

## The Highland Licensing Board

Meeting – 11 May 2021

Agenda Item	8.2
Report No	HLB/034/21

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

Killiehuntly Farmhouse, by Kingussie, PH21 1NZ

### Report by the Clerk to the Licensing Board

#### Summary

This report relates to an application for a major variation of premises licence by Killiehuntly Farmhouse, Glenfeshie Limited.

#### 1.0 Description of premises

1.1 Killiehuntly Farmhouse is on its own 4,000 acre Highland Estate and is situated around 40 miles south of Inverness off the A9 and 4 miles from Kingussie and offers luxurious accommodation surrounded by peaceful countryside.

#### 2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

##### On sales:

Monday to Sunday: 1100 hours to 2300 hours

#### 3.0 Summary of variation application

##### 3.1 Variation sought

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

1. To sell a range of off sales 1000-2200 hrs each day from a bespoke Farm Shop to cottage residents on site.
2. Layout plans updated to include the provision of a Farm Shop stocking alcohol for off sales within the estate office/farm shop.
3. Included on the site is the provision to operate a Farm Shop within a secure estate office to sell a range of products including alcohol.

4. Description to include: 'Killiehuntly Estate comprises of a four bedroom detached farm house, with sitting room, study, dining room and kitchen on ground level; four en-suite bedrooms on its upper storey. The farm house is licensed for sales of alcohol to guests on the premises. There is also an outside area for guests included in the licensed footprint.

Also on the Estate are five more self-catering properties of differing size, these are not licensed, however, guests staying in these properties can purchase foodstuffs and alcohol from an Estate Farm Shop which is licensed for off sales provision.'

#### **4.0 Background**

- 4.1 On 19 March 2021 the Licensing Board received an application for a major variation of a premises licence from Killiehuntly Farmhouse, Glenfeshie Limited.
- 4.2 The application was publicised during the period 1 April until 22 April 2021 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 As a hearing cannot be held in person due to coronavirus, the Licensing Board, before reaching a decision, must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by alternative methods. Consequently, both the applicant and the objector have been invited to submit a written representation to state their case.

#### **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) Killiehuntly Farmhouse is currently licensed solely for the provision of alcohol to guests who have secured residential accommodation at the property. It forms part of an estate near Kingussie.
- (ii) Within the estate are a number of high quality self-catering cottages which are let out to guests. Whilst these cottages are not themselves individually licensed, the Estate wish to provide a facility whereby they operate a farm shop within the estate which can supply high end gifts, foodstuffs and a small range of craft beers, wines and spirits for the exclusive use of their guests.
- (iii) Accordingly, application is now made to bring this Farm Shop within the licensed footprint of the overall premises. Layout plans as well as photographs have been provided by the applicant which satisfy the grounds that the premises are suitable for the sale of alcohol as described within the application. The capacity of alcohol is very small and is well within the threshold set by the Board for considering the question of over-provision. Off sales hours comply with the limits set in the Licensing(S) Act 2005.

- (iv) The LSO has overviewed the application and is satisfied that it complies with the 5 Licensing Objectives.
- (v) Following the public consultation phase of this application, no formal objections or representations have been received. The local Building Control Manager has raised an issue concerning the absence of necessary building warrants but has not formally objected on grounds that the premises are unsuitable.

## **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**

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

### **8.3 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/INBS/627

Date: 26 April 2021

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