

The Highland Licensing Board

Meeting – 8 October 2024

Agenda Item	7.3
Report No	HLB/97/24

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

The Penny Bun, The Bothy, Badguish, Aviemore, PH22 1AD

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 Penny Bun, The Bothy, Badaguish, Aviemore, PH22 1AD

1.0 Description of premises

1.1 The Penny Bun is situated within Glenmore Forest, eight miles from Aviemore and consists of a restaurant with function room at an outdoor activity centre.

2.0 Operating hours

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

On sales:

Monday to Sunday: 1200 hours to 0100 hours

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

Off sales:

Monday to Sunday: 1200 hours to 2200 hours

3.0 Background

3.1 On 15 August 2024 the Licensing Board received an application for the grant of a premises licence from Boletus Edulis Ltd.

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 11 September until 19 September 2024 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:

[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:-

(i) Badaguish Outdoor Centre is a purpose-built outdoor centre specialising in providing accommodation and a base for persons and groups wishing to undertake a range of outdoor sports and challenges on offer in the Spey Valley. Central to the campus is The Penny Bun - formerly known as Sandy's Bothy which held a premises licence between March 2013 and September 2018. This is the central dining facility and residents lounge for those persons staying on the campus and it also houses a function room. There is no bar area and alcohol sales will be via the server in the self-service restaurant. It is envisaged that a fairly small range of alcohol will be available.

(ii) Application has been made for on sales from 1200 hours until 0100 hours, Monday to Sunday to accommodate occasional use out with regular business activity. The operating model will continue to be based around the current core business hours of 1200 hours until 2200 hours Monday to Sunday, however, the hours applied for, will permit management to cater for occasional requests for private bespoke dinner parties, functions etc., which can be accommodated without having to make extended hours applications.

(iii) The premises have been inspected by the LSO and are suitable for the sale of alcohol and the necessary Section 50 certificates and layout plans have been provided. Children will be allowed unaccompanied into The Penny Bun when they are staying on the campus as part of a school or other like group, as the venue is also a recreational facility. In the view of the LSO, this causes no issue as the children will be members of a group that has access to adult supervision. Staff at the Centre will also know via the booking procedures the age range of any groups scheduled to stay.

(iv) The LSO has visited the premises and provided advice and guidance in the compilation of the application. The application and operating plan are compliant with HLB policy.

(v) A full set of Section 50 certificates has accompanied the application together with the required Disabled Access statement.

(vi) The LSO is satisfied that should the HLB wish to grant this application then

there will be no threat to the licensing objectives.

(vii) Following the public consultation phase of this application no objections or representations have been made to HLB.

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/INBS/706
Date: 20 September 2024
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