

Agenda item	10.1
Report no	HLC/064/21

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 26 October 2021

Report title: Application for the renewal of a Late Hours Catering licence – BP Express Shopping Ltd, BP Aviemore M&S Simply Food, 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 renewal of 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.

1. Background

- 1.1 On 6 November 2020 an application for the renewal of a late hours catering licence was received from BP Express Shopping Ltd.

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 5 November 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.

2. Process

- 2.1 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

- 2.2 All of the above Agencies/Services apart from the Building Standards Service have confirmed that they have no objections to the licence being issued.

- 2.3 The Building Standards Service have advised that they can't advise no objections to the application as there is an outstanding Building Warrant for the premises.

- 2.4 Until the above outstanding matter has been addressed, the Principal Solicitor (Regulatory Services) is not currently in a position to issue the licence under delegated powers. As detailed in paragraph 3.2, the application requires to be determined by 5 November 2021.

3. Determining issues

- 3.1 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.

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

3.3 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.

4. Policies

4.1 The following policies are relevant to this application:

Late hours catering licence conditions.

4.2 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.

5. Implications

5.1 Not applicable.

Date: 4 October 2021

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Background Papers: Late Hours Catering