

The Highland Licensing Board

Meeting – 12 May 2020

Agenda Item	7.3
Report No	HLB/030/20

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

The Carnegie Tearoom and Deli, The Carnegie Courthouse, Castle Street, Dornoch

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Carol Mackay in respect of The Carnegie Tearoom and Deli, The Carnegie Courthouse, Castle Street, Dornoch.

1.0 Description of premises

1.1 The premises are located on the first floor of the Carnegie Courthouse and operate primarily as a tea room and deli with facilities to cater for small functions. The premises was granted a premises licence on 7 February 2017.

2.0 Current operating hours

2.1 The premises currently has the following operating hours:

On sales:

Monday to Sunday: 1100 hrs to 0100 hrs

Off sales:

Monday to Sunday: 1000 hrs to 2200 hrs

3.0 Summary of variation application

3.1 Variation sought

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

- 1) amend the layout plan due to installation of raised bar counter with adjacent bar stool seating and increase the existing off sales area;
- 2) amend premises description;

- 3) add bar meals, films, gaming, indoor/outdoor sports and televised sports to list of activities provided during and outwith core hours;
- 4) increase alcohol display capacity;
- 5) amend terms of children and young persons policy.

4.0 Background

- 4.1 On 23 January 2020 the Licensing Board received an application for a major variation of a premises licence from Carol Mackay.
- 4.2 The application was publicised during the period 31 January to 21 February 2020 and confirmation that the site notice was displayed has been received.
- 4.3 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.
- 4.4 Notification of the application was also sent to NHS Highland and the local Community Council.
- 4.5 Further to this publication and consultation process, no timeous objections or representations have been received.
- 4.6 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

5.0 Legislation

- 5.1 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.
- 5.2 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.

5.3 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.

5.4 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.

5.5 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.

6.0 Licensing Standards Officer

6.1 The LSO has provided the following comments:-

- a) The premises known as The Carnegie Tearoom and Deli is situated on the first floor of the Carnegie Courthouse, Castle Street, Dornoch, on the East coast of Sutherland.
- b) This property is in the centre of the town of Dornoch in an area commonly known as "The Square".
- c) The Carnegie Tearoom and Deli shares an entrance, foyer area and stairway with three other commercial premises within the building.
- d) The premises were granted a licence in February 2017 and has no history of problems or issues since then.
- e) The applicant has applied to vary the existing licence to amend the layout plan to show the installation of a raised bar counter as well as bar stool seating in place of the coffee and cake server.
- f) They have also increased the off sales display area to 12m², which is within Highland Licensing Board Policy in relation to overprovision and will allow for increased selection of craft wines and spirits.
- g) The applicant also seeks to change the operating plan in terms of children and young persons, in the view of the LSO this change meets the standards of the fifth licensing objective.
- h) Further activities have been included in the operating plan to allow for best use of the facilities.
- i) Following the public consultation phase of this application, no objections or observations have been received by the Licensing Board.

- j) The applicant has, since granted the premises licence in 2017, had live music as well as use of an outdoor drinking area on the licence without instances of complaint but are currently working with Environmental Health Officers to complete an appropriate Noise Management Plan to ensure standards are maintained, this has been included as a special condition.
- k) The LSO has also discussed some aspects of public safety with the applicant and Police Scotland around patrons leaving the shared building entrance at the end of licensing hours. The applicant has agreed to implement appropriate supervision of this area when required and is to consider CCTV usage in the area.
- l) There has been discussion with local planning officers and the applicant around the variation applied for and, in particular, the level of “change of use” and suggested increased alcohol sales from on sales on the premises. It has been agreed with planners that the variation does not markedly change the premises use.
- m) Appropriate local and special conditions are suggested to restrict the use of the rear outdoor drinking area during the evening as well as the effect of live and recorded music being played within the premises.
- n) I am satisfied that the applicant has given due consideration to the licensing objectives and I have no cause to object to this application for a variation.

7.0 HLB local policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2018-23
- (2) Highland Licensing Board Equality Strategy

8.0 Conditions

8.1 Mandatory conditions

If the application is approved the mandatory conditions set out in Schedule 3 of the Act will apply.

8.2 Local conditions

Existing local conditions will continue to apply and it is recommended that the following additional local conditions be attached:

- m. After 2100 hrs, alcoholic or non-alcoholic drinks shall not be consumed in any outdoor drinking area.
- n(ii). The playing of live or recorded music in any outdoor drinking area shall be restricted to between the hours of 1100 hrs and 2100 hrs.

8.3 Special conditions

Existing late opening special conditions to apply and it is recommended that the following additional special conditions be attached:

1. A written noise management plan acceptable to the Highland Licensing Board must be in place for the premises and any relevant activity or service being provided must be conducted in accordance with that plan.
2. During the playing of any live music on the premises doors and windows will require to be closed unless to be opened temporarily to admit or allow the exit of patrons
3. No live or amplified music will be played on the premises until such time that a satisfactory Noise Management Plan has been submitted.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed additional local and special conditions detailed at para 8.2 and 8.3 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 objective in question.

Reference: HC/CSR/1800
Date: 17 March 2020
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