

Agenda item	9.1
Report no	HLC/026/22

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 25 April 2022

Report title: Application for the grant of a market operator's licence – Dell Holiday Cottages, The Dell of Abernethy, Dell Road, Nethy Bridge (Ward 20 – Badenoch and Strathspey)

Report by: 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.

2. Recommendation

2.2 Members are asked to determine the application in accordance with the Council's hearing 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 out the activity of running a private market.

4. Application

4.1 On 1 March 2022 an application for the grant of a market operator's licence was received from Dell Holiday Cottages, The Dell of Abernethy, Dell Road, Nethy Bridge.

4.2 The application is for the operation of an arts, crafts, food and beverages market within the grounds of the self-catering accommodation, which has a Tipi within the woodland grounds. According to the site plan, it is proposed that 8 of the market stalls are to be inside the Tipi and 8 market stalls are to be outside the Tipi within the grounds.

4.3 The application is before this Committee as their first proposed market date is 4 June 2022 and this is the last Committee before this date.

5. Process

5.1 Following receipt of the 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 Planning Service
- Highland Council Trading Standards

5.2 At the time of writing this report the Environmental Health Service and Scottish Fire and Rescue Service have still to respond to the application.

5.3 Further documentation requires to be submitted by the applicant as noted below:-

- List of stall holders
- Food hygiene compliance, gas appliances certification and market operator vendor checklists.
- Confirmation that their public liability insurance covers them for running markets.

A verbal update on the above will be provided at the meeting.

5.4 The Highland Council's Planning Service have confirmed that the Tipi will require planning permission as it is deemed a permanent structure.

6. Objection

6.1 On 28 March 2022, Building Standards submitted an objection in relation to Dell Holiday Cottages application as the Tipi, which will be used for 8 of the 16 market stalls, requires a Building Warrant.

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

7.3 A copy of this report has been sent to the applicant and Building Standards who 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.

8. Policies

8.1 The following policies are relevant to this application:

8.2 Standard market operator licence conditions. A copy of these can accessed at https://www.highland.gov.uk/downloads/file/3467/market_operators_conditions_of_licence

or a hard copy can be supplied where requested.

9. Implications

9.1 Not applicable.

Date: 6 April 2022

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Ref: MO

Background Papers: Civic Government (Scotland) Act 1982