

**The Highland Licensing Board**

**Meeting – 28 November 2023**

Agenda Item	7.2
Report No	HLB/128/23

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

**Abermar Guest House, 25 Fairfield Road, Inverness, IV3 5QD**

**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 Abermar Guest House, 25 Fairfield Road, Inverness, IV3 5QD.

**1.0 Description of premises**

1.1 The Abermar Guest House is situated on Fairfield Road, Inverness and consists of 11 letting bedrooms, kitchen, dining room and lounge.

**2.0 Operating hours**

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

**On sales:**

Monday to Sunday: 1100 hours to 2200 hours

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

**Off sales:**

Monday to Sunday: 1000 hours to 2200 hours

**3.0 Background**

3.1 On 10 October 2023 the Licensing Board received an application for the provisional grant of a premises licence from Luxury Shot Let Stays 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 17 October until 7 November 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 objection have been received and are appended:

Helen Hymers  
Pat Naples  
John Gartly  
Lenny and Gill Rattray  
D S Caldwell  
Angus Macdonald  
P Rooney

- 3.6 The applicant and the objectors 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](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) Abermar Guest House is a detached guest house situated in a central residential area of Inverness.

(ii) Application has been made for an alcohol premises licence to sell alcohol to residential guests by way on both on and off sales, no other public trading in alcohol will take place.

(iii) The hours of trading are within HLB policy hours and hours permitted for off sales under the Licensing (Scotland) Act 2005.

The method of sales is very restricted and is quoted in the Operating Plan as:

“Off sales will be complimentary miniatures in rooms and otherwise pre-ordered and pre-paid. On sales only for occasional pre-booked informative tastings to showcase local products”.

(iv) The premises offer no bar facilities and will not sell alcohol to guests by other means. All licensing activities will be entirely contained within the Premises, with no use to be made of any outside area.

(v) In the opinion of the LSO the premises are suitable for the sale of alcohol as described in the operating plan, the manner of sales will not threaten the licensing objectives.

(vi) The application has been accompanied by the required Section 50 certificates relating to Planning and Building Standards a Disability Access Statement.

(vii) "Following the public consultation phase of this application a number of objections/representation have been received from owners of nearby properties. In summation, these objections relate to staffing levels, parking and refuse disposal, issues which are not concerned with the sale of alcohol."

If alcohol is sold on the premises according to the operating plan, in the view of the LSO the licensing objectives are not compromised.

## **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 condition**

(1) All on sales of alcohol will be carried out solely as part of a tutored tasting under the supervision of a Personal Licence Holder.

## **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.


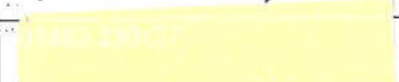

Reference: HC/INBS/691  
Date: 13 November 2023  
Author: Marjory Bain  
Appendix:  
Helen Hymers  
Pat Naples  
John Gartly  
Lenny and Gill Rattray  
D S Caldwell  
Angus Macdonald  
P Rooney



**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](mailto: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:**

Angus Macdonald	
	
Telephone Number:	
Email Address:	

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

Abermar 25 Fairfield Road INVERNESS IV3 5QD
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**3. Details of any OBJECTION:** (complete only if you consider one of the ground for refusal apply)

<b>State ground of objection (refer to ground of objection by number, see guidance notes, and give details):</b> (Continue on separate sheet if necessary)	
1. Excluded Premises	Please see attached further details
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)

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

I refer to the application submitted to Highland Licensing Board, by Luxury Short Let Stays Ltd, for a Premises Licence at

Abermar Guest House  
25 Fairfield Road  
Inverness IV3 5QD

with the brief overview of the nature of the business proposed to be carried out in the premises being:-

*"Off sales will be complimentary miniatures in rooms and otherwise, pre-ordered and pre-paid.*

*On sales only for occasional pre-booked informative tastings to show case local products, tastings offered to residents only – no bar facilities or other service of alcohol on the premises."*

The initial paragraph contradicts itself and is simply nonsensical. It states "complimentary miniatures in rooms" then goes on to state "pre-ordered and pre-paid".

The definition of COMPLIMENTARY, as defined in 'Oxford Languages', is "given or supplied free of charge". As such the applicant would appear to be both giving the alcohol free of charge (which, according to the Licensing Scotland Act 2005, they are entitled to do), yet at the same time they are taking payment for same. Which is it?

Further to the erroneous first paragraph, I wish to make objection to the application under the following licensing objectives:-

- Preventing crime and disorder
- Securing public safety
- Protecting children from harm

The premise is run as a short term let/Airbnb type dwelling with no staff located within the property. With this in mind there is no evidence to show that measures have been put in place to ensure there is a person 18 years or older to be present and to prevent children or young persons consuming the alcohol which will be left insecure within the premises. This flies in the face of the "Protecting children from harm" objective.

There have been a number of media reports of dwellings being booked by persons under the age of 18 as a 'party house'. If they can, in addition to booking the property, pre-order alcohol then, this fails to protect those children from harm.

Furthermore, given there will be no staff within the premises while residents are present, who will be responsible for "Preventing crime and disorder" and "Securing public safety" should excess alcohol be consumed?

To sum up, this application is looking to licence a premise where children or young person could have free access to alcohol where there will be no person with vicarious responsibility of the licensed premise so as to protect those children from harm.

In addition, there will again be no responsible person to prevent crime and disorder nor secure public safety.



30 Oct 2023

The Clerk of the Licensing Board  
Headquarters,  
Glenurquhart Road,  
Inverness  
IV3 5NX

Dear Sir

**APPLICATION FOR A PROVISIONAL GRANT OF A PREMISES LICENCE**

**ABERMAR GUEST HOUSE, 25 FAIRFIELD ROAD, INVERNESS, IV3 5QD**

I wish to object to the application for a Premises Licence to the above property on the following grounds:

**Preventing crime and disorder**

**Securing public safety**

**Preventing public nuisance**

Since the sale of Abermar by the previous owners, the level of noise outside the property has increased in the late evening with residents gathering outside. This is not in keeping with the quiet nature of this area of the street previously enjoyed by neighbours.

There would not appear to be a requirement for a licenced premises in the area since such amenities are available within easy walking distance.

There is no supervision of the premises overnight to ensure the safety of the residents.

**Protecting children from harm.**

I am concerned that children live in the near vicinity, and I have already observed drunken behaviour with no one intervening from within the premises to moderate the situation.

Yours faithfully

D S Caldwell





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

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

MRS HELEN MARGARET HYMERS	
[REDACTED]	
Telephone Number:	[REDACTED]
Email Address:	[REDACTED]

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

ABERMAR GUEST HOUSE, 25 FAIRFIELD ROAD, INVERNESS. IV3 5QD
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**3. Details of any OBJECTION:** (complete only if you consider one of the ground for refusal apply)

<b>State ground of objection (refer to ground of objection by number, see guidance notes, and give details):</b> (Continue on separate sheet if necessary)	
1. Excluded Premises	4
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)

<b>State details of any representation (refer to representation by number, see guidance notes, and give details):</b> (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: [REDACTED]

Date: 02/11/2023

Page 2.

Representations or Objections in relation to a Premises Licence Application under the Licensing (Scotland) Act 2005.

### 3. Details of my Objection:-

As the property in question - Abernethy Guest House, 25 Fairfield Road, Inverness, IV3 5DD is situated in a residential area and overlooking directly my property I have concerns if this liquor licence were to be granted.

There is the potential for unsociable drinking habits outside of the property by persons staying there. I have a young family with two of our bedrooms facing the Abernethy Guest House - one used by my youngest child so any unsociable behaviours or shouting would potentially disturb his sleep and ours.

My car is parked on the street in the marked permit parking areas and I have concerns that by the guest house having a liquor licence, and if any unsociable behaviours were to become troublesome then potentially my car may be at risk of damage as it is situated outside of the guest house especially when overnight.

With the previous owners we never had any issues with noise or anti-social behaviour from any of the guests, now there is a constant coming and going of guests all times of the day and night and we are not hoping that this street can remain calm & quiet and clean, but fear this may not be the case if the liquor licence were granted.

Regards

[Redacted Signature] (HELEN HYNES)

The Clerk of the Licensing Board  
Iain Meradith  
Headquarters  
Glenurquhart Road  
Inverness  
IV3 5NX



Reference IM/MB/HC/INBS/691

Dear Sirs

With reference to the above application for a liquor license at the property 25 Fairfield Road, Inverness, IV3 5QD I am writing to object to the provision of this license.

Prior to the sale of the property in June of 2023 Abermar was an excellently run Bed and Breakfast with consistent good reviews. That is no longer the case. The property is no longer owner operated and there is no-one present on the property to see to the guests needs or to even check guests in. Guests are expected to call a number upon arrival to receive a code for entry. This has caused considerable issues in the short period of time since the property changed hands with guests repeatedly approaching neighbouring properties for assistance.

I understand that the owner accommodation has now been converted into guest bedrooms including the previous living room of the owners. I haven't as yet seen any change to the commercial property valuation in relation to this. This is clearly no longer what travellers would consider a guest house but now an HMO with no responsible person on the premises to look after the needs of the guests.

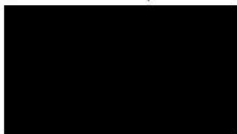
As a result of the above I fail to see how any of the licensing objectives in part 3 of grounds for refusal below can be monitored or managed.

- Preventing crime and disorder
- Securing public safety
- Preventing public nuisance
- Protecting children from harm

It is clear to me that the purpose of this license application is not for the purpose proposed but instead to circumnavigate the short term let licensing scheme that was introduced in October this year.

John Gartly

John Gartly



Iain Meredith  
The Clerk of the Licensing Board  
The Highland Council  
Glenurquhart Road  
INVERNESS  
IV23 5NX



[REDACTED]

28 October 2023

Dear Mr Meredith

REFERENCE: IM/MB/HC/INBS/691

I refer to a letter we recently received regarding the above application for a liquor licence at Abermar Guest House, 25 Fairfield Road, Inverness, IV3 5QD and are writing to object to the provision of this.

We live next door to 25 Fairfield Road and have been horrified at the way this accommodation is being run since been bought over.

We are extremely concerned that there are numerous guests being accommodated in this property without any staff there to look after them. Frequently guests arrive and cannot obtain access to the property. They continuously park over our driveway and when unable to gain access which can be for hours on end, as they cannot get in contact with anybody, they come to our door looking for help. They park on the street without parking permits. It is very unfair when locals have purchased permits and are unable to park near to their homes. In our eyes, this property appears to be similar to that of an HMO. It terrifies us to think what may happen should there be a fire on the premises. There would be nobody there to assist the guests to flee. Also, the guests all have use of the kitchen and that's without a liquor licence!

It appears that conversions have taken place within the property and we have had no communication from Highland Council at all regarding these alterations. In fact should this property be trading at all at this moment in time as we have been made aware that it is quite likely they do not possess the relevant trading licence which came in to place recently.

We have a 5 year old that lives with us and we feel the need to ensure she is protected from any harm that may be experienced. She already wakens up regularly with bad dreams and we do not need her having to deal with any other unnecessary worries.

The need for securing public safety is a necessity. We hope that there would never be a fire at 25 Fairfield Road but we need to make sure that all precautions have been carried out to ensure where ever possible this would not occur.

We feel that authorising a liquor licence would increase the possibility of crime and disorder and also cause a public nuisance to the neighbourhood. Bins are overflowing with much rubbish lying around the back ground area of the property. We are just waiting for the rats to arrive and we will then have to contact your Environmental Health Department! (photographs are available.) The bins (they have 2 regular sized bins that can lie for days on end on the front pavement making it difficult for the young children to pass when cycling to school, prams getting past and definitely an even bigger issue for those in wheelchairs and other disability vehicles. This is a very big issue in the summer months. It seems that this is a money making business with no care or thought about the neighbours, local community or in fact their guests. Already there have been numerous negative comments on their website page.

We have also been made aware that in the title deeds of a property nearby it states that no liquor licence is to be allowed – is this the case of this property too?

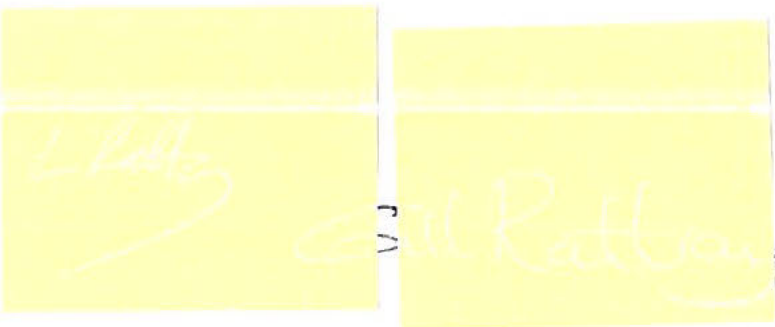
Can we also point out that this property is situated near a Spar shop and Tesco's who are both able to sell alcohol to guests should it be required and it is a very short walk to the town centre for obtaining same.

We have been made aware that the new owners of Abermar Guest House now have several similar properties in Inverness having sold up from Edinburgh due to changes in policies there. It seems that there may be some sort of loophole for them in applying for a liquor licence!

There are enough issues with this property without the need for any more.

Perhaps you would be good enough to pass on our other concerns which are not relevant to the application for a liquor licence to the relevant Highland Council Departments on our behalf.

Yours sincerely



Lenny and Gill Rattray

## Marjory Bain (Legal Team (Licensing))

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**From:** Pat Naples <patnaples@nctm.com>  
**Sent:** 10 October 2023 12:10  
**To:** Licensing  
**Subject:** Abermar Guest House, 25 Fairfield Road Inverness

**Follow Up Flag:**

**Flag Status:**

Follow up

Flagged

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.

Hi

I am writing to object to the approval of premises license for Abermar Guest House due to there being no one living at the address, other than paying guests.

There is a Spar and Tesco near the premises, if guests wish to purchase alcohol whilst visiting, so no need for a license.

The property is not manned 24 hours a day.

The guests arriving are always struggling to get access to the property and ask neighbours for help to get in!

The guests seem to park their cars in the public road without a car parking permit.

The bins don't seem to be put out on pick up day and are overflowing.

Please can you advise if licenses are granted for empty properties?

I have a real worry about fire hazards and fire evacuation of the property as it is not manned by anyone.

Some properties in Fairfield Road on their title deeds say that no alcohol license will be from the property, does Abermar title deeds say this stipulation in theirs?

Is there a way of checking?

If granting a license, please ensure this property is manned 24/7.

Look forward to hearing from you

Pat Naples

Resident [REDACTED]

Sent from my iPad

[REDACTED]

Re: Provisional Grant of Premises Licence.  
Abermar Guest House 25 Fairfield Road 1V3 5QB.

To The Clerk of the Licensing Board.

1. Ms P Rooney wish to object to the above  
4 grounds for Refusal.

2. The board will consider the premises  
are not suitable for use for the sale of  
alcohol.

But . if this is allowed to proceed  
it should be only if the premises  
is manned 24 hours per day.

Yours faithfully.

P. Rooney.