

Agenda item	8.1
Report no	HLC/072/18

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 6 November 2018

Report title: Application for the grant of a market operator's licence - Continental Market Limited (Ward 21 – Fort William and Ardnamurchan)

Report by: The Principal Solicitor – Regulatory Services

1. Purpose/Executive Summary

- 1.1 This Report relates to an application for the grant of a market operator's licence.
This item is subject to a formal hearing procedure.

2. Recommendation

- 2.1 Members are invited to determine the application in accordance with the Council's Hearings Procedures.

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 the activity of market operating.

4. Process

- 4.1 On 21 February 2018 an application for the grant of a market operator's licence was received from Continental Market Limited.
- 4.2 In terms of section 3 of the Act (as amended) the application requires to be determined within 9 months i.e. by 20 November 2018 otherwise the licence will be granted unconditionally for a period of 12 months.
- 4.3 Following receipt of the application, a copy of the same was circulated to Police Scotland, Fire Authority, Community Services (Environmental Health and Trading Standards), Building Standards and the Planning Service (for their information).

No objections have been received.

- 4.4 As part of the application process, it is a statutory requirement that a public notice is displayed at or near the market site for a period of 21 consecutive days and thereafter, confirmation submitted to the Licensing Authority confirming that the public notice has been displayed for the requisite period.
- 4.5 Upon regular inspection of the market site by licensing and community services staff, the public notice was not displayed. Attempts were made to contact the applicant by e-mail and recorded delivery letter but no response was received.
- 4.6 The applicants were also asked to submit a copy of their Public Liability Insurance documentation and confirm trading dates but no communication from the applicant was received.
- 4.7 Given that the applicant has not displayed the statutory public notice or submitted public liability insurance documentation, the licensing authority have been unable to approve the market operator application.

5.0. 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.

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

6. Policies

6.1 The following policies are relevant to this application:

Market operator licence conditions.

A copy of these can accessed at https://www.highland.gov.uk/directory_record/738768/market_operators or a hard copy can be supplied where requested.

7. Implications

7.1 Not applicable.

Date: 19 October 2018

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Background Papers: Civic Government (Scotland) Act 1982