

## The Highland Licensing Board

Meeting – 28 March 2017

Agenda Item	10.6
Report No	HLB/041/17

### Application for a major variation of premises licence under the Licensing (Scotland) Act 2005

Eilean Dubh Restaurant, 18 High Street, Fortrose

Report by the Clerk to the Licensing Board

#### Summary

This Report relates to an application for a major variation of premises licence by Emma Davies.

#### 1.0 Description of premises

1.1 The premises was granted a licence, on transition, on 1 September 2009 and the licence was transferred to the current holder on 24 January 2017. The premises currently operate as a 44 cover restaurant in a single storey detached building on the main street of Fortrose.

#### 2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

##### On sales:

Monday to Friday: 1100 hrs to 2400 hrs  
Saturday: 1100 hrs to 2330 hrs  
Sunday: 1100 hrs to 2300 hrs

#### 3.0 Summary of variation application

##### 3.1 Variation sought

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

1. Increase licensed hours to 1100 hrs to 0100 hrs the following day on each day.
2. Add off-sales 1000 hrs to 2200 hrs daily.
3. Add an outdoor drinking area.
4. Remove existing seasonal variation and add a new seasonal variation for extended hours during any date or period agreed in terms of Board policy.

5. Increase capacity to 60 persons and add an accessible alcohol capacity of 2 m<sup>2</sup>
6. To list of services and activities during and outwith core hours add: live performances, dance facilities, theatre, films, gaming and televised sport.
7. Change name of premises to IV10.
8. Internal alterations to create a service/delicatessen counter and add a small extension capable of accommodating an additional 16 customers.
9. Amend description of premises to reflect its new business model as a café bar and delicatessen with a service counter. Alcohol sales will not be restricted to persons taking a table meal on the premises.

#### **4.0 Background**

- 4.1 On 10 February 2017 the Licensing Board received an application for a major variation of a premises licence from Emma Davies.
- 4.2 The application was publicised during the period 17 February to 10 March 2017 and confirmation that the site notice was displayed is awaited.
- 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.
- 4.5 Further to this publication and consultation process objections/representations have been received from the following:-

Mrs A M Anderson  
W A Anderson  
Barbara Dillon  
Mr and Mrs Duncan  
Janis Keast  
John Keast  
Eilidh MacKenzie  
Bill Martin

Jenny A McIntosh  
David and Mary Pocock  
Mr P J Porter  
Caroline Robinson  
David Robinson  
Doris Robertson  
Mrs B Smith  
V Wilson

- 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://highland.gov.uk/hlb\\_hearings](http://highland.gov.uk/hlb_hearings)

#### **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:-

6.2 Following the transfer of the premises licence the new operator intends to operate a new business model and offer, as and when required, the additional services and activities listed above and also to include the operation of a delicatessen counter and small section for off-sales. An extension is to be added to accommodate up to 16 additional customers and that area would also be suitable for use for private parties. A small area to the side of the premises has been identified as an outdoor drinking area.

6.3 The proposed increase in licensed on-sales hours, addition of off-sales and the substitution of a seasonal variation for the festive period do not conflict with Board policy.

6.4 Off-sales will be available from an accessible display with a capacity of 2m<sup>2</sup> which is well within the Board's policy for off-sales overprovision. Delicatessen stock will generally be displayed at the counter.

6.5 I am aware that a significant number of objections or representations have been received. I did meet with a small group of neighbours to provide detailed information about the application. I made them aware that the new operator does not intend to offer all services during all available licensed hours and the trading period will very much depend on customer demand.

- 6.6 The premises are situated on a corner site at the boundary of the more commercialised area of the main street with predominantly residential properties. The residential properties in Academy Street, directly opposite the proposed outdoor drinking area, are closest to the premises and the residents would be likely to be affected by excessive noise or nuisance within that area and from within the premises itself.
- 6.7 Common themes following the public consultation included concerns about parking and overprovision. This type of business does not fall within Board policy on overprovision and matters relating to parking or other like traffic concerns will be matters connected to Planning or for action by the police.
- 6.8 Concern was also expressed that the premises would also operate as a “fast food” takeaway. I established the applicant initially believed that such a service could be provided through the delicatessen element of the business. It is my opinion that such a service would be one which the Board would require to be made aware of in the operating plan as it might be considered to be a significant change to the primary description of the premises. The applicant accepts that a reference should have been made to the provision of takeaway meals and will consider submitting a further premises licence variation should she decide to offer that service.
- 6.9 References to the potential for excessive noise from live music are accepted by the applicant who has agreed that no amplification of live music will be permitted. She will also submit a noise management checklist to the Board and understands that the terms of the checklist must be followed in accordance with any condition the Board may impose. She has emphasised that live music will be a service provided only at the request of specific customer requirements and that no live performances will be booked by the applicant to attract customers to the premises.
- 6.10 The provision of an outdoor drinking area is also of concern to some neighbours. I note that the proposed area is small and has no scenic outlook. I consider it relatively unlikely that groups would wish to linger there and the applicant has no desire to permit its use as a meeting place for younger persons. The matter of a restriction on the use of the outdoor drinking area has been discussed with the applicant who has suggested that 2200 hrs would be a suitable time to cease use for the consumption of alcohol or non-alcoholic drinks.
- 6.11 To alleviate some of the neighbours’ concerns the Board may also wish to impose restrictions on the types of activities or services available at the outdoor drinking area.

## **7.0 HLB local policies**

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2013-18
- (2) Highland Licensing Board Equality Strategy
- (3) Highland Licensing Board Policy Hours

## **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**

- e. After 2200 hours alcoholic or non-alcoholic drinks shall not be consumed in an outdoor drinking area.
- i. Any music or live performance will cease at 2400 hrs.
- q. The licence holder shall submit to the Board and to Police 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.

### **8.3 Special conditions**

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. 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
3. No recorded music or live performance shall be permitted within the outdoor drinking at any time.
4. This premises licence shall not have effect within the proposed extension to the rear of the premises as shown on the amended layout plan (Ref 178/p102 dated 03/11/2016) until such time as a completion certificate or temporary completion certificate under the Building (Scotland) Act 2003 in respect of the extension has been accepted by the Council's Building Standards Service and a copy of the certificate submitted to the Highland Licensing Board.
5. Alcohol shall not be sold or consumed on any part of the premises in respect of which internal alterations are being or have been carried out until such time as a completion certificate or temporary completion certificate under the Building (Scotland) Act 2003 in respect of those alterations has been accepted by the Council's Building Standards Service and a copy of the certificate submitted to the Highland Licensing Board.

## **Recommendation**

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local and special conditions detailed at paragraphs 8.2 and 8.3 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/CSR/1498

Date: 14 March 2017

Author: G Sutherland

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

Appendices:-

1. Mrs A M Anderson letter dated 7 March 2017
2. W Anderson letter dated 7 March 2017
3. Barbara Dillon email dated 19 February 2017
4. Mr and Mrs Duncan objection dated 7 March 2017
5. Janis Keast objection dated 24 February 2017
6. John Keast objection dated 24 February 2017
7. Eilidh MacKenzie letter dated 7 March 2017
8. Bill Martin email dated 7 March 2017
9. Jenny McIntosh objection dated 28 February 2017
10. David and Mary Pocock email dated 7 March 2017
11. Mr P J Porter objection dated 27 February 2017
12. Caroline Robinson email dated 10 March 2017
13. David Robinson email dated 10 March 2017
14. Doris Robertson objection dated 10 March 2017
15. Mrs B Smith objection dated 7 March 2017
16. V Wilson letter dated 8 March 2017

# APPENDIX 1

The Clerk,  
Highland Licensing Board,  
Highland Council

St.Boniface,  
7 High Street,  
Fortrose,  
Ross-shire, IV10 8SX

7 March, 2017

Dear Sir/Madam,

**IV10/Eilean Dubh –18 High Street, Fortrose**  
**Reference no. – HC/CSR/1498**

I have a number of concerns relating to the application concerning the above property.

The first of these concerns the **Noise** inflicted on those living in the residential accommodation which surrounds and is in close proximity to the property in question.

This noise will arise from the proposed activities inside and outside the building (outdoor drinking, live performances, dance facilities); also from the increased traffic trying to find somewhere to park (there is no parking on the premises).

The parking space available for people using the facilities on the High Street is limited as it is also used for parking by residents in the immediate area.

This undoubted aggravation is magnified to horrific proportions with the prospect of this going on till one o'clock in the morning.

My second concern relates to **Safety**.

Parking on the High Street already causes congestion and presents a real safety hazard. This problem would be increased greatly by the nature of the activities which they propose to conduct inside and outside the premises.

This will be further compounded by people "dropping in" to avail themselves of the proposed off-sales facilities of alcohol and food. These customers are unlikely to want to walk any distance with their take-away and will expect to park in the immediate vicinity of the off-sales premises.

All of this will be taking place on one of the busiest junctions in Fortrose where the safety hazards are further increased by limited or non-existent pavement facilities on Academy Street and the south side of the High Street.

My third concern relates to **Over-Provision**

The locality – Fortrose, Rosemarkie and Avoch – is already well-served with licensed premises for Off-Sales.

For these reasons, I object most strongly to the application as it stands currently.

Yours faithfully,

A M Anderson (Mrs)

The Clerk,  
Highland Licensing Board,  
Highland Council

St. Boniface,  
7 High Street,  
Fortrose,  
Ross-shire, IV10 8SX

7 March, 2017

Dear Sir/Madam,

**IV10/Eilean Dubh –18 High Street, Fortrose**  
**Reference no. – HC/CSR/1498**

I welcome the presence of the Eilean Dubh / IV10 business and wish the new owners well. However, I have serious concerns about certain aspects of the Licensing application as it currently stands.

The property is situated on a small plot surrounded by - and in close proximity to - residential properties and is located on one of the busiest junctions on Fortrose High Street.

The application fails to take account of these facts, particularly the impact of:

- 1 **The Noise** generated by the activities which they intend to develop / provide – viz :
  - a. **outdoor** eating/drinking area
  - b. Proposed forms of entertainment - Live performances, Dance Facilities, Theatre & Films, Gaming.  
Are these all to be accommodated within the building?

- 2 **Extension of their licensing hours till 1am**  
This additional noise would never be welcomed in an area surrounded by residential accommodation but would be completely unacceptable till 1 o'clock in the morning. The noise is likely to cause discomfort, disruption and irritation to those within earshot and have a significant impact on their quality of life.

- 3 **Parking**  
The small area of the property has no facility for on-site Customer parking (disabled or other) and is sited on one of the busiest junctions in Fortrose in an area where traffic-congestion and parking are already a significant problem. The danger, congestion, noise and inconvenience which these already cause will be increased greatly by the intention expressed in the application to attract audiences to conferences, live performances, dances, gaming etc., to increase the seating numbers and to develop off-sales of alcohol and food. Customers for these off-sales facilities are unlikely to want to walk very far, feel they will only be parking for a short time so are likely to be less thoughtful about their decision on where to park.

All of these are likely to create Public Nuisance and Loss of Amenity and will also have a major impact on Public Safety, Public Health and general well-being in the area and should not be permitted.

For these reasons, I object most strongly to the application as it stands currently.

Yours faithfully,

W A Anderson

19/02/17 sent by email

## APPENDIX 3

Barbara Dillon  
1 MacDowall Court  
Fortrose  
IV10 8RW

With reference to proposed redevelopment of Eilean Dubh Restaurant, High Street, Fortrose

As a resident of Fortrose within close proximity to the Eilean Dubh restaurant I would like to draw your attention to several points that concern me about the proposed redevelopment.

In principle, I have no objections to the majority of the proposals, however there are some issues that I would like to highlight.

The Eilean Dubh is situated in a highly residential area of Fortrose at the west end of the village.. For several reasons this is of concern. The area around the proposed redevelopment has no off-road parking and the traffic situation in the village is a problem at the best of times. This problem increases greatly during the holidays periods. The original restaurant caused a limited problem with traffic because their seating capacity was significantly lower than the proposed capacity of 60 for the redevelopment. Nearby Academy Street is very narrow and would be inadequate and unsafe to accommodate a lot of parked cars. MacDowall Court is private parking although there is a problem with people parking there despite signage to the contrary.

We have no resident Policing which may be a disadvantage if the proposal for increasing outdoor drinking and eating, gaming and live performances is granted.

The above also highlights the possibility of increased noise levels in this residential area especially if a licence is granted from 11.00 - 0.100 7days a week.

The Tavern already has a late licence which is used occasionally .

There is The Tavern and The Anderson in Fortrose, The Golf Club, The Plough and Crofters in Rosemarkie and The Station Hotel in Avoch all within approx. 2 miles of each other and all licensed to sell alcohol either on-sales or off-sales. The Cooperative Store sells alcohol within regulated hours. The area would appear to be well provided with licensed premises. All the above , with the exception of The Anderson have adequate off road parking available in close proximity .

Finally, Fortrose is, as some would say, a quaint and certainly historic village. The proposals put forward for this redevelopment seem contrary to the innate characteristics of the village and more in line with the social aspects of a town or city.



**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 or emailed to [licensing@highland.gov.uk](mailto:licensing@highland.gov.uk). 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:**

Mr and Mrs Duncan	
Telephone Number:	
Email Address:	

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

1 Academy Street, Fortrose IV10 8TW
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**3. Details of any OBJECTION:** (complete only if you consider one of the ground for refusal Apply)

<b>State ground of objection (refer to ground of objection by number, see guidance notes, and give details):</b> (Continue on separate sheet if necessary)	
1. Excluded Premises	2. Drinking and sale of alcohol (particularly the outside drinking area) to 1am so close to our home within a residential area will promote nuisance and disorder, affect amenity and our personal health and well being. Noise particularly any amplified music will be disruptive to our home life especially after 11pm. 3. The outside drinking area is too close to the road and our home, safety has not been fully considered e.g. at closing time (1am). 4. Another alcohol/off sales premises in a conservation area is 'over provision' and location of parked alcohol delivery vehicles will cause congestion (we have already had our house damaged by vehicles squeezing past parked delivery lorries).
2. Off-Sales Hours/24 hour drinking	
3. Licensing Objectives	
4. Activities/Premises/Customers	
5. Over Provision	

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

<b>State details of any representation (refer to representation by number, see guidance notes, and give details):</b> (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.....7/3/2017.....

**REPRESENTATIONS OR OBJECTIONS IN RELATION TO A PREMISES LICENCE APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005**

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**1. Full Name and Address of person making objection/representation:**

JANIS KEAST 21 ACADEMY STREET, FORTROSE IV10 8TW	
Telephone Number:	
Email Address:	

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

EILEAN DUBH RESTAURANT (IV10) 18 HIGH STREET, FORTROSE IV10 8SN
--

**3. Details of any OBJECTION:** (complete only if you consider one of the ground for refusal apply)

<b>State ground of objection (refer to ground of objection by number, see guidance notes, and give details):</b> (Continue on separate sheet if necessary)	
1. Excluded Premises	I object to aspects of grounds 2, 3 + 4 - Please see attached paper
2. Off-Sales Hours/24 hour drinking	
3. Licensing Objectives	
4. Activities/Premises/Customers	
5. Over Provision	

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

<b>State details of any representation (refer to representation by number, see guidance notes, and give details):</b> (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..... 24 February 2017



My objections relate to sections 2, 3 and 4 of your criteria.

The existing popular cafe/restaurant seems to be about to be replaced by a more bar-like facility with space for 60, watching sport TV, listening to live performers, gaming or dancing until 1am each night. This type of development is more appropriate for a city centre rather than the residential environment in which the premises are situated.

So following your criteria, I am objecting to the proposed changes on the grounds of:

## 2. Hours

- The extended hours will cause an increase in disturbance to the homes which surround the premises.

## 3. Inconsistent with Licensing Objectives

- Securing Public Safety
  - The premises offer no parking of their own. The increase in seating capacity will draw in people from a distance thus exacerbating parking problems in Fortrose.
- Preventing Public Nuisance
  - The noise created by the extra activities proposed will be detrimental to local residents.
  - The premises were not constructed for activities like these in terms of sound insulation.

## 4. Activities / Condition or Premises / Customers

(1) The premises are not designed for the new activities proposed as they are not sound-proofed and noise will be emitted, disturbing at least 20 homes.

(2) These premises are located in a residential area which is not a suitable location for the proposed additional activities.

Signed .....

Name JANIS KEAST

Date 24 February 2017

**REPRESENTATIONS OR OBJECTIONS IN RELATION TO A PREMISES LICENCE APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005**

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**1. Full Name and Address of person making objection/representation:**

JOHN KEAST, 21 ACADEMY ST., FORTROSE IV10 8TW	
Telephone Number:	
Email Address:	

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

Eilean Dubh Restaurant, 18 High St., Fortrose IV10 8SN
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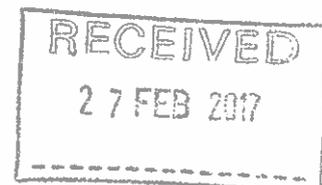
**3. Details of any OBJECTION:** (complete only if you consider one of the ground for refusal apply)

<b>State ground of objection (refer to ground of objection by number, see guidance notes, and give details):</b> (Continue on separate sheet if necessary)	
1. Excluded Premises	My grounds for objection are included in 2, 3 and 4. See attached paper for details
2. Off-Sales Hours/24 hour drinking	
3. Licensing Objectives	
4. Activities/Premises/Customers	
5. Over Provision	

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

<b>State details of any representation (refer to representation by number, see guidance notes, and give details):</b> (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: 24/02/2017.....



The reasons for my objections to sections 2, 3 and 4 are as follows:

**2. Hours**

- Drinking on the premises until 1 am will cause a public nuisance as these premises are in a residential area ( at least 20 houses are in very close proximity.)
- Live performances beyond 10pm will similarly cause a public nuisance in this residential area.

**3. Inconsistent with Licensing Objectives**

- Securing Public Safety
  - Taxis pulling up , waiting and loading on a narrow main road will cause a public danger.
- Preventing Public Nuisance
  - These premises have no dedicated parking. The increase in seating will draw in extra vehicles.
    - High Street has limited parking.
    - The cathedral parking is invariably full.
    - Academy Street is too narrow to allow increased parking.
    - Great nuisance is already being caused to residents in MacDowell Court by people thoughtlessly parking and blocking in residents.
  - The premises are very lightly built and external sound proofing is poor. Noise from within will impact on local residents.

**4. Activities / Condition or Premises / Customers**

(1) The premises are not designed for the new activities proposed as they are not sound-proofed and noise will be emitted, disturbing at least 20 homes.

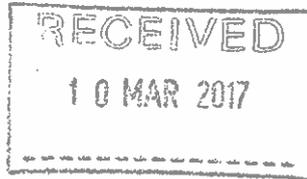
(2) These premises are located in a residential area.

Signed .....

Name ..... JOHN KEAST .....

Date ..... 24/02/2017 .....

Susan Blease,  
Clerk to the Highland Licensing Board,  
Highland Council,  
Caithness House,  
Market Place,  
Wick,  
KW14AB



Eilidh MacKenzie,  
Bank Garden Cottage,  
High Street  
Fortrose,  
IV108SX  
ref SB/GS  
07/03/2017

Dear Licensing board,

**I here by object to the variation of premises licence of Eilean Dubh, 18 High Street, Fortrose (IV10).**

• **The points in the variation of licence I am objecting to are -**

1. *Change to sale hours 1100hrs -0100hrs Monday to Sunday.*
2. *Addition of services and activities out with core hours adding live performances, dance facilities, gaming, outdoor drinking.*

• **My objections are on the grounds detailed below-**

1. ***Change to sale hours.***

Opening hours till 1am is too long in a quiet conservation residential area of a small village that has not previously needed this. The nature, type and location of the venue does not warrant these late opening hours. I believe that The Tavern further along the street has an option for late opening but rarely uses it. We do not need two late opening bar/pubs when the one that does have a licence to do so already does not use it regularly as there is not enough business/demand for it on a regular basis. I believe there would be a over provision in a small area for something that is already not taken up and used by another venue that has the possibility of late opening and events in their licence. There is already The Anderson and The tavern for late night drinking at the other side of the small village so granting late night drinking and opening would be a over provision.

The noise level going on later every night will be high and so disruptive for residents if they have late opening with customers coming and going till 1am. Especially with the added noise from possible live performances, dances, gaming, theatre etc. I like others have a family and this would be inconsistent with licensing objectives of protecting and improving public health. Extending opening hours would have a negative effect on me and my family's health as we would not get sleep with the added noise caused by the late opening.

The extra traffic from the increased capacity of customers requested and difficulty parking around the premiss could mean that customers park on Macdowel courts private parking and common ownership road/areas blocking

access to and from our property. This is inconsistent with licensing board objectives for insuring health and safety. Further more with regard to public safety and parking. The junction on either side of the premises are very difficult to get in and out of safely due to cars parked on the street making it single file traffic most of the time. It would not be adventitious to public safety to have customers on the street in front of the premises as this could further block vision of traffic and pedestrians coming and going. Additional traffic caused by the addition opening hours could cause harm to pedestrians and vehicles as well as to residents who at peak time struggle to park close to their homes as is.

These hours 11:00 – 1:00 Mon to Sun are not acceptable. The heightened risk of having customers every night till 1am who would be a nuisance due to parking issues and traffic safety, increased noise level, potentially cause disorder after alcohol intake does not make me feel safe in my own home and garden and so would negatively effect public safety to my self and family, including two young children, causing distress effecting me and my family's health.

There has been minimal disruption with the previous owners opening times and changing them to be open to the early hours of the morning is not beneficial to me as a resident.

## **2. *Additional services.***

The increased noise level going on later every night will be too high and disruptive for residents like me and my family. If you allow late opening with customers coming and going till 1am with live performances, dance , gaming and with outdoor drinking it would have a detrimental effect on me and my family's health from the resulting increased noise levels. Excessive noise can reduce our quality of life, and damage our health and the environment. Please note this is in a quite mostly residential conservation area and as such loud noise resulting from the nature of these activities is not appropriate or acceptable or in keeping with the current locations character. Unwanted sound when it reaches certain levels and intensities it becomes annoying, leading to stress and possible physical and psychological health problems. Nuisance is adverse impact on a person's ability to enjoy their amenity, either within or outside their residence so I object to the change of licence additional services and to the time that they would go on for as it would cause harm to my health and my children health.

### • **Suggested modifications**

1. Closing time of 23:00 on Friday and Saturday nights only.
2. Late night hours allowed only on Friday and Saturday night.
3. Sunday, Monday, Tuesday, Wednesday, Thursday latest closing time 22:00.

### • **Suggested conditions which should be attached to the licence**

1. CLOSING TIME OF 23:00 on FRIDAY AND SATURDAY NIGHTS ONLY to reduce disruption and harm to health and well-being to residents.

2. **LIMIT LATE NIGHT OPENING** to only on Friday and Saturday nights only. Again to reduce disruption and harm to health and well-being to residents.
3. Sunday, Monday, Tuesday, Wednesday, Thursday latest closing time 22:00. (Ideally 21:00)
4. If outdoor drinking is to be allowed at the premises then **RESTRICTING ACCESS TO GLASSWARE** . Consideration should be given to a condition preventing customers from taking alcohol and other drinks from the premises in open containers (e.g. glasses and opened bottles) as customers take out with them onto the street and can cause serious risk and harm to people animals and traffic. For the allowance of outdoor drinking then the appropriate measure to promote public safety should be undertaken
5. For occasional Loud music and events notice should be given prior to close by residents who will be effected and residents should be given the events finishing time. This would allow for example young familys like ours to make other arrangements to help get our children to sleep and so limiting the negative effects on our health and well-being.
6. Parking for increased capacity of customers requested in the variation of the licence to the premises is a major concern as blocking private parking, house entrances and junctions is a high possibility. Staff, patrons/customers must not block parking or entrances for local residents also so access of emergency vehicles is kept clear and free from obstruction. The licensee must insure customers know not to park in Macdowel court and suggest safe and appropriate alternative parking areas to customers to reduce the likely hood that Macdowell court is used as parking for the premises. Possibly having notices up on their social media or advertising and inside and out advising customers were to park safely with out causing upset and distress to residents.

I am objecting items under sections 2, 3 and 4.

Section 2.

The village of Fortrose has a lot of residential homes close to the restaurant. 1am closing hours is too late for the convenience of residents. The noise level will be too high and disruptive, as would noise from live performances, dance facilities, theatre, and people leaving afterwards, banging car doors, etc Section 3.

Outdoor drinking until 1am beside the main road is neither responsible or safe.

There is no capacity for extra parking, so that would create additional local inconvenience and safety issues.

Section 4.

There are two bar/pubs in the village, so no need for a third. The character of the area would be affected. Traffic around the junction of High St. and Academy St, along with existing single car parking creates enough problems and does not need to be increased.

Bill Martin

Bishops Wood,  
8 High St.  
Fortrose,  
IV10 8SX8



Central House  
 Market Place  
 Wick KW1 4AB

**REPRESENTATIONS OR OBJECTIONS IN RELATION TO A PREMISES LICENCE APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005**

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1. Full Name and Address of person making objection/representation:

JENNY A McINTOSH	
13 High St, Fortrose Ros-shire IV10 8SX	
Telephone Number:	
Email Address:	

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

Eilean Dubh Rostarant 18 High Street Fortrose IV10 8SN	(IV10)	RECEIVED - 1 MAR 2017
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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	
2. Off-Sales Hours/24 hour drinking	2 - objection to extended hours
3. Licensing Objectives	
4. Activities/Premises/Customers	4 - objection to gaming
5. Over Provision	

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..... 28/2/17 .....

Dear Clerk to the Licensing Board

While we hope that the new IV10 restaurant will be successful, and my wife and I look forward to trying it, we are concerned at the likely impact on existing residents arising from some of the changes sought to the alcohol licence.

The increase in seating to 60 covers, and the desire to have off-sales, means that there will be a very significant increase in the number of patrons' cars parked quite a long way along the High Street – a residential area with houses close to the roadside. Inevitably, patrons arriving and leaving make noise including the banging of car doors and cheery farewells. This has been acceptable in the past because the effective closing/departure time has been 9pm or earlier. Now, it is proposed that numbers will be increased and the departure noise will continue to 1am, and become more frequent until 10pm because of short stops to purchase off-sales. Even those who depart on foot are likely to cause some disturbance especially if in groups as we think will arise from the new proprietors' different business model. We do not think that is acceptable on a regular basis in a residential area.

Subject to the timing grounds for objection above, we have no complaint regarding the desire for live performances and other activities etc providing all noise is contained within the premises. However, we do object to the proposals for outdoor drinking facilities if either they generate noise (which they almost certainly will) or if drinkers will be visible from the roads and pavements. Fortrose has in the past suffered from anti-social behaviour caused by – mainly youngsters – drinking alcohol in the streets and public areas. Hence, drinking alcohol was made an offence in large areas of Fortrose and we would not wish to see anything that undermines this.

Thank you.

David & Mary Pocock

4 High Street  
Fortrose  
IV10 8SX



PLEASE SIGN  
at the end of the form  
W. of KWI 4AB

## REPRESENTATIONS OR OBJECTIONS IN RELATION TO A PREMISES LICENCE APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005

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**1. Full Name and Address of person making objection/representation:**

Mr P. J. PORTER, WOODSIDE, 15 HIGH STREET, FORTROSE, ROSS-SHIRE IV10 8SX	
Telephone Number:	
Email Address:	

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

Eilean Dubh Rostarant 18 High Street FORTROSE IV10 8SN	<div style="border: 2px solid black; padding: 5px; display: inline-block;"> <p>RECEIVED - 1 MAR 2017</p> </div>
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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	<p>② Nuisance to residents if license extended beyond 22.00 p.m for consumption of liquor, on and off sales. ③ Object to extension for added services: - live performances etc.</p>
② Off-Sales Hours/24 hour drinking	
③ Licensing Objectives	
④ Activities/Premises/Customers	
5. Over Provision	

**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: 27/2/2017

10/03/17 sent by email

## APPENDIX 12

I am writing to voice my concern over the above application, specifically I refer to 'preventing public nuisance'.

I live opposite the Eilean Dubh premises and have concerns that there will be noise late into the evening and early hours, both from live music, and from people gathering and loitering while waiting for their transport home. Parking is limited, and this inevitably means patrons cars are parked immediately outside private residences on the High Street where groups of people gather for conversations before leaving, thus extending the period of noise and potential nuisance. My husband's employment requires early morning starts from home and I am concerned that the proposed extension to opening hours will lead to disrupted nights.

I would appreciate confirmation of receipt of my email.

Regards  
Caroline Robinson

Wellfield  
High Street  
Fortrose  
IV10 8SX

I am writing to voice my concern over the above application, specifically I refer to 'preventing public nuisance'.

I live opposite the Eilean Dubh premises and have concerns that there will be noise late into the evening and early hours, both from live music, and from people gathering and loitering while waiting for their transport home. Parking is limited and this inevitably means patrons cars are parked immediately outside private residences on the High Street where groups of people gather for conversations before leaving. My employment requires early morning starts from home and the need to go to bed at a relatively early hour so any late night disruption is obviously not appreciated.

I am not averse to local business developments but they have to recognise that they need to be sympathetic to the concerns of local residents to have their support.

I would appreciate confirmation of receipt of my email.

Regards  
David Robinson

Wellfield  
High Street  
Fortrose



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**1. Full Name and Address of person making objection/representation:**

DORIS ROBERTSON 23 BANK HOUSE FORTROSE	
Telephone Number:	
Email Address:	

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

1110 - High Street, Fortrose.
-------------------------------

**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) I sleep at the front of my flat directly opposite the premises. I support the application, but object to the 1 am licensing proposal. I am also concerned about the noise if people sit outside too late.
2.	Off-Sales Hours/24 hour drinking	
3.	Licensing Objectives	
4.	Activities/Premises/Customers	
5.	Over Provision	

**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: 10/3/17 .....

**REPRESENTATIONS OR OBJECTIONS IN RELATION TO A PREMISES LICENCE APPLICATION UNDER THE LICENSING (SCOTLAND) ACT 2005**

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**1. Full Name and Address of person making objection/representation:**

MRS B. SMITH 26, HIGH STREET FORTROSE IV10 8T.B	
Telephone Number:	
Email Address:	

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

EILEAN DUBH RESTAURANT FORTROSE

**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	See attached
2. Off-Sales Hours/24 hour drinking	
3. Licensing Objectives ✓	
4. Activities/Premises/Customers	
5. Over Provision	

**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)

In support of application	See attached
seeking an amendment to the operating plan, or	
seeking to add additional conditions to the licence ✓	

Signature: ..... Date: 7th March 2017.....

Mrs B Smith

### 3. Inconsistent with Licensing objectives

The location and outside space including the front pavement area owned by the premises give a ready opportunity for people to congregate or sit until 1am .

Although this is not technically on the street and therefore not breaking the no alcohol zone regulations, it certainly to all intents and purposes is on the pavement and flouts the spirit of the no alcohol zone.

This area is very close to the Union Tavern where customers stand outside ( new hours allow until 1am also) smoking and disturbances and loud interactions between the two groups of customers can be predicted as the drinking progresses through the evening.

We are familiar with the disruption associated with the passing cars ' showing off' to the customers outside the bar. This involves loud voices , horns sounding, doors banging and revving exhausts , the potential for more of the same just across the road is daunting.

The potential for pub goers to buy take away pizzas etc from across the road gives worry about eating in the street especially late into the evening and when waiting at the bus stop opposite. There are no public bins and the potential for food litter and therefore vermin ,is very high.

Similarly in the summer , pizzas will be consumed in the cathedral green/square area ,again there is no litter collection bins here.

The opportunistic seagulls will add to the litter mess.

The high street is predominantly a village residential street - noisy activity late into the night / early hours of the morning every day is not acceptable . The health and well being of the residents should be considered . Sleep disturbance is reasonable to predict.

This from general noise from the outside areas in particular but not exclusively.The provision of music in such a small establishment and so close to residential houses must impacting the neighbours.Cars stopping or idling with music playing outside the take away and The opening and closing of car doors and perhaps a takeaway delivery service up til closing 1 am ?

The situation of the premises is on the road leading to Fortrose academy. It is at a very dangerous junction with poor visibility along the High Street. children regularly negotiate this area to and from school, further reduction of visibility at this junction and the severe reduction in the pavement width puts the school children at risk and also increases the risk of the accidents in general at this junction .

There is very little parking available in the High street and the academy street is too narrow to safely park.

### 4. Activities / condition .....

I consider the situation and the plot size of the premises will be overdeveloped on a very unsuitable corner allowing for patrons to spill onto the road where there is already poor visibility in all directions. Add alcohol to the mix and the potential for accidents is high.

Fortrose Still retains its village character and this would be compromised by the proposed business which would be better suited to a town / city centre location .it would occupy a prominent position in the street.

### 5. over provision

The union Tavern is very close to the Eilean Dubh and the Anderson Public House is also within a short distance . Therefore the provision of another bar is excessive.

### Representation

I do not think the position or premises are suitable for the activities applied for.

However if the licence is to be granted I would seek the following.

1. 11 pm closing

2. Music not to be amplified and Windows to be kept closed when music is played / performed ( similarly big screen TV) music not be played outside.

3. Take away pizza and other takeaway food is not permitted 4. Alcohol is only served with a meal 5. The outside area at the front of the premises is not used for seating or eating to discourage people accumulating here ( reducing visibility , hindering pedestrian traffic and in the evenings encouraging rowdy engagement with the Tavern customers opposite)

RECEIVED  
10 MAR 2017

V WILSON  
6 MACDOWALL CT  
FORTROSE  
ROSS-SHIRE  
IV10 8RW

OBJECTION IN RELATION TO A  
PREMISES LICENCE.

RE :  
FORTROSE EILEAN DUBH RESTAURANT,  
VARIATION.  
EILEAN DUBH RESTAURANT  
18 HIGH STREET  
FORTROSE  
IV10 8SN

objections :

Section 2 - with late opening, noise level will be extensive and disruptive for residents, not only from clients, but from live performances and dance music.

Section 3 - There is no capacity for the extra parking that would be needed, it is already difficult to park in this area. No public transport runs at this time. The likelihood of unbranded people loitering on the main road at night is concerning.

Section 4 - As above, unbranded people, late at night, with no access to public transport.

8/3/17