

Agenda item	6.1
Report no	HLC/012/23

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 14 February 2023

Report title: Application for the grant of a street trader's licence – Mark Huis (Ward 20 – Badenoch and Strathspey)

Report by: 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.

2. Recommendation

2.2 Members are asked to determine the application in accordance with the Council's hearing 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 out the activity of street trading.

4. Application

4.1 On 1 March 2022 an application for the grant of a street trader's licence was received from Mark Huis.

4.2 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 28 February 2023. 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. Process

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

- Police Scotland
- Highland Council Environmental Health Service
- Highland Council Community Services (Roads)

5.2 All Agencies/Services have confirmed no objections to the application apart from Environmental Health as they have been unable to inspect the applicants catering trailer despite several attempts by them and Licensing staff they have been unsuccessful in contacting the applicant.

5.3 Until the above outstanding matter has been addressed, the Principal Solicitor Regulatory Services is not currently in a position to issue the licence under delegated powers. As detailed in paragraph 4.2, the application requires to be determined by 28 February 2023.

6. Applicant background

6.1 Mr Huis previously held a street trader's licence through the Inverness Licensing office which expired on 22 May 2020, but it was not renewed due to the Covid-19 pandemic.

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.

7.3

A copy of this report has been sent to the applicant who has 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.

8. Policies

8.1 The following policies are relevant to this application:

8.2 Standard street trader's licence conditions. A copy of these can accessed at [Street trader licence | Street Trader Conditions of Licence \(highland.gov.uk\)](https://www.highland.gov.uk/street-trader-licence) or a hard copy can be supplied where requested.

9. Implications

9.1 Not applicable.

Date: 24 January 2023

Author: Michael Elsey

Ref: ST

Background Papers: Civic Government (Scotland) Act 1982