

## The Highland Licensing Board

Meeting – 12 May 2020

Agenda Item	7.5
Report No	HLB/032/20

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

**Speyside Heather Centre, Dulnain Bridge, Inverness-shire, PH26 3PA**

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

### Summary

This report relates to an application for a major variation of premises licence by Speyside Heather Centre, Dulnain Bridge, Inverness-shire, PH26 3PA.

### 1.0 Description of premises

1.1 Visitor Centre/Garden Centre incorporating gift shop, restaurant and function room situated between Aviemore and Grantown-on-Spey within Cairngorm National Park.

### 2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

#### On sales:

Monday to Sunday: 1100 hours to 2400 hrs

#### 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. Amend core on-sales hours to commence at 10.00 hrs.
2. Include seasonal variation within operating plan.

3. Amend list of activities at Section 5 of operating plan to read: "All facilities marked yes in column 4 will be made available to customers depending upon individual requirements and can be available outwith licensed hours."

4. Amend Section 5(f) to include function being held within dedicated function room to read: "Tourist visitor attraction specialising in historical and modern uses of heather. Premises is primarily a garden centre, antiques, gift shop, show garden and restaurant. A variety of functions may be held within the dedicated function suite."

5. Amend capacity at Section 7 of operating plan, increase from 120 to 180.

6. Childrens policy amended to read: 6(b) "Children of sufficient maturity at management discretion will be allowed access unaccompanied to the cafe. Children attending functions are required to be accompanied by an adult.

Young persons at management discretion, will be allowed access unaccompanied at all times."

6(c) "0-17 according to term of 6(b)."

6(d) "At all times according to terms of 6(b)."

#### **4.0 Background**

4.1 On 2 March 2020 the Licensing Board received an application for a major variation of a premises licence from Speyside Heather Centre.

4.2 The application was publicised during the period 9 March until 30 March 2020 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://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:-

- (i) The Speyside Heather Centre has held an alcohol premises licence since the inception of the Licensing (Scotland) Act 2005. The record of operation is entirely incident free. Compliance visits carried out by the LSO, have shown good levels of compliance with the terms and conditions of the licence.

(ii) On 29 April 2016, the premises suffered a catastrophic fire which completely destroyed the premises. In the intervening period the premises have been totally rebuilt. Whilst not physically operating, the owners have retained their premises licence by payment of the annual fee. A major variation is now applied for to document the newly designed premises within the operating plan and get new layout plans approved by the Board.

(iii) The new premises have been visited by the LSO and are a first class retail facility with restaurant and bespoke function room. In terms of the licensing operation this comprises of an extensive off sales shop and self-service restaurant with a small range of alcohol for on-sale consumption. There is an ancillary outside drinking area. On the second storey there is a commodious function room for whisky tasting and other functions.

(iv) Alcohol sales on the premises are requested to commence from 1000 hours as the premises offer a full menu provision from this time. They comply with the Board's policy on food led premises.

(v) Seasonal variations are requested to be included within the operating plan in order to allow dedicated functions to be held in the function suite over the festive period, should there be a demand.

(vi) Capacity of the premises has now increased to 180 from 120 persons due in the main to the function suites capacity.

(vii) A more relaxed children and young persons' policy has been proposed in order to allow free access of suitably mature children to enjoy foodstuffs and hot and cold non-alcoholic beverages. This is in line with many similar type venues already licensed in a similar manner within the Board's area.

(viii) In summation, the LSO is satisfied that the application and amended operating plan fully meets the licensing objectives. As the premises are secluded in a woodland setting with no near neighbours, no condition on the usage of the outside drinking area adjacent to the restaurant has been proposed.

## **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 it is recommended that the following additional local conditions be attached:

- (e) Premises opening for sale of alcohol for consumption on the premises prior to 1100 hours shall have available a selection of hot and cold food and shall advertise this within the premises.
- (f) Alcohol may be sold on the premises prior to 1100 hours only to persons taking table meals.
- (g) Alcohol may be sold prior to 1100 hours for consumption on the premises only during a formal or tutored session and only to customers taking part in such a tasting session.

### **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/53  
Date: 14 April 2020  
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