

The Highland Licensing Board

Meeting – 1 August 2023

Agenda Item	8.9
Report No	HLB/090/23

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

Ben Nevis Inn, Achintee, Fort William, PH33 6TE

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Winchester Foods Scotland Limited, The Ben Nevis Inn, Achintee, Fort William, PH33 6TE.

1.0 Description of premises

1.1 The Ben Nevis Inn is a detached Inn style premises which sits in a rural location at the foot of Ben Nevis. The premises comprises of a restaurant, bar servery and toilets on the ground floor with a mezzanine floor above and a bunkhouse below at lower level.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Wednesday: 1100 hours to 2300 hours
Thursday to Saturday: 1100 hours to 0100 hours
Sunday: 1200 hours to 2300 hours

3.0	Summary of variation application
3.1	Variation sought
	The applicant seeks to vary the premises licence as follows:-
	(1) Add off-sales to premises licence: 1100 hours to 2200 hours, Monday to Sunday;
	(2) Increase capacity of premises from 110 to 142 persons;
	(3) Increase footprint and update layout plan of licensed premises to include recently constructed self-catering accommodation to be known as “The Fank” (adjacent to the Main Inn/Bunkhouse);
	(4) In accordance with Board policy, increase on-sale terminal hour on Monday, Tuesday, Wednesday and Sunday from 2300 hours to 0100 hours;
	(5) In accordance with Board policy, increase on-sale opening hour on Sunday to commence from 1100 hours (previously 1200 hours);
	(6) Under seasonal variation, add in option to take advantage of and operate under any seasonal extensions granted by the Board;
	(7) Update description of premises to include reference to separate self-catering annex to be known as “The Fank”.
4.0	Background
4.1	On 17 March 2023 the Licensing Board received an application for a major variation of a premises licence from Winchester Foods Scotland Limited per MacPhee & Partners, Airds House, An Aird, Fort William, PH33 6BL.
4.2	The application was publicised during the period 16 June 2023 until 7 July 2023 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	<p>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:</p> <p>www.highland.gov.uk/hlb_hearings</p>
5.0	Legislation
5.1	<p>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.</p>
	<p>Relevant grounds of refusal may be: -</p> <ol style="list-style-type: none"> 1. the grant of the application will be inconsistent with one or more of the licensing objectives;
	<ol style="list-style-type: none"> 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;
	<ol style="list-style-type: none"> 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	<p>For the purposes of the Act, the licensing objectives are-</p> <ol style="list-style-type: none"> (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	<p>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.</p>
5.4	<p>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.</p>

6.0	Licensing Standards Officer
6.1	The LSO has provided the following comments:-
1.	Detached inn style premises in rural location set at the foot of Ben Nevis. The premises predominately caters for walkers, climbers and the general tourist market. Emphasis is on food and traditional music ceillidhs. The main area at the Inn has a mezzanine floor above with bunk house below it at lower level, and a separate self-catering annex in the grounds immediate to the south of the main inn building.
2.	Variations being sought are all within Highland Licensing Board policy.
3.	Business is food led, been in operation since 2009, with no issues.
4.	Premises offers good facilities for all patrons whether going purely for a meal and a drink or staying in the on-site accommodation.
5.	The applicant is seeking to take advantage of any seasonal extensions granted by the Highland Licensing Board therefore an additional condition has been recommended at paragraph 8.2 below.
6.	Site visit carried out by myself and I have no concerns.
7.	No objections or representations have been received in respect of the application.
8.	I have no objections to this application.
7.0	HLB local policies
7.1	<p>The following policies are relevant to the application:-</p> <p>(1) Highland Licensing Board Policy Statement 2018-23</p> <p>(2) Highland Licensing Board Equality Strategy</p>
8.0	Conditions
8.1	<p>Mandatory conditions</p> <p>If the application is approved the mandatory conditions set out in Schedule 3 of the Act will apply.</p>

8.2 Local conditions

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

- The licence holder shall submit to the Board and to Police Scotland, prior to 1 December each year, notice of the dates within the festive period on which it is intended that the premises remain open until the festive period terminal hour stated for that category of premises in the Board's Policy Statement. The premises may remain open until the festive period terminal hour only on those dates for which notice has been given by the licence holder to the Board and to Police Scotland in accordance with this condition.

8.3 Special conditions

No special conditions are considered necessary.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local condition detailed at para. 8.2 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/RSL/0433

Date: 19 July 2023

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