

The Highland Licensing Board

Meeting – 2 October 2018

Agenda Item	9.1
Report No	HLB/095/18

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

Rosebank House, Springfield Road, Portree, Isle of Skye, IV51 9QX

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 Rosebank House, Springfield Road, Portree, Isle of Skye, IV51 9QX.

1.0 Description of premises

1.1 Rosebank House is situated in Portree and is a detached building consisting of ground floor with guest bedrooms, bar and restaurant and first floor with staff bedrooms.

2.0 Operating hours

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

On sales:

Monday to Sunday: 1100 hours to 0100 hours

3.0 Background

3.1 On 7 August 2018 the Licensing Board received an application for the provisional grant of a premises licence from Morag's Lodges Limited.

The application was accompanied by the necessary section 50 certification in terms of Planning.

3.2 The application was publicised during the period 20 August 2018 until 10 September 2018 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, the following timeous notice of representation has been received and is appended:

Letter dated 6 September 2018 from Portree and Braes Community Council.

3.6 The applicant and the objector have been invited to attend the hearing. They 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://highland.gov.uk/hlb_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:-

- (i) The applicant has acquired an existing guesthouse and makes application for a provisional premises licence for the sale of alcohol by on sales only. Although referred to as a guest house the premises will operate as a hotel with dining and bar facilities available to non-residents.
- (ii) The premises is a detached building set in its own grounds within a mainly residential area. Accommodation is spread over 2 floors with 23 guest bedrooms, a dining area, bar area and services on the ground floor. Up to 4 staff bedrooms and staff lounge are located on the first floor and are included within the licensed area. There is no outdoor drinking area.
- (iii) The applicant has applied for the maximum available policy hours for on sales and included a range of services and activities to be provided during and outwith core licensed hours. The licensed hours and activities and services referred to in the operating plan are appropriate for this type of operation and the terms of entry for children and young persons are within policy.
- (iv) I am aware that a representation has been received from Portree and Braes Community Council and I have contacted them to arrange a time to discuss their concerns. I will give a verbal update at the Board meeting.
- (v) I am satisfied that the applicant has given due regard to the licensing objectives and I have no cause to object to the grant of this provisional licence.

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

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 conditions 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 or 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 some other part of the premises being a part to or 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.
- q. 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

The Board may wish to consider attaching the following special conditions:

- (1) A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hours (on any day when the premises are open at that time) until whichever is the earlier of-
 - (a) the time at which the premises next close; and
 - (b) 0500 hours; and
- (2) A designated person who is the holder of a personal licence must be present on the premises from 0100 hours (on any day on which the premises are open at that time) until whichever is the earlier of-
 - (a) the time at which the premises next close; and
 - (b) 0500 hours.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/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.

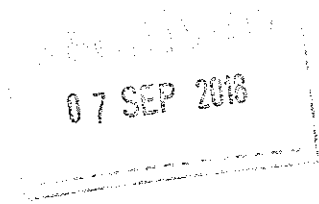
Reference: HC/RSL/1875

Date: 12 September 2018

Author: Carol Nicolson

Appendix: Letter dated 7 September 2018 from Portree and Braes Community Council.

PORTREE & BRAES COMMUNITY COUNCIL



Tigh Iearach
Fraser Crescent
Portree
IV51 9DS

6th September 2018

Dear Sir,

HC/RSL/1875

Rosebank House Portree – Application for provisional premises licence

Portree & Braes Community Council wish to express their concern about this application.

The premises are in a quiet residential area & a licence from 11am – 0100 am is likely to cause considerable disturbance from both pedestrians & cars, to residents living along the road & in surrounding houses.

We note that only residents adjacent to the premises or within 4 metres have been notified. This is such a small part of the community that will be affected, so, many of those living nearby may only hear of the application after a decision has been made. This seems a very poor interpretation of public notification.

Yours faithfully

Christine Toms (secretary Portree & Braes Community Council)