

The Highland Licensing Board

Meeting – 3 December 2019

Agenda Item	8.4
Report No	HLB/115/19

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

Black Isle Bar, St Mary's House, Gordon Square, Fort William, PH33 6DY

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Black Isle Brewing Company Limited.

1.0 Description of premises

1.1 The Black Isle Bar is a craft beer bar with ancillary food provision.

2.0 Summary of variation application

2.1 Variation sought

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

- (1) increase footprint of premises to accommodate relocated beer garden/smoking area.

3.0 Background

3.1 On 4 October 2019 the Licensing Board received an application for a major variation of a premises licence from the Black Isle Brewing Company Limited.

3.2 The application was publicised during the period 24 October 2019 until 18 November 2019 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.

The Planning Authority have confirmed that an application has been received to include the formation of a new beer garden and erection of a shelter. Building Standards have confirmed that temporary occupancy for the premises has been granted and they will be in a position to apply for a completion certificate when planning permission has been granted. Environmental Health have confirmed no objections but recommended that additional conditions be attached to prevent noise nuisance given the close proximity of neighbouring properties.

- 3.4 Notification of the application was also sent to NHS Highland and the local Community Council.
- 3.5 Further to this publication and consultation process, no timeous objections or representations have been received.
- 3.6 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

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:-

- The Black Isle Brewery premises in Gordon Square Fort William are a newly completed premises which are currently operating under an alcohol premises licence issued by the Highland Licensing Board.
- The premises originally included an outside drinking area which was of a different design and area to the one submitted for inclusion within the licensed area at the time of applying for confirmation of the licence. Accordingly, a major variation was requested in order to deal with this departure from the original project.
- The Licensing Standards Officer has no issue with the amended area which offers improved customer facilities. Building Standards are also satisfied with the design and works. Whilst the presence of an outdoor drinking area offers no challenge to the licensing objectives, the presence of neighbouring residential property necessitates control of the hours of operation. Appropriate consultation has been carried out with the local Environmental Health Officer who agrees with the views of the LSO. Accordingly, local licensing conditions specific to the outdoor drinking area have been proposed as detailed within para. 7.2 below.

6.0 HLB local policies

6.1 The following policies are relevant to the application:-

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

Existing local conditions will continue to apply and it is recommended that the following additional local condition(s) be attached:

- M After 2300 hours, alcoholic or non-alcoholic drinks shall not be consumed in any outdoor drinking area.

- N(1) No live or recorded music shall be played in any outdoor drinking area.

7.3 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. 7.2 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/RSL/1902
Date: 19 November 2019
Author: IC/JT