

The Highland Licensing Board

Meeting – 9 August 2022

Agenda Item	8.1
Report No	HLB/070/22

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

Motor Fuel

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Motor Fuel Limited, 36-38 Upper Marlborough Road, St Albans, AL1 3UU.

1.0 Description of premises

1.1 Esso branded petrol filling station with Spar branded convenience store serving the local community. Situated on the Perth Road, this is the main road from the A9 into the town of Newtonmore. The site is to the south of the town and surrounded by many residential houses. Close by is an industrial estate.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

Off sales:

Monday to Saturday. 1000 hours to 2200 hours
Sunday: 1230 hours to 2200 hours

3.0 Summary of variation application

3.1 Variation sought

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

1. Vary Q3 - off sales to commence core hours on a Sunday from 12.30 hrs to 10.00 hrs.
2. Vary Q7 - off sales capacity from 8.3M2 to 12.1346M2.
3. Extensive refurbishment of the retail shop, resulting in a change to the off sales capacity.

4. Change of name to Newtonmore Service Station.

4.0 Background

- 4.1 On 16 May 2022 the Licensing Board received an application for a major variation of a premises licence from Motor Fuel Limited.
- 4.2 The application was publicised during the period 27 June until 18 July 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 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/hlb_hearings

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 in question are a busy service station and shop located at the southern end of Newtonmore. The premises have held an alcohol premises licence since 2009. Compliance checks by LSO(s) have shown good standards of diligence. Spar as a company are particularly protective of their licence(s) and have robust training and age verification training.

(ii) An application has been made to update the Sunday operating hours of the premises to allow trading to commence from 10.00am, which is permitted by the Licensing (Scotland) Act 2005. In addition, a re-configuration of the layout has led to a small uplift in the capacity of the alcohol display area, which is still well within the threshold established by HLB for consideration of overprovision.

(iii) The premises are well used by the local community and tourists for both fuel, groceries and newsagent items.

(iv) The LSO is satisfied that this variation does not adversely impact on the licensing objectives.

(v) During the public consultation phase of this application, no objections or representations have been received by the Board.

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/378

Date: 26 July 2022

Author: Marjory Bain