

**The Highland Licensing Board**

**Meeting - 4 February 2014**

Agenda Item	<b>9.3</b>
Report No	<b>HLB/009/14</b>

**Application for the grant of a Premises Licence under the Licensing (Scotland) Act 2005**

**Delny House Hotel, Delny, Invergordon, IV18 0NP**

**Report by the Clerk of the Licensing Board**

**Summary**

This Report relates to an application for a Premises Licence in respect of Delny House Hotel, Delny, Invergordon, IV18 0NP.

**1.0 Background**

1.1 Delny House Hotel is situated at Delny, Invergordon and consists of a 6 bedroom hotel and restaurant. The building is a free standing, solely occupied building in a rural location. The grounds are included in the licensed area and a marquee may be erected from time to time.

1.2 On 20 December 2013 the Licensing Board received an application for the grant of a Premises Licence from Andrea Reid and Carl Reid.

The application was accompanied by the necessary Section 50 Certification in terms of Planning, Building Standards and Food Hygiene.

1.3 The application was publicised during the period 27 December 2013 until 17 January 2014 and confirmation that the site notice was displayed has been received.

1.4 In accordance with standard procedure, Police Scotland, Highlands & Islands Fire & Rescue Service, the Council's TEC Services (Environmental Health), Planning and Building Standards were consulted on the application.

Notification of the application was also sent to NHS Highland and to the local Community Council.

1.5 No objections or representations have been received in respect of the application.

## 2.0 Legislation

- 2.1 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 may be: -

1. the premises are excluded premises;
2. the grant of the application will be inconsistent with one or more of the licensing objectives; 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, if the Board considers the premises are unsuitable for the sale of alcohol.
3. 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 over provision of licensed premises of that description in the locality.

- 2.2 The Board has power where, if they would refuse the application as made, but if a modification is proposed by them and accepted by the applicant, the application can be granted as modified.

## 3.0 Summary of Application

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

Monday to Sunday: 1100 hours to 0100 hours

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

Monday to Sunday: 1100 hours to 2200 hours

## 4.0 Policies

The following policies are relevant to the application:-

- (i) Highland Licensing Board Policy Hours
- (ii) Highland Licensing Board Policy Statement
- (iii) The Highland Licensing Board Equality Strategy
- (iv) Schedule of Local Conditions

## 5.0 Licensing Standards Officer's comments

- 5.1 The applicant proposes to operate a detached 6 bedroomed hotel offering the usual range of services and activities. The licensed area is to include the grounds in which a marquee may be erected from time to time for certain functions.

- 5.2 The premises are set in their own grounds in a rural area.

- 5.3 The application is for licensed hours within policy and the activities and services referred to in the operating plan are appropriate for this type of operation.
- 5.4 There is one neighbouring residential property and following discussion between the applicant and that neighbour it has been agreed that a 2200 hours curfew on the use of the outdoor drinking area at the rear of the hotel, as identified on the location plan forming part of the licence, would be appropriate. No curfew will be required throughout other parts of the licensed area including the area where a marquee may be erected.
- 5.5 Off-sales will be dispensed from stock within the cellar and no capacity has been specified.
- 5.6 I have no cause to object to the grant of the application.

## **6.0 Conditions**

Relevant conditions from the adopted list of those conditions, relevant special conditions where licensed hours extend beyond 0100 hours during any period of extended hours approved by the Licensing Board during the festive period and a specific condition in respect of outdoor drinking areas.

### **6.1 Mandatory Conditions**

If the application is approved the Mandatory Conditions set out in Schedule 3 of the Act will apply.

### **6.2 Local Conditions**

- a. Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hrs except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This condition does not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress.
- b. Whilst in any room with a bar counter 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 or children who are resident on the premises.
- c. Notwithstanding conditions (a) and (b) children must not sit or remain at the bar counter at any time.
- h. Dartboards and any pool table will be situated in a location to be approved by the Licensing Standards Officer.

- 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.

### **Late Opening Local Conditions**

6.3 The following shall apply on any occasion that the Premises are open after 0100 hours.

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 on which 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.

### **6.4 Specific Conditions**

1) After 2200 hrs alcoholic or non-alcoholic drinks shall not be consumed in the portion of the outdoor drinking area at the rear of the premises as shown on the location plan forming a part of the licence.

#### **Recommendation**

The Board is invited to determine the above application and the proposed local conditions, late opening local conditions and specific condition(s) detailed at para(s). 6.2, 6.3 and 6.4 above, noting that the application for variation is within the policy adopted by the Board on 1 October 2013 as the Board's new policy for 1 December 2013 to 30 November 2016.

Designation: Clerk of the Highland Licensing Board

Reference: HC/CSER/1690

Date: 17 January 2014

Author: Iona Cook

Background Papers: The Licensing (Scotland) Act 2005