

The Highland Licensing Board

Meeting – 26 October 2021

Agenda Item	9.6
Report No	HLB/091/21

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

Cawdor House, 7 Cawdor Street, Nairn, IV12 4QD

Report by the Clerk to the Licensing Board

Summary

This report relates to an application for a major variation of premises licence by the Partnership of Anika and Andreas Schulz, Cawdor House, 7 Cawdor Street, Nairn, IV12 4QD.

1.0 Description of premises

1.1 Cawdor House is situated a short distance from Nairn Town Centre and consists of six letting rooms, breakfast room, lounge and private garden.

2.0 Current Operating hours

2.1 The premises currently enjoys the following operating hours:

On sales:

Monday to Sunday: 1600 hours to 2200 hours

3.0 Summary of variation application

3.1 Variation sought

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

- (1) Increase core on-sale opening hours, Monday to Sunday, to commence from 1100 hours (previously 1600 hrs). Existing terminal hour of 2200 hours will remain unchanged.
- (2) Operating Plan – add additional activity:- Restaurant facilities to be provided during core licensed hours.
- (3) At 5(f) of Operating Plan, add the following additional activity: Café Lavender will operate within the dining room, lounge and garden area of the premises and will be open to non-residents during the period 1100 hours to 1800 hours after which, alcohol will solely be served to residential guests only.

- (4) Increase capacity by 30 persons to reflect covers in the cafe.
- (5) Update description of premises to reflect a 30 cover café (t/a Café Lavender) which is open to both residents and non-residents.

4.0 Background

- 4.1 On 24 August 2021 the Licensing Board received an application for a major variation of a premises licence from the Partnership of Anika and Andreas Schulz.
- 4.2 The application was publicised during the period 21 September 2021 until 12 October 2021 and confirmation that the site notice was displayed has been received.
- 4.3 In accordance with standard procedure, Police Scotland, the Scottish Fire & Rescue Service and the Council's Community Services (Environmental Health) and Planning and Building Standards were consulted on the application.
- 4.4 Notification of the application was also sent to NHS Highland and the local Community Council.
- 4.5 Further to this publication and consultation process, the following timeous notice(s) of support/objection/representation have been received and are appended:

4.6 Objections received:

1. Email objection dated 5 October 2021 received from Royal British Legion Scotland - Nairn Legion Club, 3 Cawdor Street, Nairn, IV12 4QD
2. Letter of objection dated 8 October 2021 received from South Forrest Solicitors on behalf of their client, Jocelyn Ward.
3. Letter of objection dated 9 October 2021 from Mr & Mrs Sinclair, [REDACTED]
4. Letter of objection dated 10 October 2021 from Richard and Fiona Paxton, [REDACTED]
5. Letter of objection dated 11 October 2021 from Mr & Mrs A D Cameron, [REDACTED]
6. Letter of objection dated 11 October 2021 from Sheila & Edmond Maher, [REDACTED]
7. Letter of objection received on 12 October 2021 from Darren and Margaret Smith, [REDACTED]

4.7 Email correspondence received supporting application:

1. Email of support dated 24 September 2021 received from Mrs Norma McIntyre, [REDACTED]
2. Email of support dated 24 September 2021 received from Vicky and Peter Walker, [REDACTED]
3. Email of support dated 9 October 2021 received from Astrid Blank (no address supplied).

4.8 As a hearing cannot be held in person due to coronavirus, the Licensing Board, before reaching a decision, must give any person who would have been given the opportunity to be heard at the hearing the opportunity to be heard instead by alternative methods. Consequently, both the applicant and the objectors/supporters have been invited to submit a written representation to state their case.

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 For the purposes of the Act, the licensing objectives are-

- (a) preventing crime and disorder,
- (b) securing public safety,
- (c) preventing public nuisance,
- (d) protecting and improving public health, and
- (e) protecting children and young persons from harm.

5.3 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.

5.4 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:-

- Cawdor House, Nairn is a Victorian Villa, situated mid terrace in a residential area of Nairn, on the outskirts of the commercial district of the centre of the township of Nairn; primarily the area is a residential one.
- The applicants run the property as a Bed and Breakfast business, and also the lower storey of the premises operates as a café/restaurant, between 1100 hrs and 1800 hrs, where access is granted to members of the public.
- The premises has held an alcohol premises licence since July, 2019. The Licence held is a category 1 licence solely permitting alcohol to be sold to persons who have secured accommodation on the premises between the hours of 1600hrs and 2200hrs, no sales are permitted to “off street” customers at the present time.
- The premises are surrounded by residential properties. It is fair to say that that its operation as a licensed premises and food venue has not been a popular one amongst the occupants of neighbouring properties who have objected through the planning process and also the original application for an alcohol licence in 2019. In response to this application there have been a total of 7 letters of objection and 3 representations of support.
- The current application seeks to ask the Board to grant a Major Variation to the Premises Licence. In essence this is to allow patrons of the Café area to have the facility to purchase alcohol on the premises between 1100 hrs and 1800 hrs during the hours that the Café is open, after 1800 hrs the Café is closed and alcohol provision will solely thereafter be for residential guests. In addition “Restaurant facilities” is asked to be included within the Operating Plan at Section 5 to reflect the food service offered by the Café; this is very much a generic term and reflects the ability to provide food to customers, it does not necessarily have to be main three course meals or the like.
- The description of the premises has been amended to reflect the portfolio of customer services offered by Cawdor House; the overall capacity of the Café has been uplifted to reflect the potential customer numbers which can be accommodated within the Café, previously the capacity solely reflected residential guests.
- The outside garden is currently included in the licensed footprint and is conditioned in terms of usage until 2100hrs. There are no plans to increase this facility.

- The operating history of the premises has been extremely satisfactory and the operators are very diligent in terms of the conditions and requirements of their licence, being particularly aware that they are subject of constant scrutiny by persons unhappy with their businesses presence. The LSO has visited on 4 occasions and the premises were being well run and totally compliant with the Licensing Objectives. Police Scotland have no adverse comment to make in respect of the premises.
- It is the view of the LSO that this current application will not threaten the Licensing Objectives.
- When taken in context this application is not making these Premises any busier than they already are it is solely offering Café customers the option of purchasing an alcoholic drink between the hours of 11.00 and 18.00hrs, volume of sales is likely to be small and will feature premium brand spirits and ales.
- The LSO has reviewed the objections and they contain many aspects which cannot be considered in terms of the Licensing Objectives, such as parking and obstruction of the pavement by parked prams and buggies. Other issues such as “public nuisance” are forecast by objectors as to what may happen rather than providing evidence of any current noise or disturbance issues. In many respects the premises have given demonstrable proof of their ability to operate successfully within the 5 Objectives by way of 2 years issue free trading.

7.0 HLB local policies

7.1 The following policies are relevant to the application:-

- (1) Highland Licensing Board Policy Statement 2018-23
- (2) Highland Licensing Board Equality Strategy

8.0 Conditions

8.1 Mandatory conditions

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

8.2 Local conditions

Existing local conditions will continue to apply and no additional local conditions are considered necessary.

8.3 Specific condition(s)

It is recommended that the current specific Licensing Condition should be amended and replaced with the following;

- Between 1100 hrs and 1800 hrs alcohol maybe sold to the general public on the premises.
- After 1800 hrs alcohol may only be sold to persons who are residents on the Premises”

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed specific condition(s) detailed at para(s).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/INBS/645

Date: 13 October 2021

Author: Ian Cox/Julie Traynor

Appendices x 11

Objectors:

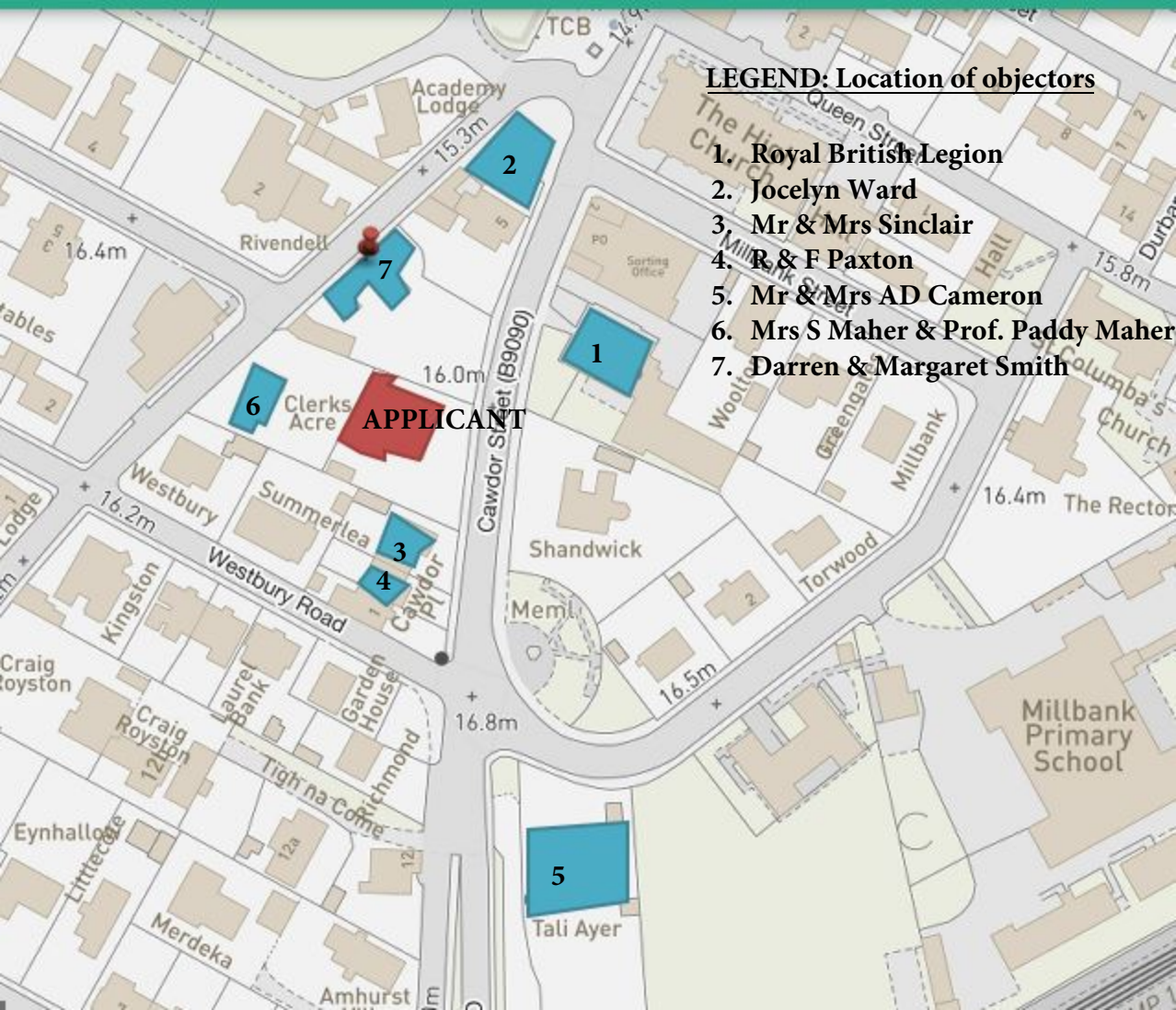
1. Email objection dated 5 October 2021 received from Royal British Legion Scotland - Nairn Legion Club
2. Letter of objection dated 8 October 2021 received from South Forrest Solicitors on behalf of their client, Jocelyn Ward
3. Letter of objection dated 9 October 2021 from Mr & Mrs Sinclair, [REDACTED]
4. Letter of objection dated 10 October 2021 from Richard and Fiona Paxton, [REDACTED]
5. Letter of objection dated 11 October 2021 from Mr & Mrs A D Cameron, [REDACTED]
6. Letter of objection dated 11 October 2021 from Sheila & Edmond Maher, [REDACTED]
7. Letter of objection received on 12 October 2021 from Darren and Margaret Smith, [REDACTED]

Support:

1. Email of support dated 24 September 2021 received from Mrs Norma McIntyre, [REDACTED]
2. Email of support dated 24 September 2021 received from Vicky and Peter Walker, [REDACTED]
3. Email of support dated 9 October 2021 received from Astrid Blank (no address provided)

LEGEND: Location of objectors

1. Royal British Legion
2. Jocelyn Ward
3. Mr & Mrs Sinclair
4. R & F Paxton
5. Mr & Mrs AD Cameron
6. Mrs S Maher & Prof. Paddy Maher
7. Darren & Margaret Smith



APPLICANT

To: Licensing <licensing@highland.gov.uk>

05.10.21

Subject: HC/INBS/645:IM/JT

CAUTION: This email was sent from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

We would like to lodge an objection for the premises licence at 7 Cawdor Street Nairn due the area being more residential and the parking is already a problem and also if affects the neighbours who reside beside this property which is grossly unfair to them

Regards
Committee
Royal British Legion Scotland

--

The Clerk of Highland Licensing Board
Charles Kennedy Building
Achintore Road
Fort William
PH33 6RQ

Your Ref:

Our Ref: MAS/AMR

Please ask for: Mr Smith
martin@southforrest.co.uk

8th October 2021

e-mail: licensing@highland.gov.uk

Dear Sirs,

**JOCELYN WARD
OBJECTION TO APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE,
CAWDOR HOUSE, 7 CAWDOR STREET, NAIRN, IV12 4QD**

We act for Jocelyn Ward who resides at the undernoted address and neighbours the premises at Cawdor House, 7 Cawdor Street, Nairn, IV12 4QD which are subject to an application for major variation of premises licence.

Our client wishes to object to the proposed major variation and would be grateful if this letter could be taken as intimation of our client's objections.

Our client's objections are on the following grounds:-

- (1) Inconsistent with one or more other licensing objectives (Preventing Public Nuisance)
- (2) Location/character of premises
- (3) Over Provision

The grounds for these objections are as follows:-

- (1) Preventing Public Nuisance

Reference is made to Section 30 which so far as relevant provides:-

"30 (1) A premises licence variation application is to be dealt with in accordance with this section...

(4) Where a hearing is held... the Board must consider whether any of the grounds of refusal applies and-

...(b) if any of them applies the Board must refuse the application.

(5) *The grounds for refusal are –*

...(b) that the Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives.”

Reference to Section 4 of the Act is also made:

“4(1) For the purposes of this Act, the licensing objectives are-

...(c) preventing public nuisance”

Our client's position is that the proposed variation would lead to public nuisance and ought to be refused in accordance with these sections. The properties surrounding the premises, including that of our client, are residential. The anticipated nuisance is primarily as regards the sale of alcohol throughout the day in the outdoor area.

Currently the premises has an on-sale licence for 1600-2200 hours granted on 1st October 2019. The licence includes the sale of alcohol inside the premises and in the front and side garden of the premises. Importantly the current licence is restricted to the sale of alcohol to persons who have booked accommodation at the premises (“residents.”)

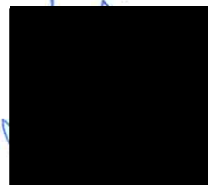
The consumption of alcohol or non-alcoholic drinks in the outdoor area is not allowed after 2100 hours.

Since the current premises licence was granted, the applicants have opened a café at the premises (in July 2020.) The café originally operated in contravention of the planning conditions at the premises, but retrospective change of use to allow part of the premises to operate as a café was granted on the 27th of April 2021. Per the planning granted, café customers are allowed on the premises between 1100 and 1800.

There has already been something of a development in the operations of the premises over the last couple of years therefore – from a bed and breakfast to a B&B with limited alcohol licensing in 2019, and then to the same premises but with an additional café area in 2020, and now the proposed further change to a café with alcohol licensing during the day in 2021.

The premises has 6 rooms for residents, and so currently the number of persons to whom alcohol may be sold is approximately 12-15. The increase in capacity proposed by variation is ambiguous. At one point the Application includes a request to increase the capacity by 30 persons (see final bullet point of section 3b) of the Application for Variation), which might allow the sale of alcohol to around 45 patrons concurrently at the premises. This appears inconsistent with the answer to Question 7 of the Application for Variation, which appears to suggest an increase in capacity to 30.

As above, currently the premises licence allows for on-sale between 1600-2200. The proposed variation would allow on-sale between 1100 and 2200 (albeit that would be restricted to residents only from 1800-2200. It is assumed that the restriction on consumption in outside areas after 2100 would remain in place.



Our client would suggest this results in a very substantial increase in both the hours of sale and the number of patrons to whom a sale may be made.

Currently there can be no sale of alcohol at all prior to 1600 hrs, but the proposed variation would allow the sale of alcohol to both residents and other patrons from 1100. Due to the change in capacity, this means that potentially up to around 45 people may be consuming alcohol at the premises during the day. That consumption may take place in the garden area of the premises. Further, it is noteworthy that in response to question 5(b) in the Application for Variation it is confirmed that the intention is to provide for wedding, birthday and retirement receptions/parties at the premises.

This raises issues of concern to our client from the point of view of public nuisance.

There is an obvious concern about the disturbance and noise which the proposed change may cause. Currently, although there may be patrons of the café indoor or outdoors, no alcohol may be served or consumed outside during the day. The proposed variation would allow alcohol to be served throughout the day up to approximately 45 people. It is not unreasonable to expect that patrons and residents consuming alcohol during the day might tend to be noisier than patrons attending a café where no alcohol is sold. It is also not unreasonable to expect that patrons may stay at the premises longer where alcohol is being sold. There is no restriction as to how many of those patrons may be consume the alcohol outside.

It may be thought that little disturbance might be caused during the working day where neighbours such as our client may not be at home. There is certainly the risk of such disturbance over the weekend however. Moreover, with the current pandemic in mind many of the neighbours – including our client – are working from home during the week.

(2) Location/Character

Further reference is made to section 30(5) of the Act, which provides that another ground under which a variation must be refused is:-

“30(5)(c) having regard to –

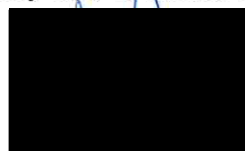
(ii) the location, character and condition of the premises...

The board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation.”

The concern here is the effect the proposed variation would likely have as regards parking. There is no onsite parking available at the premises.

Patrons driving to the premises must park on the public road. The existing parking is already inadequate for the residents and the café patrons. Our client fears that the situation will be exacerbated should the proposed variation be granted.

If patrons are attending the premises and drinking alcohol there is a risk that their vehicles will have to be parked on Cawdor Road which is already busy and stretched for parking. There is



potential that cars may be left overnight. There are already issues with driveways on Cawdor Road being regularly blocked.

(3) Over Provision

Reference is made again to section 30 of the Act, which provides another ground under which an application must be refused under section 30(4)(b) as being:-

“30(5)(d) that, having regard to the number and capacity of

(i) licensed premises, or

(ii) licensed premises of the same or similar description as the subject premises (taking into account the proposed variation)

in the locality where the subject premises are situated, the Board considers that, if the application were to be granted, there would, as a result, be over provision of licensed premises, or licensed premises of that description, in the locality”

Our clients submits that the proposed variation in this case would result in such over-provision. As noted above, currently the premises are not licensed to sell alcohol to patrons who are not residents. Further, currently alcohol cannot be served to anyone at all prior to 1600.

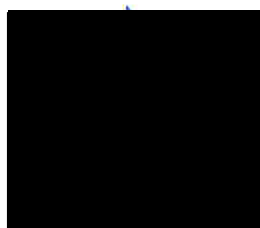
The proposed variation would result in alcohol being able to be sold throughout the day from 1100 to 1800 to both residents and other patrons.

Other than Cawdor House, there are already at least 6 licensed premises within the general area – The Classroom, The Seafield Club, One One Two, Uncle Bobs, the Waverly Hotel, and the Royal British Legion.

Whilst the limited provision available to the applicants under the existing licence would be unlikely to amount to overprovision, it is submitted that the change to the hours and capacity envisaged in the variation proposal would. It would result in another establishment in the area selling alcohol throughout the day to a reasonably substantial number of patrons. In this regard, reference is made to the attached map (provided by the Centre for Research on Environment, society and Health “CRESH” website using data from 2016), showing that the provision of on-sales alcohol in the area is already much higher than the national average.

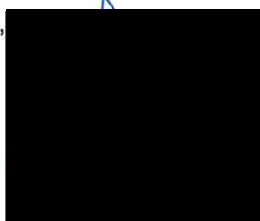
Conclusion

Taking the concerns and considerations outlined above into account, our client would contend that the application for variation should be refused.



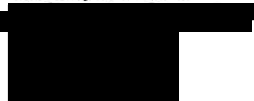
Our client would ask that her details be redacted in any copy or discussion of this letter made public.

Yours faithfully,



Undernote

Jocelyn Ward



Description

This application allows you to map the number of alcohol and tobacco outlets and related harm for small neighbourhoods across Scotland. Further information is available from the 'About' and 'How to Use' tabs on the right hand side.

Local Authorities

Highland

Enter an Area of Interest

IV12 4QE Enter

Data Type:

Alcohol On Sales

Year

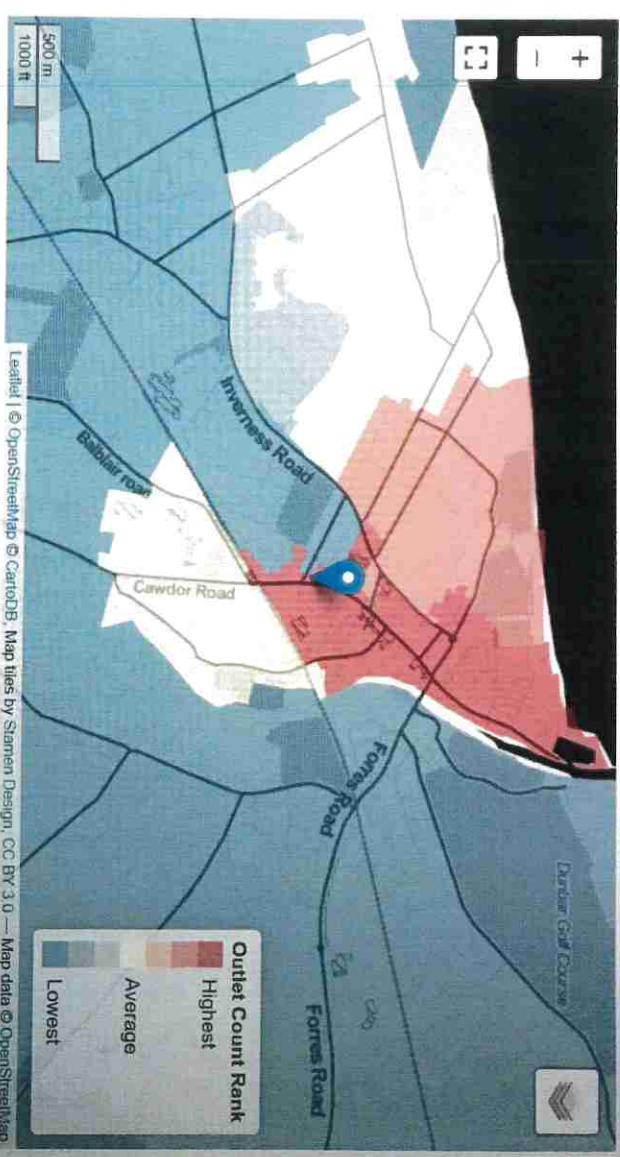
2016

Typical Distance to Outlet (metres)

400

Rank Colour Options

- Map
- About
- How to use
- Register to Download
- Download
- Acknowledgements
- Privacy Policy



Mr & Mrs Sinclair

9 October 2021

Dear Sir/Madam

**HIGHLAND LICENSING BOARD
APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE
CAWDOR HOUSE, 7 CAWDOR STREET, NAIRN, IV12 4QD**

We are writing to register our official objection in full to the application for a major variation of premises licence applied for by our direct neighbour, Cawdor House, 7 Cawdor Street, Nairn, IV12 4QD.

Background

We have lived here for 20 years [REDACTED]

[REDACTED] Within the space of a year, this property has gone from a quiet 6 bedroom B&B establishment to the opening of an unauthorised cafe seating up to 60 people within the property and the garden grounds, regularly breaching planning and building regulations. Only after numerous complaints to the council from all surrounding properties was an application submitted for a retrospective part change of use from a Class 7 business to a Class 3 business.

The first application (Retrospective Planning Application No: 20/03552/FUL) was on the verge of complete rejection and a stop notice being issued by the council prior to its withdrawal. (Please refer to your Planning Department for a list of internal emails surrounding the lead up to the proposed stop notice – I can supply copies to you if necessary). The second application in December 2020 (Retrospective Planning Application 20/04779/FUL) showed a complete u-turn by all council departments prior to the committee meeting in April, despite very little change in the application. This is currently in the process of investigation by the Ombudsman (ref 202102309).

Application

Cawdor House has now applied for a variation to increase their core licensing hours from 11am (previously 4pm) but more importantly, to increase the licensed numbers from 15 residential guests to include the 30 patrons of their new cafe, turning this new business into a licensed cafe/restaurant and outdoor drinking area.

We submitted an objection opposing the original alcohol licence which was implemented only in 2019, stating at that point we had no objection whatsoever to their 15 B&B guests purchasing and consuming alcohol within the building; however, we did have concerns that the consumption of the purchased alcohol would extend beyond the confinement of the building out into the surrounding gardens of the said property, causing us disturbance and this has in fact been the case as tables for residents have been placed just meters from our windows, causing us disturbance in the evening. The owners stated at the time of this application they did not intend on hosting functions etc, and restrictions were put in place by yourselves to protect us, allowing only B&B residents to be served alcohol between 4pm and 10pm (9pm in the garden area), however, since this cafe has been open, patrons in the café/garden have been witnessed on several occasions consuming alcohol prior to this time.

This cafe was approved by the Councils Planning Department only 5 months ago. This new licensing proposal has come just 5 months after the owners assured the planning department that they had no intention of applying for an alcohol licence for this new cafe (see evidence in the report and minutes of the planning meeting – I can supply this if necessary). The cafe application was granted with restrictions put in place in order to try and protect the surrounding neighbours somewhat from the disruption caused by the cafe and their guests (see council planning documents, again I can provide you with this if required).

Impact of Current Facilities on Surrounding Properties

The impact this cafe alone (without the inclusion of an alcohol licence) has had on myself and other residents is listed as follows and includes our grave concerns with the addition of an alcohol licence:

Loss of Privacy:

Since the opening of this café we have lost the privacy of our garden and also our bathroom and bedroom, [REDACTED]

[REDACTED]

Noise:

As well as the cafe customers inside the Guest House they also cater to a large number in the outside garden area. This creates a significant noise pollution due to the general loud crowd talking and cafeteria noises, which is clearly audible in our bedroom and bathroom and throughout our whole garden area, along with the gardens of the other neighbouring properties, disturbing everyone’s peace and quiet, two of these properties being 2&3 doors further up from Cawdor House, this shows the high level of noise being produced. We believe this to be a clear breach of the Human Rights Act in particular Protocol 1, Article 1, as we have lost the right to quiet and private enjoyment of our garden. The hours of proposed trading are 11am until 10pm. The current alcohol license with restrictions put in place just in 2019 to protect the surrounding residents was for B&B guests only from 4pm. To allow this proposed change to include cafe customers would without any doubt increase the noise level from the property that is surrounded on all sides by long established residential homes. There have been many complaints already submitted to the Environmental Health department by surrounding residents regarding the noise disturbance; this noise level and disturbance would only be intensified by the introduction of alcohol, please consult with your EH department.

Suitability/Location of property:

This is primarily a residential area as highlighted on the Highland Council Nairnshire Local Plan (as Continued in Force April 2012) Drawing Inset 1: Nairn. This plan clearly states this area is classed as Settlement S2 – Housing – which states: (The council will safeguard the function and character of established residential areas, and encourage appropriate services, amenities and environmental enhancement) To allow this major variation does not in any way support the above statement as this neither improves nor enhances the amenities for the surrounding residential properties and is in fact, extremely detrimental to all residents as we have all found out over the last year with this café, and

that is with the exclusion of alcohol. To allow alcohol to be served to the general public in an S2 residential settlement in a property surrounded on all 4 sides by family homes would make a complete mockery of the above Council statement, set out to protect residents.

Detrimental impact upon residential amenities :

This proposal is not in keeping with the surrounding residential area and demonstrably harms the amenities enjoyed by local residents, in particular the right to enjoy a quiet and safe residential environment, with safe and available on-road parking and privacy. We believe this to be a clear breach of the Town and Country Planning (Development and Management Procedure) (Scotland) Regulations 2013 No 155 Schedule 3 note 8 and also the Highland Council Nairnshire Local Plan which states 'the council will safeguard the function and character of established residential areas and encourage appropriate services, amenities and environmental enhancements'. This café neither improves nor enhances the amenities for the surrounding residential properties and in fact is detrimental to all residents and to now suggest including an alcohol licence which would impact the amenities of properties even further is outrageous. There have already been continuous complaints surrounding this cafe to the Environmental Health Department, Buildings, Planning and the Roads and Transport Department, all of which you should be able to access.

There has been mention to the fact that over 25 years ago, [REDACTED], it was in fact a licensed premises. What has failed to be mentioned is the fact that this licensed premises caused no end of problems and antisocial behaviour for the surrounding residents, a point which can be confirmed by longstanding neighbours who have lived here for many years and also I am sure by the archived police reports.

I am sure you are aware that the location of Cawdor House is directly across from the British Legion and only 3 properties away from another licensed premises (The Classroom), both of which have alcohol licenses and small outdoor seating areas, on a much smaller scale than that proposed by Cawdor House, and both of which ourselves and other neighbours have previously been disturbed by. There are also a further 2 licensed premises just 2-3 minutes walk away; Uncle Bobs and the Waverley Hotel. This equates to 4 licensed properties within a very short distance of the applicant. I believe the police have been called on a number of occasions (prior to covid lockdown restrictions) to deal with public disorder, noise and nuisance relating to alcohol consumption by patrons of these establishments and to the damage of cars in the street areas around our residence. To have a further public licensed premises in this small residential area would most definitely be classed as over provision and increase the potential for further noise, disruption and drunken behaviour in our street which will have a further negative impact on all residents living in this area.

With reference to the Building Standards Technical Handbook 2017; non-domestic buildings, due to the number of sanitary facilities and square footage of the property, the Building Standards stipulated a maximum number of 30 patrons for the cafe (the figure includes any of the 15 B&B guests who may attend the cafe). The number of patrons to this cafe has on many occasions since planning/buildings put limits in place, exceeded that number, showing the owners have little regard for adhering to any restrictions that may applied. This can be evidenced by the vast number of seats, which during the busy summer months was well in excess of the 30 permitted, which are available both inside and out and of which I can supply photographic evidence. Another point to also note is that the building warrant for this change of use has still not been approved.

Conclusion

Due to a complete lack of consideration shown by the owners to any of the surrounding neighbours at every step of this operation and with no regard to the disruption it causes to our everyday lives, it has resulted in a complete breakdown in relations between the new owners, who were openly welcomed and invited into everyone's lives and homes by all the surrounding residents. This is extremely sad as we have always had a very close and friendly neighbourhood. They have continually proved they have no intentions in adhering to any regulations set, by blatantly disregarding and pushing all boundaries and requirements stipulated by the council.

Based on all the above points, we feel our objection covers 3 out of the 5 points for Grounds for Refusal:

Point 3. Inconsistent with Licensing Objectives (preventing crime and disorder, preventing public nuisance)

Point 4. Activities / Condition of Premises / Customers (the nature of activities, the location of the premises, the persons likely to frequent the premises, the residential location of the premises)

Point 5. Over Provision

I would like to state again that I strongly object to this further proposal that will cause further noise, antisocial behaviour and disruption in what was a lovely peaceful, long established, residential neighbourhood. The restrictions that were put in place by you in 2019 should still be kept in place, as we need protecting from this property. And again I have to question if you would allow this to go ahead if this was in your next-door neighbours' property?

Yours Sincerely

Mr & Mrs Morris & Susan Sinclair

Richard & Fiona Paxton

[REDACTED]

[REDACTED]

[REDACTED]

Tel: [REDACTED]

E-Mail: [REDACTED]

10th October 2021

**TO HIGHLAND LICENSING BOARD
OBJECTION TO THE APPLICATION FOR MAJOR VARIATION OF PREMISES LICENSE
CAWDOR HOUSE, 7 CAWDOR STREET, NAIRN, IV12 4QD
YOUR REFERENCE: HC/INBS/645:IM/JT**

Dear Sir/Madam,

We are writing in relation to the above application to Highland Licensing Board for Major variation of premises license by the proprietors of Cawdor House/Café Lavender, Cawdor House, 7 Cawdor Street Nairn.

At present, these premises are licenced to serve alcohol only to Cawdor House Bed & Breakfast Guests (Maximum 15 persons), between the hours of 4pm, and 10pm, restricted to 9pm in the Guest Only outdoor seating area.

It is however our understanding from your notification that the owners, have now applied for a major variation to the current alcohol license which would allow them to provide alcohol sales on their premises not only to Bed & Breakfast Guests only, but also to an additional 30 Patrons of Café Lavender which operates from the same premises between the hours of 11am, and 10pm, 7 days per week, 365 days per year.

I am writing to inform that we object in the strongest possible terms to a variation to the existing license being granted in any shape or form.

We are of the firm belief that the application would be in breach of 3 out of your own 5 points for Grounds for Refusal;

Point 3. Inconsistent with Licensing Objectives (preventing public nuisance)

Point 4. Activities / Condition of Premises / Customers (residential location of the premises)

Point 5. Over Provision

3: Inconsistent with Licencing Objectives:

Cawdor House is in a residential areas. It is surrounded on all sides by private residences. It is within 50-100 yards of 2 primary schools, and 2 nursery schools.

The outdoor area in which it is proposed to sell alcohol during the operating hours of the café (11am – 6pm), is directly adjacent to the public pavement, and the owners have made no attempt to screen this area off. I believe the location of this outside drinking area, which the owners promote as their unique selling point is grossly unsuitable for the consumption of alcohol during daytime hours, and should be rejected on the following points under this item:

Securing Public Safety: Patrons of the café already use the public footpath as a smoking area. Bicycles, mobility scooters, baby buggies etc, are also parked on this footpath causing obstructions. This is a narrow pavement, and it is frequent that passers-by have to walk on to the road to get around these patrons parking area for. Allowing sales of alcohol in this area can only exceserbate these issues.

Preventing Public Nuisance: We and our neighbours already suffer from anti-social behaviour from patrons exiting these premises. Only 2 nights ago drinking glasses taken from a licensed premises were thrown and smashed outside our house in and around our vehicles. I have also had the misfortune on two occasions to have to interrupt patrons that have left the British Legion, whilst they were urinating on my property. One actually in my front garden, and one on my car, and in broad daylight!

Noise is also a significant factor. Residents are already subjected to unacceptable levels of noise, from late morning until early evening from the café. It is of common knowledge that the consumption of alcohol does increase noise levels. Furthermore, at present at least we get 2 days respite with the café closed 2 days per week, however their revised operating plan shows that they wish to operate 7 days per week with the additional of alcohol

This level of disturbance is then frequently prolonged by the consumption of alcohol by B&B guests from 4pm to 10pm.

This variation if passed would mean a potential of between 30 & 45 people drinking effectively in a public place for a period of 9 hours per day, 7 days per week, 365 days per year. (The owners have advertised that they intend to open on all holidays including Christmas Day, and New Year's Day.

I further note that the application states that they are again applying to host events at which alcohol would be sold, such as weddings, funerals, birthdays, retirements functions at which alcohol is to be served. This was part of the applicant's original application back in 2019. The owners of Cawdor House subsequently denied that this facility had been requested, however we note that it has again been requested.

It is our belief that the consumption of alcohol by café patrons, and or the hosting of outdoor functions at which alcohol was being sold has the potential to cause significant issues in terms of noise, potential anti-social behaviour, and would exacerbate the already significant issues of noise nuisance, unsafe and access to parking for ourselves and our neighbours. Parking by guests when the property is full already causes consternation and problems for local residents as the property does not provide any parking for guests who use the available street parking spaces. This could only be made worse if any functions were to be held at the property.

The blocking of the footpath, is a cause of public nuisance, therefore the reasons outlined against Securing Public Safety also stand for this.

We feel that this variation if granted would only exacerbate these type of issues and increase the possibilities of increased disturbance in what is a residential area. This must surely go against the prevention of public nuisance.

Point 4. Activities / Condition of Premises / Customers (residential location of the premises)

(2) The location and character of the premises;

Cawdor House is in a residential areas. It is surrounded on all sides by private residences. It is within 50-100 yards of 2 primary schools, and 2 nursery schools. We feel the site is grossly unsuitable for the outdoor consumption of alcohol, especially during school hours given the proximity of these schools and nurseries.

The owners have made no attempt to shield this area from public view or indeed to shield oversight by patrons into neighbouring properties. The outdoor café is already unsightly and completely out of keeping with the area, which can only be exacerbated by the attraction of al fresco drinking.

It must be noted that the British Legion which has an outdoor area, has set this well back from the public areas, and has erected a substantial but tasteful fence to hide this area, and to retain noise levels. Patrons may also only access and exit via the building itself.

The Classroom also has outdoor seating, however this is in an area which is not bordered by residential properties, and does not overlook any residential properties.

Point 5. Over Provision

Within an approximate 100 yard radius there are already there are already four licensed premises in the near vicinity. The Classroom Restaurant, British Legion, Waverly Hotel, and Uncle Bob's Bar. Three of these 4 provide meals, and provide function facilities. With this being a residential area, there is already over-saturation of licensed restaurant/function premises

Summary:

We wish it to be noted that in the original license application (August 2019), the owners of Cawdor House, declared that they did not wish to host functions, and that they only wished to serve alcohol to their B&B guests. It should also be noted that this was contrary to their original license application in which they requested this.

It should also be noted that the board in their recommendations for the original application, recognised the potential impact on local residents, and asked that conditions be applied. (Extract Below).

We would ask that these same factors are again considered, and the impact on residents taken extremely seriously.

7.2 Local conditions

Should the Board grant the application as applied for, the Board may wish to consider attaching the following condition(s) from the schedule of local conditions:

(m) After 2100 hours, alcohol or non-alcoholic drinks shall not be consumed in any outdoor drinking area.

n(i) No live or recorded music shall be played in any outdoor drinking area.

7.3 Special conditions

The Board may wish to consider attaching the following special condition:

Alcohol will only be sold to persons who have booked accommodation at the premises.

Recommendation

The Board is invited to determine the above application and if minded to grant the application, to agree the proposed local/special conditions detailed at paras. 7.2 and 7.3 above.

In their discussions with NRCC (Nairn River Community Council), at the time, the applicants stated they had that no desire to host events or sell alcohol to anyone other than B&B guests. Extract Below:

It was due to these assurances that our objection was to outdoor drinking facilities, and we were willing to compromise providing drinking was restricted to indoors.

Alcohol Licence - concerns that Cawdor House proposes to hold larger 'drinking' functions including weddings, birthdays etc.

Below is the document granting the alcohol licence for Cawdor House.

It clearly states the conditions and times that alcohol can be served that are permitted.

The licence is for B&B residents only and terminates at 21:00 outside and at 22:00 inside. There is no provision in the licence for table service outside. As it is a small B&B establishment there is insufficient space to host weddings and larger events. The owners assured us that they had no plans to do so as this would compromise the peace and quiet of their B and B guests.

8.3 Ref: HC/INBS/645 Applicant: Partnership of Anika Schulz and Andreas Schulz, Cawdor House, 7 Cawdor Street, Nairn, IV12 4QD Premises: Cawdor House, 7 Cawdor Street, Nairn, IV12 4QD Type: On and off sales

There had been circulated Report No HLB/082/19 by the Clerk which advised that timeous notices of objection to the application had been received from Mr and Mrs Sinclair, Richard and Fiona Paxton and Mrs Jocelyn Ward. The Board was invited to determine the application.

The Licensing Standards Officer reported that the applicant sought to sell alcohol solely to residential guests who had booked accommodation at this well run premises. This would be an ancillary service to the main business of providing accommodation and food. The applicant had traded for a number of weeks in this manner under occasional licences with no issues arising. He recommended that a condition be attached to any grant of a licence to the effect that after 2100 hours, alcohol or non-alcoholic drinks shall not be consumed in any outdoor drinking area. The applicant was content with this condition and had advised that she was on good terms with her neighbours. He was confident that if the application was granted, the premises would be operated within the licensing objectives.

Ms A Schulz, applicant, confirmed that alcohol would be sold to guests only and it was in her own interests to ensure there was no noise and disturbance arising as there were other guests staying in the premises.

I would also like to draw your attention to a statement made by the applicant during their planning application for the café a mere 5 months ago. While I appreciate that planning and licensing are totally separate, I believe this statement is relevant, in that in combination with other statements, it shows that the owners of this establishment have over the last 2 years sought to deceive both neighbours, and indeed authorities on their long term plans for this business, with no consideration or concern at all as to the impact on their neighbours of this massive expansion, and complete change in character of operations on this site.

a Building warrant for the proposal.

5.28 Concerns were raised that an alcohol license may be applied for in the future for the café. The applicant has stated that they have no plans to apply for an alcohol license, however it should be noted that any such license application would be considered

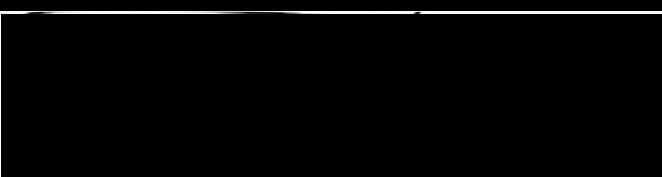
In the space of 2 years this business has expanded from a well-run, peaceful, 6 room B&B with a maximum of 15 guests, with no alcohol or food outwith B&B breakfasts, to alcohol being served outdoors within 2.3 metres of the nearest residents bedroom until 9pm every night of the week, to a full blown café seating up to 30 patrons at a time, mostly outdoors. This expansion has already led to a significant degradation of quality of life for local residents, with noise pollution, cooking smells, inconsiderate and unsafe parking by clientele, double parking, road being blocked, pedestrians forced into the road by patrons gathering, etc.

With this request for variation the applicants are looking to further expand this with potentially up to 45 guests, and customers able to consume alcohol at any one time from 11am until 10pm

It is our sincere opinion, with no malice or vexation at all towards the owners of this establishment that it is the simple fact that this site is absolutely not suitable for the scale and type of operations proposed, with alcohol licensing being at the very heart of this.

If we could therefore leave you with one final question.

Yours sincerely,



Richard Paxton

Sunday 10th October 2021

**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:

Mr & Mrs AD Cameron, [REDACTED]	
Telephone Number:	[REDACTED]
Email Address:	[REDACTED]

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

Cawdor House, 7 Cawdor St., Nairn, IV12 4QD

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>(4.0 Legislation)</p> <p>4.2 For the purpose of the Act, the licensing objectives are:</p> <ul style="list-style-type: none"> a) Preventing crime and disorder b) Securing public safety c) Preventing public safety d) Protecting children and young persons from harm
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	<i>Please see second page for detailed objection</i>
2. seeking an amendment to the operating plan, or	
3. seeking to add additional conditions to the licence	

AD Cameron

11/10/2021

Signature:..... **Date:**.....

In its application (**Liquor license applications – Nairn, Cawdor House, 7 Cawdor Street, Major Variation**) for extended operating hours with a significant increase in the terms of its existing alcohol license. There is little recognition of the terms granting approval for the original planning applications, which went through many delays, pauses and alterations. In the original planning decision, there was recognition of the impact on neighboring properties and their occupants. Specific mitigating measures were required. Noise to neighbors with bedrooms and living rooms within a few feet of applicant's garden wall would benefit from a three foot wall being built from the corner of Cawdor House and extend to Cawdor Road. The resulting space to the side of Cawdor House would be reserved for B&B residents. Non-residents using Caffe Lavenders services would be restricted to the garden at the front of Cawdor House. This situation was viewed by those objecting to the original planning application as a compromise and even if not to their satisfaction would have to be accepted.

Consequently, the application for extended operating hours with a considerable increase in the application of the alcohol license has come as a surprise. This particularly, as it appears now, that the latest application is returning to the original application with enhancements means the entire garden right up to neighboring walls will be available to non-residents and B&B guests. As well as the expected increase in noise and nuisance associated with the consumption of alcohol and this in a residential area.

Preventing Public Nuisance (4.0 Legislation)

4.2 For the purpose of the Act, the licensing objectives are:

- a) Preventing crime and disorder**
- b) Securing public safety**
- c) Preventing public safety**
- d) Protecting children and young persons from harm**

As the drinking area is intended to enlarge substantially and now include the whole garden. It appears the nuisance and noise created by drinkers will be very close to neighbors. There will no longer be mitigation measures and in fact those introduced on first application will no longer apply or will be ignored. It should be noted, that the nearby British Legion (zone 1) on opening a "beer garden" decided to set it back from the road and pavement by approx. 15 meters and build a wooden wall, which cannot be seen over from the road or pavement. This was their mitigating measure. This contrasts considerably with Cawdor House/Caffe Lavender, where they are removing the minimal mitigating measures required on being granted their original planning application. Even then, there was no approval for serving alcohol outside.

It is also unfortunate, that children/parents on returning home with their children from near-by schools will clearly see and hear the drinkers of alcohol in the garden of Cawdor House/Caffe Lavender. If their request for the license to start from 11am and not from the previous 4pm is granted.

It is difficult to believe anything other than some individuals, who have already had some alcohol in the Town Centre (Zone 1) or football match will pop in to Cawdor House/Caffe Lavender (zone2) and have a drink on their way home or to the Station. Controlling these individuals will be very difficult as they wander around the garden with drink in hand and visit the inadequate toilet facilities (still to meet such requirements from the existing planning approval) not to mention the downstairs rooms, which now have to be shared with B&B guests and their children until 11pm.

The relative peace of the weekend will now be affected by the new planning request, if approved. In addition, if the new request for limiting customers is raised by a further 30 reflecting the covers for meals is combined with the original numbers granted under the first planning approval, then we are potentially talking about a considerable number of individuals wandering around the premises and garden. The latter in full view and close proximity to Junior World and Millbank School as well as anyone passing down Cawdor Street

Clarity

In its many applications for various aspects of planning permission and its response to questions, there appears to be a degree of confusion between Cawdor House, Café Lavender and the Owners. In fact, they are all operating and live in Cawdor House and are in effect the same.

**The Highland Council
Comhairle na Gàidhealtachd**

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:

Mrs Sheila Maher and Professor Paddy Maher,
[REDACTED]

Telephone Number: [REDACTED]

Email Address: [REDACTED]

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

Cawdor House, 7 Cawdor Street, Nairn, IV12 4QD

3. Details of any OBJECTION: (complete only if you consider one of the grounds 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)

Ground 4. Activities/Premises/Customers

We have concerns about the proposed activities in relation to the nature of the premises.

[REDACTED]

After the withdrawal of a previous planning application for the formation of Café Lavender covering a larger garden area, only that part of the garden directly to the front of Cawdor House with space for some limited outdoor seating was included in the recent version of the application and for which Planning Permission was granted just over 5 months ago [Ref: 20/04779FUL, dated 27/4/2021].

That Planning Permission was for the formation of a Café. To distinguish Cafés from Restaurants during lockdown, the First Minister defined a Café as 'whose primary business is the sale of non-alcoholic drinks, snacks and light meals.' According to the associated Report [PLS-029-21, Agenda Item 6.3] to the Planning Committee, 'The applicant has stated that they have no plans to apply for an alcohol licence' [para 8.28].

Now, the proposed major variation of the licence would extend the sale of alcohol from B&B residents of Cawdor House to Café Lavender and its operation both indoors and in the 'garden area of the premises'. We understand that a Premises Licence could apply to the entire garden area of Cawdor House and potentially [REDACTED]

[REDACTED]

The planning report noted the type of food to be offered at Café Lavender 'will consist of homemade cakes, breads and pastries, with hot food limited to soup, grilled foods and a range of German produce which requires only heating'. [para 1.3] Now 5 months after receiving planning permission for such a Café, the applicant requests Restaurant facilities to be provided during 'core licencing hours', which are to be increased to between 1100 and 2200 hours, and for the capacity to be increased by 30 persons. In other words, it appears that considerable changes to the grounds for the recently gained planning permission are being sought through this licensing application.

In addition, the Planning Committee Report noted that: 'Given ... appropriate ventilation, it is considered that a café business of the scale and type now proposed could be operated in this location without any significant loss of amenity to neighbouring properties. Reasonable and appropriate controls can be applied through planning conditions to ... limit the types of cooking that can take place; and ensure that an appropriate ventilation system is in place.' [para 8.21] This provision clearly did not envisage an extensive Restaurant service.

Condition 2 of the Planning Permission was for the installation of an altered ventilation system. This has resulted in a new external outlet close to the Clerks Acre/Cawdor House boundary wall and from which we have now experienced intermittent cooking smells. [REDACTED]

[REDACTED]
[REDACTED]. However, we are now very concerned that the requested change from Café to Restaurant and increased activity times **seven days a week** will exacerbate the cooking odour problem. We would find that totally unacceptable: we are both in our late 70s with health problems and the refuge of our garden is very important to us, not least while isolating during the continuing pandemic.

Our objections on ground 4 are therefore:

- (i) the use of this application to change a range of activities that were not requested in the recent planning application, [REDACTED]
- (ii) our concern that an amended licence would apply to the whole premises of Cawdor House including the garden area [REDACTED]

Signature: Sheila Maher [REDACTED] Date: 11/10/2021

Signature: Edmond Patrick Maher [REDACTED] Date: 11/10/2021

Dear Sir/Madam

HIGHLAND LICENSING BOARD

APPLICATION FOR MAJOR VARIATION OF PREMISES LICENCE

CAWDOR HOUSE, 7 CAWDOR STREET, NAIRN, IV12 4QD

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

Mr Darren Smith and Margaret Smith

[REDACTED]

Telephone Number : [REDACTED]

Email Address [REDACTED]

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

Cawdor House, 7 Cawdor Street, Nairn, IV12 4QD

3. Details of any OBJECTION: (complete only if you consider one of the grounds 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)

To support myself with my learning disability (Dyslexia) I have used extracts from the document which Planning Permission granted just over 5 months ago to [Ref: 20/04779FUL, dated 27/4/2021].

https://wam.highland.gov.uk/wam/files/CDE2F2D457034D7F87AAD1BF846E2CFC/pdf/20_04779_FUL-COMMITTEE_REPORT-2365015.pdf

Ground 3. Inconsistent with Licensing Objectives

Protecting children from harm

The Children (Scotland) Act 1995 clearly states that the child's views should be taken into account where major decisions are to be made about his or her future.

<https://www.gov.scot/publications/scotlands-children-children-scotland-act-1995-regulations-guidance-volume-1-support-protection-children-families/pages/1/>

I have great concern`s due to previous when the premises was called Eldon House Hotel and also had an alcohol licence had police visiting on a regular base due to antisocial behaviour. As a grandmother whose son has joint custody with his two-year-old grandson (29/11/2018). My grandson lives in our home two/three days a week (no set days). I have great concern with Cawdor House selling alcohol and the amount of people wishing to sit within the gardens of Cawdor House at any time but especially on a beautiful summer day/evening that my grandson may hear inappropriate language [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

I

Ground 4. Activities/Conditions of Premises/Customers

Non-material considerations

8.27 A number of representations refer to requirements for adequate toilet facilities, including those that are suitable for disabled use. While this is an important matter, it is considered under Building Standards Regulations and is not a material planning consideration. It is the applicant's responsibility to ensure that they are in possession of all necessary permissions, and it is understood that they have already applied for a Building Warrant for the proposal.

It clearly states on the website of Morton Fraser Lawyers <https://www.morton-fraser.com/services/business/hospitality-licensing-and-leisure>

It is a requirement (under section 20 of the Licensing (Scotland) Act 2005) for those applying for an alcohol premises licence to provide an operating plan, a layout plan and certain certificates along with the application for the licence. From 30 March 2018 (following the change which is set out in the Premises Licence (Scotland) Amendment Regulations 2018) it will be necessary for applications to also contain a disabled access and facilities statement.

Looking at the building warrant (12/10/2021) this application was put forward by Cawdor House on the 14th of June 2021 and no further action has been taken by Cawdor house to support this application for disabled use.

8.28 Concerns were raised that an alcohol license may be applied for in the future for the café. The applicant has stated that they have no plans to apply for an alcohol license, however it should be noted that any such license application would be considered by the Council's Licensing Board and would allow for neighbour consultation as part of the process. This is not a material planning consideration.

I think this speaks volumes that planning were under the impression that Cawdor House had no plans to apply for an alcohol licence which would support the residential neighbours of further development in the property. Now we are five months on, and Cawdor House are asking Highland Licence board to support the use of all the grounds within Cawdor House to service alcohol which planning had already rejected to in their first application.

Development plan/other planning policy

8.15 Environmental Health assessed the previous (withdrawn) proposal in terms of noise and noted that such applications are difficult to assess but that the noise levels of people chatting and eating are unlikely to be high enough to be considered as a Statutory Noise Nuisance under the Environmental Protection Act (1990), particularly as the café will only be open during the daytime. They did, however, acknowledge that regular gatherings of up to 35 patrons in the garden could result in a loss of amenity for neighbouring residents. This is borne out by the previous complaint and objections to this planning application

8.16 Crucial to the assessment of the proposal on the amenity of local residents is the reduction in scale of the café, in particular the reduction in outdoor seating space from the 255sqm of useable seating (excluding driveway) that was originally proposed and which was utilised while the café was operating; to only around 90sqm of useable seating area (excluding the driveway) which is restricted to the area immediately in front of the building. This will leave a buffer of around 12m between the café guests and the boundary with the front/side garden of [REDACTED] to the south. The driveway provides a buffer between the café seating area and the garden ground of 6 Lodgehill Road, and a high wall and mature planting provides additional screening. There is not considered to be any impact to the properties to the rear of Cawdor House.

As the owner of [REDACTED] with yes a high wall and mature planting to the front of my garden , the statement that planning have said there is not considered to be an impact can be nothing far from the truth.

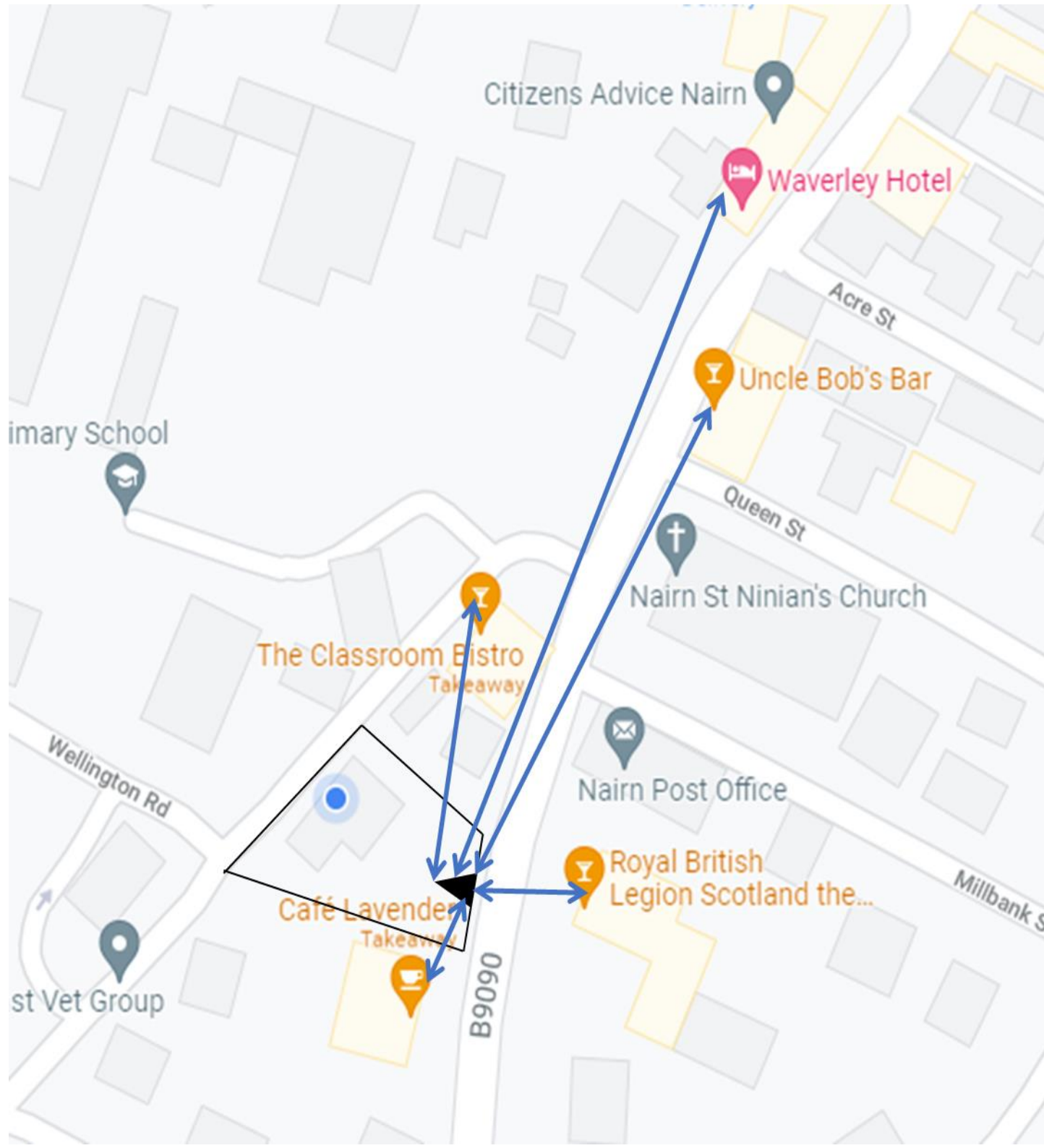
Over the past 5 month I have not been able to enjoy my garden due to planning requesting that all the outdoor seating area be moved to the other side of the garden, which is next to my home, this seating area has the capacity of sitting over 25 people and the inside seating more. When all windows are open at the side of the house including the kitchen (open from early hours in the morning until late in the evening) [REDACTED] along with the noise from the front garden which is [REDACTED] (Appendix 1) then it overbearing to enjoy the privacy and privilege of my home and garden and is causing a detrimental effect on my personal health (more than happy to give doctor evidence) . I have also written to environment health regards these issues.

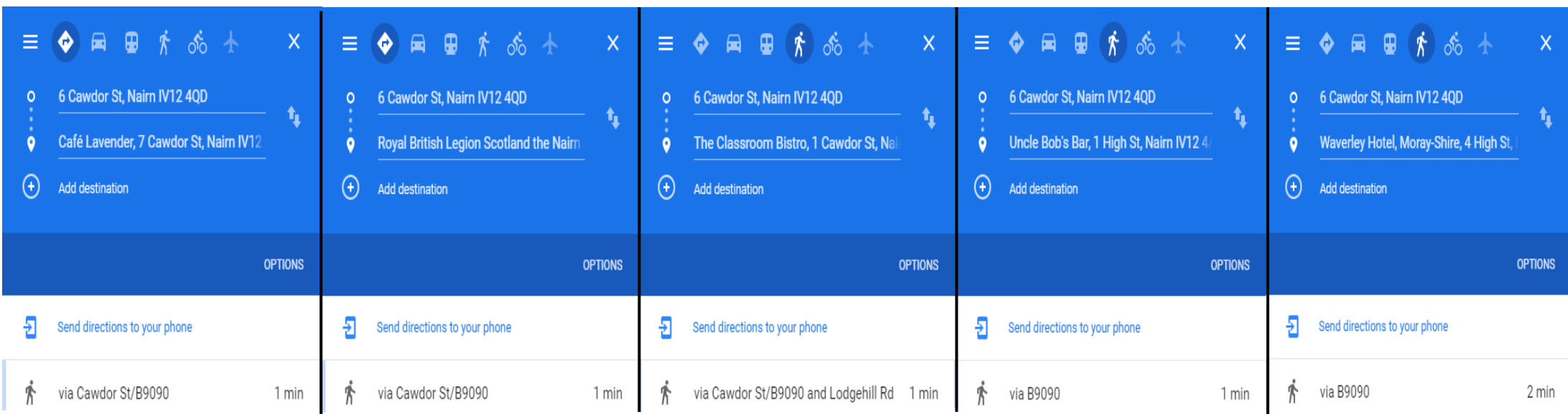
Ground 5 Over Provision

Appendix 1

All measurements used are done in meters and are taken from the front of 6 Cawdor St which is marked with a black triangle. (6 Cawdor St. is outlined black to show the layout of the premises).

Waverley Hotel	130 meters approx.
Uncle Bobs Bar	95 meters approx.
The Classroom Bistro	40 meters approx.
British Legion	5 meters approx.
Café Lavender	5 meters approx..





Impact on neighbourhood amenity

8.11 Cawdor Guest House sits just **outside** the area identified as Nairn Town Centre in the **IMFLDP**. It is located on Cawdor Street, around 75m south from the southern end of the High Street – Nairn’s main shopping and commercial street. This part of Cawdor Street consists of a mix of residential and commercial uses – effectively an area of transition between the busy town centre and the predominantly residential zones further to the south. **While the buildings on either side and directly opposite the application site are residential, within close proximity (between 25m and 70m) of the application site include The Classroom restaurant, the British Legion and the Post Office.** Cawdor Street (leading to Cawdor Road) is one of the main roads into Nairn and provides access to the train station, Nairn County Hospital and Millbank Primary School. It is, therefore, relatively busy with high levels of both pedestrian and vehicular traffic.

This does not reflect that within a 130 meters zone and 2-minute walk at the most (which is evidenced above) . I hope the evidence I have provide give you a clear indication of how close all these amenities are [REDACTED]

Conclusion

Based on all the above points, I have tried to make my objection as clear as possible to support the following 3,4 and 5 for Grounds for Refusal:

Ground 3. Inconsistent with Licensing Objectives

Ground 4. Activities/Conditions of Premises/Customers

Ground 5. Over provision

Kind regards

Darren and Margaret Smith

Good afternoon,

24.09.21

I live in Nairn near the Lavender Cafe, Cawdor Road, Nairn and visited the premises for the first time today.

I understand that the Proprietor is seeking to have a table licence during the winter months so that he can serve Mulled Wine on his premises.

I wish to SUPPORT this application please.

Yours sincerely,

Mrs Norma McIntyre, Beechwood, 

Sent from my iPad

Dear Ian

24.09.21

Myself and husband have visited this cafe and really enjoy it and it's a great addition to the local community. One thing we remarked on, and other patrons we know have said too, is that it would be lovely to have a glass of wine, or a beer with our lunch. It would be a great addition to have a licence on the property for them to be able to provide this for us.

Yours sincerely

Vicky and Peter Walker



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

-----Original Message-----

From: Astrid Blank <[REDACTED]>

Sent: 09 October 2021 11:48

To: Licensing <licensing@highland.gov.uk>

Cc: Cawdor House <info@cawdorhousenairn.co.uk>

Subject: REPRESENTATION IN RELATION TO A PREMISES LICENCE APPLICATION in NAIRN

CAUTION: This email was sent from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Sir or Madam,

I support the application of
Café Lavender, 7 Cawdor Street, IV12 4QD Nairn.

As a frequent visitor of Café Lavender I would appreciate it very much to have a Prosecco with the lovely cakes or a Drumbuie after lunch.

Each time I enjoy the peaceful and calm atmosphere in the garden and inside of the comfortable rooms.

I hope it gets approved!

Kind regards
Astrid Blank