

Agenda item	9.1
Report no	HLC/029/18

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 15 May 2018

Report title: Application for the grant of a street trader's licence – Pawel Gesiorski (Ward 15 – Inverness Central)

Report by: The Principal Solicitor – Regulatory Services

1. Purpose/Executive Summary

1.1 This report relates to an application for the grant of a street trader's licence.

This item is subject to a formal hearing procedure

2. Recommendation

2.1 Members are asked to determine the application in accordance with the hearings procedure.

3. Background

3.1 The Highland Council has resolved that in terms of the Civic Government (Scotland) Act 1982 (the "Act") a licence will be required for carrying on a business as a street trader. As the licence is issued to an individual each trader requires their own licence.

4. Application

4.1 Mr Pawel Gesiorski applied for the grant of a street trader's licence on 8 September 2017 in relation to a hot food catering vehicle which he wishes to operate from Longman Road, Inverness.

4.2 The applicant will be operating the catering vehicle along with Mr Mateusz Janus, who is the subject of a separate report to be considered by the Committee.

4.3 The application was circulated to Police Scotland, Environmental Health and Community Services (Roads).

4.4 There have been no objections received from Police Scotland.

5.0 Objection

5.1 The Council's Environmental Health Service have submitted an objection on the basis that they cannot currently issue a certificate of compliance as there are works and certification required in relation to the vehicle which is to be used. A copy of their objection is attached in Appendix 1.

5.2 Mr Gesiorski was sent a copy of the abovementioned objection and was asked to carry out the works and submit the required certification which would allow the Environmental Health Service to withdraw their objection and issue the certificate of compliance.

5.3 Mr Gesiorski was also asked to clarify the location in Longman Road, Inverness in which it was proposed to trade to enable the Council's Community Services (Roads) to respond.

5.4 No response was received from Mr Gesiorski and licensing staff have tried contacting him by letter, phone and e-mail however he has not been in contact to date.

5.5 In terms of the abovementioned Act the Licensing Authority have nine months from receipt of the application to determine the same, therefore this application must be determined by 7 June 2018. Failure to determine the application by this time would result in the application being subject of a 'deemed grant' which means that a licence would require to be issued to Mr Gesiorski for a period of 1 year. The application is before this Committee as this is the last meeting before the determination date expires.

6. Determining issues

6.1 Paragraph 5(3) of Schedule 1 of the Act states that a licensing authority may refuse an application to grant or renew a licence where:

- (a) the applicant or anyone else detailed on the application is not a fit and proper person;

- (b) the activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused;
- (c) where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to
 - (i) the location, character or condition of premises or the character or condition of the vehicle or vessel,
 - (ii) the nature and extent of the proposed activity,
 - (iii) the kind of persons likely to be in the premises, vehicle or vessel,
 - (iv) the possibility of undue public nuisance, or
 - (v) public order or public safety; or
- (d) there is other good reason for refusing the application.

If required the Principal Solicitor – Regulatory Services will offer particular advice on the criteria relating to this particular application.

7. Implications

7.1 Not applicable.

Date: 19 April 2018

Author: Michael Elsey

Background Papers: Civic Government (Scotland) Act 1982

Appendix 1: Objection from Environmental Health of 21 September 2017

**Community Services Environmental Health
Street Trader Licence Application
Schedule of Observations and/or Objections**

Applicant:	Pawel Gesiorski
Premises to be Licenced	Vehicle-WU52 YTR
EH Flare Ref	123634


No	Licence Requirement	Comment
1	<i>Licensing objective To ensure there is no undue public nuisance, public order or public safety.</i>	<i>The vehicle, kiosk or moveable stall to be used by the applicant for the sale of foodstuffs does <u>not</u> comply with the Mobile Traders Food Hygiene Standards – Highland Council. Our Service would therefore wish to object to this licence application until a satisfactory Certificate of Compliance can be issued.</i>
2	<i>Licensing objective To ensure there is no undue public nuisance, public order or public safety.</i>	<i>An up to date electrical report requires to be submitted which states that the fixed electrical installation within the premises, vehicle, kiosk or moveable stall is in a satisfactory condition. The report should be in the format prescribed in Appendix 6 of BS 7671 and is an Electrical Installation Condition Report. The form should be completed in accordance with the relevant Best Practice Guide on classification codes published by the Electrical Safety Council. For a completely new installation an electrical installation certificate is the appropriate format. The certificate will require to be signed by a qualified person who is <input type="checkbox"/> A professionally qualified electrical engineer <input type="checkbox"/> A member of the Electrical Contractors Association <input type="checkbox"/> A member of the Electrical Contractors Association of Scotland <input type="checkbox"/> A certificate holder of the National Inspection Council for Electrical Installation Contracting <input type="checkbox"/> A Certificate Holder of the Scottish Electrical Certification (SELECT) scheme</i>
3	<i>Licensing objective To ensure there is no undue public nuisance, public order or public safety.</i>	<i>The applicant requires to provide copies of inspection record/s from a suitably competent Gas Safe Registered Engineer to confirm that all the gas appliances, installation pipework and ventilation arrangements within the premises, vehicle, kiosk or moveable stall have been inspected and tested and are safe to operate. For further information re gas safety requirements in catering establishments the applicant should refer to <u>Health and Safety Executive Information Sheet: Gas Safety in Catering and Hospitality(Catering Sheet No 23.</u></i>

4	Licence Condition 5 – Street Traders	<p>The applicant requires to provide written confirmation as to their arrangements for the disposal of litter and other refuse arising from his undertaking.</p> <p>T</p>
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Objection
 I would confirm that our Service would wish to formally object to this licence application as we consider that it would be inconsistent with one or more of the licence committees primary objectives for the reasons described above.

Where appropriate our Service has attached copies of relevant letters; inspection reports and photographs.

Should you require a representative from our Service to attend the Licensing Committee to clarify any of the above matters further, please do not hesitate to contact this office.

EH Officer	Michael Hayes
Position	EHO
Signed	
Date	21/09/2017