

## The Highland Licensing Board

Meeting – 7 September 2021

Agenda Item	9.5
Report No	HLB/090/21

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

Sainsbury's Supermarket, Balmakeith, Forres Road, Nairn, IV12 5QF

### Report by the Clerk to the Licensing Board

#### Summary

This report relates to an application for a major variation of premises licence by Sainsbury's SL Limited, 33 Holborn, London, EC1N 2HT.

#### 1.0 Description of premises

1.1 Sainsbury's superstore is situated on the outskirts of Nairn on the A96 within the Balmakeith Industrial Estate.

#### 2.0 Summary of variation application

##### 2.1 Variation sought

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

1. Q5 Addition of activities to include live performances both within and outwith core hours.

2. Col. 4 - additional wording: 'Recorded background and live performances (see below) may occur outwith core hours as ancillary to the general retail sale of groceries and other non-food items. General retail sales will also occur outwith the core licensed hours, but not normally before 07.00 hrs or after 23.00 hrs.

3. Amend Q5 to read: 'The sale of alcohol, groceries and other non-food items which occurs from the premises includes fulfilments of remote orders by home delivery and or 'click and collect', subject to compliance with sections 119 and 120 of the Licensing (Scotland) Act 2005 as amended, or such law that may be enforced from time to time. The reference to live performances above, is purely to capture very occasional fundraising events where there may be performance element such as carol singers during the festive season. Parts of the premises may be operated by a third party concessions, e.g. dry cleaners, shoe repair facilities.

The premises may also, on occasion, be used to launch new product sampling/tasting events and host community and charity events or events in conjunction with third party partners.

4. Amend description to read: 'Sainsbury's Supermarket is a large format grocer and general retail store in Balmakeith Business Park, offering a wide range of products and services including groceries, alcohol, newsagent, general retail (including clothing, home and electrical) and food to go. The store may also be a platform for innovations including parcel and click and collect services and it may house sections dedicated to brands within the Sainsbury's group.

Amend premises name from Sainsbury's Superstore to Sainsbury's Supermarket.

### **3.0 Background**

3.1 On 13 July 2021 the Licensing Board received an application for a major variation of a premises licence from Sainsbury's SL Limited.

3.2 The application was publicised during the period 20 September until 11 October 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) These premises are a large supermarket, which has held an alcohol premises Licence since 2009.

(ii) LSO visits have shown good standards of diligence in respect of the licensing legislation.

(iii) Application is made to have live performances added to the list of approved activities on the operating plan. In addition, home delivery/click and collect of alcohol is requested to be included within the operating plan. The company has strong systems for staff training and compliance with Challenge 25 as such, the LSO is content that there is no threat to the licensing objectives.

(iv) An amended premises description has also been submitted.

## **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 and it is not considered necessary to attach any.

### **7.3 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/500  
Date: 12 October 2021  
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