

The Highland Licensing Board

Meeting – 25 June 2024

Agenda Item	10.3
Report No	HLB/65/24

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

Cawdor Deli, The Barn, 1 Jubilee Cottage, Cawdor, IV12 5XP

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Nyomi Dixon, 71 Drumdevan Road, Inverness, IV2 4DX.

1.0 Description of premises

1.1 Cawdor Deli is a small local convenience store situated centrally, in the village of Cawdor. The premises have held a premises licence under the Licensing (Scotland) Act 2005 since 2013 operating solely on an off sales basis.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

Off sales:

Monday to Sunday. 1000 hours to 1900 hours

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Change premises name from Cawdor Stores to Cawdor Deli.
- (2) On sales and off sales Monday-Sunday 1000-2200 hrs.
- (3) Operating plan to include restaurant facilities, receptions, outside drinking area, all within core hours.
- (4) Add children and young person Policy.
- (5) Layout plan to be amended for new business layout.
- (6) Description to change: 'Cawdor Deli is a small shop selling a range of alcohol by off sale.

Also on the premises are a number of tables for food service, which may include the provision of alcohol on the premises. The premises will also operate an outside drinking area where food and beverages may be taken.'

4.0 Background

- 4.1 On 29 April 2024 the Licensing Board received an application for a major variation of a premises licence from Nyomi Dixon.
- 4.2 The application was publicised during the period 13 May until 3 June 2024 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 has been submitted making application for alteration to change the name of the premises from Cawdor Stores to Cawdor Deli.

(ii) Application has been made to add on sales to the licence for the first time with proposed licensing hours as follows:-

On Sales – Monday to Sunday – 1000 hours until 2200 hours

This amendment is sought to allow the sale of small bottles of beer or wine ancillary to food. There will be no bar counter where alcohol is served from and all sales will be taken from existing stock.

(iii) Application is sought to amend current off sales from existing licensing hours of 1000 hours until 1900 hours to proposed licensing hours as follows:-

Off Sales – Monday to Sunday – 1000 hours until 2200 hours

(iv) The request for amendment for both on and off sales is to accommodate occasional use outwith regular business activity. The operating model will continue to be based around the current core business hours of 1000 hours until 1900 hours Monday to Sunday, however, the hours applied for, will provide flexibility to permit management to cater for the occasional request for private parties, which can thereby be accommodated without having to make extended hours applications.

(v) Application is sought at Q5 to broaden the range of activities permitted within the operating plan to allow the playing of background music for customers, the provision of a small restaurant and outdoor drinking, and after Q5 and at Q6 to amend wording to reflect current trading position. These activities include 'a

number of tables for food service, which may include the provision of alcohol on the premises. The premises will also operate an outside drinking area where food and beverages may be taken'

(vi) In summation, the LSO has visited the venue and is of the opinion that none of the proposed changes to the operating plan affect the licensing objectives adversely and are all within Board policy.

(vii) Representation received from Highland Council Environmental Health Officer making following recommendations 'It is noted that the application states that music may be provided throughout trading hours. However, to minimise any public noise nuisance to nearby residents, our service would advise that the playing of amplified musical instruments or use of other sound producing devices should be prohibited within the external seating area'.

(viii) Representation received from local community council who raised a concern that 'Unaccompanied children accessing the shop and café while adults are being served alcohol'. Following discussions the Community Council, who are supportive of the application, were satisfied that any sales of alcohol are food led and not merely a 'bar'. It was explained that there is no bar counter and alcohol would be sold from existing stock and only ancillary to food by persons sitting at a table and that this would be strictly controlled by management and staff.

7.0 HLB local policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2023-28
- (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 but the following local condition(s) are now recommended:

(f) Alcohol may be sold on the premises prior to 1100 hours only to persons taking table meals.

n(i) No live or recorded music shall be played in any outdoor drinking area.

(o) The licence holder shall ensure that consumption of drinks (alcoholic or non-alcoholic) in any outside drinking area is permitted only by customers seated at

the tables and chairs provided in the outside drinking area and not by customers standing in that area.

(p) The licence holder shall ensure that all outdoor tables are regularly cleared of all used glassware, crockery, cutlery and refuse.

8.3 Special conditions

The Board may wish to consider attaching the following special condition:

- (1) Alcohol may only be sold or supplied on the premises to persons taking table meals for consumption by such a person as an accompaniment to a meal.

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/558
Date: 12 June 2024
Author: Marjory Bain