

The Highland Licensing Board

Meeting – 25 February 2025

Agenda Item	9.1
Report No	HLB/11/25

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

The Misty, Kilmuir Road, Dunvegan, Isle of Skye, IV55 8WA

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 Misty, Kilmuir Road, Dunvegan, Isle of Skye, IV55 8WA

1.0 Description of premises

- 1.1 The Misty is situated in the village of Dunvegan and consists of a restaurant, bar area, pool room and external areas.

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: 1100 hours to 2200 hours

3.0 Background

- 3.1 On 27 November 2024 the Licensing Board received an application for the provisional grant of a premises licence from Piero T M Sanguigni per Brunton Miller, Solicitors.
- 3.2 The application was accompanied by the necessary section 50 certification in terms of Planning together with a Disabled Access Statement.
- 3.3 The application was publicised during the period 3 December 2024 until 24 December 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.

Environmental Health received confirmation from the applicant regarding the maximum outdoor capacity and the terminal hours of same and these are addressed in the LSO's report.

- 3.7 An e-mail in support of the application was received from Iain Houston and this is attached to this report - **Appendix 1**.
- 3.8 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:-

- (i) The property to be known as The Misty, is a detached property, situated in the rural village of Dunvegan on the Isle of Skye.
- (ii) The application relates to the ground floor area only of the building with separate owners' accommodation on the upper floors. This property previously held a full licence, which was revoked in 2017, whilst under the previous owner's control.
- (iii) The application is to allow for the provision of alcohol by both on and off sales. There is a restaurant area, outdoor areas as well as separate bar area for dining and provision of alcohol. On sales will be for seated patrons only within the restaurant and outdoor areas. The separate bar area has a bar and will allow vertical drinking. There is also a separate counter which may be used for sale of food and alcohol as off sales.
- (iv) The activities sought would appear to be reasonable and appropriate for the proposed operation of the premises.
- (v) The children's policy is considered suitable and is within the policy of the Highland Licensing Board.
- (vi) The layout plan submitted complies with the required specifications.
- (vii) There would not appear to be any matter contained within the application that is inconsistent with the licensing objectives.
- (viii) During the period of public consultation, no objections were received, although I had contact and representation with members of the local community, including local Community Councils.

- (ix) As a result of these conversations and some concerns expressed, I carried out a site meeting with the applicant. During this meeting the concerns expressed were discussed, including use of outdoor areas at night, the capacity of outdoor areas and the emptying of glassware and bottles in the late evening. Full agreement was reached with the applicant and his legal advisor in relation to the local conditions I suggested and which I have now proposed to the Board and included in this report. The capacity for persons in the outdoor areas was discussed and agreement reached that a maximum capacity of 60 persons was sufficient for the outdoor areas of the premises. Thus the total capacity for persons in relation to on sales is 233 persons (60 persons in outdoor areas and 173 persons internally).
- (x) The two separate outdoor areas were also agreed to have separate terminal hours for use, with the area directly in front of the Fasgadh Stores Cottage restricted to 2000 hours and the area directly in front of the actual premises with a 2200 hours terminal hour. This was agreed as manageable by the applicant.
- (xi) I have no objection 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 conditions from the schedule of local conditions:

- m After 2200 hours alcoholic or non-alcoholic drinks shall not be consumed in the outdoor area directly to the front of the premises, as shown on layout plan.
- m After 2000 hours alcoholic or non-alcoholic drinks shall not be consumed in the outdoor area directly to the front of the Fasgadh Stores Cottage, as shown on layout plan.

- o The licence holder shall ensure that consumption of drinks (alcoholic and non-alcoholic) in any outside area is permitted only by customers seated at the tables and chairs provided in the outside drinking areas and not by customers standing in the areas.

7.3 Special condition

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

1. All glass disposal operations shall cease between the hours of 2300 hours and 0800 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/2128
Date: 9 January 2025
Author: Carol Nicolson

Appendix 1 – E-mail of support from Iain Houston received on 7 November 2024

Appendix 1

From: [Iain Houston](#)
To: [Licensing](#)
Subject: License application: The Misty, Kilmuir Road, Dunvegan, Skye
Date: 07 November 2024 18:28:05

CAUTION: This email was sent from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

I would like to submit this representation in support of the above application.

The village of Dunvegan, and the surrounding community, has been without this facility for a number of years now and as a result of this I feel that the nature and culture of this area has suffered. I feel that there will be considerable local support for this provision and I wish to make representation in support of it.

Iain Houston