

The Highland Licensing Board

Meeting – 2 August 2017

Agenda Item	7.4
Report No	HLB/086/17

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

Castle Hotel, Castle Street, Portmahomack

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 Castle Hotel, Castle Street, Portmahomack.

1.0 Description of premises

1.1 The Castle Hotel is situated in the village of Portmahomack and consists of public bar with dining and games areas, dining room, letting bedrooms and outdoor drinking area.

2.0 Operating hours

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

On sales:

Monday to Sunday: 1100 hrs to 0100 hrs

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

Off sales:

Monday to Sunday: 1100 hrs to 2200 hrs

3.0 Background

3.1 On 21 June 2017 the Licensing Board received an application for the grant of a premises licence from John P Catley.

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 28 June until 19 July and confirmation that the site notice was displayed is awaited.

- 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:

http://highland.gov.uk/hlb_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.
- 4.2 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.

4.3 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:-

5.2 The Castle Hotel, Portmahomack is a detached, traditional, small hotel situated on Castle Street, Portmahomack. Former operators of the premises held a premises licence but that licence has ceased to have effect.

5.3 The premises have 5 letting bedrooms, a bar, restaurant and offers the usual services and facilities for such an operation. The applicant seeks on-sales hours of 1100 to 0100 hrs the following day on each day of the week. Off-sales hours of 1100 to 2200 hrs daily are also sought.

5.4 A garden area at the rear of the premises and a defined area at the front of the premises have been identified as outdoor drinking areas. There are some neighbouring residential properties and it may be appropriate to impose a condition restricting use of the outdoor drinking area after 2200 hrs.

5.5 The application is for on and off-sales. Off-sales of alcohol will be dispensed from an area inaccessible to the public and there is no conflict with the Board's policy on over-provision in respect of off-sales premises.

5.6 The licensed hours applied for are within policy and the activities or services to be provided are appropriate for this type of business. The premises may open for business prior to the commencement of licensed hours.

5.7 For the avoidance of any doubt the applicant is content for non-resident children to be on the premises at all times subject to the terms of entry and he requests that Q6(d) of the application form be amended to read –

“Children are permitted at all times subject to terms of entry but non-resident children are excluded after 2200 hrs unless consuming a meal or attending a function.

At the discretion of the management young persons are permitted at all times”

5.8 The requested amendment is to correct an inconsistency in the application and does not fundamentally affect the application.

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 this premises licence.

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 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.
- e. After 2200 hrs alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area.
- 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 late hours 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

2. A designated person who is the holder of a personal licence 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 or such other time as the Licensing Board may specify.

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/CSR/1830

Date: 20 July 2017

Author: G Sutherland

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