

## The Highland Licensing Board

Meeting – 1 October 2019

Agenda Item	9.1
Report No	HLB/085/19

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

Cairngorm Brewery, 96 Academy Street, Inverness, IV1 1LU

#### 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 Cairngorm Brewery, 96 Academy Street, Inverness, IV1 1LU.

#### 1.0 Description of premises

1.1 The Cairngorm Brewery is situated in Inverness City Centre at the bottom of Academy Street and consists of bar premises with dining facilities and retail facilities over two levels.

#### 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: 1000 hours to 2200 hours

#### 3.0 Background

3.1 On 23 June 2019 the Licensing Board received an application for the provisional grant of a premises licence from The Cairngorm Brewing Company Limited.

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 July until 5 August 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](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) A provisional premises licence application has been submitted from the Cairngorm Brewing Company Limited, for new premises at 96 Academy Street, Inverness.
- (ii) These premises offer bar premises with dining facilities, situated over two levels in a city centre location in Inverness.
- (iii) From the plans submitted, these premises are a quality licensing project and are suitable for the sale of alcohol as described within the submitted operating plan.
- (iv) The operating plan has been overviewed by the LSO who is of the opinion that it meets the standards of the 5 licensing objectives. The applicants already have licensed premises in the form of a brewery shop with on and off sales and a licensed pub and restaurant. Both these premises are professionally and competently run.
- (v) The hours requested are within the current policy hours of Highland Licensing Board. Off sales are requested to commence an hour prior to core on sales hours, which will allow customers partaking of food and soft beverages to purchase from the range of artisan beers produced by the Cairngorm Brewery. This will be especially relevant during the tourist season.
- (vi) The necessary section 50 certificate has been submitted in respect of planning. Full sets of good quality layout plans have also been submitted.
- (vii) Following the public consultation phase of the application no objections or observations have been received by Highland Licensing Board.

## **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 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 a 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.

(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 of premises in the Board's Policy Statement. The premises may remain open until the festive period terminal hour only on those dates for which notice has been given by the licence holder to the Board and to Police Scotland in accordance with this condition.

(r) The licence holder shall have in place and ensure that all staff working in the premises are aware of, understand and adhere to, a written policy for the prevention of misuse of drugs on the premises. This policy must accord with the terms of the specimen policy set out at Appendix 11 of the Board's Policy Statement, unless otherwise agreed in writing by the Licensing Standards Officer.

(s) The licence holder shall have in place and ensure that all staff working in the premises are aware of, understand and adhere to, a duty of care policy to reduce the vulnerability of patrons on the premises through intoxication, however and wherever attained. The aim of this policy should be to ensure that a standard approach is taken by staff when any patron appears to be displaying signs of excessive intoxication. All staff must receive training in identifying signs of excessive intoxication and advancing their awareness of vulnerability through intoxication. This training should include material such as the "Who are you?"

video [www.whoareyou.co.nz](http://www.whoareyou.co.nz) or similar. All related training should be recorded and records kept available for inspection by Police Scotland and the Licensing Standards Officers.

(v) After 2100 hours, the licence holder shall ensure that there is adequate stewarding at all relevant entrances and egresses to the premises and within the premises.

### 7.3 Special conditions

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

- (1) 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.
- (2) 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/641  
Date: 13 September 2019  
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