

The Highland Licensing Board

Meeting – 2 October 2018

Agenda Item	8.4
Report No	HLB/094/18

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

Greens Restaurant, London House, 11-15 High Street, Tain

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 Greens Restaurant, London House, 11-15 High Street, Tain.

1.0 Description of premises

1.1 Greens Restaurant is a single storey/café restaurant located in part of a terraced block on the High Street in Tain. There will be no bar counter on the premises. Sales of alcohol would not be restricted to persons taking a meal on the premises.

2.0 Operating hours

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

On sales:

Monday to Sunday: 1100 hrs to 0100 hrs the following day

3.0 Background

3.1 On 14 August 2018 the Licensing Board received an application for the provisional grant of a premises licence from Greens Events and Catering Ltd.

3.2 The application was accompanied by the necessary section 50 certification in terms of Planning, Building Standards and Food Hygiene.

3.3 The application was publicised during the period 20 August until 10 September 2018 and confirmation that the site notice was displayed has been received.

3.4 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.

3.5 Notification of the application was also sent to NHS Highland and the local Community Council.

3.6 Further to this publication and consultation process, the following timeous notice of objections have been received and are appended:

- Deborah Toth
- Gordon Brown

3.7 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

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.

4.2 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.

4.3 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.

4.4 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 operates a 40 cover restaurant on the ground floor of a terraced property on High Street, Tain. Alcohol for on-sales will be dispensed from a servery and there is no formal bar counter on the premises. There is no outdoor drinking area. There are residential properties in the immediate vicinity including in Ivy Lane and St Duthus Street, Tain.
- (2) The application is for on-sales only.
- (3) While the operation is to be predominantly food-led, sales of alcohol will not be restricted to persons taking a meal on the premises.
- (4) All children must be accompanied by a suitable, responsible adult. Unaccompanied young persons may be admitted at the discretion of the management.
- (5) 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.
- (6) While the applicant has applied for the full range of policy hours the applicant only expects to use the maximum hours for occasional, small, private functions on the premises. Live music could be provided during such functions however it is unlikely that this would happen frequently.
- (7) I am aware that representations have been lodged by neighbours and I have arranged to meet with them to discuss their concerns. I will give a verbal update at the Board meeting.
- (8) I am satisfied that the applicant has given due consideration to the licensing objectives and have no cause to object to the grant of the 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

No local conditions apply.

Recommendation

The Board is invited to determine the above application and if minded to grant the 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/CSR/1871
Date: 18 September 2018
Author: G Sutherland

Appendix 1: Objection dated 8 September 2018 from Deborah Toth
Appendix 2: Objection dated 10 September 2018 from Gordon Brown

Geraldine Sutherland

From: art pictures
Sent: 08 September 2018 23:32
To: Susan Blease
Subject: Representation - Licence Greens Restaurant, Tain

Dear Susan Blease,

Please find beneath in the text, my Representation for the licence for the premises of Greens Restaurant, Tain. If you could kindly confirm receipt, that would be much appreciated.

Representation - Licence - Greens Restaurant

1) Full Name and Address of person making representation:

Deborah Toth,

Telephone Number:

Email Address:

2) Address of Premises in respect of which representation is made:

Greens Restaurant, London House, 11-15 High Street, Tain, IV19 1AB

4) Details of any REPRESENTATION

I would like to make a representation to the Licence Board, asking the Licence Board to please consider an 2) amendment to the operating plan, under the 3rd objective, public nuisance, noise and disturbance, to the proposed operating hours to restrict sales of alcohol to 23:00 Hours from the proposed 01:00 Hours and that any recorded or live music be concluded by 22:00 Hours.

I am one of the residents living in Ivy Lane, for 3 years, directly above, the premises which has recently become the new restaurant and the affects of the proposed hours on the people living there will have an enormous impact on their lives and felt it necessary to make this Representation to the Licence Board.

Thanking you for your time.

Deborah Toth 8 September 2018

Gordon Brown

7th september 2018

To Clerk of the Licensing Board

Application for premises license : Greens Restaurant London House Tain IV19 1AB

I would like to make a representation under section 3: Inconsistent with Licensing Objectives/ Preventing Public Nuisance

Restricting the operating times of the license.

Rather than leaving the operating plan quite so open ended. I would like the board to consider reducing the proposed operating hours to restrict the sales of alcohol until 23.00 hrs from the proposed level of 01.00hrs and that any live music would conclude by 22.00hrs

The area directly above the restaurant makes up three residential homes and has done for many years. The effect of late night opening would massively impact those living directly above. The transfer of noise from the restaurant below is already proving to be an issue for the neighbours.

Is it really fair to expect neighbours to tolerate this from 11am till 1am 7 days a week should the operators wish to visit that on them.

Yours Sincerely

Gordon Brown