

The Highland Licensing Board

Meeting – 22 February 2022

Agenda Item	6.1
Report No	HLB/009/22

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

Caberfeidh Bar and Restaurant, 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 the grant of a premises licence in respect of Caberfeidh Bar and Restaurant, Caroy House, Somerled Square, Portree, Isle of Skye, IV51 9EH.

1.0 Description of premises

1.1 The Caberfeidh Bar and Restaurant is situated in the centre of Portree and consists of a detached three-storey stone built building. The premises are situated on the ground floor of the building.

2.0 Operating hours

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

On sales:

Monday to Sunday: 1100 hours to 0100 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 21 December 2021 the Licensing Board received an application for the grant of a premises licence from Calcam Skye Ltd per TLT solicitors.

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 10 January 2022 until 31 January 2022 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 following response was received from Planning when consulted on the application:-

We have no objection to the granting of this license but need to make the applicant and the committee aware of the below condition which was attached to planning permission 16/05741/FUL for the 'Change of use of ground floor to restaurant (class 3), erection of side and rear extension, replacement of ground floor windows and doors, installation of gas tanks, access ramp and repainting of building.'

Condition 1 states that:

- 1. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended, revoked or re-enacted; with or without modification) and Article 3 and Classes 10 to 13 of Schedule 1 of the Town and Country Planning (General Development) (Scotland) Order 1992 (as amended, revoked or re-enacted; with our without modification), the development hereby approved shall be used solely for Class 3 (Food and Drink) and for no other use or purpose. The bar area as denoted in drawing 000001 REV B – PROPOSED GROUND FLOOR PLAN being used solely as ancillary to the restaurant.*

Reason: *In accordance with the use applied for and in the interest of residential amenity.*

If the applicant wishes to use the bar area as a public bar for anyone who is not also using the restaurant then a further planning application would be required to remove or amend the wording of the above condition.

- 3.7 As a hearing cannot be held in person due to coronavirus, the Licensing Board, before reaching a decision, must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by alternative methods. Consequently, the applicant has been invited to attend a virtual hearing and/or submit a written representation to state their case.

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) The property known as Caberfeidh Bar and Restaurant is a detached, stone built property, which had previously been used as a licensed premises. The property is situated near the centre of Portree, Isle of Skye.
- (ii) The property is on the ground floor of a three-storey building.
- (iii) The application is to allow for the provision of alcohol by both on and off sales. There is a restaurant and separate bar area for dining and provision of alcohol. There is no outdoor area.
- (iv) The activities sought would appear to be reasonable and appropriate for the proposed operation of the premises.
- (v) The children's policy is considered suitable and is within the policy of the Highland Licensing Board.
- (vi) The layout plan submitted complies with the required specifications.
- (vii) There would not appear to be any matter contained within the application that is inconsistent with the licensing objectives.
- (viii) During the period of public consultation, no objections were received.
- (ix) There are ongoing discussions with Planning Officials in relation to the use of some parts of the premises, however, these do not cause any issues under the licensing legislation.
- (x) I have no objection to this 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

No 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/1992
Date: 1 February 2022
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