

## The Highland Licensing Board

Meeting – 28 November 2023

<b>Agenda Item</b>	8.4
<b>Report No</b>	HLB/133/23

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

Highland Farm Café, Mountgerald, Dingwall

Report by the Clerk to the Licensing Board

#### Summary

This report relates to an application for a major variation of premises licence by Kenneth McKenzie in respect of Highland Farm Café, Mountgerald, Dingwall.

#### 1.0 Description of premises

1.1 Highland Farm Café is a detached single storey cafe and farm shop with outdoor drinking area and external area upon which a marquee or other temporary structure may be erected from time to time for events. There is no bar counter on the premises. The premises licence was granted on 4 October 2018.

#### 2.0 Current operating hours

The premises currently has the following operating hours:

##### On sales:

Monday to Sunday: 1100 hrs to 0100 hrs

##### Off sales:

Monday to Sunday: 1000 hrs to 2200 hrs

#### 3.0 Summary of variation application

##### 3.1 Variation sought

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

- 1) to amend the layout plan to extend licensed area to include holiday cottages and occasional outdoor marquee area;
- 2) update premises licence description to take account of this;
- 3) provision of minibar in each cottage;
- 4) increase the on sale capacity;
- 5) update children and young person policy;

- 6) to activities/entertainment provided add bar meals and outdoor drinking during core hours and accommodation during and outwith core hours;
- 7) update licence with explanation for activities held outwith core hours and details of other activities provided;
- 8) amend layout plan to show outdoor drinking areas;
- 9) children and young persons to be permitted on premises and policy detailed;

#### **4.0 Background**

- 4.1 On 4 October 2023 the Licensing Board received an application for a major variation of a premises licence from Kenneth McKenzie.
- 4.2 The application was publicised during the period 6 to 27 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:

[https://www.highland.gov.uk/downloads/file/6399/licensing\\_hearings\\_procedure/licensing\\_board](https://www.highland.gov.uk/downloads/file/6399/licensing_hearings_procedure/licensing_board)

#### **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.
- 5.2 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.

5.3 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.

5.4 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.

5.5 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:-

- a) The property known as Highland Farm Cafe is an established and award-winning premises, north of Dingwall, Ross-shire.
- b) The premises comprise a single storey purpose built licensed café and farm shop with self-catering cottages and outdoor hospitality areas close by. The premises sit within their own grounds, in a rural area.
- c) This application is to extend the current outdoor area, and the use of same at the premises which will also increase the capacity of the licensed area.
- d) The application also updates the Children and Young Persons policy as well as offering further services as outlined elsewhere, in detail within this report.
- e) The premises have operated for many years without adverse comment.
- f) The activities sought would appear to be reasonable and appropriate for the proposed operation of the premises.
- g) The Children's and Young Persons policy is appropriate.
- h) The layout plan submitted complies with the required specifications.
- i) There would not appear to be any matter contained within the application that is inconsistent with the licensing objectives.
- j) During the period of public consultation, no objections were received.
- k) I have no objection to this application.

## **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**

Should the Board grant the application as applied for, the Board may wish to consider attaching the following additional condition from the schedule of local conditions:

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

### **Recommendation**

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local conditions 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/CSR/1877  
Date: 13 November 2023  
Author: G Sutherland

Background Papers: The Licensing (Scotland) Act 2005/Application Form.