

The Highland Licensing Board

Meeting – 20 June 2022

Agenda Item	10.3
Report No	HLB/051/22

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

Fishermans Kitchen, Kyle Prospect, Ferry Road, Kyle of Lochalsh, IV40 8AF

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 Fishermans Kitchen, Kyle Prospect, Ferry Road, Kyle of Lochalsh, IV40 8AF.

1.0 Description of premises

1.1 The Fishermans Kitchen is situated next to the bus terminus in Kyle of Lochalsh and consists of a single storey detached new build property – purpose built of wooden and front glazed design with a tin roof and an outdoor seating area to the east side where the on sales will be consumed.

2.0 Operating hours

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

On sales:

Monday to Saturday: 1100 hours to 2200 hours

Sunday: 1200 hours to 1800 hours

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

Off sales:

Monday to Saturday: 1100 hours to 2200 hours

Sunday: 1200 hours to 1800 hours

3.0 Background

3.1 On 25 April 2022 the Licensing Board received an application for the grant of a premises licence from Aska Marine Ltd.

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.

- 3.2 The application was publicised during the period 4 May 2022 until 25 May 2022 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 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 the meeting. The applicant has been advised of the hearings procedure which may also be viewed via the following link:

https://www.highland.gov.uk/downloads/file/6399/licensing_hearings_procedure/licensing_board

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) The property is situated on the unclassified Kyle Prospect, Ferry Road, near to the ferry slipway, Kyle of Lochalsh.
- (ii) The property known as Fishermans Kitchen is comprised of a detached purpose-built single storey property which has an outdoor hospitality area.
- (iii) The premises will offer alcohol for on and off sale provided from the bar/building area but all on sales will be consumed in the designated outdoor area. On Sales will be to seated patrons only.
- (iv) The activities sought would appear to be reasonable and appropriate for the proposed operation of the premises.
- (v) The children's policy is considered suitable and is within the policy of the Highland Licensing Board.
- (vi) The layout plan submitted complies with the required specifications.
- (vii) There would not appear to be any matter contained within the application that is inconsistent with the licensing objectives.
- (viii) During the period of public consultation, no objections were received.
- (ix) I have no objection to this application.

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 condition from the schedule of local conditions:

- m After 2200 hours alcoholic or non-alcoholic drinks shall not be consumed in any outdoor area.

7.3 Special conditions

No special conditions are considered necessary.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local condition detailed at para. 7.2 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/RSL/2004
Date: 27 May 2022
Author: Carol Nicolson