

The Highland Licensing Board

Meeting – 2 October 2018

Agenda Item	9.2
Report No	HLB/096/18

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

Highland Farm Café, Mountgerald, Dingwall

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for the provisional grant of a premises licence in respect of Highland Farm Café, Mountgerald, Dingwall.

1.0 Description of premises

1.1 The Highland Farm Café is a single storey, detached, café bar and farm shop with outdoor drinking area and an external area upon which a marquee or other temporary structure may be erected from time to time for events and functions. There will be no bar counter on the premises.

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 0100 hrs

3.0 Background

3.1 On 20 August 2018 the Licensing Board received an application for the provisional grant of a premises licence from Kenneth H McKenzie.

3.2 The application was accompanied by the necessary section 50 certification in terms of Planning.

3.3 The application was publicised during the period 24 August until 14 September 2018 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, the following timeous notice of representation has been received and is appended:
- Representation from Dorothy Stott, Principal Planner
- 3.7 The applicant and the objector have been invited to attend the hearing. They have been advised of the hearings procedure which will be followed at the meeting and 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 For the purposes of the Act, the licensing objectives are-

- (a) preventing crime and disorder,
- (b) securing public safety,
- (c) preventing public nuisance,
- (d) protecting and improving public health, and
- (e) protecting children and young persons from harm.

4.4 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:-

- (1) The applicant has constructed a café-bar and farm shop within the grounds of his tourist accommodation complex at Mountgerald on the outskirts of Dingwall. There is no bar counter on the premises. The licensed area includes an outdoor drinking area in which a marquee or other temporary structure may be erected from time to time for functions and other events. Other than the applicant's home and tourist accommodation, there are no residential properties in close proximity to the premises.
- (2) The application is for on-sales and off-sales with on-sales licensed hours of 1100 to 0100 hrs the following day on each day and, for off-sales from 1000 to 2200 hrs daily.
- (3) The capacity for off-sales displayed for sale with the farm shop is 6.12m² which falls within the terms the Board's current policy on overprovision.
- (4) While the operation is to be predominantly food-led, sales of alcohol will not be restricted to persons taking a meal on the premises.
- (5) A wide range of activities and services may be available during and outwith core licensed hours for passing trade and for customers staying at the complex. While the applicant has applied for the maximum licensed hours permitted in terms of the Board's policy it is unlikely that the full range will be utilised on a regular basis.
- (6) The premises may take advantage of any period of extended hours agreed by the Board for the festive period.
- (7) Unaccompanied children aged 10 to 15 years may be permitted on the premises until 2000 hrs failing which all children must be accompanied by an appropriate responsible adult. At the discretion of the management unaccompanied young persons may be permitted at all times

- (8) 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.
- (9) I have noted the representation from Planning. The matters referred to are of no consequence to consideration of this application as they relate to other legislation enforceable by the Planning Service. I have made the applicant aware of that department's comments.
- (10) I am satisfied that the applicant has given due consideration to the licensing objectives and have no cause to object to the grant of the 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 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 condition(s):

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 and to agree the proposed local/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/1877
Date: 18 September 2018
Author: G Sutherland

Appendix: Representation dated 7 September 2018 from Dorothy Stott, Principal Planner



THE HIGHLAND LICENSING BOARD – CAITHNESS, SUTHERLAND AND EASTER ROSS

LICENSING (SCOTLAND) ACT 2005

REPRESENTATION ON APPLICATION FOR NEW PREMISES LICENCE

Officer in Charge, Police Scotland		Principal Environmental Health Officer	
Divisional Fire Officer, Scottish Fire and Rescue Service		Principal Building Standards Officer	
Area Planning and Building Standards Manager		Licensing Standards Officer	
Director of Public Health			

Please complete the Form below in respect of the attached application for a Licence by:-

Reference:	SB/GS HC/CSR
Applicant:	Kenneth Hector McKenzie, Coach House, Mountgerald, Dingwall, IV15 9TT
Name and Address of Premises:	Highland Farm Café, Mountgerald, Dingwall, IV15 9TT

Date 22 August 2018

In terms of Section 22 of the Act, please select **ONE** of the following options (a), (b) or (c), and sign and date form:

- SEE OVERLEAF → (b)
- (a) I HAVE NO OBJECTION TO THE APPLICATION BEING GRANTED AND I DO NOT WISH TO MAKE REPRESENTATIONS IN RESPECT OF THE APPLICATION.* or
- (b) I HAVE NO OBJECTION TO THE APPLICATION BEING GRANTED. I ATTACH REPRESENTATIONS IN RESPECT OF THE APPLICATION (Section 22(1)(b)) * or
- (c) I WISH TO OBJECT TO THE APPLICATION AND ATTACH DETAILS OF THE OBJECTION (Section 22(1)(a)) (continue on separate sheet).*
- (OBJECTIONS AND REPRESENTATIONS MUST BE LODGED BY 5PM ON FRIDAY 14 SEPTEMBER 2018)**

This section to be completed by Police Scotland only, select EITHER (1) or (2):

- (1) In terms of Section 21(4) of the Act, I declare that neither the applicant nor any connected person has been convicted of a relevant or foreign offence* or
- (2) In terms of Section 21(4) of the Act, I append a notice giving details of convictions*

* Delete as appropriate

Signature: _____

Date: 7/9/18

Designation: _____

PRINCIPAL PLANNER

**PLEASE RETURN TO CLERK, HIGHLAND LICENSING BOARD,
CAITHNESS HOUSE, MARKET PLACE, WICK, KW1 4AB
OR EMAIL LICENSING@HIGHLAND.GOV.UK**

PLANNING RESPONSE TO APPLICATION FOR NEW PREMISES LICENCE

Planning permission for the development was granted under 16/05318/FUL. It is a Class 3 use. The applicant's response to Question 5 indicates that a number of activities are proposed to be held which may be outwith what is permitted by a Class 3 use.

The formation of an outdoor seating area, shown by white hashed lines on the attached 'Proposed Layout Plan', is likely to require planning permission. It is also noted that the development now erected differs to what was approved and that temporary structures are proposed as stated by the applicant's response to Question 5(f).

Further information is required - the applicant is advised to contact the Planning Authority to discuss their proposals in more detail.