

Agenda item	<b>7.1</b>
Report no	<b>HLC/026/21</b>

**THE HIGHLAND COUNCIL**

**Committee: THE HIGHLAND LICENSING COMMITTEE**

**Date: 11 May 2021**

**Report title: Application for the renewal of a market operator's licence – Moray Farmers Market Ltd, Cairngorm Farmers Market, The Square, Grantown on Spey (Ward 20 – Badenoch and Strathspey)**

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

**1. Purpose/Executive Summary**

1.1 This report relates to an application for the renewal of a market operator's licence.

**2. Recommendation**

2.2 Members are asked to determine the application.

### **3. Background**

**3.1** On 1 June 2020 an application for the renewal of a market operator's licence was received from Moray Farmers Market Ltd, Kyclerona Farm, Ardersier,

**3.2** In terms of the Civic Government (Scotland) Act 1982 (the Act) the Licensing Authority have twelve 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 31 May 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 for a period of 1 year. The application is before this Committee as this is the last meeting before the determination date expires.

### **4. Process**

**4.1** Following receipt of the application a copy was circulated to the following Agencies/Services for consultation:

- Police Scotland
- Scottish Fire and Rescue Service
- Highland Council Environmental Health Service
- Highland Council Building Standards Service
- Highland Council Planning Service
- Highland Council Environment and Infrastructure Roads Section

**4.2** All of the above Agencies/Services have confirmed that they have no objections to the licence being issued. However Environmental Health require further documentation from the stall holders who will be attending the markets i.e. food hygiene compliance and gas appliances certification and trader checklists.

**4.3** The applicant has also requested to add additional dates for 2021, 2022 and 2023 to the application but requires written permission from the landowner which the applicant is in the process of obtaining.

**4.4** At the time of writing this report, the documentation has not been received.

**4.5** Until the above outstanding matters have been addressed, the Acting Principal Solicitor (Regulatory Services) is not currently in a position to issue the licence under delegated powers. As detailed in paragraph 3.2, the application requires to be determined by 31 May 2021.

### **5. Determining issues**

**5.1** 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

## 5.2

(d) there is other good reason for refusing the application.

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

## 6. Options

6.1 If Members are minded they could grant the application with an additional condition attached to the same to the effect that no market operator activities should take place until the documents have been received and are deemed satisfactory.

6.2 Alternatively the Committee could grant delegated powers to the Acting Principal Solicitor to refuse the application if these documents have not been received by 31 May 2021.

## 7. Policies

7.1 The following policies are relevant to this application:

7.2 Standard market operator licence conditions. A copy of these can accessed at [https://www.highland.gov.uk/downloads/file/3467/market\\_operators\\_conditions\\_of\\_licence](https://www.highland.gov.uk/downloads/file/3467/market_operators_conditions_of_licence)

or a hard copy can be supplied where requested.

## 8. Implications

8.1 Not applicable.

Date: 14 April 2021

Author: Susan Grant

Ref: MO

Background Papers: Civic Government (Scotland) Act 1982