

The Highland Licensing Committee

Meeting – 14 June 2016

Agenda Item	9.1
Report No	HLC/056/16

Licensed street trader – Kirstie Scobie ST/21/233
Licensed street trader (employee) – Fenella Macrae STE/21/234
(Ward 6 – Wester Ross, Strathpeffer and Lochalsh)

Report by the Principal Solicitor

Summary

This Report relates to the holder of a street trader licence and the holder of a street trader employee licence.

This item is subject to the formal hearings procedure

1.0 Background

- 1.1 Application was made by Ms Kirstie Scobie on 23 September 2015 for a street trader's licence to sell cooked seafood from a mobile catering trailer. The application was referred to Highland Licensing Committee on 2 February 2016, not because any objections had been received but because the six-month deadline for determination was approaching and the trailer itself was not, at that point, available for inspection by Environmental Health. The Committee confirmed that if the trailer passed inspection by Environmental Health by 22 March 2016 (the six-month deadline) the licence should be issued. If it did not pass inspection by that date, the application should be refused by the Legal Manager.
- 1.2 Environmental Health subsequently certified Ms Scobie's mobile catering trailer as fit for this use and a street trader's licence was accordingly issued to Ms Scobie on 21 March 2016. This, and the covering letter sent with it, is attached at **appendix 1**. Members will note that the licence specifically states that it does not give permission to trade from any fixed stance or location. Ms Scobie had not asked for a licence to trade from a particular stance or location. Subject to condition 8 of the licence, the licence permits Ms Scobie to trade anywhere in Highland, with the exception of the three zones in Lochaber, Inverness and Nairn which the Council treats as exclusion zones for the purposes of street trading.
- 1.3 Application was also made by Ms Fenella Macrae on 23 October 2016 for a street trader employee licence, to permit her to trade as Ms Scobie's employee. There being no objections to this application, it was issued under delegated powers at the same time as Ms Scobie's licence, once the trailer had been certified by Environmental Health. Ms Macrae's employee licence, and the covering letter sent with it, is attached at **appendix 2**. Members will note that, apart from the reference to "employee", Ms Macrae's licence is in identical terms to Ms Scobie's.

- 1.4** The covering letters of 21 March 2016 to Ms Scobie and Ms Macrae enclosing their licences specifically highlighted condition 8 of the licences, which states:

“A street trader shall not carry on business as such within 150 metres of a shop, restaurant, café or takeaway (whilst open) (the distance to be measured in a straight line from the main entrance of the shop, restaurant, café or takeaway or, where there is more than one entrance, from the customers’ entrance nearest to the street trader’s vehicle, stall or pitch, as the case may be) or within 25 metres of another street trader, where the street trader is dealing in goods or services of the same or similar class or description as the goods or services provided in the shop, restaurant, café or takeaway or by the other street trader, unless he/she has the agreement of the business operating that shop, restaurant, café or takeaway or of the other street trader.”

- 1.5** The reason this condition was specifically highlighted was that, by the date of issue of the licences, Ms Scobie, despite having previously been fully warned about the licence condition, had applied for planning permission to site her takeaway trailer in a specific location in West Argyle Street, Ullapool, close to a number of other catering businesses. Concerns about Ms Scobie and Ms Macrae’s intention to trade from this location had already been raised by one local business, Ullapool Catering Company, trading at The Gallery Café. However, until such time as Ms Scobie and Ms Macrae carried out such intention, the only action available to the Council was to ensure they were given further warning of the terms of condition 8 of their licences.

- 1.6** The letters of 21 March 2016 accordingly gave further warning in the following terms:

“Environmental Health have advised that they consider the type of food that you propose selling (namely seafood) will in fact be similar to types of food already supplied at various catering outlets in Ullapool (whether for indoor consumption or as takeaway). You will require therefore to take particular care, in selecting a location from which to trade, that you do not trade within 150 metres of any such existing outlet, unless you have the operator’s consent. You should note that if this, or any other condition of your licence, is breached at any time the matter may be reported to the Highland Licensing Committee for a hearing under paragraph 11 of Schedule 1 to the Civic Government (Scotland) Act 1982. The Committee has the power to suspend a licence if a condition of that licence has been contravened.”

- 1.7** Planning permission for the siting of the trailer at the location applied for in West Argyle Street, Ullapool was subsequently issued to Ms Scobie on 15 April 2016 for a three-year period. In granting planning permission, the Planning Service was aware of the licence condition. However, neither the licence condition, nor the possibility that it might be breached if the licensees could not obtain permission from all relevant businesses within a 150 m radius, was a material planning consideration giving grounds for refusal of the planning application. The planning permission nevertheless contained an advisory note in the following terms:

“Street Trader’s Licence

Please note that as well as adhering to the terms of your Planning Permission you must separately adhere to the terms of your Street Trader’s Licence and any landlord lease terms and conditions. Obtaining Planning Permission does not negate the need to comply with all other licences, consents and lease terms and conditions.”

1.8 There could be no question therefore that between 21 March 2016 when the licences were issued, 15 April 2016 when planning permission was issued and the date on which the licensees commenced trading, they were under any misapprehension that officers’ advice was that the consent of other restaurants, cafés and takeaways selling seafood within 150 m of the site for which Ms Scobie had obtained planning permission would be required before the licensees could trade from that site.

2.0 Complaint

2.1 It is understood that Ms Scobie and Ms Macrae commenced trading from the West Argyle Street site on or around 29 April 2016, under the name “Seafood Shack”. They did so without first obtaining the agreement of all businesses within a 150 m radius whose permission officers had warned would be required under the condition of the licences.

2.2 This was confirmed on 3 May 2016 when Mr Paul Eddington, the then tenant of The Gallery Café, which is situated next to the site for which planning permission for the trailer had been granted, contacted the Council complaining that the licensees were trading from land adjacent to The Gallery Café, in breach of their licences.

2.3 Following receipt of Mr Eddington’s complaint, the Licensing Officer passed this information to Environmental Health to investigate the alleged breach. She confirmed to Ms Munro by telephone on 3 May 2016 that she had referred the matter to Environmental Health for investigation.

2.4 On 18 May 2016, an Environmental Health Officer (the EHO) visited Ullapool and identified a number of businesses within 150 m of the Seafood Shack which, as might be expected in such a location, he found were selling seafood.

2.5 The EHO wrote to the licensees on 23 May 2016 providing them with a map on which he had identified six businesses also selling prepared, ready to eat seafood whose permission the licensees would require if they wished to continue trading from the West Argyle Street site. These were:

The Gallery Café
The Ceilidh Place
Caledonian Hotel
Seaforth Inn/Bistro/Takeaway
The Arch Inn
Delicasea/Seefresh Takeaway

The map identifying the location of these businesses is attached at **appendix 3**. A seventh business, the Jasmine Tandoori, is also identified on the map. The EHO advised the licensees, however, that they could disregard this business as the catering it provided was sufficiently different.

2.6 The licensees responded to the EHO by email of 24 May 2016 which is attached at **appendix 4** (redacted to remove personal information relating to third parties). They attached two signed permissions: one from the manager of The Ceilidh Place and the other from one of the partners in The Arch Inn.

2.7 They also advised that the managers of the Caledonian Hotel and the Seaforth Inn were supportive, but unwilling to give permission in writing. The manager of the Caledonian Hotel has subsequently confirmed by email his support for the business (although concerned at how the licensees had conducted themselves in the press and on the internet). Officers have been unable to make contact with the manager of the Seaforth Inn to confirm his/her position. With regard to The Arch Inn, the other partner in this business has advised verbally that he is not supportive of the siting of the Seafood Shack at its current location.

The licensees further set out in the email their views as to why they should not be required to obtain permission from The Gallery Café or the Delicasea/Seefresh Takeaway (fish and chip shop). They also set out the drawbacks for them of having to relocate the Seafood Shack to another site 150 m away.

2.8 Confirmation has now been received from the owner of the building in which The Gallery Café is situated that Ms Munro's tenancy of the Café has now been terminated by consent. The public backlash against Ms Munro and her staff, following Ms Munro's refusal to give consent to the siting of the Seafood Shack at this location in Ullapool, is said by Mr Eddington, Ms Munro and the owner of the building to be the principal reason for Ms Munro's terminating her tenancy of the Café. The Café is currently vacant and new tenants are being sought. However, the owner of the building has indicated that it will be very difficult for new tenants to move in, as they will be nervous about the possible public backlash should they choose not to give permission for the Seafood Shack to trade at its current location.

3.0 Hearing

3.1 In terms of Paragraph 11(2)(d) of Schedule 1 of the Civic Government (Scotland) Act 1982 a licensing authority may, whether upon a complaint made to them or not, order the suspension of a licence if, in their opinion, a condition of the licence has been contravened. In considering whether or not to suspend a licence, the authority must give the holder of the licence, any person who has made a complaint relevant to the matters to be considered at the hearing and the Chief Constable the opportunity to be heard.

In this particular case, given the lack of clarity as to whether all of the relevant businesses have in fact given permission for the Seafood Shack to trade from the West Argyle Street site, those who have not given permission, or whose permission officers are unsure of, have also been invited to attend or submit representations.

Notice has also been given to the licensees and invitees that the Committee has additional power to vary the terms of a licence under Paragraph 10 of Schedule 1 of the Act. The licence holder and the Chief Constable must again be given the opportunity to be heard before deciding whether to vary the terms of the licence.

4.0 Matters to be determined

4.1 In respect of each of the licensees, the Committee will require to determine the following issues once all parties have been heard.

- (i) Is the sale of prepared seafood dishes the sale of the same or similar goods to those sold by restaurants, cafés and takeaways which sell food which includes seafood dishes?
- (ii) If the answer to question (i) is yes, does the licensee have the permission of all current businesses also selling prepared seafood dishes within 150 m of the site on which the licensee is trading at West Argyle Street?
- (iii) If the answer to question (ii) is no, the Committee must find that by trading from this site, the licensee is in breach of condition 8 of her licence and the Committee must then also decide whether or not to exercise its power to suspend the licence under Paragraph 11 of Schedule 1 of the Act.
- (iv) If the Committee considers that the licensee is in breach of condition 8 of her licence, but the Committee is not minded to exercise its power to suspend the licence under Paragraph 11 of Schedule 1, does the Committee consider that, under Paragraph 10 of Schedule 1, there is reason to vary the terms of the licence to remove or amend Condition 8 in this particular case?

In this regard, although condition 8 is a standard condition which this licensing authority applies routinely to all street trader licences, it is a matter for the authority's discretion whether to remove or vary it in any particular case.

5.0	Recommendation
5.1	In respect of each of the licensees, the Committee is invited to determine, in accordance with the Council's hearings procedure, the matters set out in paragraph 4.1 above.

	<p>In the event that the Committee decide to make an order under Paragraph 11 suspending the licence, the Committee is also invited to determine:</p>
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(a) the period of suspension, which may be the unexpired portion of the duration of the licence(s) or such shorter period as the Committee considers appropriate, and

(b) whether the circumstances of the case justify immediate suspension under Paragraph 11(10) or whether, pursuant to Paragraph 11(9), the suspension should take effect only on expiry of the appeal period or after an appeal has been abandoned or determined in favour of the suspension.

Officer Reference: Susan Blease

Date: 2 June 2016

Background Papers: Civic Government (Scotland) Act 1982

Appendices:

Appendix 1 – Street trader licence ST/21/233 – Kirstie Scobie

Appendix 2 – Street trader employee licence ST/21/234 – Fenella Macrae

Appendix 3 – Map

Appendix 4 – Licensees email of 24 May 2016 to EHO

Miss Kirsty Scobie



Chief Executive: Steve Barron
Please ask for: Angela Mair
Direct Dial: 01349 868493
Your Ref:
Our Ref: AM/EK/ST21233
Date: 21 March 2016

Dear Miss Scobie

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982
STREET TRADER LICENCE: REF. NO. ST/21/233**

I refer to your application for a street trader's licence as detailed above and can confirm that, following the issue of the Certificate of Compliance, your licence can now be issued in accordance with the Highland Licensing Committee's decision of 2 February 2016.

Your licence is enclosed together with the schedule of conditions and your identification badge which should be worn at all times when trading.

As stated on the certificate, this licence does not give you permission to trade from any fixed stance or location and I would particularly draw your attention to item 8 in the schedule of conditions:-

“A Street Trader shall not carry on business as such within 150 metres of a shop, restaurant, café or takeaway (whilst open) (the distance to be measured in a straight line from the main entrance of the shop, restaurant, café or takeaway or, where there is more than one entrance, from the customers' entrance nearest to the street trader's vehicle, stall or pitch, as the case may be) or within 25 metres of another street trader, where the street trader is dealing in goods or services of the same or of a similar class or description as the goods or services provided in the shop, restaurant, café or takeaway or by the other street trader, unless he/she has the agreement of the business operating that shop, restaurant, café or takeaway or of the other Street Trader.”

Environmental Health have advised that they consider the type of food that you propose selling (namely seafood) will in fact be similar to types of food already supplied at various catering outlets in Ullapool (whether for indoor consumption or as

takeaway). You will require therefore to take particular care, in selecting a location from which to trade, that you do not trade within 150 metres of any such existing outlet, unless you have the operator's consent. You should note that if this, or any other condition of your licence, is breached at any time the matter may be reported to the Highland Licensing Committee for a hearing under paragraph 11 of Schedule 1 to the Civic Government (Scotland) Act 1982. The Committee has the power to suspend a licence if a condition of that licence has been contravened.

I understand that you have applied for planning permission to trade from a fixed stance but wish to make it absolutely clear that, irrespective of any other permissions granted to you, the conditions attached to your licence must be adhered to.

Should you require any further information or advice please do not hesitate to contact me.

Yours sincerely



ANGELA MAIR
Licensing Officer

Encs

THE HIGHLAND COUNCIL

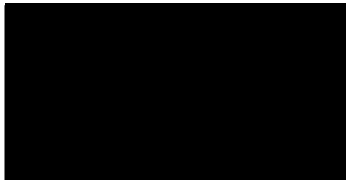
CIVIC GOVERNMENT (SCOTLAND) ACT 1982

STREET TRADER'S LICENCE

LICENCE No: ST/21/233

NAME: Kirsty Scobie

ADDRESS:



EXPIRY DATE: 20 March 2019

The above-named (hereinafter referred to as 'The Trader') residing at the above address is hereby authorised to act as a Street Trader subject to the following CONDITIONS:-

The Trader shall be permitted to sell - **Freshly cooked Seafood**

NO OTHER COMMODITIES SHALL BE OFFERED FOR SALE.

The Trader shall be permitted to trade only from the vehicle approved by the Council and described in the Schedule hereto.

This Licence is granted under the authority of the Council and is conditional on the Trader complying with the Civic Government (Scotland) Act 1982 and also with any conditions contained in said Licence and in the Schedule hereto.



.....
Licensing Officer, Corporate Development Service
21 March 2016

SCHEDULE

1 AREA OF TRADE: THE HIGHLAND COUNCIL AREA

- (a) THIS LICENCE DOES NOT GIVE PERMISSION TO TRADE FROM ANY FIXED STANCE OR LOCATION
- (b) PLEASE NOTIFY THE SCOTTISH OFFICE IF IT IS INTENDED TO TRADE IN A TRUNK ROAD LAY-BY

2 APPROVED VEHICLE: **16' X 7' Catering Trailer**

SEE ALSO STANDARD CONDITIONS ATTACHED

THE HIGHLAND COUNCIL

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

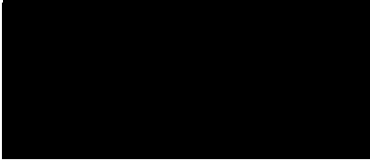
STREET TRADER'S LICENCE: SCHEDULE OF CONDITIONS

1. The trader shall be permitted to trade at the undernoted location(s) in the area of the Highland Council, but with the exception of trading in the areas defined below.
LOCATION: HIGHLAND COUNCIL AREA
EXCEPTIONS:
 - (i) **Lochaber Area:** See attached Map
 - (ii) **Inverness Area:** See attached map
 - (ii) **Nairn Area:** See attached Map
2. (a) The Street Trader shall at all times, while he is engaged in street trading, have with him the Street Trader's badge issued by the Licensing Authority and shall wear his said badge displayed conspicuously on his outer garment, with the lettered side outermost, so that the whole writing thereon shall be distinctly legible, and shall exhibit said badge on demand to any customer, constable in uniform or any other officer authorised by the Licensing Authority.

(b) In the event of the suspension by the Licensing Authority, surrender or revocation of his licence, the Street Trader shall forthwith return his badge to the Licensing Authority.
3. The Street Trader shall not lend or allow any other person to use his licence or badge.
4. The Street Trader shall not in any way alter, erase or deface his licence or badge.
5. The Street Trader, when using a vehicle, or moveable stall, shall
 - (a) ensure that at all times the said vehicle, or moveable stall can be speedily and easily removed;
 - (b) Ensure that the said vehicle, or moveable stall is in safe, serviceable and clean condition.
6. The Street Trader shall make arrangements to the satisfaction of the Licensing Authority for the removal and disposal of litter and other refuse arising from his undertaking.

7. The Street Trader shall comply with any order or instruction given by any constable for the prevention of obstruction or annoyance to the public in connection with any emergency or disturbance or on any occasion when such constable in his discretion may consider it necessary in the public interest to give such an order or instruction.
8. A Street Trader shall not carry on business as such within 150 metres of a shop, restaurant, café or takeaway (whilst open) (the distance to be measured in a straight line from the main entrance of the shop, restaurant, café or takeaway or, where there is more than one entrance, from the customers' entrance nearest to the street trader's vehicle, stall or pitch, as the case may be) or within 25 metres of another street trader, where the street trader is dealing in goods or services of the same or of a similar class or description as the goods or services provided in the shop, restaurant, café or takeaway or by the other street trader, unless he/she has the agreement of the business operating that shop, restaurant, café or takeaway or of the other Street Trader.
9. Unless authorised otherwise by the Licensing Authority and subject to any other limitations within an Order made in terms of the Shops Act, 1950, street trading shall not commence earlier than 7.00am and shall cease not later than 11.00pm.
10. The Street Trader shall not employ or appoint for the purpose of street trading within the Area any person who does not hold a Street Trader's Licence.
11. The Street Trader making use of a vehicle or stall shall, on receiving requisite notice in writing from the Licensing Authority, present his vehicle or moveable stall for inspection as to its continued suitability, at such time and place as may be reasonably required by the licensing authority, and meet the inspection fee.

Ms Fenella Macrae



Chief Executive: Steve Barron
Please ask for: Angela Mair
Direct Dial: 01349 868493
Your Ref:
Our Ref: AM/EK/STE21234
Date: 21 March 2016

Dear Ms Macrae

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982
STREET TRADER LICENCE: REF. NO. STE/21/234**

I refer to your application for a street trader employee's licence as detailed above and can confirm that, following the issue of the Certificate of Compliance, your licence can now be issued. Therefore, the hearing that was scheduled for the Highland Licensing Committee on Tuesday 29 March 2016 has now been cancelled.

Your licence is enclosed together with the schedule of conditions and your identification badge which should be worn at all times when trading.

As stated on the certificate, this licence does not give you permission to trade from any fixed stance or location and I would particularly draw your attention to item 8 in the schedule of conditions:-

“A Street Trader shall not carry on business as such within 150 metres of a shop, restaurant, café or takeaway (whilst open) (the distance to be measured in a straight line from the main entrance of the shop, restaurant, café or takeaway or, where there is more than one entrance, from the customers' entrance nearest to the street trader's vehicle, stall or pitch, as the case may be) or within 25 metres of another street trader, where the street trader is dealing in goods or services of the same or of a similar class or description as the goods or services provided in the shop, restaurant, café or takeaway or by the other street trader, unless he/she has the agreement of the business operating that shop, restaurant, café or takeaway or of the other Street Trader.”

Environmental Health have advised that they consider the type of food that you propose selling (namely seafood) will in fact be similar to types of food already supplied at various catering outlets in Ullapool (whether for indoor consumption or as

takeaway). You will require therefore to take particular care, in selecting a location from which to trade, that you do not trade within 150 metres of any such existing outlet, unless you have the operator's consent. You should note that if this, or any other condition of your licence, is breached at any time the matter may be reported to the Highland Licensing Committee for a hearing under paragraph 11 of Schedule 1 to the Civic Government (Scotland) Act 1982. The Committee has the power to suspend a licence if a condition of that licence has been contravened.

I understand that you have applied for planning permission to trade from a fixed stance but wish to make it absolutely clear that, irrespective of any other permissions granted to you, the conditions attached to your licence must be adhered to.

Should you require any further information or advice please do not hesitate to contact me.

Yours sincerely

A solid black rectangular box used to redact the signature of Angela Mair.

ANGELA MAIR
Licensing Officer

Encs


THE HIGHLAND COUNCIL

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

STREET TRADER EMPLOYEE LICENCE

LICENCE No: **STE/21/234**

NAME: **Fenella Macrae**

ADDRESS: 

EXPIRY DATE: **20 March 2019**

The above-named (hereinafter referred to as 'The Trader') residing at the above address is hereby authorised to act as a Street Trader subject to the following CONDITIONS:-

The Trader shall be permitted to sell - **Freshly cooked Seafood**

NO OTHER COMMODITIES SHALL BE OFFERED FOR SALE.

The Trader shall be permitted to trade only from the vehicle approved by the Council and described in the Schedule hereto.

This Licence is granted under the authority of the Council and is conditional on the Trader complying with the Civic Government (Scotland) Act 1982 and also with any conditions contained in said Licence and in the Schedule hereto.



.....
Licensing Officer, Corporate Development Service
21 March 2016

SCHEDULE

1 AREA OF TRADE: THE HIGHLAND COUNCIL AREA

- (a) THIS LICENCE DOES NOT GIVE PERMISSION TO TRADE FROM ANY FIXED STANCE OR LOCATION
- (b) PLEASE NOTIFY THE SCOTTISH OFFICE IF IT IS INTENDED TO TRADE IN A TRUNK ROAD LAY-BY

2 APPROVED VEHICLE: **16' X 7' Catering Trailer**

SEE ALSO STANDARD CONDITIONS ATTACHED



THE HIGHLAND COUNCIL

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

STREET TRADER'S LICENCE: SCHEDULE OF CONDITIONS

1. The trader shall be permitted to trade at the undernoted location(s) in the area of the Highland Council, but with the exception of trading in the areas defined below.

LOCATION: HIGHLAND COUNCIL AREA

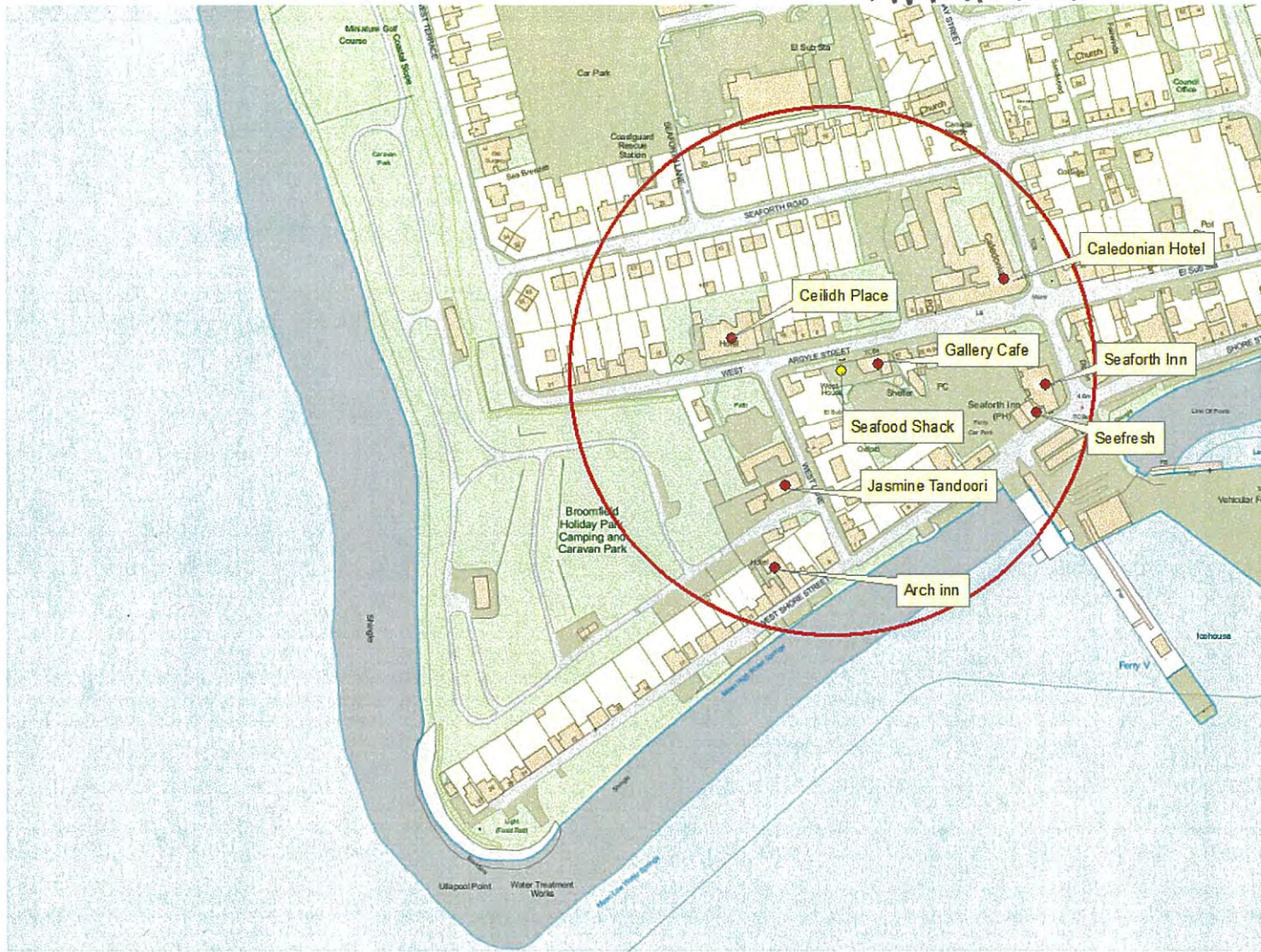
EXCEPTIONS:

- (i) **Lochaber Area:** See attached Map
 - (ii) **Inverness Area:** See attached map
 - (ii) **Nairn Area:** See attached Map
2. (a) The Street Trader shall at all times, while he is engaged in street trading, have with him the Street Trader's badge issued by the Licensing Authority and shall wear his said badge displayed conspicuously on his outer garment, with the lettered side outermost, so that the whole writing thereon shall be distinctly legible, and shall exhibit said badge on demand to any customer, constable in uniform or any other officer authorised by the Licensing Authority.

(b) In the event of the suspension by the Licensing Authority, surrender or revocation of his licence, the Street Trader shall forthwith return his badge to the Licensing Authority.
 3. The Street Trader shall not lend or allow any other person to use his licence or badge.
 4. The Street Trader shall not in any way alter, erase or deface his licence or badge.
 5. The Street Trader, when using a vehicle, or moveable stall, shall
 - (a) ensure that at all times the said vehicle, or moveable stall can be speedily and easily removed;
 - (b) Ensure that the said vehicle, or moveable stall is in safe, serviceable and clean condition.
 6. The Street Trader shall make arrangements to the satisfaction of the Licensing Authority for the removal and disposal of litter and other refuse arising from his undertaking.

7. The Street Trader shall comply with any order or instruction given by any constable for the prevention of obstruction or annoyance to the public in connection with any emergency or disturbance or on any occasion when such constable in his discretion may consider it necessary in the public interest to give such an order or instruction.
8. A Street Trader shall not carry on business as such within 150 metres of a shop, restaurant, café or takeaway (whilst open) (the distance to be measured in a straight line from the main entrance of the shop, restaurant, café or takeaway or, where there is more than one entrance, from the customers' entrance nearest to the street trader's vehicle, stall or pitch, as the case may be) or within 25 metres of another street trader, where the street trader is dealing in goods or services of the same or of a similar class or description as the goods or services provided in the shop, restaurant, café or takeaway or by the other street trader, unless he/she has the agreement of the business operating that shop, restaurant, café or takeaway or of the other Street Trader.
9. Unless authorised otherwise by the Licensing Authority and subject to any other limitations within an Order made in terms of the Shops Act, 1950, street trading shall not commence earlier than 7.00am and shall cease not later than 11.00pm.
10. The Street Trader shall not employ or appoint for the purpose of street trading within the Area any person who does not hold a Street Trader's Licence.
11. The Street Trader making use of a vehicle or stall shall, on receiving requisite notice in writing from the Licensing Authority, present his vehicle or moveable stall for inspection as to its continued suitability, at such time and place as may be reasonably required by the licensing authority, and meet the inspection fee.

APPENDIX S



To: Susan Blease
Subject: RE: Seafood Shack, Ullapool

From: Fenella Macrae [REDACTED]
Sent: 24 May 2016 08:32
To: Robin Fraser
Subject: Seafood Shack, Ullapool

Dear Robin,

I have attached copies of the signatures I have received Below. Unfortunately I couldn't get a written one from the Caledonian or the Seaforth Inn/Bistro/takeaway. [REDACTED] the manager from the Caledonian has said he doesn't feel comfortable signing something [REDACTED] but he said to call him anytime and he will give us full permission over the phone. The number to call is [REDACTED] and to ask for [REDACTED]. The Seaforth is now a Chain and the manager said he doesn't feel he can sign anything but is very enthusiastic and says they wouldn't have a problem but the number to call for the owner is [REDACTED] and to ask for [REDACTED]. Again, I hope that is OK.

We have not managed to get permission from the Gallery Cafe and Delicasea (chippy on the front).

In our street traders license we have always been aware of condition 8;

"8. A Street Trader shall not carry on business as such within 150 metres of a shop (whilst open) (the distance to be measured in a straight line from the main entrance of the shop or, where there is more than one entrance, from the customers' entrance nearest to the street trader's vehicle, stall or pitch, as the case may be) or within 25 metres of another street trader, where the street trader is dealing in goods or services of the same or of a similar class or description as the goods or services provided in the shop or by the other street trader, unless he/she has the agreement of the business operating that shop or of the other Street Trader."

We were told that the "goods or services of the same or of a similar class or description" was seafood. Also that the chippy was not a similar class.

We therefore went to all the surrounding businesses which sold the same produce as us (i.e. seafood) and received verbal permission from everyone apart from these two. The Gallery Cafe, a popular local business which is known for cakes, soups, toasties, paninis, etc. is situated close by to our site and is run by Joanne Munro. (She owns 2 other businesses in the village but they are situated more than 150 metres from our site.) Although on a personal level, our dealings with Ms Munro in the past have been cordial, we were fairly certain that she would not be supportive of The Seafood Shack and we were therefore very relieved that, given their menu, we did not have to request permission from that business.

When we were granted our licence we believed that, as we had complied with all the stipulations asked of us, we could now start trading. However, being cautious and inexperienced, we specifically asked the licensing office what would happen if The Gallery Café decided to put seafood on their menu. We were assured that, should this happen, the fact that this was an addition and not an original menu, would be taken into account. We therefore felt confident enough to begin trading, believing that our licence was secure.

As you know, over the last fortnight, seafood dishes have begun appearing on the specials Board at The Gallery Café. The same seafood dishes as were freely available on our daily menu. Of course we were concerned that this meant we were now in breach of our licence ... even though we had not changed anything about the way we operated or the dishes that we were offering. We were so concerned that we called the Environmental Health Officer who confirmed that yes, there had indeed been a complaint lodged by The Gallery Café and that an official would be coming to Ullapool to investigate both our menus. We have changed nothing from our original application; have been upfront and open about what we would sell; have complied with the licence stipulations at the time we were asked to; and yet, we are the ones at fault.

We feel also that we are so different than the chippy on the front. We have specifically not put chips, battered fish, battered sausages, scampi etc on our menu as we would never want to try and compete with Ullapools two fish and chip businesses. We genuinely feel The Seafood Shack is something completely different that adds a healthy, fresh food option to Ullapool.

We know that we have the option to move 150m away but we do feel this is so hard in a place like Ullapool, there are not many sites and we would then have to move every 28days.

In addition, there are other serious drawbacks for us :

- * We have paid for planning permission for 3 years at our current site and it is unlikely that this would be refunded.
- * We would need to invest in a silent generator, another expense which we can ill afford. We are currently on mains electricity on our current site
- * One of us would need to obtain a trailer license so we could transport our trailer from site to site
- * The current site is in an excellent location, easily accessible to both tourists and local residents.
- * We have put all our money, time and effort into our new business and just want to carry on.
- * As stated above, we feel it is unjust that we are being forced to move, incur more expense and made to feel as if we have done something criminal when, in fact, we are two young girls who have only done our best to bring new life to our home village.

We believe that there is genuine gap in the takeaway market for such a business. In addition, through family connections, we are both knowledgeable and passionate about sustainable fishing and we wanted to do what we could to make Ullapool's fish and shellfish available here in the village where they were have been caught and landed. As two local girls who want to work and live here, we truly feel that we are adding something different to the takeaway options in our local village; something that is much requested by tourists and residents alike and which can only positively add to Ullapool's growing profile. Judging by our success in these first 2 weeks of trading, we have certainly filled a gap and, in order to cope with the demand, have already hired extra staff with an imminent start date – namely one local girl, recently returned from university and looking to stay in the village and another school leaver who is raising money before going travelling.

We have also been overwhelmed by the support of not only locals but visitors too, we have started a petition which over 4000 people have signed.

Thank you so much for taking the time to read this and Please let me know what the next step is,

Kind Regards,

Kirsty Scobie and Fenella MacRae.