

The Highland Licensing Board

Meeting – 2 April 2019

Agenda Item	7.1
Report No	HLB/026/19

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

Fairytale Distillery/Manuela's Wee Bakery, Ardelve, IV40 8DY

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 Fairytale Distillery/Manuela's Wee Bakery, Ardelve, IV40 8DY

1.0 Description of premises

1.1 The Fairytale Distillery/Manuela's Wee Bakery is situated in Ardelve and consists of a distillery, commercial bakery and pizza maker with retail and takeaway facilities operating from single storey wooden buildings located within the grounds of a private house.

2.0 Operating hours

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

On sales:

Monday to Sunday: 1100 hours to 2200 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 18 January 2019 the Licensing Board received an application for the provisional grant of a premises licence from Thomas Gottwald and Manuela Kohne-Gottwald.

The application was accompanied by the necessary section 50 certification in terms of Planning together with a Disabled Access Statement.

- 3.2 The application was publicised during the period 15 February 2019 until 8 March 2019 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, the following timeous notice representation has been received and is appended:

Letter dated 12 February 2019 from Chris Hallas, Planning and Development Service – **Appendix 1**.

- 3.6 The applicant and the objector have been invited to attend the hearing. They have been advised of the hearings procedure which will be followed at the meeting and 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 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.

4.3 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 applicants intend to operate a small distillery, commercial bakery and pizza maker with retail and takeaway facilities operating from several purpose-built, wooden buildings within the grounds of their private house;
- (ii) The separate buildings are all single-storey and imaginatively designed as fairytale- style buildings. An area of land surrounding the buildings has been identified for use as an outdoor drinking area and, from time to time, tables may be set out and a marquee or other temporary structure erected in support of function or events including markets. A successful German-style Christmas market was held at the premises in 2018 with sales of alcohol permitted in accordance with an occasional licence. The event passed without any noteworthy incident;
- (iii) There is no bar counter in any part of the premises. Sales of alcohol for consumption on the premises will not be restricted to persons taking a meal on the premises;
- (iv) The proposed licensed hours are within Board policy. An alcohol display area of 0.4m² is located within the “Wee shop” and does not conflict with the Board’s overprovision policy. Any off sales of alcohol tied in to the distillery operation will be sourced from a stock area or from the shop;
- (v) Arising from a representation from Highland Council Planners concerning the operating hours on a Sunday, the applicant wishes to amend the application on that day to 1200 hours to 2000 hours;

- (vi) A full list of activities and services which may be provided on the premises has been included in the operating plan. It is understood that social functions will not take place regularly and live performances would generally only take place at such functions;
- (vii) The application is for hours within policy and the activities and services to be provided are reasonable and appropriate for this type of business.

6.0 HLB local policies

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2018-23
- (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

No special conditions are considered necessary.

Recommendation

The Board is invited to determine the above application.

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/1894

Date: 18 March 2019

Author: Carol Nicolson

Appendix 1: Letter dated 12 February 2019 from Chris Hallas, Planning and Development Service

Carol Nicolson
Licensing

Please ask for: Chris Hallas
Direct Dial: 01478 613847
E-mail: Chris.Hallas@highland.gov.uk
Our Reference:
Your Reference: HC/RSL/1894
Date: 12.02.19

Dear Carol

The licensing application for Fairytale Distillery/Manuela's Wee Bakery, Ardelve, IV40 8DY states within their application that they wish opening hours of 10:00am till 22:00pm 7 days a week. The planning permission grants opening hours of 10:00am until 22:00pm Monday to Saturday and 12:00pm until 20:00pm on a Sunday.

If you require any further assistance with regards to your proposal then please do not hesitate to get in contact with myself or another member of the Portree Planning Team.

Yours sincerely,

Chris Hallas
Professional support Officer – Skye and Lochalsh
Planning & Development Service