

The Highland Licensing Board

Meeting – 2 August 2017

Agenda Item	7.3
Report No	HLB/085/17

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

Café Picante, 54 High Street, Alness

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 Café Picante, 54 High Street, Alness.

1.0 Description of premises

1.1 Café Picante is a 40 cover restaurant on the ground floor of semi-detached premises on High Street, Alness.

2.0 Operating hours

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

On sales:

Monday to Sunday: 1100 hrs to 2300 hrs

The applicant seeks the following **off-sale** hours:

Off sales:

Monday to Sunday: 1100 hrs to 2200 hrs

3.0 Background

3.1 On 16 May 2017 the Licensing Board received an application for the grant of a premises licence from Picante Food Ltd.

3.2 The application was accompanied by the necessary section 50 certification in terms of Planning, Building Standards and Food Hygiene.

3.3 The application was publicised during the period 28 June until 19 July and confirmation that the site notice was displayed is awaited.

- 3.4 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.
- 3.5 Notification of the application was also sent to NHS Highland and the local Community Council.
- 3.6 Further to this publication and consultation process, no timeous objections or representations have been received.
- 3.7 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.
- 4.2 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.

4.3 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:-

5.2 The applicant operates a single storey, 40 cover restaurant /café on High Street, Invergordon and now seeks to sell alcohol by on and off-sales

5.3 There is no bar counter on the premises and off-sales of alcohol will be dispensed from an area inaccessible to the public. There is no conflict with the Board's policy on over-provision in respect of off-sales premises.

5.4 While the operation is to be predominantly food-led, sales of alcohol will not be restricted to persons taking a meal on the premises.

5.5 Off-sales of alcohol will be restricted to being sold as an accompaniment to the purchase of a takeaway meal collected from or delivered from the premises in accordance with a method of operation for home deliveries agreed with the Licensing Board. A copy has been received and the method of operation is appropriate for this type of service.

5.6 Unaccompanied children will be permitted on the premises until 1900 hrs after which time they will require to be accompanied by an adult and may only be on the premises if consuming a meal, attending a function or viewing entertainment. At the discretion of the management there will be no restrictions on young persons being on the premises at any time.

5.7 An area at the rear of the premises has been identified for use as an outdoor drinking area. It is unlikely that the facility will be used regularly. There are neighbouring residential properties and, to engage with the licensing objective of preventing public nuisance it may be appropriate to impose a condition preventing use of the outdoor drinking facility after 2200 hrs.

5.8 The licensed hours applied for are within policy and the activities or services to be provided are appropriate for this type of business. The premises may open for business prior to the commencement of licensed hours.

5.9 The applicant may take advantage of any period of extended hours agreed by the Board for the festive period.

5.10 I am satisfied that the applicant has given due consideration to the licensing objectives and have no cause to object to the grant of the licence.

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:

- e. After 2200 hours alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area.
- 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.

7.3 Special late hours conditions

1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hrs (on any day when the premises are open at that time) until whichever is the earlier of—
 - (a) the time at which the premises next close; and
 - (b) 0500 hrs
2. A designated person who is the holder of a personal licence must be present on the premises from 0100 hrs (on any day when the premises are open at that time) until whichever is the earlier of—
 - (a) the time at which the premises next close; and
 - (b) 0500 hrs or such other time as the Licensing Board may specify.

7.4 **Special conditions**

1. After 1900 hrs 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.
2. Alcohol for consumption off the premises to which this licence refers may only be sold and despatched as an accompaniment to the purchase of a takeaway meal collected from or delivered from the premises and in accordance with a method of operation for home deliveries agreed with the Highland Licensing Board.

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, 7.3 and 7.4 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/CSR/1829

Date: 20 July 2017

Author: G Sutherland

Background Papers: The Licensing (Scotland) Act 2005/Application Form.