

## The Highland Licensing Board

Meeting – 4 February 2014

Agenda Item	9.1
Report No	HLB/007/14

### Application for the New Grant of a Premises Licence under the Licensing (Scotland) Act 2005

#### Report by Clerk of the Licensing Board

##### Summary

Ref: HC/INBS/560

This Report relates to an application for the New Grant of a Premises Licence for:  
**Premises:** Caledonian Spirit (Cruise Ship), Canal Side, Fort Augustus PH32 4BD  
**Applicant:** Cruise Loch Ness Limited, Clava House, Cradlehall Business Park, Inverness IV2 5GH, per South Forrest, 8 Ardross Terrace, Inverness, IV3 5NW

#### 1.0 Background

1.1 The application is for a passenger cruise boat based in Fort Augustus and operating on Loch Ness and the Caledonian Canal.

1.2 On 21 November 2013 the Licensing Board received an application for the grant of a Premises Licence from the applicant's agent, South Forrest, 8 Ardross Terrace, Inverness IV3 5NW.

The application was accompanied with the statutory fee. In terms of Section 126(3) of the above mentioned Act, premises consisting of a vessel are exempt from the requirement to submit Section 50 Certification in terms of Planning, Building Standards and Food Hygiene.

1.3 The Board has advertised the application on the Council's website for a period of 21 days and the applicant has to display the Notice on site for the same period (02 December to 23 December 2013). Confirmation of display of the site note has been received.

1.4 In accordance with standard procedure, Police Scotland, Highlands and Islands Fire and Rescue Service, The Council's TEC Services (Environmental Health), Planning and Building Standards were consulted on the application.

Notification and a copy of the application have been sent to NHS Highland and to the Local Community Council.

Notice of the application has been sent to and all the people listed under S21(1) of the Act.

1.5 No objections or representations have been received in respect of the application.

## **2.0 Legislation**

2.1 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 ground of refusal may be –

1. The premises are excluded premises;
2. The grant of the application will be inconsistent with one or more of the licensing objectives;
3. That having regard to (i) the nature of the activities 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 the sale of alcohol.
4. Having regard to the number and capacity of licenced premises of the same or similar description in the locality, the Board considers that if the application were to be granted, there would, as a result be over-provision of licensed premises of that description in the locality.

2.2 The Board has power where, if they would refuse the application as made, but if a modification is proposed by them and accepted by the applicant, the application can be granted.

## **3. Summary of Application**

**On Sales:** Monday to Sunday 10.00 hrs to 24.00 hrs,

**Off Sales:** Monday to Sunday 10.00 hrs to 22.00 hrs

## **4. Policies**

The following policies are relevant to the application:

Highland Licensing Board Policy Hours

Highland Licensing Board Policy Statement

The Highland Licensing Board combined Equality Scheme

Schedule of Local Conditions

## **5 Licensing Standards Officer's Comments:**

5.1 i) The hours applied for are outwith the policy hours of the Highland Licensing Board, given that the applicant is seeking core opening hours from 10.00 hours – Monday to Sunday. The Board's Policy Statement – Premises Licence Core Hours (Para 2.1 Food-led operations) states that such premises will be permitted early opening from 09.00 hours when the sale of alcohol is ancillary to the provision of food.

There are several similar operations serving the tourist industry within the area of the Highland Licensing Board with permitted core opening hours of 10.00 hours. These premises have had no attendant issues in relation to compliance in terms of the Licensing (Scotland) Act, 2005. I have spoken with the applicant who informed me that this is a family business which has been operating for over 40 years. Cruises take place daily from 10.00 hours and he wishes to be able to offer alcohol for sale on each cruise.

- ii) The activities sought would appear to be reasonable and appropriate for the proposed operation.
- iii) The children's policy is considered suitable for the proposed operation of the premises and is within the policy of the Highland Licensing Board.
- iv) There would not appear to be any matter contained within the application that is inconsistent with the licensing objectives and the premises would appear to be suitable for use for the sale of alcohol in accordance with the proposed application.

## **6 Local Conditions**

- 6.1
  - a) Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hours except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This condition does not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress.
  - b) Whilst in any room with a bar counter all children must be in the company of, or supervised by an appropriate responsible adult. This condition does not apply to children of the licence holder or children who are resident on the premises.
  - c) Notwithstanding conditions (a) and (b) children must not sit or remain at the bar counter at any time.

## **7 Mandatory Conditions**

- 7.1 If the application is approved the Mandatory Conditions set out in Schedule 3 of the Act will apply.

## **8 Recommendation**

The Board are invited to determine the application and the proposed Local Conditions detailed at para 6.1 above and:

- (a) Agree whether to grant the application as applied for, or
- (b) Grant the application with an amendment (if accepted by the applicant) to the core opening hour from 10.00 hours to 11.00 hours, Monday to Sunday to bring the opening hour into line with the Licensing Board's Policy.

Designation: Clerk of the Highland Licensing Board

Reference: HC/INBS.560

Author: Wendy Grosvenor

Date: 5/12/2013.

Background Papers: The Licensing (Scotland) Act 2005 .