

The Highland Licensing Board

Meeting – 16 June 2015

Agenda Item	11.6
Report No	HLB/071/15

Application for a major variation of Premises Licence under the Licensing (Scotland) Act 2005

The Strathpeffer Pavilion, The Square, Strathpeffer, IV14 9DL

Report by the Clerk to the Licensing Board

Summary

This Report relates to an application for a major variation of Premises Licence by Strathpeffer Pavilion Association Ltd., Strathpeffer Pavilion, The Square, Strathpeffer, IV14 9DL

1.0 Description of Premises

1.1 The premises consist of a detached listed building in the Conservation Area of Strathpeffer providing a multipurpose venue for live entertainment, conferences, business events and private functions. There are also restaurant and bar facilities, meeting rooms and office accommodation. The premises currently trade as on-sales only.

2.0 Current Operating Hours

2.1 The premises currently enjoy the following operating hours:

On sales:

Monday to Saturday: 1100 hours to 0100 hours
Sunday: 1200 hours to 2330 hours

3.0 Summary of Variation Application

3.1 Variation Sought

The applicant seeks to vary the premises licence as follows:-

(1) Include off-sales commencing 1100 hrs to 2200 hrs Monday to Sunday.

(2) Increase on-sales hours on Sunday to commence at 1100 hrs and terminate at 0100 hrs.

(3) Other activities to include films, gaming, indoor and outdoor sports, and televised sports all to be within and outwith core hours.

(4) Include outdoor drinking facilities for non-alcoholic drinks outwith core licensed hours.

(5) Add seasonal variation to take advantage of any period of extended hours agreed by the Board over the Festive period.

(6) Variation to other activities to include takeaway meals.

4.0 Background

4.1 On 24 April 2015 the Licensing Board received an application for a major variation of a Premises Licence from applicant Strathpeffer Pavilion Association Ltd., Strathpeffer Pavilion, The Square, Strathpeffer, IV14 9DL..

4.2 The application was publicised during the period 30 April until 21 May 2015 and confirmation that the site notice was displayed has been received.

4.3 In accordance with standard procedure, Police Scotland, the Scottish Fire & Rescue Service and the Council's Community Services (Environmental Health) and Planning and Building Standards were consulted on the application.

4.4 Notification of the application was also sent to NHS Highland and the local Community Council, Strathpeffer.

4.5 Further to this publication and consultation process, the following timeous notice(s) of objection/representation have been received and are appended:
Planning and Building Standards (Representation)
Arthur and Margret Scott (Representation)

4.6 The applicant and the objectors have been invited to attend the hearing. All 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://www.highland.gov.uk/downloads/download/428/liquor_licence_objections_appeals_notices_of_determination

5.0 Legislation

5.1 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 may be: -

1. the grant of the application will be inconsistent with one or more of the licensing objectives;

2. having regard to (i) the nature of the activities carried on or 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 in accordance with the proposed variation;
3. having regard to the number and capacity of licensed premises of the same or similar description as the subject premises (taking account of the proposed variation) in the locality in which the subject premises are situated, 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 that description in the locality.

5.2 The Board only has power either to grant the application and make a variation of the conditions to which the licence is subject or to refuse the application.

If the Board refuses the application, the Board must specify the ground for refusal and if the ground for refusal relates to a licensing objective, the Board must specify the objective in question.

6.0 Licensing Standards Officer

6.1 The LSO has provided the following comments:-

Strathpeffer Pavilion is situated in the centre of the village of Strathpeffer and it comprises of a restaurant area, small bar area and a large function hall for events such as weddings, concerts or musical performances where a temporary bar facility can be set up in the large function hall.

Application has been made to modernise the current alcohol premises licence with a major variation application.

The trading history of the premises is entirely incident free and compliance checks carried out by the L.S.O. have shown a strong level of compliance with all requirements of the Licensing (Scotland) Act 2005.

Application has been made to alter on-sales trading hours from 1100 hrs to 0100 hrs on a Sunday. Off-sales provision is also sought from 1100 hrs to 2200 hrs Monday to Sunday which is within the Policy hours of the Highland Licensing Board.

A generic seasonal variation is proposed to allow operating under extended hour periods granted by the Highland Licensing Board.

Activities within section 5 of the operating plan are amended to include films, gaming, indoor and outdoor sports and televised sport, all activities requested are to be both within and outwith core hours. The current outdoor drinking area is requested to be allowed to operate outwith core hours to allow use of customers partaking non-alcoholic beverages prior to commencement of licensing hours.

Provision of take-away meals are requested at s5(f) of the operating plan to allow restaurant service requests from customers such as self-catering occupants, it is also the main reason for applying for off-sales provision as customers can select items of alcohol to takeaway to complement their meals.

During the consultation period of the application a representation was received from Arthur and Margaret Scott, Craigvar, The Square, Strathpeffer, IV14 9DL concerning noise nuisance and disturbance experienced by them and their guests at their home which is also a bed and breakfast business. The address is the next door property on the North side of Strathpeffer Pavilion. The complaints are mainly noise nuisance from concerts and dances, noise occasioned by patrons smoking and drinking on the front terrace area of the Pavilion. The L.S.O. has recommended additional local conditions to assist in the mitigation of these issues.

7.0 HLB Local Policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-16
- (2) Highland Licensing Board Equality Strategy

8.0 Conditions

8.1 Mandatory Conditions

If the application is approved the mandatory conditions set out in Schedule 3 of the Act will apply.

8.2 Local Conditions

Existing local conditions will continue to apply and it is recommended that the following additional local conditions be attached:

Local Conditions

e) After 2100 hrs on an evening when there is a function or concert within the main function room of the Pavilion alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area.

h) Dartboards and any pool table will be situated in a location to be approved by the Licensing Standards Office.

q) The licence holder shall submit to the Board and to Polices Scotland, prior to 1 December each year, notice of the dates within the festive period on which it is intended that the premises remain open until the festive period terminal hour stated for that category of premises in the Board's Policy Statement. The premises may remain open until the festive period terminal hour only on those dates for which notice has been given by the licence holder to the Board and to Police Scotland in accordance with this condition.

(This condition will apply only to premises which have a statement in their operating plan to the effect that they will open during the festive period for the hours agreed by the Board under their Festive Period Policy).

8.3 Additional Conditions

The following shall apply on any occasion that the Premises are open after 0100 hrs.

- 1) A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 0100 hrs (on any day when the premises are open at that time) until whichever is the earlier of-
 - (a) the time at which the premises next close; and
 - (b) 0500 hrs.

- 2) 1. A designated person who is the holder of a personal licence must be present on the premises from 0100 hours (on any day on which the premises are open at that time) until whichever is the earlier of-
 - (a) the time at which the premises next close; and
 - (b) 0500 hrs.

8.4 Specific Conditions

“on any occasion when live or recorded music is being played within the main function room of the Pavilion all doors and windows on the north side, and at the front of the premises shall be kept shut after 2100 hrs”

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/specific condition(s) detailed at para(s). 8.2, 8.3 and 8.4 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/RSL/1264

Date: 27 May 2015

Author: Catherine MacLennan

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

Appendix 1: Representation from Planning & Building Standards dated 5 May 2015;

Appendix 2: Representation from Mr & Mrs A Scott dated 19 May 2015;

COPY.

HC/RSL/1264



Andrew MacRae
Premises Manager
Strathpeffer Pavilion
The Square
Strathpeffer
IV14 9DL

Please ask for: Susan Hadfield
Direct Dial: 01349 868663
E-mail: Susan.hadfield@highland.gov.uk
Our Reference: SZ645
Your Reference:
Date: 5th May 2015

Dear Sirs,

**VARIATION TO OPERATING PLAN
STRATHPEFFER PAVILION, THE SQUARE, STRATHPEFFER**

I understand that you have applied for a variation of your licence to enable the provision of outdoor drinking facilities for non-alcoholic drinks outwith core licensed hours, and to include takeaway meals.

Please may I draw your attention to Condition 5 of planning permission 98/00827/FULRC.

- (5.) a) The noise from amplified sound arising from within the premises shall not increase the ambient noise level, measured as a one minute Laeq, within any nearby dwelling or noise sensitive premises. b) The noise from amplified sound arising from within the premises shall not increase the prevailing noise level in the 63 and 125 hertz octave bands, measured as a one minute un-weighted Leq, within any nearby dwelling or noise sensitive premises.

Reason: To reduce the risk of noise nuisance.

Any outdoor drinking facilities should be located to minimise the potential for noise nuisance to nearby dwellings / noise sensitive premises. Furthermore, please will you forward details of your intended outdoor drinking facilities (location, existing/proposed furniture, hardstanding, any other structures) to enable an assessment of the requirement for planning permission / listed building consent to be made. All necessary consents must be in place prior to any works commencing.

I note that you intend to provide takeaway meals. There is currently **no permission** for the sale of hot food for consumption off the premises. Please will you therefore send details of how this will operate so that the requirement for planning permission can be further assessed.

I look forward to hearing from you.

Yours faithfully,



Susan Hadfield
Planner

RECEIVED

20 MAY 2015



Craigvar, The Square, Strathpeffer, Ross Shire, IV14 9DL

Tel: 44 (0) 1997 421622 Email: craigvar@talk21.com

Web: www.craigvar.com

19th May 2015

Your ref: CM/HC/RSL/1264

Dear Mr Mackenzie,

We write in connection with the proposed changes to the licence for the Spa Pavilion, Strathpeffer. Since its reopening we consider, as neighbours, that we have been generous towards the building and its operating needs. However we have had to put up with considerable inconvenience at times due to the nature of the functions it holds.

We understand that the conditions of the licence changed in 2009 to include allowing alcohol to be consumed on the open veranda at the front of the building. We were not informed of this change, nor were we consulted. We can say that we would have opposed this change with the utmost vigour and we have requested an investigation into how this change happened. In the meantime we request that this application be put on hold until the outcome of the investigation is known.

Having had an opportunity to view the latest application we wish to make a representation that you consider attaching a number of conditions to the current application.

1. Please insist that no windows or doors on the east side or at the front of the building be opened, or remain open, at any time during live/ recorded music performances or during functions such as weddings or dances. This has been a regular occurrence in the past and allows considerable noise leakage, which can be heard in our home. This has a deleterious effect on us not just as neighbours but has affected our business in the past with guests complaining about disturbances during the evening and after the end of the event when noise can continue for some considerable time.

2. Please insist that no alcohol or food be allowed to be consumed on the front veranda or in its vicinity after 8.p.m. during functions or performances such as weddings or dances. We find that wedding groups and dance patrons in particular congregate there and cause considerable noise, which, again, intrudes on our amenity. We consider there is ample scope for smokers and drinkers to congregate at the rear and on the west side of the building. In addition we would not expect any takeaway facilities to operate from the front or east of the building or for takeaway food to be consumed on the veranda.

3. Please insist that these areas in particular be properly stewarded during events and appropriate signage be installed reminding patrons of these conditions. If a weekend extension until 1 a.m. is granted then there needs to be an added undertaking from the Pavilion that they will clear their premises as quickly and as quietly as possible.

We look forward to hearing the outcome of the investigation to establish the facts of the change of licence conditions in 2009 and to hearing from you in due course.

Yours faithfully,

Arthur & Margaret Scott