

## The Highland Licensing Board

Meeting – 4 December 2018

Agenda Item	6.2
Report No	HLB/124/18

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

Claymore Filling Station, Tyndrum Road, Glencoe, PH49 4HP

#### 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 Claymore Filling Station, Tyndrum Road, Glencoe, PH49 4HP

#### 1.0 Description of premises

1.1 The Claymore Filling Station is a detached single-storey building situated adjacent to the A82 main road in Glencoe. In addition to the sale of petrol/derv, there is a convenience store within the premises which offers essential grocery items for sale.

#### 2.0 Operating hours

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

##### Off sales:

Monday to Sunday: 1000 hours to 2200 hours

#### 3.0 Background

3.1 On 18 October 2018 the Licensing Board received an application for the grant of a premises licence from Claymore Limited.

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 30 October 2018 until 20 November 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, no timeous objections or representations have been received.
- 3.6 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://highland.gov.uk/hlb\\_hearings](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 (see para 4.2 below);
  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 "Excluded premises" for the purposes of ground of refusal 1. above, include premises used as a "garage". "Garage" is defined in section 123 of the Act as a premises used for one or more of the following:
- (a) the sale by retail of petrol or derv,
  - (b) the sale of motor vehicles, or
  - (c) the maintenance of motor vehicles.

However, premises used for the sale by retail of petrol or derv or which form part of premises so used are not to be treated as excluded premises if persons resident in the locality in which the premises are situated are, or are likely to become, reliant to a significant extent on the premises as the principle source of petrol or derv or groceries (where the premises are, or are to be, used also for the sale of groceries).

Before the Board may grant this application, the Board must accordingly first satisfy itself that the premises in question are premises on which persons in the locality are, or are likely to become reliant to a significant extent as the principle source of petrol, derv or groceries in that locality.

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:-

- The premises in question are suitable for the sale of alcohol as indicated within the Operating Plan.
- The hours requested are in accordance with HLB Policy and the Licensing(Scotland) Act 2005 as stipulated for off sales.
- The alcohol display is well under the threshold set by HLB for the consideration of the question of overprovision.
- Whilst the premises do sell petrol and derv, they have provided ample evidence that within the Glencoe area residents will be reliant on them both as a principal source of fuel and groceries and as such should not be treated as “excluded” premises within the meaning of Section 123 of the Act.
- The necessary Section 50 certificates pertaining to Planning, Building Standards and Food Hygiene have accompanied the application. Following the required public consultation phase in respect of the application no objections or representations have been received.
- The LSO is content that should this application be granted by the Board there will be no adverse impact as respects the licensing objectives.

## **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**

No local conditions are considered necessary.

### **7.3 Special conditions**

No special conditions are considered necessary.

## **Recommendation**

The Board is invited to determine the above application.

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/1884

Date: 21 November 2018

Author: IC/JT

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