

Agenda item	<b>8.1</b>
Report no	<b>HLC/070/19</b>

**THE HIGHLAND COUNCIL**

**Committee: THE HIGHLAND LICENSING COMMITTEE**

**Date: 3 December 2019**

**Report title: Application for the renewal of a street trader's licence – Martin MacPherson (Ward 10 - Eilean a' Cheò)**

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

**1. Purpose/Executive Summary**

1.1 This report relates to an application for the renewal of a street trader's licence.

This item is subject to a formal hearing procedure.

**2. Recommendation**

2.1 Members are invited to determine the applications 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. Process

- 4.1 On 22 March 2019 an application for the renewal of a street trader's licence was received from Martin MacPherson.
- 4.2 Following receipt of the application, a copy of the same was circulated to Police Scotland, Community Services (Roads and Environmental Health) and the Planning Service.
- 4.3 No objections have been received.
- 4.4 In terms of the abovementioned Act the Licensing Authority have nine months from receipt of the application to determine the same, therefore this application must be determined by 21 December 2019. 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 Mr MacPherson for a period of 1 year. The application is before this Committee as this is the last meeting before the determination date expires.
- 4.5 The Highland Licensing Committee, at its meeting on 29 March 2016, granted Mr MacPherson a street trader's licence to trade in Somerled Square, Portree as follows:-
- Monday to Sunday - 2000 hours to 0100 hours.
- 4.6 In this renewal application, Mr MacPherson is requesting to increase the terminal hour for his Somerled Square trading hours to 0200 hours. A note of explanation for requesting the additional hour is attached at **Appendix 1**.
- 4.7 Mr MacPherson has planning permission to trade from Somerled Square.
- 4.8 His street trader's licence also permits him to trade in any Highland Council area from 0700 hours to 2300 hours each day.
- 4.9 The reason for the delay in bringing this application before the Committee was that the applicant was sourcing a new catering trailer. The new catering trailer was inspected by Environmental Health on 24 October 2019 and a certificate of compliance issued. A current gas certificate for the trailer has also been produced.
- 4.10 At the time of writing this report, an electrical installation condition report had still to be produced by the applicant. The Principal Solicitor will provide an update on this at the meeting.

4.11 A copy of this report has been sent to the applicant who, in the terms of Paragraph 4(2) of the Civic Government (Scotland) Act 1982, has been invited to attend and will be provided with an opportunity to be heard by the Committee. He has also been advised of the procedure which will be followed at the meeting.

## **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:

Street trader licence conditions.

A copy of these can accessed at

[https://www.highland.gov.uk/downloads/file/3535/street\\_trader\\_conditions\\_of\\_licence](https://www.highland.gov.uk/downloads/file/3535/street_trader_conditions_of_licence)

or a hard copy can be supplied where requested.

## **7. Implications**

7.1 Not applicable.

Date: 12 November 2019

Author: Carol Nicolson

Ref: ST/19/02

Background Papers: Civic Government (Scotland) Act 1982

**Appendix 1** – Note from applicant received on 22 March 2019

## Appendix 1

I wish to apply for a later license time of 2am for my burger van which I operate out of Somerled Square, Portree. This is due to the fact the pubs are now open until at least 1am. This would enable me to serve food to everybody who wants to buy hot food on their way home instead of having to close up just as people are expecting to get food. This is extremely annoying to them when they have come to the burger van and are standing in the queue.

The local councillor has offered to help me get a later license and he has spoken to the local police who are happy for me to get one.

RECEIVED

22 MAR 2019