

Agenda item	8.2
Report no	HLC/050/21

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 7 September 2021

Report title: Application for the grant of a public entertainment licence – The Wildside Centre, Whitebridge, Inverness (Ward 12 – Aird and Loch Ness)

Report by: Acting Principal Solicitor – Regulatory Services

1. Purpose/Executive Summary

1.1 This report relates to an application for the grant of a public entertainment licence.

2. Recommendation

2.2 Members are asked to determine the application.

3. Background

- 3.1** On 21 September 2020 an application for the grant of a public entertainment licence was received from Stratherrick and Foyers Community Trust Ltd. in respect of The Wildside Centre, Whitebridge, Inverness.
- 3.2** Originally the application was in relation to the building however on 9 December 2020 they applicants amended their application to include the area outside the building to cover any outdoor public entertainment activities which may take place outside e.g. children's funfair.
- 3.3** In terms of the Civic Government (Scotland) Act 1982 (the Act) the Licensing Authority have twelve months (due to temporary amendments to the legislation during the coronavirus period) from receipt of the application to determine the same, therefore this application must be determined by 20 September 2021. 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 initial 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 Community Services (Roads)
 - Highland Council Planning Service (sent for info. only)
- 4.2** All of the above Agencies/Services confirmed that they had no objections to the initial application.
- 4.3** Following the amendment to the application, as detailed in 3.2 of the report all Agencies/ Services were once again consulted.
- 4.4** All Agencies/Services other than Community Services (Roads) and the Planning Service confirmed that they had no objections.

5. Community Services (Roads) Representation

- 5.1** Following the amendment to the application Community Service (Roads) have responded to state that they wish to make a representation on the basis that in terms of the junction from the public road to the site the visibility splay, in both directions, is sub-standard.
- 5.2** They have advised that if, for example, it was a forestry access they would be looking for a minimum of 4.5m (measured back from the edge of the carriageway) x 120 metres, in both directions. The current visibility is significantly restricted by trees, when viewed to the left, and by a bridge parapet and overhanging tree branches, etc, when viewed to the right. Even if cutback of the trees was achieved, the visibility would still be less than desirable. They therefore have no option but to recommend that the access is not used for vehicular access/egress.

5.3 Until the above outstanding matter has been addressed, the Acting Principal Solicitor - Regulatory Services is not currently in a position to issue the licence under delegated powers. As detailed in paragraph 3.3, the application requires to be determined by 20 September 2021.

6. Planning Service

6.1 As Members will be aware the issue of planning consent is a separate requirement and the Planning Authority have their own application process for this. The absence of any planning consent required would not be a reason for the Licensing Committee to refuse a public entertainment application.

6.2 However, in order to provide the Committee with a complete picture of the consents required, following circulation of the initial public entertainment application the Planning Service advised that no planning consent was required in respect of these premises.

6.3 Subsequent to this, having reviewed the activities and use of the premises the Planning Service have advised that planning consent would be required. The applicants have been advised of this.

7. Determining issues

7.1 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.

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

8. Options

8.1 If Members are minded they could grant the application with an additional condition attached to the same to the effect that no public entertainment activities should take place until the issue raised by Community Services (Roads) has been satisfactorily resolved.

8.2 Alternatively the Committee could grant delegated powers to the Principal Solicitor to refuse the application if this matter is not resolved by 20 September 2021.

9. Policies

9.1 The following policies are relevant to this application:

9.2 Standard public entertainment licence conditions. A copy of these can accessed at http://www.highland.gov.uk/directory_record/738741/public_entertainment/category/498/entertainment_and_public_events

or a hard copy can be supplied where requested.

10. Implications

10.1 Not applicable.

Date: 20 August 2021

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Ref: PEL

Background Papers: Civic Government (Scotland) Act 1982