

The Highland Licensing Board

Meeting – 1 October 2019

Agenda Item	9.5
Report No	HLB/089/19

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

The Caberfeidh Bar and Restaurant, Main Street, Lochinver, IV27 4JY

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 The Caberfeidh Bar and Restaurant, Main Street, Lochinver.

1.0 Description of premises

1.1 The Caberfeidh Bar and Restaurant is a public house with separate restaurant area. It is a detached premises on Main Street, Lochinver, adjacent to the public car park. It has an outside drinking area at the rear of the premises overlooking the river.

2.0 Operating hours

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

On sales:

Monday to Wednesday: 1100 hrs to 2300 hrs
Thursday: 1100 hrs to 2400 hrs
Friday: 1100 hrs to 0100 hrs the following day
Saturday: 1100 hrs to 2345 hrs
Sunday: 1230 hrs to 2300 hrs

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

Off sales:

Monday to Saturday: 1100 hrs to 2200 hrs
Sunday: 1230 hrs to 2200 hrs

3.0 Background

3.1 On 9 August 2019 the Licensing Board received an application for the provisional grant of a premises licence from Lochinver Larder Limited.

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

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

5.2 The Caberfeidh Bar and Restaurant is a double storey building with the bar and restaurant on the ground floor and residential/staff accommodation above. It has an outdoor drinking area within the garden at the rear of the premises overlooking the river. The premises are located on Main Street Lochinver, at the East end of the village. The village of Lochinver is a popular tourist destination on the West Coast of Sutherland, approximately one hour north of Ullapool.

5.3 The Caberfeidh Bar and Restaurant until January of this year held a premises licence, and operated as a trouble free and busy bar and restaurant. In January of this year the company which owned and ran the premises went into liquidation and, in terms of the legislation, the premises licence ceased to have effect as no timeous transfer of the licence was undertaken.

5.4 The premises are now in the process of being purchased by the applicant who intends running the operation very much along the same lines as the previous owners. The main trade for the business is expected to be a mix of the vibrant tourist trade within the popular village as well as covering local bar and restaurant trade.

5.5 The children and young persons policy as submitted with the operating plan is, in the opinion of the LSO, in keeping with the 5th licensing objective.

5.6 As previously stated, the current application mirrors the previously existing operating plan. During the statutory consultation period of the application process, no objections or observations were received by the Board.

5.7 There are ongoing discussions between the applicant and the Planning, Building Control and Environmental Health departments in relation to some internal works which have been carried out in the premises and are shown on the layout plan as "Prep Area Unlicensed". Having discussed this matter with planning officials, they are satisfied that the section 50 notice that has been issued is suitable as the works carried out do not affect the overall use of the building.

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

Should the Board grant the application as applied for, the Board may wish to consider attaching the following condition(s) from the schedule of local conditions:

(a) Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hours except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This condition does not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress.

(b) Whilst in any room with a bar counter all children must be in the company of, or supervised by an appropriate responsible adult. This condition does not apply to children of the licence holder or children who are resident on the premises.

(c) Notwithstanding conditions (a) and (b) children must not sit or remain at the bar counter at any time.

(m) After 2100 hours, alcoholic or non-alcoholic drinks shall not be consumed in any outdoor drinking area.

(x) Dartboards and any pool table will be situated in a location of the premises approved by the Licensing Standards Officer.

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 the proposed local condition(s) detailed at para 7.2.

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/1918

Date: 13 September 2019

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Background Papers: The Licensing (Scotland) Act 2005/Application Form.