

Agenda item	9.1
Report no	HLC/059/17

THE HIGHLAND COUNCIL

Committee: **THE HIGHLAND LICENSING COMMITTEE**

Date: **3 October 2017**

Report title: **Application for the variation of hours on a late hours catering licence – Mackinnons of Speyside, Library East Mall, 1-2 Grampian Road, Aviemore (Ward 20 – Badenoch and Strathspey)**

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

1. Purpose/Executive Summary

1.1 This Report relates to an application for the variation of hours on a late hours catering licence.

This application is subject to a formal hearing procedure.

2. Recommendation

2.2 Members are asked to determine the application in accordance with the Council's Hearings Procedure.

3. Background

3.1 A late hours catering licence, issued under the Civic Government (Scotland) Act 1982, is required for premises which sell food during any of the hours between 11.00pm and 5.00am.

3.2 The applicant, Mackinnons of Speyside, Library East Mall, 1-2 Grampian Road, Aviemore, currently hold a late hours catering licence which was granted under delegated powers in June 2016 for trading during the following hours:-

From 11.00pm to 3.00am on Thursday (Friday morning), Friday (Saturday morning) and Saturday (Sunday morning) for the sale of food for consumption off the premises.

4. Application

4.1 An application for variation of hours was received on 24 July 2017 from Mackinnons of Speyside to increase their hours of trading to 3.30am instead of 3.00am.

5. Process

5.1 Following receipt of this application a copy of the same 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

5.2 Police Scotland, the Fire Service and the Building Standards and Environmental Health Services have confirmed that they have no objections to the licence being issued.

5.3 The Planning Service have advised that they have no objections to the variation licence being issued but Planning Permission is required for the takeaway element and extended time.

6. Objections

6.1 Part of the process of applying for a late hours catering licence involves the applicant displaying a notice at the premises for a period of 21 days. This notice invites members of the public to submit objections and/or representations in relation to the application if they so wish. Any objections or representations must be submitted within 28 days of the notice being displayed.

6.2 No objections have been received.

7. Policy hours

- 7.1 The Licensing Committee previously agreed policy hours for all late hours catering premises located in settlements (other than Inverness City Centre) which have late opening liquor licences (i.e. after 1.00 am). These hours are to 3.00am on the morning of Thursday to Monday and to 12 midnight on all other nights.
- 7.2 The Committee also agreed separate (later) policy hours for premises located within Inverness City Centre.

8. Determining issues

8.1 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.

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

8.3 A copy of this Report has been sent to the applicant, in the terms of Paragraph 4(2) of the Civic Government (Scotland) Act 1982, 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.

9. Policies

9.1 The following policies are relevant to this application:

Late hours catering licence conditions.

9.2 A copy of these can accessed at http://www.highland.gov.uk/downloads/file/3463/late_hours_catering_conditions_of_licence

or a hard copy can be supplied where requested.

10. Implications

10.1 Not applicable.

Date: 8 September 2017

Author: Mike Elsey

Background Papers: Application request