

## The Highland Licensing Board

Meeting – 28 November 2023

Agenda Item	8.1
Report No	HLB/130/23

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

**The Grapemonger, 106 High Street, Nairn, IV12 4DE**

### Report by the Clerk to the Licensing Board

#### Summary

This report relates to an application for a major variation of premises licence by Kirstin Hamilton, 9 Smiths Lane, Nairn, IV12 4DG.

#### 1.0 Description of premises

1.1 Ground floor building on The Braes, with residential flat above. It is located in Nairn town centre.

#### 2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

##### On sales:

Monday: closed  
Tuesday to Wednesday : 1200 hours to 1800 hours  
Thursday to Saturday: 1200 hours to 2000 hours  
Sunday: closed

##### Off sales:

Monday: closed  
Tuesday to Wednesday. 1200 hours to 1800 hours  
Thursday to Friday: 1200 hours to 2200 hours  
Saturday: 1200 hours to 2000 hours  
Sunday: closed

### **3.0 Summary of variation application**

#### **3.1 Variation sought**

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

(1) Amend on sales commencement and terminal hour Sunday-Wednesday to 1100-1800 hrs and Friday-Saturday to 1100-2000 hrs.

(2) Amend off sales commencement and terminal hours Saturday-Thursday 1000-2000 hrs and Friday 1100-2100 hrs.

### **4.0 Background**

4.1 On 8 September 2023 the Licensing Board received an application for a major variation of a premises licence from Kirstin Hamilton.

4.2 The application was publicised during the period 25 September until 16 October 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](http://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 Grapemonger is a small wine merchants business situated on High Street, Nairn. In addition to the normal off sales provision, on sales are permitted and used for hosting wine tastings on the premises.

(ii) The premises licence was confirmed in April 2023 from which time, the premises have traded without complaint or incident.

(iii) Application has now been made to modify the operating hours of the premises to allow on sales from 1100 hrs each day of the week, and off sales to commence from 10.00 hrs.

On sales are permitted until 1800 hrs on Sunday to Thursday, and until 2000 hrs on Friday and Saturday. Off sales are requested to terminate at 2000 hrs on each day of the week except Friday, which is requested to have a 2100 hrs termination.

(iv) It is stressed that the main business is very much off sales, with on sales business being tastings and product launchings.

(v) Considerable community anxiety was generated by the original provisional licence application, heard by the Board on 28 March, 2023 concerning the potential for noise and anti-social issues which may affect neighbours. The absence of community complaint during the summer months, which are potentially the busiest operating period, would indicate that the premises licence holder has run things very much in the spirit of the 5 licensing objectives.

(vi) It is the opinion of the LSO, that the changes to the operating plan do not in any way compromise the licensing objectives.

## **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**

Any glass disposal will not take place after 2200 hours or prior to 0800 hours.

## **Recommendation**

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/special conditions detailed at paras. 8.2 and 8.3 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/685  
Date: 13 November 2023  
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