

The Highland Licensing Board

Meeting – 28 March 2023

Agenda Item	8.3
Report No	HLB/032/23

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

The Grapemonger. 106 High Street, Nairn, IV12 4DE

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 Grapemonger, 106 High Street, Nairn, IV12 4DE.

1.0 Description of premises

1.1 The Grapemonger is situated in Nairn Town Centre and consists of retail space, a large warehouse with a residential flat above.

2.0 Operating hours

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

On sales:

Tuesday to Wednesday: 1200 hours to 1800 hours
Thursday to Friday: 1200 hours to 2200 hours
Saturday: 1200 hours to 2000 hours

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

Off sales:

Tuesday to Wednesday: 1200 hours to 1800 hours
Thursday to Friday: 1200 hours to 2200 hours
Saturday: 1200 hours to 2000 hours

3.0 Background

3.1 On 27 January 2023 the Licensing Board received an application for the provisional grant of a premises licence from One One Two on The Brae Ltd.

The application was accompanied by the necessary section 50 certification in terms of Planning and Building Standards together with a Disabled Access Statement.

- 3.2 The application was publicised during the period 13 February until 6 March 2023 and confirmation that the site notice was displayed has been received.
- 3.3 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.
- 3.4 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 notices of objections have been received and are appended:

Richard Hunter and Michelle Shearer
Una McKernan

- 3.6 The applicant and the objector(s) 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) A provisional premises licence application has been received for the Grapemonger, 106 High Street, Nairn.

(ii) These premises will be developed into a specialist wine merchant, selling high end wines, spirits and ales. Both on and off sales categories have been applied for in the licence, in order that tutored tastings and wine club functions can be catered for on the premises. Children and young persons will not be permitted to these functions.

(iii) The premises have been visited by the LSO and are suitable for the operation of the business as described within the operating plan. Off sales capacity has been calculated at 30 square metres, which is well inside the current threshold set by the Board for consideration of the question of overprovision.

(iv) The necessary Section 50s in respect of Planning and Building Standards have been submitted, as has a Disabled Access Statement. The hours applied for are within the allowed hours for off sales prescribed within the Licensing (Scotland) Act 2005. The operating plan in the opinion of the LSO, meets the standards of the 5 licensing objectives.

(v) The applicant has successfully operated a bistro/wine merchant at 112 High Street, Nairn for a number of years, it has a respected local reputation and an unblemished operating history. The applicant is seeking the opportunity in this new application, to grow the wine merchant side of the business.

(vi) During the public consultation phase of this application a representation was submitted from Mr Richard Hunter who lives directly above the premises.

(vii) A further objection was submitted from Una McKernan. Both submissions complained of the likely occurrence of noise and anti-social issues relating to allowing these premises to do on sales, in particular, on Thursday and Friday

evenings until 2200 hours.

(viii) It is the view of the LSO that the licensing objectives are not compromised by this application. The application seeks to establish a business in what is the main thoroughfare through the centre of Nairn. It is predominantly a commercial district of the Town. The applicant has successfully run a Bistro business at 112 High Street, Nairn since 2016, which has been entirely incident free, and which trades for longer licensed hours.

(ix) The application seeks to establish a wine merchants business. This is manifestly different from a traditional off licence shop. The shop will trade in high end wines, spirits and liqueurs solely. Customers will be wine enthusiasts looking for specific products. The applicant Cathy Hamilton and her daughter are both qualified to WSET level 3. This is a bespoke qualification from the Wine and Spirit Educational Trust who offer globally recognised education and qualifications in wines & spirits for professionals and enthusiasts. Mrs Hamilton has also put an additional member of staff through the qualification so as to offer the highest calibre of professional service.

(x) The hours of trading applied for are well within the hours of trading allowed within current HLB Policy. On only two nights of the week is a closure of 2200 hours requested. Otherwise the hours of trading are very much aligned to normal shop hours. The on sales requested are simply to allow occasional wine tastings on the premises. This is about product information and education rather than traditional vertical drinking trade.

(xi) The only factor the LSO does recommend consideration for is glass disposal for which a specific local licensing condition has now been recommended.

(xii) It is also noteworthy that the application has been supported by the local Community Council.

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

Any glass disposal will not take place after 2200 hours or prior to 0800 hours.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed special condition 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 objective in question.

Reference: HC/INBS/685
Date: 13 March 2023
Author: Marjory Bain
Appendices:

Appendix 1 – Letter of objection from Richard Hunter and Michelle Shearer dated 2 March 2023

Appendix 2 – Letter of objection from Una McKernan dated 3 March 2022

Appendix 3 – Letter of support from Nairn West and Suburban Community Council dated 5 March 2023



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.scot. 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:

Person's Name	P. TAMER HUNTER AND MICHELE LESUE SHEARER		
Address	[REDACTED]		
Telephone	[REDACTED]		
Email	[REDACTED]		
Address of Premises to which objection/representation is made	<p>2.</p> <p>THE GRADENWORK 106 HIGH STREET, NAIRN, IV12 4JE</p>		

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	SEE ATTACHED SUPPORTING LETTER
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	[REDACTED]
2. seeking an amendment to the operating plan, or	
3. seeking to add additional conditions to the licence	

Signature

Date..... 2/3/2023

Dear Licensing Board, I am hoping that this is the right way to convey my concerns regarding the planning application for The Grapemonger, 104 High Street, Nairn, IV12 4DE.

4, Premises...

Plans have been posted stating that there will be on site consumption of alcohol at the above mentioned address until 22.00 on Thursday and Friday nights.

As we all know, when alcohol is consumed things get a little louder, this however is where I feel that it is going to detrimental to the general peacefulness of being at home.

I am not obverse to the opening of the s

hop, or the on site sales, I would seek to meet in the middle and propose that all on site sales and consumption be finished by 20.00, otherwise I feel that it would cause undue stress to me and my family as we would be clearly disturbed by the inevitable disturbances that would arise from the intoxicated patrons below, in the shop.

We have lived at [REDACTED] for 8 years and have welcomed the businesses that were in the premises below, when we moved into the property the Nairn Wool Shop, were the current tenant, they used to hold early evening classes in the back of the property, they were always finished by 20.00. Grace Lillys, who were the last tenant had operating hours of 09.00-17.00 which is what I appreciate to be standard shop working hours.

We would never have purchased the property as our family home if it had been a place for consuming alcohol that was in the premises [REDACTED] our living space. We both also work from home 4 days per week and feel that the consumption of alcohol late into the evening will have a detrimental effect on our ability to rest and as a result will cause undue burden on our productivity at work both for our employer and ourselves in our general family life.

I have had no notice of the intentions to start work on the shop fitting below my property, which is ongoing and very loud, I thought as a courtesy, the shop tenants would have made contact but none was made, this leads me to have concerns for our potential relationship [REDACTED] in a courteous manner in the future.

A

2/3/2023

Marjory Bain (Legal Team (Licensing))

From: Ian Cox (Legal Team (Licensing))
Sent: 06 March 2023 09:57
To: Marjory Bain (Legal Team (Licensing))
Subject: FW: Dear Mr Cox . In confidence

From: Una McKernan <u>
Sent: 03 March 2023 15
To: Ian Cox (Legal Team .gov.uk>
Subject: Re: Dear Mr Co

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on. Do not click links or open attachments unless you recognise the

In summary while the lengthy document is sought/ traced my objections are as follows

1. As an older disabled woman often alone, I have been subject to harassment from their current venue One One Two. This has been witnessed by tradesmen adapting my home, taking the form of trespass and threatening behaviour. My solicitor was made aware.
2. The current noise without extending their business portfolio is distressing, as are early morning deliveries.
3. To extend a "warehouse" and drinking glasses would disallow me from using my gate den and access to everyday facilities.
4. I would as a disabled woman feel scared to leave my home during operational hours nor delivery hours.
5. To saturate the Bray with alcohol establishments is somewhat inconsiderate to elderly and other neighbours and families. It does not really fall in line with Scotland's health initiatives in lowering alcohol consumption.
6. I am on occasion with broken hip, femur denied rightful access to my home due to traffic obstruction on a public highway (I can provide photographic evidence of this . Another venue will cause me my family and visitors further distress.
7. The application demonstrates little regard to peace and quiet enjoyment to home living.
8. My mum is end of life so I was only made aware today of such an application , as I am saying my goodbyes and am sorry I did not see the application nor did other neighbours. Is it possible to extend the consultation period in view of this please ?

I dearly hope my lengthy objection has been received on your generic licensing email at some point.

Yours sincerely
Una MCKernan

Sent: Friday, March 3, 2023 3:30:11 PM

Marjory Bain (Legal Team (Licensing))

From: Secretary NWSCC <sec.nwsc@gmail.com>
Sent: 05 March 2023 18:16
To: Marjory Bain (Legal Team (Licensing))
Cc: 'info.nrivercc@gmail.com'
Subject: Re: Licensing application by The Grapemonger, 106 High Street, Nairn - NW&SCC comments

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.

For the attention of Marjory Bain

Thank you for sending us a copy of the licensing application submitted by "The Grapemonger".

This is to advise you that Nairn West & Suburban Community Council discussed the matter at a meeting on 27 February.

There were no objections and the CC supports the application. We welcome such initiatives by businesses on Nairn's High Street and town centre to expand and diversify.

NB: On a purely practical note, it would be helpful in future if any such requests for comment could make the question or subject clear in the subject-line of the email. We deal with a lot of messages and documents. It is not helpful or efficient to receive an email whose title simply refers to a "Scan from a Xerox Multifunction Printer."

Rgds,

Brian Stewart
Secretary, NW&SCC

On 13/02/2023 12:51, Marjory Bain (Legal Team (Licensing)) wrote:

Please see attached, for any comments by 6 March.

Marjory Bain
Licensing Assistant

-----Original Message-----

From: IN01-005@highland.gov.uk <IN01-005@highland.gov.uk>
Sent: 13 February 2023 12:19
To: Marjory Bain (Legal Team (Licensing)) <Marjory.Bain@highland.gov.uk>
Subject: Scanned from a Xerox Multifunction Printer

Please open the attached document. It was sent to you using a Xerox multifunction printer.

Attachment File Type: pdf, Multi-Page

Multifunction Printer Location: Town House
Device Name: IN01-005