

The Highland Licensing Board

Meeting – 6 January 2017

Agenda Item	7.1
Report No	HLB/004/17

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

The Carnegie Whisky Cellars, The Carnegie Courthouse, Castle Street, Dornoch

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for the provisional grant of a premises licence in respect of The Carnegie Whisky Cellars, The Carnegie Courthouse, Castle Street, Dornoch.

1.0 Description of premises

1.1 The Carnegie Whisky Cellars are a dedicated whisky shop selling both spirits and some speciality beers, together with a small range of accompanying but non-alcoholic goods. The business will also include tasting sessions in a specially designed tasting room which will be chargeable. There is no bar counter on the premises. The premises known as the Carnegie Whisky Cellars is located on the ground floor of the Carnegie Courthouse.

2.0 Operating hours

2.1 The applicant seeks the following **on-sales** and **off-sales** hours:

On sales:

Monday to Sunday: 1100 hrs to 2300 hrs

Off-sales:

Monday to Sunday 1000 hrs to 2200 hrs

3.0 Background

3.1 On 16 November 2016 the Licensing Board received an application for the grant of a provisional premises licence from The Carnegie Whisky Cellars Ltd.

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

- 3.3 The application was publicised during the period 18 November until 9 December 2016 and confirmation that the site notice was displayed has been received.
- 3.4 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.
- 3.5 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:

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:-
- 5.2 The applicant operates a dedicated whisky shop and tasting room from ground floor premises within the recently redeveloped former Courthouse in the centre of Dornoch.
- 5.3 The application is for both off-sales and on-sales. The proposed hours are, for off-sales, Monday to Sunday 1000 hrs to 2200 hrs and, for on-sales 1100 to 2300 hrs daily.
- 5.4 The premises have two specific public areas, namely the dedicated retail section and a separate tasting room, accessed from through the retail section, which may also be used for small, effectively private, functions centred on tastings. From time to time entertainment may be provided in support of such functions. Tastings will take place at a table and there is no bar counter on the premises.
- 5.5 I am advised that it is unlikely that the full range of on-sales hours and permitted activities will be used frequently and that in no circumstances will the premises operate as a public house.
- 5.6 The off-sales capacity is 37.5m² which does not conflict with the Board's policy on overprovision.
- 5.7 Children and young persons will only be permitted on the premises when accompanied by an adult and are not permitted on the premises after 2000 hrs.
- 5.8 All activities and services referred to in the operating plan are appropriate for this type of operation. The alcoholic products are generally premium products aimed primarily at the enthusiast, gift and visitor markets and there should be no conflict with any of the licensing objectives.

6.0 HLB local policies

- 6.1 The following policies are relevant to the application:-
- (i) Highland Licensing Board Policy Hours
 - (ii) Highland Licensing Board Policy Statement 2013-18
 - (iii) The Highland Licensing Board Equality Strategy
 - (iv) Schedule of Local Conditions

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

There are no existing local conditions and it is not considered necessary to attach any.

7.3 Special conditions

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

1. Whilst on any part of the premises referred to in this premises licence, all persons under 18 years of age must be in the care of a responsible adult.
2. Persons under the age of 18 years are not permitted on any part of the premises referred to in this premises licence after 2000 hrs.

Recommendation

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

Reference: HC/CSR/1798
Date: 15 December 2016
Author: L Gunn
Background Papers: The Licensing (Scotland) Act 2005