

## The Highland Licensing Board

Meeting – 25 June 2024

Agenda Item	8.3
Report No	HLB/60/24

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

Mingary Castle, Kilchoan, Acharacle, PH36 4LH

### 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 Mingary Castle, Kilchoan, Acharacle, PH36 4LH.

#### 1.0 Description of premises

1.1 Mingary Castle is a detached 13 century castle situated in its own grounds on the shores of the Sound of Mull approximately 2km south east of the village of Kilchoan.

The premises consists of a restaurant; five bedrooms; a resident's lounge and restaurant. There is also an outdoor drinking area located within the courtyard of the premises and picnic benches within the Castle grounds.

There is no bar area within the premises and it is proposed that alcohol will be served directly to the table of guests in the lounge, restaurant and outside seating area.

On occasion, a marquee may be erected within the garden grounds for special events. The premises is open to both residents and non-residents and proposes to offer food and alcohol for consumption on and off the premises.

#### 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 13 May 2024 the Licensing Board received an application for the grant of a premises licence from Mingary Castle Limited.
- 3.2 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.
- 3.3 The application was publicised during the period 22 May 2024 until 12 June 2024 and confirmation that the site notice was displayed has been received.
- 3.4 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.
- 3.5 Notification of the application was also sent to NHS Highland and the local Community Council.
- 3.6 Further to this publication and consultation process, no timeous objections or representations have been received.
- 3.7 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:

[Highland Licensing Board - 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:-

- (1) Mingary Castle is a detached 13<sup>th</sup> century castle situated in its own grounds on the shores of the Sound of Mull approximately 2 km south east of the village of Kilchoan.
- (2) The premises consist of a restaurant, five bedrooms, a resident's lounge and restaurant. There is also an outdoor drinking area located within the courtyard of the premises and picnic benches within the castle grounds.
- (3) The premises offers off and on sales to both residents and non residents.
- (4) The application is within Highland Licensing Board policy.
- (5) The application is consistent with the five Licensing Objectives.
- (6) No objections or representations have been received in respect of the application.
- (7) The premises have been operating on Occasional Licenses for some time with no adverse reports.
- (8) I have no objections to this application.

## **6.0 HLB local policies**

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2023-28
- (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 given the applicant has indicated they wish to take advantage of the Licensing Board's festive policy:

- (K) The licence holder shall submit to the Board and to Police Scotland, prior to 1 December each year, notice of the dates within the festive period on which it is intended that the premises remain open until the festive period terminal hour stated for that category of premises in the Board's Policy Statement. The premises may remain open until the festive period terminal hour only on those dates for which notice has been given by the licence holder to the Board and to Police Scotland in accordance with this condition.

### **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/2118

Date: 13 June 2024

Author: Julie Traynor