

The Highland Licensing Board

Meeting - 06 August 2013

Agenda Item	9.3
Report No	HLB/086/13

Application for the Provisional Grant of a Premises Licence under the Licensing (Scotland) Act 2005

Report by the Clerk of the Licensing Board

Summary

Ref: HC/RSL/1667

This Report relates to an application for the Provisional Grant of a Premises Licence.

Premises: Red Poppy Restaurant (formerly Maya), Main Street, Strathpeffer, IV14 9DE.

Applicant: Nicolas Aburrow per Lorna Murray, Solicitor, 45 Culduthel Road, Inverness, IV2 4HQ

1 Background

- 1.1 The application is to convert an existing retail unit within the centre of Strathpeffer into a 45 cover restaurant. The Restaurant will be accessed by a main door situated on the main street of the village, there will be designated toilet, storeroom and cooking areas. There is no designated car park, however there are extensive public parking areas close by.
- 1.2 Following receipt of the application, which has been accompanied by statutory fee and required s50 Planning Certificate:
- 1.3 A notice of the application together with a copy thereof has been sent to and all the people listed under s21 (1) of the Act.
- 1.4 The Chief Constable has a period of 21 days to give notice that either the applicant or any connected person has been convicted of any relevant offence or foreign offence. It is also open to the Chief Constable in the event of giving such a conviction to recommend that the application be refused for the purposes of the crime prevention objective.
- 1.5 The applicant and the Board have complied with all the statutory formalities. The Licensing Standards Officer has also commented and any amendments proposed have been incorporated into the operating plan or are recommended as conditions.
- 1.6 The Board has advertised the application on the Council's website for a period of 21 days and the applicant has to display the Notice on site for the same period 05 June 2013 to 26 June 2013.

1.7 Building Standards submitted a representation pointing out that building warrant approval is required and completion certificate submission requires to be approved. Mr Iain Davidson and Gillian Scott have submitted a letter of representation concerning noise levels.

2. Legislation

2.1 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 ground of refusal may be:-

1. the premises are excluded premises;
2. the grant of the application will be inconsistent with one or more of the licensing objectives, 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, if the Board considers the premises are unsuitable for the sale of alcohol.
3. having regard to the number and capacity of licenced 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 over-provision of licensed premises of that description in the locality.

2.2 The Board has power where, if they would refuse the application as made, but if a modification is proposed by them and accepted by the applicant, the application can be granted.

3. Summary of Application

On Sales:-

Monday to Saturday 1130 hrs to 2400 hrs

Sunday 1200 hrs to 2400 hrs

4. Policies

The following policies are relevant to the application:

Highland Licensing Board Policy Hours

Highland Licensing Board Policy Statement

The Highland Licensing Board combined Equality Scheme

Schedule of Local Conditions

5.0 Licensing Standards Officers:

The LSO has provided the following comments:

The application has been submitted with the necessary s50 certificate from Planning.

The hours applied for are in line with the maximum allowed under both the Highland Licensing Board policy and the Licensing (Scotland) Act 2005.

From viewing the proposed Premises they appear suitable for the sale of alcohol. The Applicant is an experienced restaurateur currently operating at the nearby Strathpeffer Pavilion and is merely transferring his business to another location.

Although the Premises have no designated parking area there is convenient public parking available close by, which will mitigate any undue public nuisance through indiscriminate parking.

There have been no adverse issues in respect of the Applicant's existing Premises.

Following the statutory neighbour notification period a representation was received from Mr Iain Davidson and Gillian Scott, residing nearby at 2 Hamilton Buildings, Strathpeffer expressing concern in respect of the potential for music/live performances causing disturbance to them in their home.

Liaison has been carried out with the Applicant via their Agent and the Applicants are willing to abide by the proposed conditions which Mr Davidson and Ms Scott find to be a suitable reassurance to their representation.

5.1 Local Conditions

k). Any Live musical performance shall cease by 11.00pm. (Preventing public nuisance).

During any live performance or playing of music all windows and doors shall remain closed. (Preventing public nuisance).

6.0 Mandatory Conditions

6.1 If the application is approved the Mandatory Conditions set out in Schedule 3 of the Act will apply.

7. Recommendation

The Board is invited to determine the above application.

Designation: Clerk of the Highland Licensing Board

Reference: HC/RSL/1667

Date: 01/07/2013.

Background Papers: The Licensing (Scotland) Act 2005

Appendix: Letter of representation from Iain Davidson and Gillian Scott dated
25 June 2013.

**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:

Iain Davidson and Gillian Scott 2 Hamilton House Strathpeffer Ross-shire IV14 9AH	
Telephone Number:	01997 421577
Email Address:	iain.seeingstone@gmail.com

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

<p>Applicant - Red Poppy Restaurant Ltd per Lorna Murray, Solicitor, Inverness Premises -Red Poppy (formerly Maya), Main Street, Strathpeffer, IV14 9DE TypeOn-Sales (Provisional) DatePublishe 5June2013 Objection Date - 25 June 2013</p>
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3. Details of any OBJECTION: (complete only if you consider one of the ground for refusal apply)

State ground of objection (refer to ground of objection by number, see guidance notes, and give details): (Continue on separate sheet if necessary)	
1. Excluded Premises	4. We notice that there is no yes/no answer by the applicant to the question concerning noise from public music licence. This is a residential area and we would be grateful for a limitation on noise from the restaurant below the stated ^{dB} as indicated in the QS. Also concern over licence to 24:00 for same reason. Otherwise no other objections to restaurant.
2. Off-Sales Hours/24 hour drinking	
3. Licensing Objectives	
4. Activities/Premises/Customers	
5. Over Provision	

* This is far too late - we have a young daughter and do not want any disturbance from noise/music.
G.S.

4. **Details of any REPRESENTATION:** (complete only if you wish to make a representation in respect of the application)

State details of any representation (refer to representation by number, see guidance notes, and give details): (Continue on separate sheet if necessary)	
1.	in support of application
2.	seeking an amendment to the operating plan, or
3.	seeking to add additional conditions to the licence

Signature:...

Date... 25/6/13.....

25/6/13