

The Highland Licensing Board

Meeting – 7 September 2021

Agenda Item	8.1
Report No	HLB/085/21

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

Jimmy Badgers, 25-27 Church Street, Inverness, IV1 1DY

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 Emerald Inns Ltd, 135 Culduthel Road, Inverness, IV2 4EF.

1.0 Description of premises

1.1 Jimmy Badgers is situated on Church Street, Inverness and consists of a cocktail bar and restaurant, occupying premises on the ground floor, part of the Jupiter Hotels Mercure Hotel complex.

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 15 July 2021 the Licensing Board received an application for the provisional grant of a premises licence from Emerald Inns 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 20 September until 11 October 2021 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 occupy a city centre location in Church Street, Inverness. Formally the premises held a premises licence, however, this was surrendered and as such, a new premises licence is being applied for.

(ii) The premises are suitable for the sale of alcohol as described within the operating plan. The hours are within the policy hours of HLB. It is the view of the LSO, that the application meets the standards of the five licensing objectives.

(iii) The applicants are experienced operators in Inverness, currently owning and operating the successful Johnny Foxes premises.

(iv) The application has been accompanied by the necessary Section 50 certificate relating to Planning. A Disabled Access Statement has also been submitted.

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 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 these dates for which notice has been given by the licence holder to the Board and to Police Scotland in accordance with condition.

7.3 Special conditions

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

- (1) On any occasion that the premises are permitted to remain open after 0100 hrs, a person who holds a Scottish Personal Licence shall be on the premises until the premises are closed.
- (2) On any occasion that the premises are permitted to remain open after 0100 hrs, a person who holds a current first aid qualification shall be on the premises until the premises are closed.

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/664
Date: 12 October 2021
Author: Marjory Bain