

The Highland Licensing Board

Meeting – 11 May 2021

Agenda Item	7.2
Report No	HLB/031/21

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

37 High Street, Fort William, PH33 6DH (formerly known as Nicos)

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 37 High Street, Fort William (formerly known as Nicos).

1.0 Description of premises

1.1 The premises are a restaurant situated on Fort William High Street.

The ground floor of the premises comprises of restaurant and bar area, kitchen counter and accessible toilet facilities with additional storage areas and toilet facilities in the basement.

The premises will also offer takeaway and home delivery service.

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 30 March 2021 the Licensing Board received an application for the provisional grant of a premises licence from Black Sheep Management Services Limited, Tom-An-Oir, Invergarry, PH35 4HR per agents, Twindeer Law.

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 1 April 2021 until 22 April 2021 and confirmation that the site notice was displayed is awaited.
- 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 however a response is awaited from the Fire Authority. The Clerk shall provide a verbal update to the meeting.
- 3.6 As a hearing cannot be held in person due to coronavirus, the Licensing Board, before reaching a decision, must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by alternative methods. Consequently, the applicant has been invited to submit a written representation to state their case if they so wish.

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:-

An application has been received for 37 High Street, Fort William for a provisional Premises Licence. The premises will operate as a restaurant with bar and table service. Takeaway meals will also be provided. The premises are suitable for this kind of premises.

Off sales will be sold as an accompaniment to takeaway meals, which may on occasion be delivered to customers, appropriate Age Verification will be in place. Off sales will be resourced from stock without a dedicated off sales display.

The restaurant is based on a business model of a similar restaurant owned by the applicants operating in Inverness very successfully.

The necessary Section 50 in respect of Planning has accompanied the application, as has a Disability Access Statement. The hours of requested operation are in line with current HLB Policy. The LSO is satisfied that the Operating Plan meets the standards of the 5 Licensing Objectives.

Following the public consultation phase of this application, no objections or representations have been received by the 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

It is recommended that the following local conditions be attached:

- 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.

7.3 Specific condition(s)

It is recommended that the following specific conditions be attached:

- On any occasion that the premises are permitted to be open after 0100hrs, a member of staff who is the holder of a Scottish Personal Licence shall be present on the premises.
- On any occasion that the premises are permitted to be open after 0100hrs, a member of staff who is the holder of a current First Aid certificate shall be present 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 and specific 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/RSL/1071
Date: 29 April 2021
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