

The Highland Licensing Board

Meeting – 3 October 2017

Agenda Item	8.3
Report No	HLB/105/17

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

The Misty Bottle, Old Post Office, Breakish, Isle of Skye, IV42 8PY

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 The Misty Bottle, Old Post Office, Breakish, Isle of Skye, IV42 8PY.

1.0 Description of premises

1.1 The Misty Bottle is accommodated in the Old Post Office building bordering the A87 in the village of Breakish. The premises is a dedicated whisky and gift shop offering for sale a range of alcoholic drinks.

2.0 Operating hours

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

On sales:

Monday to Saturday: 1000 hours to 2200 hours
Sunday: 1000 hours to 1900 hours

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

Off sales:

Monday to Saturday: 1000 hours to 2200 hours
Sunday: 1000 hours to 1900 hours

3.0 Background

3.1 On 22 August 2017 the Licensing Board received an application for the provisional grant of a premises licence from Gordon A Macphie.

The application was accompanied by the necessary section 50 certification in terms of Planning.

- 3.2 The application was publicised during the period 25 August 2017 until 15 September 2017 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 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://highland.gov.uk/hlb_hearings

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 Board considers, having regard to the licensing objectives, that the applicant is not a fit and proper person to be the holder of a premises licence;
3. that the grant of the application would be inconsistent with one or more of the licensing objectives;
4. 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

5. 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.

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) The applicant intends to operate a specialist whisky and gift shop from converted premises at the Old Post Office, Breakish, Isle of Skye. The application is for both on and off sales.
- (ii) The proposed hours are 1000 hours to 2200 hours daily Monday to Saturday and 1000 hours to 0700 hours on a Sunday.
- (iii) The sale of alcohol for on-sales will only take place as a part of a sampling or tasting session. It is noted that the applicant seeks on-sales hours commencing at 1000 hours.
- (iv) Highland Licensing Board policy hours for on-sales generally commence at 1100 hours on any day. The applicant seeks to offer on sales from 1000 hours so as to be able to sell samples of the various whisky styles as a part of tasting session at the commencement of trading hours. There is precedent for the grant of such hours for other premises offering tasting and sampling sessions and each case is considered on its own merits. It is unlikely that sale for on-consumption on sales will be a significant element of the business. I am of the opinion that the earlier commencement hour for on sales will not conflict with any of the licensing objectives.
- (v) The alcohol capacity for the premises will be 29.93 m² which does not conflict with the Board's policy for overprovision
- (vi) All activities and services referred to in the operating plan are appropriate for this type of operation. I am satisfied that the applicant has given due regard to the licensing objectives and I have no cause to object to the grant of the provisional premises licence.

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

No local conditions are considered necessary.

7.3 Special conditions

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

- (1) Alcohol for consumption on the premises may only be sold to persons participating in a tasting or sampling session.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed special condition detailed at para. 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/RSL/1837

Date: 18 September 2017

Author: Carol Nicolson

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