

The Highland Licensing Board

Meeting – 5 September 2023

Agenda Item	9.4
Report No	HLB/103/23

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

Marks and Spencer, 9 Eastgate, Inverness IV2 3TL

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Marks and Spencer, 9 Eastgate, Inverness, IV2 3TL.

1.0 Description of premises

1.1 Large department store covering three floors, located within the Eastgate Shopping Centre in Inverness City Centre.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

Off sales:

Monday to Sunday. 1000 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) 5(a) Cafe selling a range of soft drinks, hot drinks, hot and cold snacks will operate within and outwith core hours. Alcohol sold for consumption in the cafe will be limited to permitted hours.

(2) Amending Q6 regarding children's access to the premises, by permitting 0-17 years access to all public area of the premises, whilst it is trading.

(3) Amending Q7 by adding the capacity for on sales capacity to be 130 covers.

(4) The application is to include the cafe located on the first floor as detailed in plan 1097/123G (attached) with the demise of the licensed area.

(5) The existing off-sales display area on the ground floor as detailed in plan 317/A/101/P Rev 101 is not impacted by this application and shall remain within the demise of the licence.

(6) The changes will allow the consumption of alcohol on the premises within the existing customer cafe from 11.00-22.00 hrs daily.

(7) Change of description to read; "Retail shop selling a range of products including alcohol for consumption on and off the premises. The premise covers three floors and is located in a shopping centre."

4.0 Background

4.1 On 17 July 2023 the Licensing Board received an application for a major variation of a premises licence from Marks and Spencer PLC.

4.2 The application was publicised during the period 31 July until 21 August 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 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

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) A major variation application has been received from Marks & Spencer, 9 Eastgate, Inverness for their in-store café operating as Café Revive. Marks and Spencer is situated in the Eastgate Centre and is spread over three floors with food hall, menswear, and housing on the ground floor, ladieswear, beauty and Café Revive on first floor with offices etc on second floor. The applicants are a major national retailer and are looking to align their operations across their Scottish stores to that of their stores across the rest of the UK. The applicants will operate within their current opening hours and the additional hours requested will cover seasonal late hours openings.

(ii) This application is to extend the current activities provided by the premises which are detailed elsewhere in this report.

(iii) The premises have operated for many years without adverse comment.

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

(v) The children and young persons policy is appropriate.

(vi) The layout plan submitted complies with the required specifications.

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

(viii) During the period of public consultation, no objections were received.

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/47
Date: 22 August 2023
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