

The Highland Licensing Board

Meeting – 22 February 2022

Agenda Item	6.2
Report No	HLB/010/22

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

Eilean Donan Castle Visitor Centre, Dornie, Kyle of Lochalsh, IV40 8DX

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 Eilean Donan Castle Visitor Centre, Dornie, Kyle of Lochalsh, IV40 8DX.

1.0 Description of premises

1.1 The Eilean Donan Castle Visitor Centre is situated in Dornie and consists of a purpose built visitor centre with coffee shop, take away, food hall, ticket office, gift shop and toilets. The licensed area relates purely to the visitor centre and outdoor hospitality areas.

2.0 Operating hours

2.1 The applicant seeks the following **on sales** hours:

On sales:

Monday to Sunday: 1100 hours to 2300 hours

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

Off sales:

Monday to Sunday: 1000 hours to 2100 hours

3.0 Background

3.1 On 15 December 2021 the Licensing Board received an application for the grant of a premises licence from Eilean Donan Castle Trading Company 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 20 December 2021 until 10 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 & 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, the following timeous notices of objection/representation have been received and are appended:
1. E-mail (objection) dated 7 January 2022 from Mary Robb (**Appendix 1**);
 2. E-mail dated 16 January 2022 with additional information on objection from Mary Robb (**Appendix 2**);
 3. E-mail (representation) dated 8 January 2022 from Alison Jack on behalf of Dornie & District Community Council (**Appendix 3**);
 4. E-mail (objection) dated 9 January 2022 from Colin MacKenzie (**Appendix 4**);
 5. E-mail (objection) dated 10 January 2022 from Chris Nixon (**Appendix 5**);
 6. E-mail (objection) dated 10 January 2022 from Jann MacRae (**Appendix 6**);
 7. E-mail (objection) dated 10 January 2022 from Chrismay Hay (**Appendix 7**).
- 3.6 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/objectors have 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 Eilean Donan Castle is a world-famous visitor attraction which attracts large numbers of visitors, throughout the year. It is situated adjacent to the A87 road close to the village of Dornie, Kyle of Lochalsh. The castle itself is situated on a small island accessed from the mainland by a permanent bridge. The area referred to throughout in this application is on the mainland and consists of a purpose-built visitor centre made up of a coffee shop, take away, food hall and gift shop. There are also outdoor hospitality areas which will be included in the licensed footprint.
- (ii) The application is to allow for the provision of alcohol by both on and off sales as detailed on layout plan.
- (iii) The activities sought would appear to be reasonable and appropriate for the proposed operation of the premises.
- (iv) The children's policy is considered suitable and is within the policy of the Highland Licensing Board.
- (v) The layout plans submitted comply with the required specifications.

- (vi) There would not appear to be any matter contained within the application that is inconsistent with the licensing objectives.
- (vii) During the period of public consultation, a number of objections were received.
- (viii) Those objectors I have been successful in speaking to have almost entirely expressed concerns around “overprovision” of licensed premises in the Dornie area. I have explained the Highland Licensing Board policy in relation to overprovision and that the concerns and objections submitted could not be considered in terms of the licensing legislation as they almost entirely refer to “business competition” and the effect this application, if successful, may have on other business in the area. There were also concerns expressed around an increased volume of traffic in the area. I again explained that this factor could not be considered in relation to an objection under the licensing legislation.
- (ix) 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

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

- m After 2200 hours alcoholic or non-alcoholic drinks shall not be consumed in any outdoor area.

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 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/RSL/1993
Date: 7 February 2022
Author: Carol Nicolson

- Appendix 1 - E-mail dated 7 January 2022 from Mary Robb;
- Appendix 2 - E-mail dated 16 January 2022 with additional information on objection from Mary Robb;
- Appendix 3 - E-mail dated 8 January 2022 from Alison Jack on behalf of Dornie & District Community Council;
- Appendix 4 - E-mail dated 9 January 2022 from Colin MacKenzie;
- Appendix 5 - E-mail dated 10 January 2022 from Christopher Nixon;
- Appendix 6 - E-mail dated 10 January 2022 from Jann MacRae;
- Appendix 7 - E-mail dated 10 January 2022 from Chrismay Hay.



REPRESENTATIONS OR OBJECTIONS IN RELATION TO A PREMISES LICENCE APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005

Please read the Board's Guidance Notes on How to Object or make Representations in relation to a Premises Licence Application before completing this form. This form when completed should be returned to the nearest office of the Licensing Board using the contact details in the guidance notes or emailed to licensing@highland.gov.uk. Remember, if an objection is rejected by the Board as frivolous or vexatious, the Board may seek to recover expenses from the objector or person making representations

1. Full Name and Address of person making objection/representation:

Mrs Mary Robb, [REDACTED]	
Telephone Number:	
Email Address:	

2. Address of Premises in respect of which objection / representation is made:

Eilean Donan Castle Dornie, IV40 8DX

3. Details of any OBJECTION: (complete only if you consider one of the ground for refusal apply)

State ground of objection (refer to ground of objection by number, see guidance notes, and give details): (Continue on separate sheet if necessary)		
1.	Excluded Premises	No 5 Threat to existing premises in Dornie village
2.	Off-Sales Hours/24 hour drinking	
3.	Licensing Objectives	
4.	Activities/Premises/Customers	
5.	Over Provision	

4. Details of any REPRESENTATION: (complete only if you wish to make a representation in respect of the application)

State details of any representation (refer to representation by number, see guidance notes, and give details): (Continue on separate sheet if necessary)		
1.	in support of application	
2.	seeking an amendment to the operating plan, or	
3.	seeking to add additional conditions to the licence	

Signature:...Mary.Robb..... **Date:**06/01/2022.....

Dear Sir/Madam,

Re: APPLICATION FOR GRANT OF PREMISES LICENCE
EILEAN DONAN CASTLE VISITOR CENTRE, DORNIE, IV40 8DX

I have registered an objection to this application on the grounds of OVERPROVISION. However, having looked at the policy document from the Highland Licensing board, now see that this is not technically a valid objection.

However, as an ordinary member of the public, and to support the letter from Dornie & District Community Council, I wish the Highland Licensing Board to consider the following:

- 1) Would a table licence only not be more appropriate? This would allow patrons of the premises to drink alcohol with their meal.
- 2) What is the justification for an off-sales licence? I cannot understand why this is suitable for the internationally recognised Eilean Donan Castle?
- 3) An off-licence provision increases the risk of people driving while under the influence of alcohol. While the premises are in a private outdoor space, the venue is near a very busy spot on the A87 road which will significantly increase the likelihood of accidents both to those using the facility and to those residing in the local area. Furthermore, the car park area and surrounding grounds directly near the underpass are not well lit at night which raises further concerns as to the general safety of this being used as a recreational area for drinking alcohol.
- 4) When the new Dornie bridge was proposed, it was recognised that the village of Dornie would be by-passed, and funding was given by the Government to the village to compensate for this. By allowing the off-licence the village will once again likely be by-passed, threatening existing businesses, which rely on visitors coming into the village. This could harm all the small businesses, such as B/Bs, as well as the shop and licensed premises

I am against the granting of the licence to Eilean Donan Castle Visitor Centre for these reasons

Yours sincerely

Mrs Mary Robb

A large black rectangular redaction box covering the signature area.

From: Alison Jack
Sent: 08 January 2022 16:37
To: Licensing <licensing@highland.gov.uk>
Subject: Eilean Donan Castle application

CAUTION: This email was sent from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sir/Madam,
Re: APPLICATION FOR GRANT OF PREMISES LICENCE
EILEAN DONAN CASTLE VISITOR CENTRE, DORNIE, IV40 8DX

I am writing on behalf of Dornie & District Community Council to say that although we have no grounds for objection, according to the Highland Council Licensing Board Policy, we wish the Board to take account of our views and that of members of the public who have contacted the community council.

.Those views are:

- if the Castle acquires the liquor licence, the three licensed small businesses, already greatly impacted by the pandemic, will lose even more trade as tourists will bypass the village
- concerns of the increased risk and probability of having drivers on the road who are over the drink driving limit

The Community Council are against the liquor licence being permitted.

yours faithfully,
Alison Jack
Secretary
Dornie & District Community Council

From: Colin MacKenzie
Sent: 09 January 2022 17:00
To: Licensing <licensing@highland.gov.uk>
Subject: Objection to Eilean Donan Castle Premises License

CAUTION: This email was sent from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hello,

I would like to object to the application above on the grounds that there is already sufficient provision in the local area of licensed premises. If granted, a premises license at Eilean Donan Castle will severely impact local business long established in this sector. Since the creation of the visitor centre at the castle, together with the opening of the new Dornie bridge, local business in the village has already suffered with the complete collapse of lunchtime trade. Given that the castle already capitalises on the majority of the tourists that travel to the area, is there really a need for them to also monopolise what is left of the evening trade that is so critical to local business by giving these tourists even less reason to visit the village? The castle has thrived in recent years and will continue to do so regardless of whether they are granted a premises license. Local business on the other hand will struggle and possibly close should it go ahead.

Yours sincerely,
Colin Macrae MacKenzie

From: Chris Nixon

To: Licensing <licensing@highland.gov.uk>

Subject: Application for grant of premises licence - Eilean Donan Castle Visitor Centre

CAUTION: This email was sent from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good morning

Re the above application for change of use of premises and for liquid licence, I would like to ask you to consider the impact this will have on the wider community.

The village has 2 facilities (and will hopefully return to 3 if community can purchase the shop) that sell alcohol and cannot see why a 3rd is required unless the intention is to serve evening meals and/or cater for weddings/parties, etc.

If this is the case then the Castle will take even more away from local businesses who are already suffering.

Eg

1. The Dornie Hotel and Clachan will suffer from loss of business as visitors will just stay and eat and drink at the castle and not go in to village to these places.
2. Our Hall will not have the same number of wedding/party functions and will not be able to raise enough funds.
3. Loss of business for the likes of Highland Vintage Car Hire who transport wedding parties to hall or apartments, as they won't be required if only party is only going across bridge.
4. The junction will have traffic going in and out of this dangerous junction well after dark, causing even more problems for everyone for many more hours a week, it is an accident black spot already, this will just make it worse.

I hope you will take in to account all these knock on effects when considering this application.

Kind Regards

Chris Nixon

10/1/22

[REDACTED]

[REDACTED]

[REDACTED]

From: info@dornie-hotel.co.uk <info@dornie-hotel.co.uk>
Sent: 10 January 2022 14:44
To: Licensing <licensing@highland.gov.uk>;
Subject: Fwd: eilean donan castle premises licence application

CAUTION: This email was sent from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Sir,

We would like to object to the issuing of the premises license at Eilean Donan visitor centre, Dornie IV40 8DX, on the following grounds.

1. securing public Safety : The centre sits immediately adjacent to the A87 and over the last few years there have been parking issues with the overspill of cars parking on the trunk road , causing a dangerous obstruction to fast moving vehicles and pedestrians alike, to the extent that police have had to attend in a number of instances. If patrons stay is lengthened by having drink then the flow in and out of the already busy car park is likely to cause even more congestion leading to more danger.

2. Preventing public nuisance : The previous could also be said on this topic.

3. Protecting children and young people from harm. Although we believe the business will operate responsibly, families attending a hotel or pub expect to have children in an environment where alcohol is served and can act accordingly ,but in a visitor centre the vast majority would expect to not have to deal with any issues which may arise from the use or misuse of alcohol.

We would question whether the original planning permission for the visitor centre gave allowance for the selling of alcohol and may have specifically dismissed the possibility. The inference from the trust at the time was certainly that it did not want to impinge on local business but already it has extended to a food outlet. We would expect that you check the original planning permission granted

I note from the charity's operations in its OSCR details the "beneficiaries" are listed as : no specific group ,or for the benefit to the community. We cannot see how this is to benefit the community, indeed it is absolutely going to be detrimental to a number of businesses in the community

Although not a principal ground for objection, we would point out that the village has two hostelries which are bound to be adversely affected by this proposal

Yours sincerely Jann MacRae

From: CHrismay HAY
Sent: 10 January 2022 15:52
To: Licensing <licensing@highland.gov.uk>
Subject: License

Appendix 7

CAUTION: This email was sent from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sir/Madam,

Please find attached our objection to application for a premises license at, Eilean Donan Visitor Centre Dornie.

Kind Regards

C Hay

EILEAN DONAN CASTLE VISITOR CENTRE (IV40 8DX)

PREMISES LICENCE APPLICATION 13/12/2021

Objection to the above application for a premises licence due to the over provision of licensed premises in the village of Dornie currently operating with similar opening hours.

When the great visitor centre attraction opened around 2000 there were 4 licensed premises in the vicinity of the Castle and Dornie village all providing alcohol and hot meals which subsequently dropped to the only two remaining establishments.

The Local perception at the time of opening was there would be no hot food on offer so that the other local existing establishments would not suffer but that changed and possibly contributed to the closure of two of the establishments in the following years.

The Dornie Hotel and Clachan pub have between them operated licensed premises for over 100 years in the village and are in very close proximity to the Castle Visitor Centre.

Both Village establishments rely on their daytime and evening trade from visitors to the area that are staying locally or passing through on route to Skye from Inverness or Glasgow.

Having a 305 person seated venue at the visitor centre which proposes to become fully licensed on the main road would be severely detrimental to the future of these businesses and the heart of the village in general.

This new venue operating until 23.00 daily for 11 months of the year and proposing to sell alcohol would have a severe impact on the operating numbers of the existing licensed premises in the village. You would assume if selling Alcohol until 23.00 then the visitor centre shall also be providing evening meals which again shall have a huge impact on the village and other businesses locally providing food and hospitality.

There is no doubting the Castle and visitor centre are great facilities and pretty huge in the community in general for both attracting visitors and providing employment and it is already a very profitable and successful tourist attraction. Therefore you have to ask does it really need to be licensed selling alcohol to 23.00 seven day's a week 11 months of the year and most definitely taking trade away from other established businesses. Already these existing businesses have to cope with the impact the recent pressures of Brexit and Covid have caused.

Although the visitor centre provides employment and claims to fulfil and meet local demand other businesses in the village also provide employment and are at the heart of the village which is already trying to attract visitors to stay in various accommodations, attract local Arts, crafts, galleries etc.

The two licensed premises currently share the trade and rely on visitors to keep going and survive and it can be extremely challenging in quieter times as it is only really a couple of weeks a year when things are at full capacity.

1990 saw the introduction of the A87 village bypass which means Dornie village easily gets bypassed and it has already affected the future of accommodation and businesses in the village and another licensed premise on the main road with the huge capacity could directly impact this further with fewer visitors making the detour. If everything you require is on the main road then it could easily stop people visiting.

Hopefully the village shop shall be taken over by the community this year and further enhance the village and therefore the need for visitors to make it sustainable shall be more important than ever.

Attracting visitors to stay in the village and the surrounding area it is important to have the Hotel and Village Pub operational providing good local Highland food and drink giving that Highland village feel and welcoming. This is really important for both foreign and local tourists as this is what they are looking and for it would be a huge loss to the village if the impact of a 305 seated licensed premises impacted established licensed businesses and the employment and environment that they provide.