

The Highland Licensing Board

Meeting – 6 November 2018

Agenda Item	10.5
Report No	HLB/120/18

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

Dunvegan Castle Café and Shop, Dunvegan, Isle of Skye, IV55 8WF

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Hugh MacLeod, Dunvegan Castle, Dunvegan, Isle of Skye, IV55 8WF.

1.0 Description of premises

1.1 The premises is a café with an adjoining gift shop, with separate entrances, situated in the carpark of Dunvegan Castle, Dunvegan, Isle of Skye.

2.0 Summary of variation application

2.1 Variation sought

The applicant seeks to vary the premises licence as follows:-

- (1) Cease on sales hours;
- (2) Remove restaurant facilities from operating plan;
- (3) Remove children and young persons terms of entry;
- (4) Change name of premises to Dunvegan Castle Shop;
- (5) Remove seasonal variation to permit year round trading;
- (6) Amend description of the premises to remove reference to the café;
- (7) To list of activities and services to be provided outwith core hours add recorded music;
- (8) Amend the layout following the removal of the café from the licensed area.

3.0 Background

- 3.1 On 12 September 2018 the Licensing Board received an application for a major variation of a premises licence from Hugh MacLeod.
- 3.2 The application was publicised during the period 17 September 2018 until 8 October 2018 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 may be: -

1. the grant of the application will be inconsistent with one or more of the licensing objectives;
2. having regard to (i) the nature of the activities carried on or 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 in accordance with the proposed variation;
3. 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 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.

4.3 The Board only has power either to grant the application and make a variation of the conditions to which the licence is subject or to refuse the application.

4.4 If the Board refuses the application, the Board must specify the ground for refusal and if the ground for refusal relates to a licensing objective, the Board must specify the objective in question.

5.0 Licensing Standards Officer

5.1 The LSO has provided the following comments:-

- (i) The premises currently operate as a café and gift shop serving Dunvegan Castle, Dunvegan, Isle of Skye;
- (ii) Following a review of the operation of the business the applicant now wishes to cease the sale of alcohol by on sales within the café which is located in a building adjoining the gift shop which will continue to sell alcohol by off sales. The premises may trade prior to the commencement of licensed hours;
- (iii) Arising from an increase in tourist trade there is an opportunity for the seasonal trading period to be extended subject to demand and the applicant now wishes to remove the seasonal variation to permit year round trading;
- (iv) The other variations applied for are as a consequence of the removal of the café and on sales from the licensed area and I have no cause to object to the grant of the application.

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

Remove local condition (e). No longer relevant.

7.3 Special conditions

No special conditions are considered necessary.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree to removal of the local condition detailed at para. 7.2 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/1362
Date: 24 October 2018
Author: Carol Nicolson