

## The Highland Licensing Board

Meeting – 1 October 2019

Agenda Item	9.4
Report No	HLB/088/19

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

The Wild Orchid Guest House, Durness, IV27 4PN

#### 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 The Wild Orchid Guest House, Durness.

#### 1.0 Description of premises

1.1 The Wild Orchid Guest House is situated in Durness and consists of a one storey standalone guest house within a locality of residential and commercial properties.

The guest house comprises of 7 letting bedrooms, private accommodation, storage, offices, utilities, kitchen, private lounge, guest lounge, guest dining, WC and outside sitting and drinking area.

#### 2.0 Operating hours

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

**On sales:**

Monday to Sunday: 1100 hrs to 2300 hrs

#### 3.0 Background

3.1 On 26 July 2019 the Licensing Board received an application for the provisional grant of a premises licence from Andrea Bristow.

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 19 August until 9 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, 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://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** The Wild Orchid Guest House is a single storey building within a locality of residential and commercial properties, on the southern outskirts of Durness in North West Sutherland.

It is a Guest House containing seven letting bedrooms, guest lounge and guest dining area. There is also an outdoor sitting and drinking area.

The premises were formerly known as the Craig lea Guest House, which held no form of licence.

**5.3** The premises have recently changed ownership and the new owner wishes to change the business model to include the provision of alcohol as ancillary to meals both for guests and non – residents within the dining room area, guests lounge and outdoor seated area of the premises.

They also include in the operating plan provision for alcohol sales to non-residents attending for the purpose of conferences, seminars and receptions.

These areas where alcohol will be supplied are shown on supplied layout plans. The premises have operated with occasional licences since 21 August for alcohol on sales within the premises, with no adverse comment.

**5.4** Following discussion with the applicants agent reference to “waive of conditions on occasions“ in relation to access for children and young persons to bona fide private functions within part 6(d) of the operating plan has now been, clarified as “children attending a bona fide private function with an adult shall be permitted entry until the terminal hour of the bona fide private function” and “young Persons attending a bona fide private function shall be permitted entry until the terminal hour of the bona fide private function”.

**5.5** There is no bar in the premises and provision of alcohol will be by table service only.

**5.6** The operating plan at 6(d) as supplied is in line with the 5<sup>th</sup> licensing objective.

**5.7** In the opinion of the LSO if the Board were minded to grant this application, there would be no adverse impact on the licensing objectives.

5.8 Following the public consultation phase of this application, no objections or representations have been received by the Board.

## **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:

l. The boundaries of any outside area will be effectively demarcated to the satisfaction of the Licensing Standards Officer.

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

### **7.3 Special conditions**

No special conditions are considered necessary.

## **Recommendation**

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local condition(s) detailed at para 7.2 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/CSR/1915

Date: 12 September 2019

Author: L Gunn

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