

The Highland Licensing Board

Meeting – 18 January 2019

Agenda Item	8.1
Report No	HLB/005/19

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

The Cellar, Newmore, Invergordon, IV18 OLQ

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 The Cellar, Newmore, Invergordon.

1.0 Description of premises

1.1 The business involves the sale of whisky by an online auction and online sales only and no sales will be made directly from the property. Stock will be held in a store within an agricultural building on a working farm.

2.0 Operating hours

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

Off sales:

Monday to Sunday: 1000 hrs to 2200 hrs

3.0 Background

3.1 On 23 November 2018 the Licensing Board received an application for the grant of a premises licence from Grand Whisky Auctions.

3.2 The application was accompanied by the necessary section 50 certification in terms of Planning, Building Standards and Food Hygiene, together with a Disabled Access Statement.

3.3 The application was publicised during the period from 3 until 31 December 2018 and confirmation that the site notice was displayed has been received.

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 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.

4.4 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:-

The applicant plans to operate an online auction and online sales business specialising in whisky and other spirits from a store within an agricultural building on a working farm

The application is for off-sales only and sales will only be fulfilled through completed auctions or orders originating off the premises. No personal callers will be permitted on the premises.

As there is no display of alcohol on the premises and members of the public are not permitted there is no requirement to specify a capacity for alcohol and the terms of the Board's policy on off-sales overprovision will not apply.

The applicant has provided an acceptable statement detailing his policy for method of operation for fulfilment of auction and other online sales.

The licensed hours applied for are within policy for off-sales premises and the activities or services to be provided are appropriate for the specified operation.

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

None to apply

7.3 Special conditions

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

1. Alcohol for consumption off the premises to which this licence refers may only be sold and despatched pursuant to completion of an auction sale or other order originating off the premises.
2. No member of the public seeking to buy alcohol on the premises or to collect alcohol from the premises is permitted on the premises to which this licence refers.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed special conditions detailed at para 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/CSR/1885
Date: 8 January 2018
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