

The Highland Licensing Board

Meeting – 2 August 2017

Agenda Item	10.1
Report No	HLB/091/17

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

Strontian Stores, Strontian, Acharacle, Argyll, PH36 4HZ

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by Mr Alasdair MacLean.

1.0 Description of premises

1.1 The premises is located in the village of Strontian on the Ardnamurchan peninsula. The premises currently operates as a rural grocer's shop with off-sale facilities.

2.0 Current operating hours

2.1 The premises currently enjoys the following operating hours:

Off sales:

Monday to Saturday: 1000 hours to 1800 hours
Sunday: 1000 hours to 1600 hours

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Extend footprint of premises to include Café Sunart
- (2) Provide on and off sale facilities within Café Sunart
- (3) Include additional activities within operating plan as follows:

Restaurant facilities; receptions; club or other group meetings; music, live performances, dance facilities and outdoor drinking facilities.

- (4) Revise name of premises to “Strontian Stores and Café Sunart”
- (5) Revise description of premises to reflect operation of the premises as follows:

“The premises will comprise of a local convenience store with adjoining café known as Café Sunart. The café may take occasional bookings for functions/parties if the opportunity arises. For operational purposes this will mean that the counter/servery is to be construed as such until 1800 hours and thereafter, will operate as a bar counter for the purpose of the Boards Policy.”

- (6) Revise capacity of premises to 40 persons (Café only)
- (7) Revise on and off-sale operating hours as follows:

Monday to Sunday inclusive:

Off Sales : 1000 hours to 2200 hours

On Sales : 1100 hours to 0100 hours

4.0 Background

4.1 On 20 June 2017 the Licensing Board received an application for a major variation of a premises licence from Alasdair MacLean.

4.2 The application was publicised during the period 28 June 2017 until 19 July 2017 and confirmation that the site notice was displayed has been received.

Due to a change of property name, a neighbouring property did not receive the requisite neighbour notification. This matter was subsequently resolved and the neighbour was duly notified and given a further 21 days, namely until 31 July 2017, within which to lodge an objection or representation. A verbal update will be given at the meeting as to whether any objection/representation 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.

No objections/representations have been received.

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, the following timeous notices of objection/representation/support have been received and are appended:

1. E-mail from Sunart Community Council dated 18 July 2017 indicating that the Community Council support the application;

2. Objection from Mr Eric McVicar dated 10 July 2017;
3. Letter of support from Mr James Cameron dated 10 July 2017;
4. Letter of objection/representation dated 18 July 2017 from Peter and Janice MacKinnon;
5. E-mail from residents of Strontian dated 19 July supporting the application.

4.6 The applicant and the objectors/supporters 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

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. 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.

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 Licensing history

The premises were granted a premises licence on 1st September 2009 and operate as a rural grocer's shop with off-sales hours of 1000 to 1800 hrs Monday to Saturday and 1000 to 1600 hrs on a Sunday.

6.2 The LSO has provided the following comments:-

- Following an expansion of the business and a review of trading hours the applicant has added a café with some outdoor seating to the existing shop premises. The café will trade under the name Café Sunart and it shares an access with the shop
- In addition to routine café business the premises are suitable for catering for small functions. The proposed activities and services will allow opportunities for additional business and are reasonable and appropriate for this type of operation.
- The licensed hours sought are within Board policy for on and off-sales.
- The terms of entry for children and young persons are appropriate for the operation of a café until 1800 hrs after which time the servery may operate as a bar counter.

Sales of alcohol are not restricted only to persons taking a meal on the premises. After 1800 hrs all children must be accompanied by a suitable, appropriate adult and are not permitted on the premises after 2200 hrs unless consuming a meal or attending a function.

- I attended a meeting of the local Community Council on 17 July 2017 when there was discussion on the application. I also spoke in private with some residents who raised some concerns about the potential for noise nuisance arising from music on the premises.
- I discussed the matter with the applicant who is content that the proposed special conditions are proportionate and I have also provided him with a “Noise management Checklist” for his guidance.
- I have also made contact with some individuals who had expressed some concerns and understand that they are broadly satisfied that the conditions go some way to addressing them.
- I am satisfied that the applicant has given full consideration to the licensing objectives and I have no cause to object to the grant of the premises licence.

6.3 The LSO has no objections nor wishes to make representations in respect of this application.

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

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

There are no existing local conditions but the following local conditions are now recommended:

- a. Children under the age of 16 are excluded from any room where there is a bar counter after 2200 hours except during private functions or for the purpose of viewing live entertainment or where the child is in the room for the purpose of taking a meal. This condition does not apply to any child who is in the bar solely for the purpose of passing to or from some other part of the premises being a part to or from which there is no other convenient means of access or egress.
- b. Whilst in any room with a bar counter all children must be in the company of, or supervised by an appropriate responsible adult. This condition does not apply to children of the licence holder or children who are resident on the premises.
- c. Notwithstanding conditions (a) and (b) children must not sit or remain at the bar counter at any time.
- 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 hours.

8.3 Special conditions

Given the objections/representations which have been received, the Board may wish to consider attaching the following special conditions:

1. No amplification of live music or of other live entertainment is permitted on the premises.
2. No live or recorded music shall be provided in the outdoor drinking area.

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 paras. 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/RSL/0477

Date: 21 July 2017

Author: SB/JT

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

Appendices :

1. E-mail from Sunart Community Council dated 18 July 2017 indicating that the Community Council support the application;
2. Objection from Mr Eric McVicar dated 10 July 2017;
3. Letter of support from Mr James Cameron dated 10 July 2017;
4. Letter of objection/representation dated 18 July 2017 from Peter and Janice MacKinnon;
5. E-mail from residents of Strontian dated 19 July supporting the application.

RECEIVED
19 JUL 2017
CHIEF EXECUTIVE OFFICER
1000100000

From: Sunart Community Council [<mailto:sunartcommunitycouncil@gmail.com>]
Sent: 18 July 2017 23:35
To: Julie Traynor
Cc: Denise Anderson; James Hilder; Catriona Hunter; Mary Ellen McIntyre; Tim Colwell; Tony Dobson
Subject: Licensing (Scotland) Act 2005 - Application for major variation of premises Licence Strontian Stores Strontian PH36 4JB

Julie

Re: Your Ref: HC/RSL/0477

Hello. As you will be aware a public meeting was called by the Sunart Community Council to obtain the views of members of the public in Stontian with regards to this application as number of residents had raised concerns. The meeting was called at short notice, after we had taken advice from Highland Council and after James Hilder had spoken with you. David Inglis attended and his input proved very useful, so thank you for mentioning that he was in the area. The meeting was well attended with 26 members of the public attending and the various points were discussed. I have attached a copy of the minutes of the meeting just for information.

Following the meeting the community council met to discuss the points raised and the level of support. The view of the public meeting was a general feeling and show of support. A proportion of people wanted a variation in the opening hours and those living in close proximity to the premises had concerns about the potential noise issue. As a community council the application is supported.

Many thanks for your assistance

Kind regards

John Jones

Secretary
Sunart Community Council

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Sunart Community Council Meeting held on 17th July 2017

Present: D Anderson (Chair), J Hilder (Treasurer), T Dobson, C Hunter, J Jones (Secretary), M E McIntyre, T Coldwell, and 26 members of the public. David Inglis the Highland Council Licensing Standards Officer (North).

The Chair welcomed everyone and asked the people present for the meeting to be conducted with consideration for all viewpoints. The Chair asked the community councillors to vote on whether their discussion and decision would be conducted in the public meeting or without the public present. The vote was without the public being present. The Chair explained that the meeting had been called as a number of local residents had expressed concerns about the proposed changes to the licence application for the KeyStore and Sunart Café. It was also explained that Mr Inglis was in Strontian today and had offered to attend to clarify points and answer questions with regards licensing standards. Mr Inglis clarified the difference in roles of the Licensing Board and the Highland Council Licensing Standards role; the Highland Council reports to the board and is independent. J Hilder as a community councillor declared an interest and attended as a member of the public; his wife runs the Strontian Hotel and bar.

The chair read out and explained why the meeting was called, the short notice and explained that the Community Council had sought advice from the Highland Council and the primary purpose being to carry out our duty to represent the community.

Chair read out two emails one in full support and one in support although questioning the 11am – 1pm hours, suggesting that perhaps 10pm Sunday to Thursday 11pm on Thursday, Friday and Saturday. Also the question of food and would meals be available until 10pm, 7 days a weeks or just March to October. A member of the public asked if questions were being taken as the emails were read out or later. A discussion ensued with points being made that 11am – 1am are the standard hours for licencing applications throughout Scotland and that the licensee can then decide that actual hours given supply and demand. Also that there is need for additional premises of this nature; and this was supported by other businesses in the area. The question of noise and disturbance was raised both in three emails received, which the secretary read out, and by members of the public attending. The question was asked if anyone ever complained to the licensing board, or about the level of noise given that there were functions and music held in the village hall. Initially it appeared no one had, however, one member of the public stated they had lodged a complaint. The point was made that the premises included the outdoor seating area, which might give rise to noise. Mr Inglis clarified that in certain circumstance the board might stipulate a variation to the licence, for example, that music could not be played on outdoor speakers. There were of strong messages of support from members of the public, and a number clarified that they were not objecting to the application and just asking for the late opening 7 days a week be reduced. A direct question was asked as to whether shorter hours for Sunday – Thursday might be considered. The licence request for standard hours would be kept. The point was made that this is about change, there is a need for more options and facilities for tourists and visitors and perhaps things will change gradually; and a few people used the term “baby steps”. The point was clarified that objections must be based on evidence against the criteria set out for objection. It was pointed out that to obtain evidence meant that the application be in place and in operation, as one cannot provide evidence beforehand.

The suggestion was made for a show of hands in favour of the application, and there was a large majority. Followed by a show of hands for a variation in the opening hours, which was just over 20%. And some suggested a show of hands against the application: four. It was clarified that a request for variation in hours is not categorised as an objection.

DRAFT

The Chair thanked Mr Inglis for attending and answering questions and the group gave a round of applause. It was also stressed that all members of the public are welcome to express an opinion to the Licencing Board before 5pm Wednesday 19th July, whether to express support, object or to make representation for amended hours.

The Chair thanked people for attending and closed the meeting.

The Community Council members discussed the meeting and the points raised. Each councillor's views of was sought and discussed. The view of the public meeting was a general feeling and show of support. A proportion of people wanted a variation in the opening hours and those living in close proximity to the premises had concerns about the potential noise issue. As a community council the application is supported.



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11 JUL 2017

CHIEF EXECUTIVE'S SERVICE
LOCHABER

**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. 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:

Eric McVicar, [REDACTED]	
Telephone Number:	
Email Address:	

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

Strontian Stores, Strontian PH36 4HZ

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	3. Licensing Objectives 4. Activities/Premises/Customers (see details on separate sheet)
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: Eric McVicar.....

Date: 10 July 2017.....

Julie Traynor

From: Eric McVicar
Sent: 10 July 2017 17:32
To: Julie Traynor
Subject: Fwd: Objection to Licensing application, Strontian Stores and Cafe Sunart
Attachments: How_to_make_an_objection__3_March_2016__sb.pdf

----- Forwarded Message -----

Subject: Objection to Licensing application, Strontian Stores and Cafe Sunart
Date: Mon, 10 Jul 2017 17:28:28 +0100
From:
Reply-To:
To:

3. Licensing Objectives

Preventing Crime & Disorder

It should be noted that the toilets are said to be open 24 hours. This means that there would only be a door between the alcohol and public after closing.

Securing public safety. The car park for these premises is already busy and frequently chaotic. It has no pavement and therefore people are walking amidst moving vehicles in order to access Strontian Stores and Cafe Sunart.

Children frequently play on their bicycles around the outside of Cafe Sunart and also cycle through the car park. This is part the public's access to the main road because there is no pavement on Dal Nan Each nor Burnside. This includes access to village housing, the primary school, Dail Mhor Care Home, GP surgery and village hall.

Preventing public nuisance. The area is very quiet during late evening and overnight. Because of this, any noise like car engines and doors, people talking or music will wake residents. While I appreciate that some noise is unavoidable- the emergency services, road gritters in winter and an occasional event like the Sunart and District Agricultural Society Annual Show; regular noise from a licensed premises would be unacceptable.

Lights from vehicles entering the car park at Strontian Stores and Cafe Sunart shine straight into the windows of our house (despite blackout curtains on bedroom window).

A path from Strontian Stores and Cafe Sunart leads along the front of our house, only 20 feet from our front door and windows.
Protecting children from harm. I refer back to my earlier statements regarding the car park.

Cafe Sunart is a regular haunt for the students from Ardnamurchan High School at lunch time and after school. It is also popular with families with young children during the day, both locals and visitors. At weekends and during school holidays, it is not uncommon to see teenagers in Cafe Sunart, a place for them to meet and chat over a hot or soft drink and food.

4. Activities/Premises/Customers

I cannot see how the cafe capacity can be increased to 40 persons. It is already crowded if all tables are occupied. Take into account people queuing at the main door waiting for take-away orders or waiting on a table, the area becomes dangerously overcrowded. I have witnessed the staff struggling to walk between the kitchen and tables carrying hot food because of the people who are standing at the counter and door. I have also had to leave the cafe through the toilets because I was unable to reach the main door because of people standing around the counter and door.

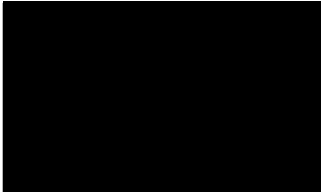
Adding even more people who are buying alcohol off-licence would most likely contribute to even worse crowding within an increased capacity Cafe Sunart.

The Land Registry Title states
"are to be used as a dwellinghouse, store, shop and tearoom and for no other purpose without my consent"

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14 JUL 2017

CHIEF EXECUTIVE'S SERVICE
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10.7.17.

REFERENCE: CAFE SUNART - STRONTIAN.

TO WHOM IT MAY CONCERN

As a holiday cottage owner in the local area, I am in full support of the proposal to open the Cafe Sunart in the evenings as a licenced eating establishment. I feel there is a lack of said facilities in the area, and this is based on feedback I have received from my guests whilst here on holiday.

Yours sincerely

Mr James Cameron



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19 JUL 2017

CHIEF EXECUTIVE'S SERVICE
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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:

PETER + JANICE MACKINNON	
[REDACTED ADDRESS]	
Telephone Number:	
Email Address:	

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

STRONTIAN STORES STRONTIAN, ACHARACIE, ARGYLL, PH36 4HZ
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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	PLEASE SEE ATTACHED LETTER FOR FULL 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)

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	PLEASE SEE ATTACHED LETTER FOR FULL DETAILS. THANK YOU.
2. seeking an amendment to the operating plan, or	
3. seeking to add additional conditions to the licence	

Signature:

..... Date 18/7/17

18.7.17

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19 JUL 2017

CHIEF EXECUTIVE'S SERVICE
LOCHABER



18th July 2017

Clerk to the Licensing Board
Highland Council
Council Offices
Lochaber House
High Street
Fort William
PH33 6EL

Dear Sir/Madam,

**Ref: HC/RSL/0477 – Liquor Licence applications:
Major Variation – Strontian Stores, Strontian, PH36 4JB**

With reference to the above application, we would be grateful if the Licensing Board would consider the following matters which are of great concern to us as near neighbours of Strontian Stores. The plans - as currently submitted by Mr Alasdair MacLean - represent a major change for those of us living in the centre of the village and we are keen to see some modifications / conditions attached to the proposed opening hours, which we regard as excessive.

Our home (for the past 17 years) is situated directly opposite the terraced area which makes up part of the current Café Sunart space and, as such, will bear the brunt of any noise pollution created as a result of this proposed major licence variation. Most of the bedrooms in the house face in that direction (including that of our young son, aged 11) so any noise generated by late night outdoors drinking and / or music at the above premises will have a serious impact on anyone attempting to sleep through it.

Given that Mr MacLean has indicated on his application form that he wishes to be licensed for on-sales until 1am **seven days a week** and that he has noted on page 11 of said application that “Outdoor Drinking Facilities” are to be provided during core licensed hours and “where activities are also to be provided outwith core licensed hours”, we would like to object to the application on the grounds that to grant the application as it stands would be “inconsistent with preventing public nuisance” (*How to Object or Make Representations in Relation to a Premises Licence Application Under the Licensing, Scotland, Act 2005, Option 3: Inconsistent with Licensing Objectives*).

We would also object to late night drinking / music within the outdoor area at the venue on the grounds of the unsuitability of the “location, character and condition” of the premises – particularly the **location**, which is in the centre of this small Saltire-award winning village and was never intended as a late-night drinking facility - and request that the application, as

currently presented, should be refused. (*Option 4: Activities / Condition of Premises / Customers*”).

If, despite these objections, the Board is still minded to grant consent to this application, we would wish to make the following representations, seeking modifications to the existing application / operating plan, with a view to reaching a compromise which will better suit all parties.

We have no objection to Mr MacLean’s proposals to provide evening meals seven days of the week, with a table licence, **until 10pm**, in line with the off-sales amendment applied for. We would also remove our objection to the proposed late night opening hours (to 1am) **on Friday and Saturday nights**, but would continue to object to 1am opening, seven days a week. We would, therefore, seek a modification to the existing application / operating plan along those lines.

We also believe that it would be fairer to local residents if a condition can be attached to any licence granted, stating that drinking / music etc. must be kept indoors / will not be permissible in the outdoor “terraced” area after 10pm ANY NIGHT, in a bid to reduce noise nuisance for neighbours. We would, therefore, seek a modification to the existing application / operating plan along those lines.

Having attended an emergency meeting called by Strontian Community Council to discuss this issue - attended by Mr David Inglis, Licensing Standards Officer (North), who clarified various points for those in attendance – we hope that we have presented our concerns and objections in an appropriate manner for consideration by the Board and that some steps can be taken to mitigate our concerns over this major licence variation.

We have never before objected to a planning/licensing application so I hope you are also able to give due weight to that fact.

Thank you very much for your kind attention to this matter.

Yours sincerely,

Peter MacKinnon

Janice MacKinnon

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19 JUL 2017

CHIEF EXECUTIVE'S SERVICE
LOCHABER

From: Alan Thomson
Sent: 19 July 2017 10:07
To: Licensing
Subject: License Application: Mr. A.W.MacLean, Strontian Stores & Cafe Sunart, Strontian

Dear Sirs

With reference to the above application, we as residents of Strontian would be grateful if you would give consideration to our views in support of this application.

The village of Strontian has been desperately under-served with licensed establishments for the benefit of both tourists and local residents over the past few years.

This has been due to many factors, some of which are listed below:-

1. The Sunart Hotel was burned down at the turn of the millenium, and never replaced.
2. The Benview Hotel has been operated only spasmodically for the past three years and is now more closed than open.
3. The Strontian Hotel has, for the past few years, been operated on very restricted days and hours of opening.

The effect of the above has been that there are inadequate facilities to meet tourist demand, with the result that the other businesses in the village lose out on potential turnover, as visitors restrict the length of their stay and are less likely to return.

The social life for residents has also been impacted negatively as a result of the inadequate provision of facilities and a well run business such as Mr. Maclean intends to provide would be welcomed by the vast majority of local residents.

We would ask that you give all favourable consideration to this most needed application.