

The Highland Licensing Board

Meeting – 5 September 2023

Agenda Item	9.3
Report No	HLB/102/23

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

Spar, 45 Thornbush Road, Inverness, IV3 8AB

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 & Son Limited, 78 Longtown Road, Dundee, DD4 8JU.

1.0 Description of premises

1.1 Detached single storey shop trading as a convenience store with off-sales. The shop is located in a mixed commercial and residential area of Inverness.

2.0 Summary of variation application

2.1 Variation sought

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

(1) Q5 - To add 'Gaming' as an activity both within and outwith core hours.

(2) Q5 - To add wording to read '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 hour. This is background level only. National Lottery tickets/cards can be purchased prior to core hours.'

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

3.0 Background

- 3.1 On 16 June 2023 the Licensing Board received an application for a major variation of a premises licence from C J Lang & Son Limited.
- 3.2 The application was publicised during the period 17 July until 7 August 2023 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 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:

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.

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.

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 Spar premises referred to in this application are a small general grocery outlet in the Merkinch area of Inverness.

(ii) The premises have held an alcohol premises Licence since 2009. Compliance visits show that the operators have good training and compliance systems in place. The operating history is incident free.

(iii) Application is made in order to update section 5 of the operating plan, to accurately reflect the entire range of services offered on the premises.

(iv) Gaming is added as an activity, reflecting the lottery sales carried out. Section 5 and 5(f) have been populated with text reflecting all activities occurring on the premises.

(v) The amendments to the operating plan are in step with the 5 licensing objectives in the opinion of the LSO.

(vi) During the public consultation phase of the application no objections or representations were received by the Board.

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/INBS/260
Date: 21 August 2023
Author: Marjory Bain