The Highland Licensing Board	Agenda Item	7.1
Meeting – 9 August 2016	Report No	HLB/064/16

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

Frankie and Benny's, Unit 3Ai, Inverness Shopping Park, Eastfield Way, Inverness, IV2 7GD

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 Frankie and Benny's, Unit 3Ai, Inverness Shopping Park, Eastfield Way, Inverness, IV2 7GD.

1.0 Description of Premises

1.1 Frankie and Benny's is situated within the Eastfield Retail Park, Inverness and consists of an Italian/American themed family restaurant with a small external seated area.

2.0 Operating Hours

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

On sales:

Monday to Sunday: 1100 hrs to 0100 hrs

3.0 Background

3.1 On 3 May 2016 the Licensing Board received an application for the provisional grant of a premises licence from The Restaurant Group (UK) Limited, 5-7 Marshalssea Road, London, SE1 1EP per Pinsent Masons LLP, 141 Bothwell Street, Glasgow, G2 7EQ.

The application was accompanied by the necessary section 50 certification in terms of planning.

3.2 The application was publicised during the period 23 May 2016 until 13 June 2016 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 consultation and publication process, no timeous objections or representations have been received.

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 grant of the application would be inconsistent with one or more of the licensing objectives;

3. 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

4. that having regard to the number and capacity of licensed premises of the same or similar description in the locality, the Board considers that if the application were to be granted, there would, as a result, be overprovision of licensed premises of that description in the locality.

4.2 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) This application seeks a provisional alcohol premises licence for a restaurant within a retail unit at Inverness Retail Park. The operators already run similar restaurants successfully throughout Scotland, specialising in family friendly dining.

(ii) From the application, the LSO is satisfied that the premises would be suitable for the sale of alcohol.

(iii) The hours applied for are in line with the Highland Licensing Board policy hours.

(iv) The necessary section 50 certificate in respect of planning has accompanied the application, together with competent sets of lay out plans.

(v) From the operating plan submitted, the LSO is satisfied there would be no compromise in respect of any of the licensing objectives.

(vi) Although the premises has a licensed outside drinking area, as the premises are solely located within a retail park without the presence of any noise sensitive residential property, it is not seen as necessary to condition the use of this area separately from the main premises.

6.0   HLB local policies

6.1   The following policies are relevant to the application:-

    (1)   Highland Licensing Board Policy Statement 2013-18
    (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 condition(s) from the schedule of local conditions:

- (q) 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. (licensing objective 2).

7.3 **Special conditions**

The following special conditions are also recommended:

(1) A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hrs.

(2) A designated person who is the holder of a personal licence must be present on the premises from 0100 hrs. (licensing objectives 1 and 2).

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local and 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/594
Date: 1 July 2016
Author: Marjory Bain
Background Papers: The Licensing (Scotland) Act 2005/Application Form