

Highland Licensing Board

Meeting – 29 March 2022

Agenda Item	8.2
Report No	HLB/021/22

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

Thistle Do Nicely, Unit 1D, Aviemore Shopping Centre, Grampian Road, Aviemore

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Aviemore Experience Ltd, 26 Forth Street, Edinburgh, EH1 3LH.

1.0 Description of premises

1.1 Thistle do Nicely trades as a gift shop and is situated within Aviemore Shopping Centre.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

Off sales:

Monday to Sunday. 1000 hours to 1900 hours

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Increase terminal off-sale hours to 2200 hrs, Monday to Sunday (previously 1900 hrs)
- (2) Add additional activity to operating plan: Background music may be played within and outwith core hours (at a level appropriate for customers)
- (3) At Q.5 - add premises may open at 0900 hours for the sale of other goods, no alcohol will be sold or supplied until commencement of licensed hours.
- (4) At Q.5(f) - Any other activities - add that the premises may offer a delivery service which may include alcohol.
- (5) Increase off-sale alcohol display capacity from 2.2 m2 to 11.58 m2.
- (6) Update layout plan to reflect increase in alcohol display area.

4.0 Background

- 4.1 On 7 February 2022 the Licensing Board received an application for a major variation of a premises licence from Aviemore Experience Ltd.
- 4.2 The application was publicised during the period 22 February until 15 March 2022 and confirmation that the site notice was displayed has been received.
- 4.3 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.
- 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 attend a meeting on Microsoft Teams. The applicant has been advised of the hearings procedure.

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 premises concerned are a retail unit in a shopping centre in the centre of Aviemore. The operating history of the premises is satisfactory.

(ii) Application has been made to vary the operating hours for off sales to be extended until 22.00 hrs. The premises sell a premium line of alcohol appealing to the tourist market. Such extension is permitted under the Licensing (Scotland) Act 2005 and will not, in the opinion of the LSO, compromise the licensing objectives.

(iii) Application is also made to update the activities section of the operating plan to include the playing of music and permit the operation of other aspects of the shops services out with the times when alcohol may be sold. This reflects that the main stock of the shop is upmarket gifts.

(iv) In line with many other similar operations, the premises seek permission within its operating plan to deliver alcohol. This has been advantageous to small businesses particularly during Covid restrictions.

(v) Lastly, the alcohol display is to increase to offer a wider selection of premium spirits and craft beers; the display is well under the threshold for the consideration of overprovision currently operated by the Highland Board.

(vi) The LSO is of the opinion, that no threat is offered to the licensing objectives by this application.

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/588
Date: 16 March 2022
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