

**The Highland Licensing Board**

**Meeting – 5 December 2017**

Agenda Item	<b>10.7</b>
Report No	<b>HLB/141/17</b>

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

**Lidl UK GmbH, Morangie Road, Tain**

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

**Summary**

This report relates to an application for a major variation of premises licence by Lidl UK GmbH in respect of Lidl UK GmbH, Morangie Road, Tain.

**1.0 Description of premises**

1.1 The premises are a supermarket in a detached building located on the outskirts of Tain.

**2.0 Current operating hours**

2.1 The premises currently enjoys the following operating hours:

**Off sales:**

Monday to Sunday: 1000 hrs to 2200 hrs

**3.0 Summary of variation application**

**3.1 Variation sought**

The applicant originally sought to vary the premises licence as follows:-

- (1) Increase capacity during non-seasonal trading to 40.86m<sup>2</sup>.
- (2) Introduce an additional seasonal trading capacity of 7.2m<sup>2</sup> during the period 1 December to 2 January providing a total capacity of 48.06m<sup>2</sup>.

3.2 This was amended by written request on 6 November 2017 to remove the reference to additional seasonal trading capacity and to apply only to increase the capacity to 39.96 m<sup>2</sup>.

## **4.0 Background**

- 4.1 On 12 October 2017 the Licensing Board received an application for a major variation of a premises licence from Lidl UK GmbH.
- 4.2 The application was publicised during the period 27 October until 17 November and confirmation that the site notice was displayed is awaited.
- 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, the following timeous notices of objection/representation have been received:
- Police Scotland
  - NHS Director of Public Health
- 4.6 However, these objections/representations were in respect of the two variations to capacity originally sought, as detailed at paragraph 3.1 above. Following the amendment of the application referred to at paragraph 3.2 above, both objections/representations have been withdrawn.
- 4.7 The applicant has been invited to attend the hearing and has 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](http://highland.gov.uk/hlb_hearings)

## **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. 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.

5.2 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.

5.3 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.

5.4 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.

## **6.0 Licensing Standards Officer**

6.1 The LSO has provided the following comments:-

1. I am advised that the applicant has now requested that the application be amended to remove the reference to the inclusion of a seasonal trading capacity and now applies only to increase the capacity to 39.96m<sup>2</sup> rather than the 40.86m<sup>2</sup> originally sought.
2. I have informed the consultees of the proposal to amend the application and I understand that they will have no objections to the amendment.
3. An increase in capacity to 39.96m<sup>2</sup> does not cause conflict with the Board's policy on overprovisioning in respect of off-sales premises. I have no cause to object to the grant of the application.

## **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

There are no existing local conditions and it is not considered necessary to attach any.

### **Recommendation**

The Board is invited to determine the above application and if minded to grant the 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/CSR/0400  
Date: 20 November 2017  
Author: G Sutherland