

The Highland Licensing Board

Meeting – 4 October 2016

Agenda Item	8.4
Report No	HLB/085/16

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

Marine Hotel, Mallaig, PH41 4PY

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 Marine Hotel, Mallaig, PH41 4PY.

1.0 Description of premises

1.1 The Marine Hotel is a three storey premises situated within the west coast fishing village of Mallaig. The accommodation comprises a public bar, lounge bar, restaurant and nineteen letting bedrooms.

There is ancillary staff accommodation situated on the second floor of the premises comprising a manager's flat and four staff bedrooms.

2.0 Operating hours

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

On sales:

Sunday to Thursday: 1100 hours to 0000 hours
Friday and Saturday: 1100 hours to 0100 hours

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

Off sales:

Monday to Sunday: 1100 hours to 2200 hours

3.0 Background

3.1 On 18 July 2016 the Licensing Board received an application for the grant of a premises licence from Marc W MacVarish.

The application was accompanied by the necessary section 50 certification in terms of Planning, Building Standards and food hygiene.

- 3.2 The application was publicised during the period 29 August 2016 until 19 September 2016 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. At the time of consultation, the local Community Council was not constituted.
- 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: www.highland.gov.uk/liquorlicence

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 grant of the application would be inconsistent with one or more of the licensing objectives;
 3. 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
 4. that 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 overprovision of licensed premises of that description in the locality.
- 4.2 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 Marine Hotel is situated in the centre of the north west Highland village of Mallaig. Recently the former licence holders underwent sequestration proceedings and the premises licence failed to be transferred under the 28-day allowance which resulted in the premises licence ceasing to have effect.
- (ii) In the intervening period the premises have continued to operate (whilst new owners were being sought) under the authority of occasional licences. Effectively the Hotel has maintained business continuity running very much in the same way as it had previously done under its former alcohol premises licence.
- (iii) The premises were previously well run and LSO inspections showed a high degree of compliance and diligence. The same premises manager and staffing are in place as previously and the new owner has adopted the former operating plan in its entirety.
- (iv) The LSO is of the opinion that if the Board were minded to grant the application there would be no issue in respect of any of the licensing objectives.

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:

- A. Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hours 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.

7.3 Special conditions

The Board may wish to consider attaching the following special condition(s):

- (i) On any occasion when the premises are permitted to be open after 0100 hours the following conditions shall apply;
- A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hours.
 - A designated person who is the holder of a personal licence must be present on the premises from 0100 hours. (licensing objectives 1 and 2)

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 and 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/RSL/1789

Date: 20 September 2016

Author: IC/JT

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

Appendices: None