

## The Highland Licensing Board

Meeting – 14 May 2019

Agenda Item	7.3
Report No	HLB/044/19

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

Lundies House, Tongue, IV27 4XF

### 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 Lundies House, Tongue.

#### 1.0 Description of premises

1.1 Lundies House is a 3 storey detached former manse now operating as a boutique hotel with 4 letting bedrooms and public rooms including dining room, drawing room, study and meeting/function room located adjacent to the A836 road in the village of Tongue. A further 4 bedrooms are located within a separate single storey steading building in the grounds. There are ornamental gardens and vegetable gardens. The garden ground has been identified as an outdoor eating and drinking area and, from time to time, a marquee or other temporary structure may be erected in the grounds in support of functions and events.

There is no permanent bar counter on the premises. An "Honesty Bar" may be operated within a public room in the main building subject to a method of operation acceptable to the Licensing Board.

#### 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 following day

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

##### Off-sales:

Monday to Sunday 1100 hrs to 2200 hrs

### **3.0 Background**

- 3.1 On 13 March 2019 the Licensing Board received an application for the provisional grant of a premises licence from Wildland Limited.
- 3.2 The application was accompanied by the necessary Section 50 certification in terms of Planning together with a Disabled Access Statement.
- 3.3 The application was publicised during the period 20 March until 10 April 2019 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://highland.gov.uk/hlb\\_hearings](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;
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 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 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 applicant is currently renovating and extending an existing former manse to establish a 3 storey boutique hotel with additional separate but adjacent bedrooms within a converted steading. The premises sit in relatively extensive grounds which will include ornamental and vegetable gardens in which, from time to time, a marquee or other temporary structure may be erected in support of small functions and events. Accommodation is provided on the premises for 18 persons with public rooms being able to accommodate 20 persons.

5.3 There is no permanent bar counter on the premises. Alcohol will be being served directly by staff from non-public storage areas or at an "honesty bar" which may be operated subject to demand. The applicant has provided an appropriate statement detailing how the honesty bar will operate.

5.4 An extensive list of activities and services to be provided during and outwith core hours has been included within the operating plan and all are reasonable and appropriate for this type of business. It is unlikely that many of the activities and services will be provided on a regular basis but have been included so as to satisfy any demand from residents or other customers.

5.5 The applicant has included off-sales as a service to be provided on the premises however there is no display of alcohol and items sold for off-consumption will be sourced from a stock room. There is no conflict with the Board's policy on overprovision.

- 5.6 Subject to demand a temporary bar counter may be set up in support of small outdoor functions or events.
- 5.7 Although the premises are not located in immediate proximity to other residential properties I have asked the applicant to complete a noise management plan having regard, in particular, to any functions or events which may take place within the outdoor area. It is not considered necessary to impose any restriction on the hours of use of the outdoor drinking area.
- 5.8 The application is for hours within policy and the services and activities to be provided are reasonable and appropriate for this type of business. I have no cause to object to the grant of this provisional licence.

## **6.0 HLB local policies**

- 6.1 The following policies are relevant to the application:-
- (i) Highland Licensing Board Policy Statement 2018-23
  - (ii) 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:

- k. 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 written method of operation of honesty bar statement acceptable to the Highland Licensing Board must be in place for the premises and operation of the honesty bar must be conducted in accordance with that statement.

2. Children and young persons are not permitted in the 2<sup>nd</sup> floor room identified as the sitting room at any time when the “honesty bar” facility is in operation unless accompanied by an appropriate responsible adult and a notice to that effect shall be displayed at the entrance to the sitting room.

3. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1:00 am (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) 5:00 am.

4. A designated person who is the holder of a personal licence must be present on the premises from 1:00 am (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) 5:00 am 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 objection in question.

Reference: HC/CSR/1896  
Date: 12 April 2019  
Author: L Gunn  
Background Papers: The Licensing (Scotland) Act 2005  
Appendix: Method of operation of honesty bar

## **METHOD OF OPERATION OF HONESTY BAR**

### **DESCRIPTION OF PREMISES**

Lundies operates as a small hotel with 8 individual bedrooms which may also be made available for sole private use. There is no service bar in the premises. Service of alcohol to guests will be primarily by members of staff from storage in non-public areas of the premises, supplemented by an "Honesty Bar" which may be operated at the discretion of the management.

### **LICENSING OBJECTIVES**

The method of operation of the Honesty Bar is designed to show engagement with and consideration of the licensing objectives namely:-

1. Preventing crime and disorder.
2. Securing public safety.
3. Preventing public nuisance.
4. Protecting and improving public health.
5. Protecting children and young persons from harm.

### **DESCRIPTION OF HONESTY BAR**

The "Honesty Bar" will be located in a cupboard in the sitting on the ground floor layout plans. The cupboard has a lockable door and can therefore be secured at appropriate times. The Honesty Bar will be secured out-with the core on sales licensed hours for the premises

### **CHILDREN AND YOUNG PERSONS**

The Children and Young Persons Policy for the premises provides that children and young persons are not permitted in any room containing an "honesty bar" during times it is open unless accompanied by a suitable responsible adult. A section 110 notice will be displayed at the Honesty Bar.

### **Challenge 25**

Staff shall ensure that any guest apparently under the age of 25 years permitted to use the honesty bar must satisfy the requirements

## **OPERATING PROCEDURES**

The Honesty Bar will only be operated when a member of staff is working on the premises and able to monitor use of the honesty bar. The honesty bar will be secured at all other times.

Residents must record all purchases of alcohol in a log book detailing the date, time, name, room number and product along with the signature of the resident.

Hotel staff will always be available in the Premises when the Honesty Bar is open and the Honesty Bar will be inspected regularly and at least once every hour during the times that it is open.

Staff will be instructed to close and secure the Honesty Bar if there is any excessive or inappropriate consumption by any guest.

Consumption information will be transferred from the Honesty Bar log to residents' accounts daily.

A notice will be displayed specifying that unaccompanied children and young persons are not permitted in that room when the honesty bar is being operated and staff will be carry out checks to ensure compliance.

If there is any inappropriate use of the honesty bar it will be closed and secured.