

The Highland Licensing Board

Meeting – 31 March 2015

Agenda Item	9.1
Report No	HLB/029/15

Application for the provisional grant of a Premises Licence under the Licensing (Scotland) Act 2005

Ed's Easy Diner, Unit 29, 11 Eastgate, Eastgate Centre, Inverness IV2 3PP

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for the provisional grant of a Premises Licence in respect of Ed's Easy Diner, Unit 29, 11 Eastgate, Eastgate Centre, Inverness IV23 3PP.

1.0 Description of Premises

1.1 Ed's Easy Diner is a restaurant unit located on first floor (upper mall), comprising ground and first floor premises, situated in a major shopping centre in Inverness.

2.0 Operating Hours

2.1 The applicant seeks the following **on-sale** hours:

On sales:

Monday to Sunday 0900 hours to 2300 hours

The applicant seeks the following **off-sale** hours:

Off sales:

Monday to Sunday 1000 hours to 2200 hours

3.0 Background

3.1 On 24 December 2015 the Licensing Board received an application for the provisional grant of a Premises Licence from Ed's Easy Diner Group Ltd, Avenfield House, 118-127 Park Lane, London W1K 7AG per Brodies LLP, 15 Atholl Crescent, Edinburgh EH3 8HA.

The application was accompanied by the necessary Section 50 Certification in terms of Planning.

- 3.2 The application was publicised during the period 19 January 2015 until 9 February 2015 and confirmation that the site notice was displayed has been received.
- 3.3 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.
- 3.4 Notification of the application was also sent to NHS Highland. No Community Council is currently formed.
- 3.5 Further to this publication and consultation process, no timeous objections or representations have been received.
- 3.6 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:

http://www.highland.gov.uk/downloads/download/428/liquor_licence_objections_appeals_notices_of_determination

4.0 Legislation

- 4.1 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 are: -

1. that the premises are excluded premises;
2. that the grant of the application would 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 use for the sale of alcohol, or
4. that having regard to the number and capacity of licensed 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 overprovision of licensed premises of that description in the locality.

4.2 If the Board would refuse the application as made, but a modification is proposed by them and accepted by the applicant, the application can be granted as so modified.

5.0 Licensing Standards Officer

5.1 The LSO has provided the following comments:-

The premises in question are a retail unit within the first floor concourse of the Eastgate Centre, Inverness. The premises are currently being fitted out. The LSO has visited and liaised with the shop fitters and they confirm the layout plan submitted with the application as accurate.

The premises, in the view of the LSO, are suitable for the sale of alcohol. The on sales hours are in accordance with the Licensing Board's policy in terms of "early hours" for food led premises offering alcohol as an ancillary to a meal.

The necessary Section 50 certificate in respect of Planning has been submitted.

No alcohol capacity is quoted at section 7 of the Operating Plan in respect of off-sale display. The applicants' agents have given the following explanation;

Off Sales

"Our clients provide a variety of milk shakes including an Alco shake and the alcohol used for this purpose is kept at the "station" at which the product is made up."

A sub issue posed by such proposed sales is that it would seem that such Alco Shakes are vended for off sales to customers. The location of the premises is within the area of Inverness City Centre covered by the Public Drinking Byelaw and as such there maybe potential issues concerning the first licensing objective - preventing crime and disorder, which will require to be thought through by the Company.

In terms of the children and young person's policy, the applicants have designed a policy based on management discretion "dependent on level of maturity and behaviour" as the criteria for unaccompanied access. Whilst the LSO has no issue with this as the premises are very much food led with family friendly menus, similar applications for other restaurants have been more definitive in terms of age allowing unaccompanied children from 12 years and upwards.

6.0 HLB Local Policies

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-16
- (2) Highland Licensing Board Equality Strategy

7.0 Conditions

7.1 Mandatory Conditions

If the application is approved the mandatory conditions set out in Schedule 3 of the Act will apply.

7.2 Local Conditions

Should the Board grant the application as applied for, the Board may wish to consider attaching the following condition(s) from the Schedule of Local Conditions:

- F (2) "Alcohol may be sold on the premises prior to 1100 hours only to persons taking table meals."

7.3 Special Conditions

No special conditions are considered necessary.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local condition detailed at paragraph 7.2 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/INBS/574

Date: 12 March 2015

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