

The Highland Licensing Board

Meeting – 5 November 2013

Agenda Item	10.1
Report No	HLB/125/13

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/INBS/557

This Report relates to an application for the provisional grant of a Premises Licence for:

Premises: MacVeans, Canal Side, Fort Augustus PH32 4BA

Applicant: Audrey Corbett Scott, Kilchumein House, Fort Augustus PH32 4BZ per Lorna Murray, Solicitor, 45 Culduthel Road, Inverness IV2 4HQ

1 Background

1.1

The premises is a detached building over 2 floors located on the canalside in the centre of the village of Fort Augustus.

MacVeans combines a supermarket offering a wide range of groceries, newspapers and off sales; a gift shop and a restaurant with 80 covers. Outdoor dining facility overlooking the Canal.

Previously licensed as per the current application. The premises went into liquidation 28 days from 25 July 2012. No licence is now in existence, since no transfer has been made. The original premises licence was revoked by the Board on 13 August 2013.

Previous Licensed Hours:

On Sales:

Mon – Sat 11.00 hrs to 23.00 hrs

Sunday 12.30 hrs to 23.00 hrs

Off Sales:

Mon – Sunday 10.00 hrs to 22.00 hrs

1.2 On 23 September 2013 the Licensing Board received an application for the provisional grant of a Premises Licence from the applicant's agent, Lorna Murray, 45 Culduthel Road, Inverness IV2 4HQ.

The application was accompanied by the necessary Section 50 Certification in terms of Planning and the statutory fee.

1.3 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 30 September 2013 to 21 October 2013. Confirmation of site note has been received.

1.4 In accordance with standard procedure, Police Scotland, Highlands and Islands Fire and Rescue Service, and the Council's Planning Office were consulted on the application.

Notification and a copy of the application have been sent to NHS Highland and to the Local Community Council.

1.5 A notice of the application has been sent to and all the people listed under S21(1) of the Act.

There are no objections or representations.

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:

Mon – Sunday 11.00 hrs to 23.00 hrs

Off Sales:

Mon – Sunday 10.00 hrs to 22.00 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 Licensing Standards Officer's Comments:

The premises have operated as a supermarket with restaurant facilities from transition until August, 2013 when, within terms of section 28(7)(b)(iii) of the Licensing (Scotland) Act 2005, the premises licence ceased to have effect following the premises licence holder becoming insolvent.

The applicant seeks to operate the premises in the same manner, and is currently operating within the terms of Occasional Licences without any attendant issues.

The premises have been visited and found to be compliant within the terms of the Occasional Licence.

The hours applied for are within the Board's new policy adopted by the Board on 1 October, 2013.

All activities referred to in the operating plan are reasonable and appropriate for this type of operation.

There is no bar counter within the premises and the children's policy is in line with Board policy.

The premises are considered suitable for use for the sale of alcohol in accordance with the proposed application.

There would not appear to be any matter contained within the application that is inconsistent with the Licensing Objectives.

It is not considered necessary to impose any restriction or other conditions on the use of the outdoor drinking area.

5.1 Local Conditions

None

6.0 Mandatory Conditions

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

Recommendation

The Board is invited to determine the above application, noting that the application is within the policy adopted by the Board on 1 October 2013 as the Board's new policy for 1/12/13 to 30/11/2016.

Designation: Clerk of the Highland Licensing Board

Reference: HC/INBS/557

Author: Wendy Grosvenor

Date: 07 October/2013.

Background Papers: The Licensing (Scotland) Act 2005