

The Highland Licensing Board

Meeting – 9 August 2016

Agenda Item	6.5
Report No	HLB/062/16

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

Sonachan Hotel, Kilchoan, PH36 4LN

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 Sonachan Hotel, Kilchoan, PH36 4LN.

1.0 Description of premises

1.1 The Sonachan Hotel is situated within the rural village of Kilchoan on the Ardnamurchan Peninsula. The premises comprise of a six bedroom hotel open to both residents and non residents.

The licensed area comprises the hotel with adjacent outside drinking area. The ground floor of the premises comprise of a bistro area on two levels, dining room, kitchen, reception, office, store and toilets. The first floor of the premises comprises five en-suite bedrooms, one bedroom (without en-suite facilities) and a residents lounge area. Staff accommodation is also located on the first floor of the premises which is accessible from the rear of the premises.

2.0 Operating hours

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

On sales:

Monday to Saturday: 1100 hours to 0100 hours
Sunday: 1200 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 10 June 2016 the Licensing Board received an application for the grant of a premises licence from Derek Forsyth as Trustee of Helen Ferguson.

The application was accompanied by the necessary section 50 certification in terms of Planning, Building Standards and Food Hygiene.

- 3.2 The application was publicised during the period 5 July 2016 until 26 July 2016 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 (SFRS) 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 were received. However, one non-timeous objection has subsequently been received from the SFRS by email.
- 3.6 The objection from the SFRS was received on 29 July 2016 which was after the deadline. As such, it cannot be considered automatically and has not been circulated. The Board may, having heard from the late objector and the applicant, consider the late objection if:

- (a) the failure is due to mistake, oversight or other excusable cause, and
- (b) the Board considers it appropriate in all the circumstances to dismiss the failure to meet the deadline.

The late objection will be circulated if the Board agrees to consider it.

- 3.7 The applicant and the objector(s) have been invited to attend the hearing. Both have been advised of the hearings procedure which will be followed at the meeting and which may also be viewed via the following link:

http://www.highland.gov.uk/downloads/download/428/liquor_licence_objections_appeals_notices_of_determination

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 grant of the application would be inconsistent with one or more of the licensing objectives;
 3. 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
 4. that having regard to the number and capacity of licensed premises of the same or similar description in the locality, the Board considers that if the application were to be granted, there would, as a result, be overprovision of licensed premises of that description in the locality.
- 4.2 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 Hotel has recently been operating under occasional licences as the previous licence holder was the subject of sequestration and the Hotel licence was not timeously transferred to another party within the allowed 28-day period.
 - (ii) The premises licence application has been made by a trustee of the former licence holder, Helen Ferguson, who will now become the designated premises manager responsible for the day to day running of the premises.
 - (iii) The premises have been inspected by the LSO and are suitable for the sale of alcohol. Under the previous period of operation the operation of the premises was very satisfactory.
 - (iv) The necessary section 50 certificates in respect of Planning, Building Standards and Food Hygiene have been submitted with the application.
 - (v) The operating plan submitted with the Application has been reviewed by the LSO and it is reflective of the previous operation. The LSO is of the opinion that it is compliant with all the licensing objectives.

6.0 HLB local policies

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-18
- (2) Highland Licensing Board Equality Strategy
- (3) Highland Licensing Board Policy Hours

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, 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 another part of the premises 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.
- D. Dartboards and any pool table will be situated in a location to be approved by the Licensing Standards Officer.
- E. The licence holder shall submit to the Board and to Police Scotland, prior to 1 December each year, a notice of the dates within the festive period which it is intended that the premises remain open until in line with the festive period terminal hours 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

The Board may wish to consider attaching the following special condition(s):

- (i) On any occasion when the premises are permitted to be open after 0100 hours the following conditions shall apply;
 - A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hours.
 - A designated person who is the holder of a personal licence must be present on the premises from 0100 hours. (licensing objectives 1 and 2)

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local and special conditions detailed at paras. 7.2 and 7.3 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/RSL/1778

Date: 29 July 2016

Author: Julie Traynor

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