

The Highland Licensing Board

Meeting – 14 May 2019

Agenda Item	7.1
Report No	HLB/042/19

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

Ness Walk Hotel, 12 Ness Walk, Inverness, IV3 5SQ

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 Ness Walk Hotel, 12 Ness Walk, Inverness, IV3 5SQ.

1.0 Description of premises

1.1 The Ness Walk Hotel is situated close to the city centre overlooking River Ness and consists of 47 bedrooms, an 80 seater restaurant, a 60 seater bar and a function room.

2.0 Operating hours

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

On sales:

Monday to Sunday: 1100 hours to 0100 hours

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

Off sales:

Monday to Sunday: 1100 hours to 2200 hours

3.0 Background

3.1 On 5 March 2019 the Licensing Board received an application for the provisional grant of a premises licence from Twelve Ness Walk Ltd.

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 25 March until 15 April 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, 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 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 premises are a 5 star hotel development on the site of the former Maple Court Hotel, Ness Walk, Inverness.

(ii) The premises are currently well advanced in the construction phase and from the plans submitted are suitable premises in which to sell alcohol in the manner described within the operating plan. The hours applied for are within the policy hours currently operated within the area covered by Highland Licensing Board.

(iii) The hotel is set in substantial grounds and these are requested to form part of the licensed area so as to afford guests the opportunity to take drinks outside and also for hosting suitable functions such as christenings or marriage ceremonies. The outside area has been conditioned appropriately, so as to prevent any noise nuisance.

(iv) The necessary section 50 certificate from planning has accompanied the application.

(v) The site notice has been displayed for the required 21 days in an appropriate manner.

(vi) Following the consultation phase of this application no objections or observations have been received.

(vii) The LSO is satisfied that should the Board be minded to grant the application, there will be no adverse impact on the licensing objectives.

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

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:

- (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 condition (b) children must not sit or remain at the bar counter at any time.
- (k) The licence holder shall submit to the Board and to Police Scotland, prior to 1 December each year, notice of the dates within the festive period on which it is intended that the premises remain open until the festive period terminal hour stated for that category or premises in the Board's Policy Statement. The premises may remain open until the festive period terminal hour only on these dates for which notice has been given by the licence holder to the Board and to Police Scotland in accordance with this condition.
- (m) After 2300 hours, alcoholic or non-alcoholic drinks shall not be consumed in any outdoor drinking area.
- (n)(ii) The playing of live or recorded music in any outdoor drinking area shall be restricted to between the hours of 1100 and 2100 hours.

7.3 Special conditions

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

- (1) All glass disposal shall cease between 2300 hours and 0700 hours.
- (2) At any time that the premises are open for the sale of alcohol after 0100 hours a person who is the holder of a Scottish Personal Licence shall be on the premises.
- (3) At any time that the premises are open for sale of alcohol after 0100 hours a person who is the holder of a valid First Aid Qualification shall be on the premises.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/special conditions detailed at paras. 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/638
Date: 29 April 2019
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