

The Highland Licensing Board

Meeting – 3 October 2017

Agenda Item	7.1
Report No	HLB/101/17

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

Armadale Stores, Armadale, Sleat, Isle of Skye, IV45 8RS

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 Armadale Stores, Armadale, Sleat, Isle of Skye, IV45 8RS.

1.0 Description of premises

1.1 The Armadale Stores is a detached single-storey building situated in a rural area providing a local service to the Sleat Community. The premises provide post office services, fuel sales and groceries.

2.0 Operating hours

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

Off sales:

Monday to Friday: 1000 hours to 1730 hours
Saturday: 1000 hours to 1500 hours

3.0 Background

3.1 On 22 August 2017 the Licensing Board received an application for the grant of a premises licence from Sleat Community Trading Company Limited.

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 25 August 2017 until 15 September 2017 and confirmation that the site notice was displayed has been received.

3.3 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.

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

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.

Relevant grounds of refusal are: -

1. that the premises are excluded premises (see para 4.2 below);
 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 "Excluded premises" for the purposes of ground of refusal 1. above, include premises used as a "garage". "Garage" is defined in section 123 of the Act as a premises used for one or more of the following:
- (a) the sale by retail of petrol or derv,
 - (b) the sale of motor vehicles, or
 - (c) the maintenance of motor vehicles.

However, premises used for the sale by retail of petrol or derv or which form part of premises so used are not to be treated as excluded premises if persons resident in the locality in which the premises are situated are, or are likely to become, reliant to a significant extent on the premises as the principle source of petrol or derv or groceries (where the premises are, or are to be, used also for the sale of groceries).

Before the Board may grant this application, the Board must accordingly first satisfy itself that the premises in question are premises on which persons in the locality are, or are likely to become reliant to a significant extent as the principle source of petrol, derv or groceries in that 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:-

- (i) The applicant company has reopened the former shop and filling station at Armadale.
- (ii) The application is for off-sales only with a proposed alcohol capacity of 4.1m² which falls below the threshold of 40 m² in terms of the Highland Licensing Board overprovision.
- (iii) The premises also operate as a filling station. Section 123 of the Licensing (Scotland) Act 2005 excludes such premises from selling alcohol but, at section 123(5) further states that they are not excluded premises if persons who are resident in the locality are or are likely to become reliant to a significant extent on the premises as the principal source of petrol or derv or groceries.
- (iv) The applicant has provided the undernoted information within the description section of the application in support of the application:-

“Armadale Filling Station, in addition to fuel sales, sold essential grocery items (milk, bread, etc) as well as providing Post Office services. At the end of May 2017, the local owner of Ardvasar stores retired with the closure of the local shop. Sleaf Community Trading Co Ltd were able to take over this facility operating from their Armadale site with the intent of safeguarding this essential service for the community in South Skye and we wish to continue with alcohol off-sales as previously provided by Ardvasar Stores.

Post Office services, fuel sales and grocery continues to be well supported by local residents, business owners and tourists and is considered a life-line service for the South Skye area.”

- (v) It is my opinion that the premises satisfy the requirements of Section 123(5) of the Act and are not excluded premises.
- (vi) The licensed hours applied for are within policy off-sales premises and the activities and services to be provided are reasonable and appropriate for this type of operation.
- (vii) I have no cause to object to the grant of this application for a 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

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/RSL/1838

Date: 18 September 2017

Author: Carol Nicolson

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