

## Highland Licensing Board

Meeting – 29 March 2022

Agenda Item	7.1
Report No	HLB/017/22

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

**Moxy, Glebe Street, Inverness, IV1 1RF**

#### 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 Moxy, Glebe Street, Inverness, IV1 1RF.

#### 1.0 Description of premises

1.1 The Moxy is situated on Glebe Street a short walk from the City Centre and consists of Ground Floor Bar and restaurant and 191 bedrooms.

#### 2.0 Operating hours

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

##### On sales:

Monday to Sunday: 0900 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 6 January 2022 the Licensing Board received an application for the provisional grant of a premises licence from Hotel Co 51 UK Limited.

The application was accompanied by the necessary section 50 certification in terms of Planning and Disabled Access Statement.

3.2 The application was publicised during the period 12 January until 2 February 2022 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 attend a meeting on Microsoft Teams. The applicant has been advised of the hearings procedure.

#### **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 for these premises currently under construction in the centre of Inverness.

(ii) Section 50 certificate for Planning and a Disability Access Statement have accompanied the application.

(iii) The premises as a substantial hotel wish to appeal to continental visitors and as such have applied for early opening for alcohol sales from 0900 hrs as an accompaniment to food. A full menu is on offer and no sales will be made without food provision.

(iv) An outside drinking area is proposed and the LSO considers it reasonable to curtail drinks sales from 2300 hrs.

(v) The overall operating plan is in line with current HLB policy and in the opinion of the LSO, is compliant with the licensing objectives.

(vi) During the public consultation phase of the 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

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 18 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 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.

(f) Alcohol may be sold on the premises prior to 1100 hours only to persons taking table meals.

(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.

(m) After 2300 hours, alcoholic or non-alcoholic drinks shall not be consumed in any outdoor drinking area.

(ni) No live or recorded music shall be played in any outdoor drinking area.

## 7.3 Special conditions

The Board may wish to consider attaching the following special conditions:

(1) A person who holds a Scottish Personal Licence shall be on the premises until they close.

(2) A person who holds a current First Aid qualification shall be on the premises until they close.

## **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/666  
Date: 16 March 2022  
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