

The Highland Licensing Board

Meeting – 26 March 2024

Agenda Item	8.1
Report No	HLB/29/24

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

Fishy Fishy, 15 High Street, Fort William, PH33 6DH

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 Fishy Fishy, 15 High Street, Fort William, PH33 6DH.

1.0 Description of premises

1.1 The premises is located within the pedestrianised area of Fort William High Street and will operate as a restaurant and hot food takeaway. The premises comprises of two levels. A kitchen and serving area for takeaway food will be located on the ground floor, together with a customer seating area; a restaurant with seating will be located on the upper floor. Customer toilets will be located in the basement of the premises and a disabled toilet at ground level.

The serving area for takeaway customers will be separate from the seated area for customers who dine-in. Alcohol will not be served from the takeaway section of the premises.

2.0 Operating hours

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

On sales:

Monday to Sunday: 1100 hours to 2300 hours

3.0 Background

3.1 On 6 February 2024 the Licensing Board received an application for the provisional grant of a premises licence from Fishy Fishy Limited having its registered office at 13 George Street, Oban, PA34 5RU.

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

- 3.2 The application was publicised during the period 16 February until 8 March 2024 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 Highland Council 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 the Fire Authority have requested that a Fire Safety checklist be provided to support the 'provisional' premises licence application.

At the time of writing, submission of the Fire Safety Checklist was awaited from the applicant's agent. A verbal update will be provided by the Clerk to the Board.

- 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:

[Highland Licensing Board - 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:-

- (1) The premises are being converted from retail use to a restaurant/hot food takeaway.
- (2) The premises will comprise of a takeaway with some restaurant seating on the ground floor; a restaurant with seating on the first floor; manager /staff area on second floor and customer toilets will be located in the basement of the premises.
- (3) Planning permission has been granted for change of use and I understand that a building warrant has also now been granted.
- (4) The application is for on-sales only.
- (5) The application is within Highland Licensing Board policy.
- (6) The application is consistent with the Licensing Objectives.
- (7) No objections have been received in respect of this application.
- (8) The Licensing Standards Officer has no objections to this application.

6.0 HLB local policies

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2023-28
- (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/RSL/2098
Date: 13 March 2024
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