

Agenda item	8.
Report no	HLC/066/23

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 5 September 2023

Report title: Application for the renewal of a market operator licence – Falcon Square, Inverness (Ward 14 – Inverness Central)

Report by: Principal Solicitor – Regulatory Services

1. Purpose/Executive Summary

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

2. Recommendation

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

3. Background

3.1 On 9 December 2022 an application for the renewal of a market operator licence was received from Savills c/o Eastgate Centre, Inverness in respect of an outdoor market on Falcon Square, Inverness.

3.2 In terms of the Civic Government (Scotland) Act 1982 (the Act) the Licensing Authority have nine months from receipt of the application to determine the same, therefore this application must be determined by 8 September 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.

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 Trading Standards Service

4.2 All of the above Agencies/Services have confirmed that they have no objections to the licence being issued, apart from the Council's Environmental Health Service who have requested that the following documents be submitted.

- Copy of current public liability insurance cover.
- List of vendors who will be operating at the market.

4.3 As part of the application process applicants are also asked to submit a Certificate of Compliance that states they had complied with the 21-day period of notice of application. This is currently awaited.

4.4 The above documentation requires to be submitted for checking by the appropriate agencies before any licence can be granted. At the time of writing this report, this documentation has not been received.

4.5 Until the above outstanding matters have been addressed, the Principal Solicitor - Regulatory Services cannot issue the licence under delegated powers. As detailed in paragraph 4.4, the application requires to be determined by 8 September 2023.

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.

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 should take place until the documents have been received and are deemed satisfactory.

6.2 Alternatively the Committee could grant delegated powers to the Principal Solicitor to refuse the application if these documents have not been received and approved by 8 September 2023.

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/directory_record/738768/market_operators/category/499/shop_and_trader

or a hard copy can be supplied where requested.

8. Implications

8.1 Not applicable.

Date: 15 August 2023

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Ref: MO

Background Papers: Civic Government (Scotland) Act 1982