

The Highland Licensing Board

Meeting – 7 February 2017

Agenda Item	7.2
Report No	HLB/014/17

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

Carnegie Deli and Tea Room, The Carnegie Courthouse, Castle Street, Dornoch

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 Carnegie Deli and Tea Room, The Carnegie Courthouse, Castle Street, Dornoch.

1.0 Description of premises

1.1 The premises are located on the first floor of the Carnegie Court House and operate primarily as a tea room and deli but with facilities to cater for small functions. There is no bar counter on the premises and sales of alcohol for consumption on the premises will not be restricted to persons taking meals on the premises.

2.0 Operating hours

2.1 The applicant seeks the following **on-sales** and **off-sales** hours:

On sales:

Monday to Sunday: 1100 hrs to 0100 hrs the following day

Off-sales:

Monday to Sunday 1000 hrs to 2200 hrs

3.0 Background

3.1 On 1 December 2016 the Licensing Board received an application for the grant of a premises licence from Carnegie Tea Room and Deli Limited.

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

3.3 The application was publicised during the period 2 December until 23 December 2016 and confirmation that the site notice was displayed has been received.

- 3.4 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.
- 3.5 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://www.highland.gov.uk/downloads/download/428/liquor_licence_objections_appeals_notices_of_determination

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:-

- 5.2 Following a redevelopment of the former Courthouse in Dornoch the applicant has created a deli and tearoom in the former courtroom on the first floor of the premises. The ground floor of the premises is occupied by a specialist whisky shop and tasting rooms and a Council service point. A spa business is also accommodated on the premises. Access to all parts of the premises is through a common entrance.
- 5.3 The application is for both on and off-sales and the activities and services provided are reasonable and appropriate for such business. There is no bar counter on the premises. Sales of alcohol will not be restricted only to persons taking a meal on the premises.
- 5.4 The licensed hours sought are 1100 to 0100 hrs the following day on each day of the week for on sales and from 1000 to 2200 hrs each day for off-sales.
- 5.5 The display of alcohol for off-sales is contained within a shelf unit adjacent to the serving counter and the capacity of 0.864 m² is well within the limit of 40m² permitted in terms of the Board's policy on off-sales overprovision. A small range of speciality foodstuffs is also available on the premises.
- 5.6 The premises are capable of catering for functions attracting up to 120 persons however the principal use will be as a deli and tearoom and it is unlikely that the full range of licensed hours will be used on a regular basis.
- 5.7 In respect of the policy for children and young persons unaccompanied children may be permitted on the premises until 1800 hrs after which they must be accompanied by a suitable, appropriate adult. At the discretion of the management unaccompanied young persons may be permitted at all times.
- 5.8 An area to the rear of the premises has been identified as an outdoor drinking area which is intended to be brought into use later in the year. There are no neighbouring residential properties and it is not considered necessary to impose any condition restricting its use.
- 5.9 I am satisfied that the applicant has given due consideration to the licensing objectives and I have no cause to object to the grant of a premises licence.

6.0 HLB local policies

- 6.1 The following policies are relevant to the application:-
- (i) Highland Licensing Board Policy Hours
 - (ii) Highland Licensing Board Policy Statement 2013-18
 - (iii) The Highland Licensing Board Equality Strategy
 - (iv) Schedule of Local Conditions

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:

- 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 conditions:

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; and
2. A designated person who is the holder of a personal licence must be present on the premises from 0100 hours (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

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 objection in question.

Reference: HC/CSR/1800
Date: 19 January 2017
Author: L Gunn
Background Papers: The Licensing (Scotland) Act 2005