

The Highland Licensing Board

Meeting – 28 March 2017

Agenda Item	7.6
Report No	HLB/027/17

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

MacGregors, 109-113 Academy Street, Inverness, IV1 1LX

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 MacGregors, 109-113 Academy Street, Inverness.

1.0 Description of premises

1.1 MacGregors is situated on Academy Street, Inverness and consists of two ground floor bars with kitchen, ancillary basement accommodation and courtyard beer garden, part of a tenement in the city centre.

2.0 Operating hours

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

On sales:

Monday to Sunday: 1100-0100 hours

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

Off sales:

Monday to Sunday: 1100-0100 hours

3.0 Background

3.1 On 21 December 2016 the Licensing Board received an application for the provisional grant of a premises licence from Bruce MacGregor.

The application was accompanied by the necessary section 50 certification in terms of planning.

3.2 The application was publicised during the period 9 January until 30 January 2017 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, 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://www.highland.gov.uk/downloads/file/11696/guidance_note_on_hearings_before_the_highland_licensing_board

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:-

(i) Application has been made for these premises for a provisional premises licence.

(ii) The application has been sent in with the appropriate section 50 certificate and a set of competent layout plans.

(iii) The hours requested within the operating plan are within the policy hours of the highland licensing board and the LSO is of the opinion, that the operating plan meets all 5 of the licensing objectives.

(vi) The operator, Bruce MacGregor, is an experienced licence holder having successfully operated other licensed premises. The premises in question, have previously been temporarily licensed for pop up bars and one off events, under the authority of occasional licences without issue.

(vii) The premises occupy a site within the city centre and whilst this is still a largely commercial district, there are residential properties close by and it is important that the operation of the premises is respectful of them; planning have already placed specific conditions within the planning consent for the business and, have asked that these be replicated within any alcohol premises licence.

6.0 HLB local policies

6.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-18
- (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:

- (a) Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hours except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of

taking a meal. This condition does not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being part to or from which there is no other convenient means of access or egress

(b) Whilst in any room with a bar counter all children must be in the company of, or supervised by an appropriate responsible adult. This condition does not apply to children of the licence holder or children who are resident on the premises.

(c) Notwithstanding conditions (a) and (b) children must not sit or remain at the bar counter at any time.

(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 Special conditions

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

(1) No alcoholic or non-alcoholic drinks shall be consumed within the outdoor drinking area after 2200 hours Sunday to Thursday. (Licensing objective 3 (prevention of public nuisance)).

(2) No alcoholic or non-alcoholic drinks shall be consumed within the outdoor drinking area after 2300 hours Friday and Saturday. (Licensing objective 3 (prevention of public nuisance)).

(3) The playing of musical instruments within the outdoor drinking area more than 6 times in any calendar year, or the use of other sound producing equipment shall only be permitted with the prior written approval of the planning authority in consultation with the environmental health service. (Licensing objective 3 (prevention of public nuisance)).

(4) The playing of acoustic musical instruments shall only be permitted in the outside drinking area a maximum of 6 times in any calendar year. The playing of musical instruments shall cease by 2200 hours on any of the permitted occasions. (Licensing objective 3 (prevention of public nuisance).)

(5) All glass disposal shall cease between the hours of 2300 hours and 0700 hours. (Licensing objective 3 (prevention of public nuisance)).

(6) At any time when any live or recorded music is being played within the premises other than the outside drinking area, after 2200 hours all windows and doors shall remain closed. (Licensing objective 3 (prevention of public nuisance)).

(7) A written noise management plan acceptable to the Highland Licensing Board, must be in place for the premises, and any relevant activity or service being provided, must be conducted in accordance with that plan. (Licensing objective 3 (prevention of public nuisance)).

(8) On any occasional when the premises are permitted to open after 0100 hours the following conditions shall apply:

(i) A person trained to the satisfaction of the licensing board in administering first aid must be present on the premises from 0100 hours.

(ii) A designated person who is the holder of a personal licence must be present on the premises from 0100 hours. (Licensing objectives 1 and 2).

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/special condition(s) detailed at para(s). 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/604

Date: 1 February 2017

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