

The Highland Licensing Board

Meeting – 10 January 2023

Agenda Item	7.1
Report No	HLB/006/23

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

Old Bridge Inn, Dalfaber Road, Aviemore, PH22 1PU

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Bigface Limited, Flat 3/1 17 Craigmillar Road, Glasgow, G42 9JZ.

1.0 Description of premises

1.1 The Old Bridge Inn is situated on the outskirts of Aviemore and caters mainly for tourists and visitors to the area. It also benefits from an extensive outdoor drinking area.

2.0 Summary of variation application

2.1 Variation sought

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

1. Addition of outside drinking area on east side of Dalfaber Road, will add extra capacity to section 7 of operating plan.
2. Add in takeaway meals, and possibility of food/alcohol delivery via telephone/on-line orders.
3. An additional paragraph added to licence: 'An extensive outdoor area is served by the premises in the east side of Dalfaber Road, Aviemore.'
4. Outside drinking capacity - 300.

3.0 Background

3.1 On 26 September 2022 the Licensing Board received an application for a major variation of a premises licence from Bigface Limited.

3.2 The application was publicised during the period 21 November until 12 December 2022 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 A late representation was received on 19 December, after the deadline. As such, it cannot be considered automatically and has not been circulated. The Board may, having heard from the late representor and the applicant, consider the late representation if:
 - (a) the failure is due to mistake, oversight or other excusable cause, and
 - (b) the Board considers it appropriate in all the circumstances to relieve the failure to meet the deadline.

The late representation will be circulated if the Board agrees to consider it.

- 3.6 The applicant and the objector(s) have been invited to attend the hearing. Both have been advised of the hearings procedure which will be followed at the meeting and which may also be viewed via the following link:

www.highland.gov.uk/hlb_hearings

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 Old Bridge Inn, Aviemore has held an alcohol premises licence since 2009. The operation of these busy premises has been satisfactory. Compliance visits have shown the premises to be operating according to their licence.

(ii) The premises are situated at the west side of Dalfaber Road, Aviemore. Opposite the premises is an extensive area of flat ground between Dalfaber Road and the River Spey, originally used as an overspill car park. Latterly during the Covid period, the area has been developed into an extensive outdoor drinking area increasing the licensed capacity of the premises substantially. The area has been populated by picnic tables and chairs.

(iii) The area operated during 2021 and 2022 under the authority of occasional licences without undue incident. The hours of operation have run until 2300 hrs and have not attracted any public complaint. In this regard, the LSO has recommended a closure time by way of local licensing condition of 2300 hrs. Customers require to cross the public thoroughfare of Dalfaber Road in order to access the bar of the premises. Again the public safety implications of this have been well tested over the Covid period and do not in the opinion of the LSO form a ground under the public safety licensing objective to refuse the application. The outside area has a capacity of 300 persons and is well lit.

(iv) Included within the application for variation is an addition to the operating plan at section 5(f) to cater for takeaway meals, and potentially operate a food delivery service with or without alcohol. Such additional services have proved popular additions to several operating plans during and post the Covid pandemic to allow premises the ability to be resilient in their service provision.

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

Existing local conditions will continue to apply and it is recommended that the following additional local condition(s) be attached:

(m) After 2300 hours, alcoholic or non-alcoholic drinks shall not be consumed in any outdoor drinking area.

n(ii) The playing of live or recorded music in any outdoor drinking area shall be restricted to between the hours of 1100 and 2200 hours.

(o) The licence holder shall ensure that consumption of drinks (alcoholic 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 that 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

Special conditions continue to apply.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/special condition(s) detailed at para(s). 7.2 and 7.3 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/91
Date: 14 December 2022
Author: Marjory Bain