

The Highland Licensing Board

Meeting – 3 August 2021

Agenda Item	6.1
Report No	HLB/064/21

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

Ness Mahal, 64-66 Academy Street, Inverness, IV1 1LP

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 Ness Mahal, 64-66 Academy Street, Inverness, IV1 1LP.

1.0 Description of premises

1.1 The Ness Mahal is situated in Inverness City Centre and consists of an Indian Restaurant and takeaway.

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 19 May 2021 the Licensing Board received an application for the grant of a premises licence from Tiger Tandoori Ltd.

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 7 June until 28 June 2021 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) Ness Mahal is a city centre restaurant in Inverness. It formerly operated as a licensed premises known as the Indian Ocean Restaurant, before the premises licence ceased to have effect, under previous ownership. The infrastructure and layout of the premises has remained unaltered.

(ii) A competent premises licence application has been submitted by a new owner, which is within the policy hours and operating practices required by the Highland Licensing Board. Three section 50 certificates have been submitted from Planning, Building Standards and Food Hygiene. A disabled access statement has also accompanied the application.

(iii) The premises have been visited by the LSO and are suitable for the sale of alcohol as indicated within the operating plan.

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

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/662

Date: 19 July 2021

Author: Marjory Bain