

## The Highland Licensing Board

Meeting – 22 June 2021

Agenda Item	10.4
Report No	HLB/055/21

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

The Lodge, Station Road, Dalwhinnie

### Report by the Clerk to the Licensing Board

#### Summary

This report relates to an application for a major variation of premises licence by Joanna Marie Riddell, The Lodge, Station Road, Dalwhinnie, PH19 1AB.

#### 1.0 Description of premises

1.1 Detached building with outside decked area situated 40 miles South of Inverness on the A9.

#### 2.0 Summary of variation application

##### 2.1 Variation sought

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

1. Addition to Section 5 of the operating plan to allow outdoor drinking within and out with core licensed hours.
2. Amendment to layout plan to include within the licensed area wooden decking adjacent to the entrance door and also a gravel area to the south gable end of the premises, both to allow outdoor drinking.
3. Additional paragraph for description: "There is an outside decked area at the entrance and a gravelled area at the south gable of the premises which are included in the licensed footprint".

#### 3.0 Background

3.1 On 6 April 2021 the Licensing Board received an application for a major variation of a premises licence from Joanna Marie Riddell.

3.2 The application was publicised during the period 26 April until 17 May 2021 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.
- 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 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.

#### **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:-

- (i) The applicant Joanna Riddell has recently taken over the licence for The Lodge, Dalwhinnie. This is a detached café/restaurant with its own car park, situated at the north end of Dalwhinnie. It has proved popular with tourists taking a break from driving or when visiting the nearby Dalwhinnie Distillery.
- (ii) Alcohol sales are very minimal but in order to develop greater capacity for customer use. permission is requested to include two outside areas both within the premises own grounds, within the licensed footprint to be included under the alcohol licence.
- (iii) The LSO is familiar with the premises and these areas are suitable for such use. Photographs and amended layout plans have been submitted. Although close to neighbouring dwellings the applicant does not seek to operate late hours .
- (iv) During the public consultation phase no objections or representations have been received by the Board.

## **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**

There are no existing local conditions but the following local conditions are now recommended:

- (l) The boundaries of any outside area will be effectively demarcated to the satisfaction of the Licensing Standards Officer.
- (m) After 2200 hours, alcoholic or non-alcoholic drinks shall not be consumed in any outdoor area.

- (n(i)) No live or recorded music shall be played in any outdoor drinking area.
- (o) The Licence holder shall ensure that consumption of drinks (alcohol or non-alcoholic) in any outside drinking area is permitted only by customers seated at the tables and chairs provided in the outside drinking area and not by customers standing in the area.
- (p) The Licence Holder shall ensure that all outdoor tables are regularly cleared of all used glassware, crockery, cutlery and refuse.

### 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/INBS/101  
Date: 7 June 2021  
Author: Marjory Bain