

The Highland Licensing Board

Meeting – 4 October 2016

Agenda Item	8.1
Report No	HLB/082/16

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

The Bear's Den, Memorial Square, Brora, KW9 6NS

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 The Bear's Den, Memorial Square, Brora.

1.0 Description of premises

1.1 The Bear's Den situated in Brora is a restaurant. It is a single storey detached building with 26 covers. There is no bar counter. Sales of alcohol will not be restricted to persons taking table meals.

2.0 Operating hours

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

On sales:

Monday to Sunday: 1100 hrs to 0100 hours

3.0 Background

3.1 On 12 August 2016 the Licensing Board received an application for the grant of a premises licence from Margaret Sutherland.

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 22 August until 12 September 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 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 objection has been received and is appended.

Email objection dated 12 September 2016 from Claudia and John MacGregor.

- 3.6 The applicant and the objectors 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:-

1. The applicant intends to operate a single storey, detached, 26 cover restaurant on the site of a former chip shop at Memorial Square, Brora.

2. The application is for on sales only. There is no bar counter on the premises. While the operation is to be predominantly food-led, sales of alcohol will not be restricted to persons taking a meal on the premises.
3. Unaccompanied children may be permitted on the premises until 1900 hrs after which time they will require to be accompanied by an adult. At the discretion of the management there will be no restrictions on young persons being on the premises at any time.
4. The licensed hours applied for are within policy and the activities or services to be provided are appropriate for this type of business. The premises may open for business prior to the commencement of licensed hours.
5. I am aware that a letter of objection or representation has been received and I intend to make contact with the authors and with the applicant to discuss the matters raised. I will give a verbal update at the Board meeting and may then recommend additional conditions which may go some way to addressing the authors' concerns.

6.0 HLB Local Policies

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-16
- (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

- 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 Additional conditions

1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hrs (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 hrs.

and

2. A designated person who is the holder of a personal licence must be present on the premises from 0100 hrs (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 hrs.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local and additional 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/CSR/1784

Date: 20 September 2016

Author: L Gunn

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

Appendix: Email objection dated 12 September 2016 from Claudia and John MacGregor.



REPRESENTATIONS OR OBJECTIONS IN RELATION TO A PREMISES LICENCE APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005

Please read the Board's Guidance Notes on How to Object or make Representations in relation to a Premises Licence Application before completing this form. This form when completed should be returned to the nearest office of the Licensing Board using the contact details in the guidance notes or emailed to licensing@highland.gov.uk. Remember, if an objection is rejected by the Board as frivolous or vexatious, the Board may seek to recover expenses from the objector or person making representations

1. Full Name and Address of person making objection/representation:

Claudia and John MacGregor Craiglea, South Brae, Brora KW9 6NU	
Telephone Number:	
Email Address:	

2. Address of Premises in respect of which objection / representation is made:

The Bears Den Memorial Square, Brora KW9 6NS

3. Details of any OBJECTION: (complete only if you consider one of the ground for refusal apply)

State ground of objection (refer to ground of objection by number, see guidance notes, and give details): (Continue on separate sheet if necessary)		
1.	Excluded Premises	5. Over provision; Sid's Spice in Station Square; Brae's Bar in Cunningham's Lane; Sutherland Inn and Annie's Bar both in Rosslyn Str.; two off licence shops: coop and premier; also Social Club. 3. In the 12 years we have lived here we have seen and would expect to see that all points under this would not meet licensing objectives.
2.	Off-Sales Hours/24 hour drinking	
3.	Licensing Objectives	
4.	Activities/Premises/Customers	
5.	Over Provision	

4. Details of any REPRESENTATION: (complete only if you wish to make a representation in respect of the application)

State details of any representation (refer to representation by number, see guidance notes, and give details): (Continue on separate sheet if necessary)		
1.	in support of application	
2.	seeking an amendment to the operating plan, or	
3.	seeking to add additional conditions to the licence	

Signature:..... MacGregor Date..... 12/09/2016

- **Submission of Objections/Representations:**

- **By e-mail:**

Objections/Representations should be addressed to the Clerk to the Licensing Board and may be e-mailed to licensing@highland.gov.uk before the end of the period for objections or representations in relation to the particular application.

- **By Post or Hand Delivery:**

Objections/Representations should be addressed to the Clerk to the Licensing Board and may be posted or hand-delivered to the nearest area office listed below before the end of the period for objections or representations in relation to the particular application:-

Inverness, Nairn, Badenoch & Strathspey Area at	
Town House High Street Inverness, IV1 1JJ Tel: (01463) 724265	
Caithness, Sutherland & Easter Ross Area at	
Council Offices Caithness House Market Place Wick KW1 4AB Tel: (01955) 609508	Council Offices Main Street Golspie, KW10 6RB Tel: (01408) 635205
Ross, Skye & Lochaber Area at	
Council Offices Tigh na Sgìre Park Lane Portree, IV51 9GP Tel: (01478) 613826	Council Offices Lochaber House High Street Fort William, PH33 6EL Tel: (01397) 707233