachd Crescent, Fort William		Title Site Plan	
Client Lidl UK GmbH	Project No. G2143-50	Drawing No. LL01	
Drawn PJM	Date 03-07-08		
Checked	Scale 1 : 1250 @ A4	<small>18 Lynchloch Gardens Glasgow G3 8EG T: 0141 353 3011 F: 0141 353 3027 E: gpa@smithdesignassociates.co.uk</small>	