

The Highland Licensing Board

Meeting – 3 December 2019

Agenda Item	8.2
Report No	HLB/113/19

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

Balavoulin (formerly MacKenzie's), 125 Grampian Road, Aviemore, PH22 1RL

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Greene King Brewing & Retailing Limited, Westgate Brewery, Bury St Edmonds, Suffolk, IP33 1QT.

1.0 Description of premises

1.1 Balavoulin is located in the centre of Aviemore, close to the railway station and has six letting bedrooms and a beer garden.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Saturday: 1100 hours to 0100 hours
Sunday: 1200 hours to 0100 hours

Off sales:

Monday to Saturday. 1100 hours to 2200 hours
Sunday: 1200 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) On and off sales to commence at 1100 hours rather than 1200 hours.

- (2) Children will be permitted until 2300 hours; young persons will be permitted until terminal hour.
- (3) Children and young persons will be permitted until the end of the meal or end of entertainment of any function/celebration.

4.0 Background

- 4.1 On 16 October 2019 the Licensing Board received an application for a major variation of a premises licence from Greene King Brewing & Retailing Ltd.
- 4.2 The application was publicised during the period 21 October until 11 November 2019 and confirmation that the site notice was displayed has been received.
- 4.3 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.
- 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://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:-

- (i) The Balavoulin (formerly Mackenzie's) is a family friendly bar/restaurant with rooms situated in the centre of Aviemore. The premises are brewery owned and leased to a tenant who is installed as the premises manager.
- (ii) The premises have recently changed tenancy and are now seeking to appeal more to families for food provision. Accordingly, a major variation application has been submitted to expand the scope of the children and young persons' policy to allow greater access and to allow families to dine together for the full extent of food provision.
- (iii) In addition, the Sunday trading hours for both on and off sales are requested to commence from 1100 hours.
- (iv) The LSO has visited the premises which have been refurbished to a good standard. The majority of the bar is given over to dining tables. It is openly family orientated and, in the LSO's view, meets the standard of the fifth licensing objective for protecting children and young persons from harm. The changes in policy hours are within the current Board policy.
- (v) In the LSO's opinion, these changes do not impact adversely on the licensing objectives.
- (vi) Following the public consultation phase of this application no objections or observations have been received by the Licensing Board.

7.0 HLB local policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2018-23
- (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

Existing local conditions will continue to apply and no additional local conditions are considered necessary.

8.3 Special conditions

No special conditions are considered necessary.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local conditions detailed at para. 8.2 above.

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/340
Date: 18 November 2019
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