

Agenda item	7.1
Report no	HLC/009/21

## THE HIGHLAND COUNCIL

**Committee:** THE HIGHLAND LICENSING COMMITTEE

**Date:** 16 February 2021

**Report title:** Application for the renewal of a late hours catering licence – Bombay Spice, 27 Bridge Street, Wick (Ward 03 Wick and East Caithness)

**Report by:** The Principal Solicitor – Regulatory Services

### 1. Purpose/Executive summary

1.1 This report relates to an application for the renewal of a late hours catering 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 Council's Hearings Procedure.

### **3. Background**

**3.1** The Highland Council has resolved that in terms of the Civic Government (Scotland) Act 1982 a licence will be required for the operation of a premises for late hours catering. A licence for the same is required for any premises selling food between 11.00pm and 5.00am.

### **4. Application**

**4.1** On 5 March 2020 an application for the renewal of a late hours catering licence was received from Mahmud Hussain in respect of the premises at Bombay Spice, 27 Bridge Street, Wick

**4.2** The hours of trade applied for are within policy.

**4.3** In terms of the abovementioned Act the Licensing Authority have 12 months (due to temporary amendments to the legislation during the coronavirus period) from receipt of the application to determine the same, therefore this application must be determined by 4 March 2021. 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 the applicants for a period of 1 year. The application is before this Committee as this is the last meeting before the determination date expires.

### **5.0 Consultation**

**5.1** Following receipt of the variation request the following Agencies/Services were consulted:

- Police Scotland
- Fire Service
- Environmental Health Service
- Building Standards Service
- Planning Service

**5.2** No objections or representations have been received from Police Scotland, Fire Service, Building Standards Service or the Planning Service.

**5.3** The Environmental Health Service verbally advised that electrical and gas certification required to be submitted before they could sign off the licence application. They also indicated they would visit the premises if the ongoing Covid-19 restrictions were lifted to carry out a food hygiene inspection of the premises.

### **6. Late Objection**

**6.1** On 27 January 2021, the Environmental Health Service confirmed they would object to the renewal of the licence. As this objection was received after the 28 day consultation period had elapsed, it cannot be automatically considered by the Committee. The Committee may consider a late objection or representation received by them before they take a final decision on the application if they are satisfied that there is sufficient reasons why it was not made in the time required. At the meeting the Environmental Health Service will be invited to address the Members as to the reason why the objection was submitted after the required timescale. The applicant will also be invited to address the Committee on the same.

- 6.2** If the Committee are minded to accept the late objection, copies will be circulated at the meeting. If not, the application will be determined in its absence.
- 6.3** A copy of this report has been sent to the applicant and the Environmental Health Service who have both been invited to attend and will be provided with an opportunity to be heard by the Committee. They have also been advised of the procedure which will be followed at the meeting.

## **7. Determining issues**

- 7.1** 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.
- 7.2** If required the Principal Solicitor – Regulatory Services will offer particular advice on the criteria relating to this particular application.

## **8. Policies**

- 8.1** The following policies are relevant to this case:

Standard late hours catering licence conditions. A copy of these can accessed at [https://www.highland.gov.uk/directory\\_record/738740/late\\_hours\\_catering/category/499/shop\\_and\\_trader](https://www.highland.gov.uk/directory_record/738740/late_hours_catering/category/499/shop_and_trader) or a hard copy can be supplied where requested.

## **9. Implications**

- 9.1** Not applicable.

Date: 28 January 2021

Author: G Sutherland

Background Papers: Civic Government (Scotland) Act 1982