

Agenda item	9.1
Report no	HLC/024/23

THE HIGHLAND COUNCIL

Committee: **THE HIGHLAND LICENSING COMMITTEE**

Date: **28 March 2023**

Report title: **Application for the grant of a street trader licence – Angela Cunningham (Ward 11 – Caol and Mallaig)**

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.
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.

1. Background

- 1.1 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.

2. Application

- 2.1 On 29 April 2022 an application for the grant of a street trader licence was received from Angela Cunningham.

Given that the applicant proposes to trade from a fixed location, the applicant has been requested to provide a letter of consent from the landowner in support of the application which is awaited.

- 2.2 In terms of the abovementioned Act the Licensing Authority have twelve months (due to temporary amendments to the legislation during the coronavirus period at the time) from receipt of the application to determine the same, therefore this application must be determined by 28 April 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 to Ms Cunningham for a period of 1 year. The application is before this Committee as this is the last meeting before the determination date expires.

3. Process

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

- Police Scotland
- Environmental Health Service

4. Objection

- 4.1 On 6 September 2022 a late objection was received from Environmental Health.
- 4.2 Late objections are not automatically considered. Members are entitled to entertain an objection which has not been timeously made, if they are satisfied that there is sufficient reason why it was not so made.

5. Determining issues

- 5.1 Paragraph 5(3) of Schedule 1 of the Civic Government (Scotland) Act 1982 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.

5.2 A copy of this report has been sent to the applicant and the Environmental Health Authority who both have 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.

6. Implications

6.1 Not applicable.

Date: 10 March 2023

Author: Julie Traynor

Background Papers: Civic Government (Scotland) Act 1982