

**The Highland Licensing Board**

**Meeting – 14 May 2019**

Agenda Item	<b>8.1</b>
Report No	<b>HLB/048/19</b>

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

**Caroy House, Somerled Square, Portree, Isle of Skye, IV51 9EH**

**Report by the Clerk to the Licensing Board**

**Summary**

This report relates to an application for a major variation of a provisional premises licence by Caroy House Ltd.

**1.0 Description of premises**

1.1 The premises is a detached building with a large garden at the rear. It has a restaurant with bar on the ground floor and a capacity of 60 persons.

**2.0 Summary of variation application**

**2.1 Variation sought**

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

- (1) Remove references to accommodation from the operating plan at Q5;
- (2) Remove reference to residents at explanation below Q5;
- (3) At other activities during and outwith core hours add bar meals, club and other group meetings and, within core hours only, televised sport to the operating plan at Q5;
- (4) Amend the description of the premises to reflect the removal of accommodation from the operating plan;
- (5) Submit new layout plan removing references to accommodation on the premises;
- (6) Add new premises manager details.

### **3.0 Background**

- 3.1 On 25 March 2019 the Licensing Board received an application for a major variation of a provisional premises licence from Caroy House Ltd.
- 3.2 The application was publicised during the period 2 April 2019 until 23 April 2019 and confirmation that the site notice was displayed has been received.
- 3.3 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.
- 3.4 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](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**

The LSO has provided the following comments:-

- (i) On 7<sup>th</sup> August 2018 the premises was granted a provisional licence to operate as a boutique hotel with 8 guest bedrooms, a bar /restaurant and associated facilities including an outdoor drinking area;
- (ii) Due to delay in completing the necessary works to create the guest bedrooms, the applicant has been unable to obtain a section 50 certificate from Building Standards and thus cannot apply to confirm the licence and be able to sell alcohol in accordance with a premises licence. In order to trade from the bar / restaurant the applicant currently relies on the grant of occasional licences;
- (iii) After consultation with officers from Building Standards the applicant has now decided to remove the accommodation from the terms of the premises licence and restrict the licensed area to the bar / restaurant and outdoor drinking area. They may apply at a later date to vary the licence and reinstate the accommodation;
- (iv) They also wish to take the opportunity to add some additional services and activities to the operating plan to satisfy a demand. Those additions are reasonable and appropriate for this type of operation;
- (v) The description of the premises and other relevant parts of the operating plan has been amended to take account of the removal of the accommodation;
- (vi) The proposed changes do not conflict with Board policy. 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 variation application.

## **6.0 HLB local policies**

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2018-23
- (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**

Existing local conditions will continue to apply and no additional 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/1867  
Date: 26 April 2019  
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