

The Highland Licensing Board

Meeting – 1 October 2019

Agenda Item	8.1
Report No	HLB/080/19

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

The Day Lodge, Cairngorm Mountain (Scotland) Ltd, Cairngorm Ski Area, Aviemore, PH22 1RB

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 The Day Lodge, Cairngorm Mountain (Scotland) Ltd, Cairngorm Ski Area, Aviemore, PH22 1RB.

1.0 Description of premises

1.1 The Day Lodge is situated at the foot of Cairngorm Mountain and consists of a bar, café and outside drinking area.

2.0 Operating hours

2.1 The applicant seeks the following **on-sale** hours:

On sales:

Monday to Sunday: 1000 hours to 2300 hours

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

Off sales:

Monday to Sunday: 1000 hours to 2200 hours

3.0 Background

3.1 On 27 June 2019 the Licensing Board received an application for the grant of a premises licence from Cairngorm Mountain (Scotland) Ltd.

The application was accompanied by the necessary section 50 certification in terms of Planning, Building Standards and Food Hygiene, together with a Disabled Access Statement.

- 3.2 The application was publicised during the period 15 July until 5 August 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

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:-

(i) Day Lodge, Cairngorm Mountain formerly held an alcohol premises licence under the 2005 Licensing Act. However, following the former company going into receivership, the premises licence was not timeously transferred to the new operators and the licence, therefore, ceased to have effect. This application has been lodged in order to re-licence the premises which are an important tourist facility in the Spey Valley.

(ii) The premises comprise of a cafeteria on the ground floor selling on sales, a further cafeteria on the first floor again selling on sales and a shop is located on the ground floor from which a range of off sales products are sold.

(iii) The LSO has overviewed the operating plan submitted and has found it meets with the 5 licensing objectives. The premises have been inspected and they are suitable for the sale of alcohol.

(iv) The hours of operation meet with the policy hours of the Highland Licensing Board. Opening times for on sales are to commence from 1000 hours, as the premises are food led this conforms with the Board's Policy on early opening and, has been conditioned accordingly, that alcohol supplied prior to 1100 hours shall only be supplied as ancillary to a meal.

(v) The necessary section 50 certificates relating to planning, building control and food hygiene have accompanied the application, also has a Disabled Access Statement.

(vi) Following the public consultation phase of the application, no objections or observations have been received by the Highland Licensing Board.

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

No local conditions are considered necessary.

7.3 Special conditions

Any alcohol sold for consumption on the premises prior to 1100 hours will only be sold as an accompaniment to a meal.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed special 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/INBS/642
Date: 13 September 2019
Author: Marjory Bain