

The Highland Licensing Board

Meeting – 5 November 2019

Agenda Item	6.1
Report No	HLB/102/19

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

Old Post Office Café/Gallery, Kincaig, Kingussie, PH21 1NA

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for the grant of a premises licence in respect of Old Post Office Café/Gallery, Kincaig, Kingussie, PH21 1NA.

1.0 Description of premises

1.1 The Old Post Office Café/Gallery is situated in the centre of Kincaig village and consists of a delicatessen and restaurant.

2.0 Operating hours

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

On sales:

Monday to Sunday: 1200 hours to 2300 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 29 August 2019 the Licensing Board received an application for the grant of a premises licence from Antonio Bendetto Vastano.

The application was accompanied by the necessary section 50 certification in terms of Planning, Building Standards and Food Hygiene, together with a Disabled Access Statement.

- 3.2 The application was publicised during the period 16 September until 7 October 2019 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 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 concerned are a café/restaurant venue situated within the former Post Office at Kincaig, Inverness-shire. The premises have inside covers for 20 seated customers with an additional small outside drinking area which is situated directly to the front of the café. Car parking is available to the rear of the premises.
- (ii) The premises specialise in Italian cuisine and the applicant has extensive licensing experience having run the successful La Taverna Restaurant in Aviemore for several years.
- (iii) The premises have been visited by the LSO and they are certainly suitable for the sale of alcohol as described within the operating plan. The hours requested are within the policy hours of the Highland Licensing Board. Off sales has been requested on the licence. This is to compliment the offering of a takeaway food service to allow persons from nearby camp sites and self-catering lets to buy alcohol to accompany a meal. A service made all the more relevant in the absence of a local shop.
- (iv) The operating plan has been reviewed by the LSO who is content that it fully meets the requirements of the licensing objectives. The necessary section 50 certificates have accompanied the application, together with a disabled access statement and clear layout plans.
- (v) Following the public consultation phase of this application no objections or observations have been received by the Board. The premises have run successfully up to the Board under the authority of occasional licences without any adverse comment.
- (vi) There is no bar counter for vertical drinking, purely a service and display counter. The LSO is confident that should the Board see fit to grant this application there will be no adverse issues in respect of the licensing objectives.

(vii) Due to the location of the premises the LSO has not thought it necessary to impose a condition on the outside drinking area.

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/INBS/647
Date: 22 October 2019
Author: Marjory Bain