

Agenda item	6.1
Report no	HLC/074/21

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 12 January 2021

Report title: Application for the grant of a street trader licence – Carrie Gibb, Cairnlaw, Milton of Culloden, Inverness, IV2 7NT for a trading location at Garve (Ward 5 – Wester Ross, Strathpeffer and Lochalsh)

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 licence.

2. Recommendation

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

3. Background

- 3.1** On 16 December 2020 an application for the grant of a licence in respect of street trading was received from Carrie Gibb, Cairnlaw, Milton of Culloden, Inverness, IV2 7NT.
- 3.2** The applicant wishes to both travel with her business and trade from a fixed location in Garve.

4. Process

- 4.1** Following receipt of this application a copy of the same was circulated to the following Agencies/Services for consultation:
- Police Scotland
 - Highland Council Environmental Health Service
 - Highland Council Planning Service
 - Highland Council Community Services - Roads
- 4.2** Police Scotland and Community Services - Roads have responded to confirm that they have no objections to the application.
- 4.3** The Council's Planning Service responded with observations that Planning Permission will be required if the trailer is on site for 28 days or more in one calendar year. This was relayed to the applicant by email.
- 4.4** Environmental Health Services were unable to respond as the applicant had stated within her application that she had not yet purchased a trailer to trade from. To date, the applicant has still not purchased a trailer due to delays caused by the Covid-19 pandemic restrictions.
- 4.5** In terms of the abovementioned 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 15 December 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.

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

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

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

5.3 A copy of this report has been sent to the applicant who has been invited to attend the meeting and will be provided with an opportunity to be heard by the Committee. The applicant has also been advised of the procedure which will be followed at the meeting.

If the Committee are minded to grant the application delegated powers should be provided to the Principal Solicitor to issue the licence only once a trailer has been purchased by the applicant and has been inspected and certified as satisfactory by the Environmental Health Service..

6. Policies

6.1 The following policies are relevant to this case:

Standard street trader's licence conditions. A copy of these can accessed at https://www.highland.gov.uk/directory_record/738770/street_trader/category/499/shop_and_trader or a hard copy can be supplied where requested..

7.0 Implications

7.1 Not applicable.

Date: 14 November 2021

Author: Angela Mair

Background Papers: Civic Government (Scotland) Act 1982