

The Highland Licensing Board

Meeting – 20 June 2022

Agenda Item	12.4
Report No	HLB/058/22

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

Spar Foodstore, 2 Dunrobin Street, Helmsdale, KW8 6JA

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by C J Lang and Son.

1.0 Description of premises

1.1 The premises comprises of a hot food takeaway and licensed convenience store.

2.0 Summary of variation application

2.1 Variation sought

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

(1) Add music and gaming as activities during and outwith core hours.

(2) Amend and add the following wording to Q5 - the premises may open for general trade prior to the commencement of core hours. Recorded music may be played, such as Spar Radio prior to the commencement of core hours. This is background level only. National lottery tickets/cards can be purchased prior to core hours.

(3) Amend and add the following wording to Q5(f) - The primary activity undertaken in the premises is the general retail sale of the following: Groceries; confectionery, bread and cakes, crisps/snacks, non-foods, toiletries, frozen and chilled foods, fruit/vegetables/flowers, news and magazines, toys, tobacco and cigarettes, beers/wines/spirits and other alcoholic products, non-alcoholic drinks. Charity collection point and charitable events take place. Food to Go. Click and collect. Home Deliveries. Paypoint payment. National Lottery outlet. External automated cash machine. Sampling and promotional activities.

3.0 Background

- 3.1 On 22 April 2022 the Licensing Board received an application for a major variation of a premises licence from C J Lang and Son.
- 3.2 The application was publicised during the period Wednesday 27 April until Wednesday 18 May 2022 and confirmation that the site notice was displayed has been received.
- 3.3 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.
- 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 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:

https://www.highland.gov.uk/downloads/file/6399/licensing_hearings_procedure/licensing_board

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:-

5.2 The property is a standard convenience store selling fresh and frozen foodstuffs with an off sales alcohol facility. This is a national company with a good compliance record.

5.3 The application is to allow provision of the playing of background music and gaming. This is all as ancillary to provision of usual consumer goods and foodstuffs. The full details of variation are detailed elsewhere within report.

5.4 The core hours applied for are within the policy of the Highland Licensing Board.

5.5 The activities sought would appear to be reasonable and appropriate for the proposed operation of the premises.

5.6 There would not appear to be any matter contained within the application that is inconsistent with the licensing objectives.

5.7 During the period of public consultation, no objections were received.

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/CSR/0546

Date: 30 May 2022

Author: L Gunn

Background Papers: The Licensing (Scotland) Act 2005