

Agenda item	7.2
Report no	HLC/060/19

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 5 November 2019

Report title: Application for the grant of a temporary street trader's licence – Gillian McKnight (Ward 18 – Nairn and Cawdor)

Report by: The Principal Solicitor – Regulatory Services

1. Purpose/Executive summary

- 1.1 This report relates to an application for the grant of a temporary street trader's licence.
- 1.2 This item is subject to a formal hearing procedure.

2. Recommendation

- 2.1 Members are asked to determine the application in accordance with the hearings 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 on a business as a street trader. As the licence is issued to an individual each trader requires their own licence.

4. Application

4.1 On 16 October 2019 an application for the grant of a temporary street trader’s licence was received from Ms Gillian McKnight in respect of the sale of horse and carriage rides from Nairn High Street and the Links, Nairn. Ms McKnight wishes to operate on Saturday 30 November 2019 from 12.00pm to 3.00pm in conjunction with the Nairn Christmas Lights Switch On event that is taking place on that day.

4.2 At the time of writing of this report, the applicant has still to provide a detailed plan of the proposed route, an up to date vet report and confirmation that the carriage has been checked by a competent person and is in a roadworthy condition.

4.3 The applicant has been advised that she will need to obtain consent from the landowners in the locations where she proposes to operate from.

4.4 In terms of the Council’s street trader’s licence policy, the areas requested i.e. Nairn High Street and the Links, Nairn falls within an exclusion zone, a copy of the plan is attached as **Appendix 1**. Any application which relates to trading within this area requires to be submitted to the Highland Licensing Committee for consideration.

5. Process

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

- Police Scotland
- Environmental Health Service
- Community Services (Roads)
- BEAR Scotland

5.2 Police Scotland has confirmed that they have no objections to the licence being granted.

5.3 At the time of writing of this report, responses were awaited from the other consultees. A verbal update will be provided at the meeting.

5.4 As the application is for a temporary licence, there is no statutory objection process other than the Licensing Authority must consult with Police Scotland. However, the Licensing Authority can consider representations received in connection with any application in the course of making a decision on a temporary application.

6. Determining issues

6.1 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.

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

6.2 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.

7. Additional conditions

7.1 If the Committee is minded to grant the application, it is recommended that the additional conditions as detailed in **Appendix 2** be attached to the licence.

8. Policies

9.1 The following policies are relevant to this application:

9.2 As indicated in paragraph 4.4 above in terms of the street trader's licensing policy where an application is received where the applicant wishes to trade on the High Street and the Links, Nairn then the application requires to be referred to the Highland Council Licensing Committee for determination.

Standard street trader's licence conditions. A copy of these can be accessed at https://www.highland.gov.uk/directory_record/738770/street_trader/category/499/shop_and_trader or a hard copy can be supplied where requested.

10. Implications

10.1 Not applicable.

Date: 17 October 2019

Author: Michael Elsey

Ref: ST

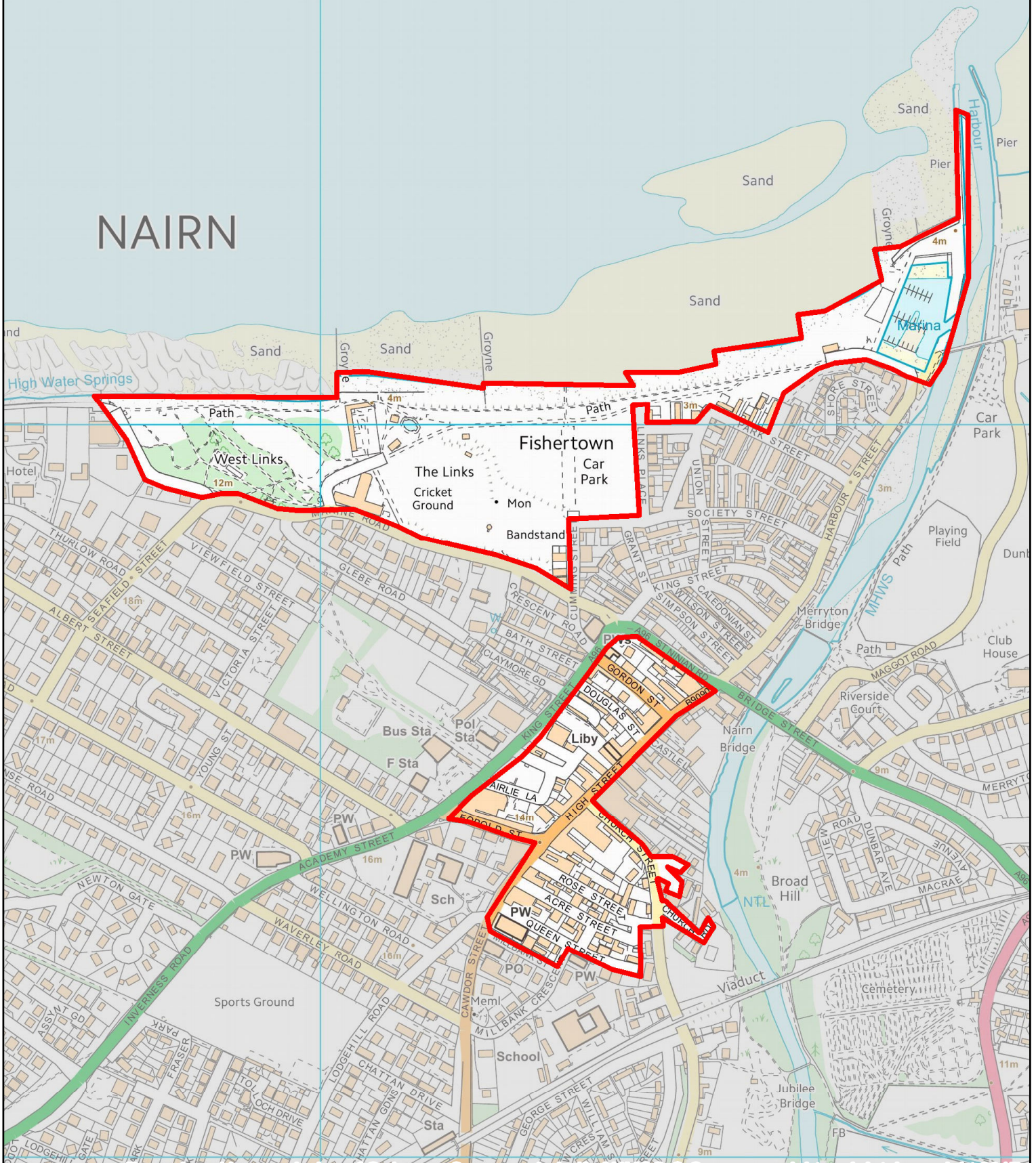
Background Papers: Civic Government (Scotland) Act 1982

Appendices:

Appendix 1 – Plan of Nairn exclusion zone

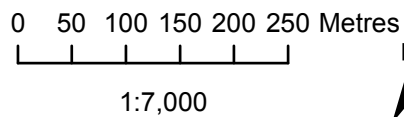
Appendix 2 – Draft additional conditions

NAIRN



Reproduced by permission of Ordnance Survey on behalf of HMSO © Crown copyright and database right 2017. All rights reserved. Ordnance Survey licence 100023369. Copyright Getmapping Plc.

Highland Council
Civic Government (Scotland) Act 1982
Street Traders Licence - Schedule of Conditions
Condition 1 - Nairn - Exempted Area





THE HIGHLAND COUNCIL

CIVIC GOVERNMENT (SCOTLAND) ACT 1982

**STREET TRADER'S LICENCE: SCHEDULE OF ADDITIONAL CONDITIONS
APPLICABLE TO A LICENCE FOR CONVEYING PASSENGERS BY MEANS OF
A HORSE-DRAWN CARRIAGE**

The following conditions shall apply to this licence in addition to those set out in the Street Trader's Licence Schedule of Standard Conditions attached hereto.

1. The licence-holder shall be permitted to operate a single four-wheeled horse drawn carriage (the "carriage") to convey a maximum of four passengers at any one time for trips from [] onto [] and returning to [] (the "activity"). The licence holder shall not permit any other person to drive the carriage for the purpose of this activity unless that person holds a street trader's licence for this purpose. No expansion of this activity to include additional carriages shall be permitted unless a further street trader's licence has been granted for such expanded activity.
2. The licence holder shall have in place carriage driver's commercial liability insurance with a minimum public liability indemnity of £1,000,000 (one million pounds) sterling.
3. The licence holder shall ensure that the Police and emergency services have given their consent to the general organisation and arrangements for the activity before commencing street trading under this licence.
4. The licence holder shall operate and maintain the carriage in accordance with the standards set out in the Department for Transport Code of Practice for Horse-Drawn Vehicles and must adhere to Rule 47 of The Highway Code. In

particular, when servicing the carriage, all of the safety checks listed in the “Carriage Check List” set out in this Code of Practice must be made to ensure the carriage and its fittings are safe and in good working order.

5. In accordance with Rule 48 of The Highway Code, the licence holder shall ensure that the carriage is fitted with at least two red rear reflectors. A light showing white to the front and red to the rear must be fitted to the carriage if the activity is undertaken outwith hours of daylight.
6. While undertaking the activity the licence holder shall wear reflective clothing at all times.
7. The licence holder must at all times ensure that the activity does not compromise the safety of the public in the [] and elsewhere.
8. Any parking associated with the activity must be accommodated within designated public parking areas or on street so as not to interfere with the safety and free flow of pedestrians and vehicular traffic.
9. Any items associated with the activity such as temporary signage, tack or feed must be located in an area not occupying the surface of any public road, pavement, footpath or parking area so as not to interfere with the safety and free flow of pedestrians and vehicular traffic.
10. Any temporary signage associated with the activity shall be located so as not to interfere with visibility at road junctions or private accesses and may not be located any closer than 1.5 metres from the carriageway of any public road. Any such signage shall be of a type, and shall be erected in such a way, that no resistance or damage will be afforded to any vehicle or person coming into contact with it.
11. The licence holder shall ensure that public areas used for pick up/drop off points and resting areas during the activity are kept clear of horse manure and other debris. All litter resulting from the activity must be removed.
12. All reasonable steps must be taken to protect all trees, shrubbery, flowers, benches and fences in public areas from any damage resulting from the activity. Any such damage arising as a result of the activity shall be repaired at the cost of the licence holder. Any remediation work to public areas required as a result of the activity shall be undertaken by the licence holder to the satisfaction of The Highland Council and within such period as the Council may require. Alternatively, the licence holder shall bear the costs of the Council carrying out such works if the Council so requires.