

The Highland Licensing Board

Meeting – 1 October 2019

Agenda Item	8.3
Report No	HLB/082/19

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

Cawdor House, 7 Cawdor Street, Nairn, IV12 4QD

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 Cawdor House, 7 Cawdor Street, Nairn, IV12 4QD.

1.0 Description of premises

1.1 Cawdor House is situated a short distance from Nairn Town Centre and consists of six letting rooms, breakfast room, lounge and private garden.

2.0 Operating hours

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

On sales:

Monday to Sunday: 1600 hours to 2200 hours

3.0 Background

3.1 On 2 August 2019 the Licensing Board received an application for the grant of a premises licence from Partnership of Anika Schulz and Andreas Schulz.

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

3.2 The application was publicised during the period 12 August until 2 September 2019 and confirmation that the site notice was displayed has been received.

3.3 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.

3.4 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:

Mr and Mrs Sinclair, 3 Cawdor Place, Cawdor Street, Nairn, IV12 4QW
Richard and Fiona Paxton, 2 Cawdor Place, Cawdor Street, Nairn, IV12 4QW
Mrs Jocelyn Ward, 1 Cawdor Place, Nairn, IV112 4QE

- 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) An application has been received for an alcohol premises licence for Cawdor House, 7 Cawdor Street, Nairn.

(ii) The application has been accompanied by 3 section 50 certificates in respect of, planning, food hygiene and building standards. A disabled access statement together with good quality layout plans has also been submitted.

(iii) The hours requested are within the policy hours currently operated by the Highland Licensing Board. The application has been overviewed by the LSO who is satisfied that it meets the licensing objectives.

(iv) The applicant seeks to sell alcohol solely to residential guests who have booked accommodation at the premises. Use of the garden to allow guests to have the opportunity to take a drink outside is also requested. As this is a residential area, this usage has been conditioned to stop at 2100 hours by the LSO. This terminal hour has been discussed with the applicant who finds it acceptable

(v) Following the public consultation phase in respect of the application, three objections have been received from occupiers of neighbouring properties. These letters cite the risk of noise nuisance and anti-social behaviour being potentially caused by the holding of functions on the premises. It is the view of the LSO, that the type of premises in catering solely for residential guests will not hold large scale noisy functions.

(vi) The premises have operated under the authority of occasional licences for the majority of the summer supplying alcohol to their guests; there have been no adverse incidents.

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

Should the Board grant the application as applied for, the Board may wish to consider attaching the following condition(s) from the schedule of local conditions:

(m) After 2100 hours, alcohol or non-alcoholic drinks shall not be consumed in any outdoor drinking area.

n(i) No live or recorded music shall be played in any outdoor drinking area.

7.3 Special conditions

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

Alcohol will only be sold to persons who have booked accommodation at the premises.

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/645
Date: 13 September 2019
Author: Marjory Bain
Appendix: Letters of objection -



Mr & Mrs Sinclair



Dear Sir/Madam

HIGHLAND LICENSING BOARD
APPLICATION FOR NEW GRANT OF PREMISES LICENSE
CAWDOR HOUSE, 7 CAWDOR STREET, NAIRN, IV12 4QD

We are writing to register our objection to the application for a Premises License applied for by our direct neighbour, Cawdor House Bed & Breakfast, 7 Cawdor Street, Nairn, IV12 4QD.

Our immediate neighbour has applied for this license with the intention of offering their guests the ability to purchase and consume alcohol on their premises during the evenings between the hours of 16:00 and 22:00, however it does state on the brief overview notice on display outside their premises, that they will be offering alcohol for consumption on the premises for receptions such as weddings, funerals, birthdays, retirements etc, and outdoor drinking facilities..

Our garden is joined directly to the right of Cawdor House with our properties bedrooms located only 2.3 meters from the drinking area proposed by Cawdor House. Our bedroom and bathroom windows face directly onto the garden area that the alcohol license is for. With our bedrooms being in extremely close proximity to the area mapped for this license we have great concerns that this will cause us disturbances.

I am sure you are aware that the location of the property is directly across from the British Legion and only 3 properties away from another licensed premises (The Class Room) which both have alcohol licenses and outdoor seating areas which we have previously been disturbed by. Furthermore, it is only a 3-4 minute walk from a further 2 licensed premises (Uncle Bob's and the Waverley Hotel). It is also my belief that the records will show that the Police have on many occasions been called out to deal with matters relating to local public disorder, noise and nuisance to the surrounding residents from these establishments.

We have no objection whatsoever to their guests purchasing and consuming alcohol within the building; however, we are extremely concerned that the consumption of the purchased alcohol will extend beyond the confinement of the building out into the surrounding gardens of the said property as shown in their application. We are aware that the current owners, who are at the moment running a lovely Bed and Breakfast business do not intend on hosting functions, however, as the license is linked to the property and could transfer over to any future owners, our concern is that without the correct wording in place the license could be open to abuse and could have a direct impact on our home which we have been in residence for the last 18 years. A few years ago, the previous owners of the Cawdor House Bed and Breakfast also indicated their intention of providing a beer garden for their guests to which we voiced our deep concerns at that time as this is primarily a residential area.

Based on the above, we feel our objection covers 3 out of the 5 points for Grounds for Refusal:

- Point 3. Inconsistent with Licensing Objectives (preventing public nuisance)
- Point 4. Activities / Condition of Premises / Customers (residential location of the premises)
- Point 5. Over Provision

Our suggestion therefore is that the license is granted for consumption of alcohol within the confines of the building by residents only and does not apply to the surrounding garden area.

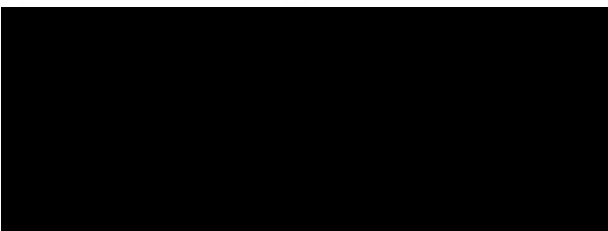
Based on all the above concerns I feel we must object to the proposed alcohol license and are happy to attend any hearing with the support of our solicitor.

Yours sincerely

Mr & Mrs Morris & Susan Sinclair

26 August 2019

Richard & Fiona Paxton



Subject; **OBJECTION TO THE APPLICATION TO HIGHLAND
LICENSING BOARD APPLICATION FOR NEW GRANT OF
PREMISES LICENSE, CAWDOR HOUSE, 7 CAWDOR STREET,
NAIRN, IV12 4QD**

Dear Sir/Madam,

We are writing in relation to the above application to Highland Licensing Board for granting of an alcohol license by the proprietors of the Guest House at Cawdor House, 7 Cawdor Street Nairn.

It is our understanding that the owners of the property, have applied for an alcohol license which would allow them to provide alcohol sales on their premises between 16:00 and 22:00 hours, 7 days per week.

It is of great concern to us that the application notice which has been posted outside the property clearly states that the license will grant the property the ability to provide alcohol for and host events such as weddings, funerals, birthdays, retirements, and outdoor drinking facilities.

At present the property has 6 rooms catering for up to 15 guests. The property is in a residential neighbourhood and is surrounded on all sides by residential properties.

At present there have been no problems with any disturbance from the guest house. We have a good relationship with Anika and Andreas, and have no wish to see that change. Nor do we have any desire to limit their ability to operate a successful small business.

In principle we have no objection to the sale of alcohol to guests only, with the internal confines of the guest house.

However we feel we must object in the strongest possible terms to the possibility of the hosting of functions, which may attract additional guests to those residing in the guest house, and to the potential for outdoor functions being held.

The outside area which it is our belief the owners intend to use for outdoor alcohol sales is no more than 15 metres from our property, and less than 3 metres from our immediate neighbours bedroom window.

It is our feeling that the housing of outdoor functions at which alcohol was being sold has the potential to cause significant issues in terms of noise, potential anti-social behaviour, and would exacerbate the already significant issues of access to parking for ourselves and our neighbours. Parking by guests when the property is full already causes consternation and problems for local residents as the property does not provide any parking for guests who use the available street parking spaces. This could only be made worse if any functions were to be held at the property.

We already have two licensed premises in the near vicinity (The Classroom Restaurant, British Legion) with outdoor seating areas, and police have been called on numerous occasions to these properties to deal with noise or behaviour complaints. We and our neighbours have also suffered vandalism to our vehicles outside our properties caused late at night. While we obviously cannot prove that this was caused by patrons of the nearby premises we feel that this application has the potential to increase the possibilities of increased disturbance in what is as I have said a residential area.

It is also of further concern to us that while the current owners may not intend to host functions, the license, if granted as per the notice, would allow them to do so, and would be transferrable with the business to any new owners who may attempt to change the current function of the business. There is precedence for this as previous owners of the premises had proposed an outdoor drinking area, which thankfully never materialised.

In conclusion, if the license application were to be amended and limited to strictly serving alcohol to residential guests only, and within the confines of the building, with no outside space as part of the licence, we would have no objections, to an application amended as such.

However it is our belief that the granting of a license as it stands at present, and as outlined in the notice posted, would open the potential for a significant degradation of the quality of life for surrounding residents, and the potential for a de-valuing of ours and neighbouring properties.

Therefore as we may only consider the application as it stands at present, which includes the provision for outside alcohol consumption, and the hosting of events then we unfortunately have no objection but to formally object to the granting of an alcohol licence to the property in its entirety.

Yours sincerely,

Richard & Fiona Paxton

Marjory Bain

From: [REDACTED]
Sent: 02 September 2019 14:20
To: Licensing
Subject: Cawdor House B&B, 7 Cawdor Street, Nairn IV12 4QD Licensing Application

2nd September 2019

To the Clerk to the Licensing Board.

Application for New grant of premises license
Cawdor House B&B
7 Cawdor Street,
Nairn IV12 4QD

Dear Sir/Madam,

My neighbour at the above address has applied for an alcohol license. I believe this is to offer their guests an opportunity to purchase and consume alcohol on their premises between the hours of 16.00-22.00. I have looked at the brief overview relating to this application. It states the reason for applying for this license is to serve alcohol on the premises for weddings, funerals, birthdays, retirements, BBQ's and have outdoor drinking facilities.

I have concerns over this application for the following reasons.

- There are already 4 licensed properties within a very short distance from the applicant. The Royal British Legion directly over the road. The Classroom two properties down from the applicant and Uncle Bobs and the Waverly Hotel within a two minute walk from the applicant. The first two already offer outdoor drinking facilities. I believe on a number of occasions the Police have been called to deal with public disorder, noise and nuisance relating to alcohol consumption to these establishments and to incidents in the street outside my house. I have myself had to phone the Legion to complain about noise from functions held there. If a license is granted to Cawdor House, as the application currently stands, there is potential for further future outside noise and rowdy behaviour which has a negative impact on residents living in the immediate area.
- Cawdor House is approximately 18m from my property with their garden boundary just over a meter from our neighbours bedroom window and downstairs lounge. I am very concerned at the application to have functions and the consumption of alcohol in the garden of Cawdor House. Even if the current owners do not plan this, the license if granted, will be linked to the property for any future owners who would then be able to host such events. I for one do not want any more potential outdoor noise from functions impacting on my mental health and my right to a peaceful existence within my residence. I believe it may also have a negative affect on my property price should I decide to sell.
- I have no objection to the application being re-submitted with the use of the garden area for functions and consumption of alcohol removed. Instead the application being for the sale and consumption of alcohol to guests confined to the inside of Cawdor House B&B between the hours of 16.00-22.00.

With regards to Grounds for refusal:

- Point 3. Inconsistent with Licensing Objectives (Preventing public nuisance, crime and disorder and protecting public, as in local residents mental, health.
- Point 4. Activities /Condition of Premises/Customers (Residential location of the premises applying for license)
- Point 5. Over Provision

In conclusion. As the application currently stands, with the inclusion to provide for outside alcohol consumption and the hosting of events, I have to formally object to the application for new grant of premises license for Cawdor House in it's entirety.

Should the application be re-submitted for a license to sell and consume alcohol within the confines of the building of Cawdor House B&B between the hours of 16.00-22.00 and not the garden. I would be happy to support that.

Yours Sincerely,

Mrs Jocelyn Ward

