

The Highland Licensing Board

Meeting – 28 March 2017

Agenda Item	7.1
Report No	HLB/022/17

Application for the provisional grant of a premises licence under the Licensing (Scotland) Act 2005

Marston's, Land Opposite ASDA, Slackbuie, Inverness, IV2 6BA

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 Marston's, Land Opposite ASDA, Slackbuie, Inverness, IV2 6BA.

1.0 Description of premises

1.1 The Marston's is situated on Land 160 metres south west of Lower Slackbuie Farm, Inverness and consists of a food-led pub restaurant, offering quality food and occasional limited entertainment.

2.0 Operating hours

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

On sales:

Monday to Sunday: 1100 hours to 0030 hours

3.0 Background

3.1 On 8 December 2016 the Licensing Board received an application for the provisional grant of a premises licence from Marston's Operating Limited.

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

3.2 The application was publicised during the period 9 January until 30 January 2017 and confirmation that the site notice was displayed has been received.

3.3 In accordance with standard procedure, Police Scotland, the Scottish Fire and 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 and the local Community Council.

- 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/file/11696/guidance_note_on_hearings_before_the_highland_licensing_board

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:-
- (i) A provisional premises licence application has been submitted to licence what will be ostensibly a food outlet, with occasional entertainment.
 - (ii) The application has been accompanied by the necessary section 50 certificate from planning and a competent set of layout plans.

(iii) The premises will be situated on land adjacent to the Asda supermarket at Slackbuie, Inverness. There are residential properties close by.

(iv) The operating plan in the opinion of the LSO is sound, and will meet all 5 licensing objectives. There are outside drinking areas and it is recommended, that use of these for the consumption of alcoholic and non-alcoholic drinks, is capped to 2300 hours.

(v) The hours requested within the operating plan are compliant with current highland licensing board policies.

6.0 HLB local policies

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-18
- (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 conditions from the Schedule of Local Conditions:

(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 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.

(e) After 2300 hours alcoholic and non-alcoholic drinks shall not be consumed in an outdoor drinking area.

7.3 Special conditions

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

(1) All glass disposal shall cease between the hours of 2300 hours and 0700 hours. (Licensing objective 3 (prevention of public nuisance)).

(2) At any time when any live or recorded music is being played within the premises after 2200 hours all windows and doors shall remain closed. (Licensing objective 3 (prevention of public nuisance)).

On any occasion when the premises are permitted to open after 0100 hours the following conditions shall apply:

(1) A person trained to the satisfaction of the licensing board in administering first aid must be present on the premises from 0100 hours.

(2) A designated person who is the holder of a personal licence must be present on the premises from 0100 hours. (Licensing objectives 1 and 2).

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/special condition(s) detailed at para(s). 7.2 and 7.3 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/603

Date: 16 February 2017

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