

## The Highland Licensing Board

Meeting – 1 November 2017

Agenda Item	7.3
Report No	HLB/123/17

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

Home Bargains, Unit B, Fort William Retail Park, North Road, Fort William, PH33 6TG

### 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 Home Bargains, Unit B, Fort William Retail Park, North Road, Fort William, PH33 6TG.

#### 1.0 Description of premises

1.1 The premises will be situated within a new retail development, north east of Fort William Town Centre, adjacent to North Road (A82 Trunk Road).

The premises will comprise a single storey purpose built unit with on-site car parking facilities and will sell alcohol for consumption off the premises.

The applicant has applied for an alcohol display capacity of 40.8 m<sup>2</sup> which is outwith the Board's current policy of 40 m<sup>2</sup>.

#### 2.0 Operating hours

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

##### Off sales:

Monday to Sunday: 1000 hours to 2200 hours

#### 3.0 Background

3.1 On 11 September 2017 the Licensing Board received an application for the provisional grant of a premises licence from T J Morris Limited.

The application was accompanied by the necessary section 50 certification in terms of Planning. Section 50 Building Standards and Food Hygiene Certificates are not required to support provisional applications.

3.2 The application was publicised during the period 18 September 2017 until 9 October 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, the following timeous notice of objection has been received and is appended:

1. Objection from NHS Highland dated 4 October 2017.

- 3.6 The applicant and the objector 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:-

5.2 An application has been submitted by agents on behalf of the applicant, for a provisional premises licence for a retail unit situated within a purpose built retail park on the outskirts of Fort William.

5.3 The necessary Section 50 certificate in respect of Planning has accompanied the application and from the plans submitted the premises are suitable for the sale of alcohol.

5.4 The hours requested are within the operating hours permitted by the Licensing (Scotland) Act 2005.

5.5 The capacity of alcohol required by the applicant, namely 40.8 sqm, is very slightly in excess of the threshold set by the Highland Board for the consideration of the question of overprovision. It has been explained by the applicant's agent as fitting in with shelving display design. It is the view of the Licensing Standards Officer that this offers no adequate reason to depart from the current policy threshold in this particular instance.

5.6 No local licensing conditions are recommended.

5.7 The applicant has other stores within the Highland area and, as a chain, has a history of responsible operation within the Highland Board's area.

## **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**

No local conditions are considered necessary.

## 7.3 **Special conditions**

No special conditions are considered necessary.

### **Recommendation**

The Board is invited to determine the above application.

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/1840

Date: 10 October 2017

Author: Ian Cox/Julie Traynor

Appendix: Letter of objection from NHS Highland dated 4 October 2017

**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. 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:**

Elisabeth Smart, Consultant in Public Health, Larch House, Stoneyfield Business Park, Inverness. IV2 7PA	
Telephone Number:	014623 706 890
Email Address:	elisabeth.smart@nhs.net

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

Home Bargains Unit B Fort William Retail Park North Road Fort William
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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	I object on the grounds that this application is contrary to the Highland Licensing Board's overprovision statement agreed 27 August 2013.
2.	Off-Sales Hours/24 hour drinking	
3.	Licensing Objectives	
4.	Activities/Premises/Customers	
5.	Over Provision <input checked="" type="checkbox"/>	

**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	See additional information.
2.	seeking an amendment to the operating plan, or	
3.	seeking to add additional conditions to the licence	

Signature: ... E.M Smart

Date.....4 October 2017



The Highland Overprovision Statement was based on a population based approach to dealing with the public health harms associated with alcohol misuse. Furthermore consideration was given to the importance of alcohol as Part of Highland culture and how it contributes to the economy although economic considerations are not an objective of the Scotland Alcohol Act

The following link will take you to the overprovision policy statement.

[http://www.highland.gov.uk/downloads/file/3718/consultation\\_on\\_overprovision\\_policy\\_statement](http://www.highland.gov.uk/downloads/file/3718/consultation_on_overprovision_policy_statement)

The key issues outlined in the overprovision statement are:

1. **The changing pattern of alcohol sales:** Patterns of alcohol consumption have changed over recent years with a move from alcohol being consumed in an on-sales setting to the home environment. This has been driven by the increase in availability and affordability through off-sales outlets. Off sales now accounts for 73% of all sales<sup>i</sup>; this is an increase of 4% from the 69% cited in the overprovision statement.

2. **Prevalence data:** An indicator<sup>ii</sup> has been agreed to measure the population exceeding weekly and/or daily recommended limits. This was changed in 2016 and men and women are now advised that it is safest not to regularly drink more than 14 units of alcohol per week. If people drink more than 14 units per week this should be spread evenly over 3 or more days. Furthermore women are advised to avoid consuming any alcohol when pregnant or when planning pregnancy.

Individuals currently exceeding the weekly drinking limit are 27% of the population. (Scotland = 25.8%).

Individuals binge drinking are 15.6% (Scotland = 19.5%).

Individuals problem drinking are 14.5% (Scotland = 17.8%).

3. **Accessibility:** From local data we were able to calculate drive and walk times of the population from a licensed location. 94% of the population of Highland are within a 10 minute drive time and 66% are within a 10 minute walk time of a licensed location. For off-sales only the percentage falls slightly to 90% of the population being within a 10 minute drive time and 54% being within a 10 minute walk time.

4. **Public opinion:** To understand public opinion about alcohol overprovision in Highland we carried out a number of surveys. We found that 71% of respondents strongly agreed with the statement that there are enough places selling alcohol in the area where they live.

5. **Health harm:** The levels of alcohol related health harm in the Highland Council area remain of concern and the data shows for 2016 there were 61 alcohol related deaths, the highest number of deaths since 2010. Standardised Death Rates (SDR), comparing Scotland and selected European countries, show that Scotland has one of the highest SDR for chronic liver disease. It is estimated in Highland there are 11,400 males and 4640 females aged 18 and over who are alcohol dependant.

This evidence was accepted by the Licensing Board and to limit the supply, no more off-sales licenses are to be agreed, where the sales capacity is 40 square meters and over.

### **Recommendation**

The above evidence underpinned the development of the alcohol overprovision statement and we recommend that the Licensing Board do not agree the application for a provisional grant of premise license Home Bargains, Unit B, Fort William Retail Park because it exceeds the off-sales capacity of 40m<sup>2</sup>.

The following is **new** information available from the Highland Alcohol and Drug Partnership and therefore was not included in the overprovision statement. Analysis undertaken in 2017 shows that rates of alcohol-related deaths in Lochaber are significantly higher than for Highland as a whole, 33.1 per 100,000 population compared to 20.3 per 100,000 (2011-2015 5-year aggregate)<sup>iii</sup>. This provides further evidence for restricting the availability of alcohol.

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<sup>i</sup> Alcohol Sales in Scotland NHS Health Scotland 2016 Available Alcohol Focus:  
<http://www.alcohol-focus-scotland.org.uk/media/263062/AFS-Resource-Section-1.pdf>

<sup>ii</sup> Scottish Health Survey Alcohol Data 2012-2015  
<http://www.scotpho.org.uk/behaviour/alcohol/introduction/>

<sup>iii</sup> Alcohol Related Deaths in Highland 2017 Highland and Drug Partnership.