

Agenda item	7.1
Report no	HLC/053/24

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 25 June 2024

Report title: Application for the renewal of a street trader's licence – David Still

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 asked to determine the application in accordance with the Council's 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 the carrying out the activity of street trading. A licence for the same is issued by the Highland Council and is valid for the whole Council area.

4. Application

4.1 On 22 October 2023 an application for the renewal of a street trader's licence was received from David Still, in respect of the sale of seafood.

4.2 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 July 2024. 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.

5. Process

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

- Police Scotland
- HC Environmental Health Service
- HC Roads and Infrastructure Service

6. Responses

6.1 Police Scotland and the HC Roads and Infrastructure Service have advised that they have no objections to the application.

7. Environmental Health

7.1 The Environmental Health Service have advised that they require a number of works to be carried out before they can issue the Certificate of Compliance and thereafter sign off the licence application. The works required are detailed in Appendix 1.

7.2 In view of the above the licence cannot be issued under delegated powers at this time.

8. Determining issues

8.1 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.

8.2 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.

9. Policies

9.1 The following policies are relevant to this case:

Standard street trader's licence conditions. A copy of these can accessed at [Apply for a licence - Street trader | The Highland Council](#) or a hard copy can be supplied where requested.

10. Implications

10.1 Not applicable.

Date: 3 June 2024

Author: Michael Elsey

1.0 Food Safety Management Controls

I note from our discussions that you store, handle and sell, open high-risk foods (Uncooked and cooked fish) and prepacked bakery products and loose chocolate at a retail outlet =, or directly through markets to the final customer.

You need to undertake an assessment of all your food safety procedures and ensure the appropriate documented procedures and records are in place. I would recommend that you follow the guidance on retail safe produced by Food Standards Scotland. I attach a copy. You should:

- Complete the business selector in the retail safe manual.
- Draw up house rules (procedures) personal hygiene, cross contamination, cleaning, traceability, Allergen controls and labelling.
- You are required have appropriate temperature control facilities and monitoring procedures in place.
- You are required to undertake an allergen assessment and identify all allergen items included in any loose items (non-prepacked) and supply this to the customer on request. Where you are repacking food items such as Ruskoline Fish dressing the bag should details the allergens present on a label. I have attached an allergen identification sheet with an example of a menu item already completed to enable you to fill this sheet in correctly. The completed sheets should be retained and provided to the customer on request. A point-of-sale notice should be clearly posted, so that customers know that if they require specific information on allergens contained within individual products sold, they can ask a member of staff for the allergen folder.
- I note all prep-packed products you provide from your suppliers are labelled, but you should ensure that they are labelled in accordance with the pre-packed foods labelling advice – see attached.
- *To ensure you have adequate food safety procedures in place between your domestic and commercial operations, you should put in place cleaning procedures. You should record any cleaning in a record in addition to your cleaning schedule.*

[Regulation (EC) 852/2004 Article 5 Paragraph (2)]

Timescale for completion: One Month

2.0 Cleaning and Disinfection of Food Contact Surfaces:

If your domestic home is used to ensure the effective cleaning and disinfection of worksurfaces or equipment used in the vehicle you need to be able to demonstrate items are adequately cleaned and disinfected. There was no sanitiser/disinfectant available on the vehicle to clean any spillage on surfaces or if cleaning is required. You should ensure that you have a suitable sanitiser on the vehicle and at home which meet the requirements of BS EN 1276: 1997 updated by BS EN 1276: 2009 or BS EN 13697:2001. You should be able to confirm by looking at the label, that the new product used or purchased meets the BS EN Standard, or if it is not clear from the label, contact the suppliers or the manufacturer for conformation. Appropriate sanitisers can be purchased form most supermarkets or cash and carry outlets.

[Regulation (EC) No 852/2004 Article 4(2), Annex II, Chapter III para 2(c)]

Timescale for completion: Immediately

3.0 Hand Washing Facilities

At the time of inspection, it was noted that the teal unit was not operating as the heater element was defective.

A supply of hot water to the teal unit must be provided and the hot water should be around 450c to enable you to wash your hands on a regular basis. The defective unit must be repaired or replaced, as soon as possible.

The cloth towel in use for drying hands is not acceptable. A hygienic means of drying hands (paper disposal towel) must be provided, and a waste container to retain the used/discarded paper towel. The paper towels must be located close to the wash hand basin.

There must be appropriate facilities to maintain adequate personal hygiene. This must include provision of hygienic washing and drying of hands, hygienic sanitary arrangements and changing facilities. Suitable soap must be provided for hand washing and located close to the wash hand basin. The use of hand gel is not a substitute for hand washing with soap.

[Regulation (EC) No 852/2004 Article 4(2), Annex II, Chapter III para 2 (a)]

Timescale for completion: Immediately

4.0 Waste Storage

Adequate arrangements for storage and disposal of waste must be made. A waste container must be provided for the storage of discarded/used paper towels or other waste materials.

[Regulation (EC) No 852/2004 Article 4(2), Annex II, Chapter III para 2(f)]

Timescale for completion: Immediately

5.0 Temperature Control

When I visited there was insufficient ice retained in the back of the van where you are retailing (raw and cooked fish from). You must ensure that any high-risk products are retained below 8oc. Furthermore, I central storage unit on the van is refrigerated when the motor is running, but not when you are stationary and trading. You may need to obtain tectonic plates or ice to ensure the high-risk products including hot smoked salmon is stored below 8oc.

Temperature – storage of high-risk food overnight – It is my understanding following discussions that at the end of a day's trading you do not have additional refrigerated storage facilities for the storage of high-risk product at your home in Buckie, and any surplus high-risk foods are retained in the van, which is your trading base. You must have appropriate storage facilities to enable high risk food product storage left overnight, and this may require refrigerated storage facilities, to ensure this food is kept below 8oc.

Temperature monitoring – as part of your food safety controls you are required to monitor the temperatures of food stored throughout your operation, I understand you have a probe thermometer and wipes but do not have a record to demonstrate high risk products are being checked daily to ensure the products are maintained below 8oc. You are required to introduce checks and record these daily. I have attached a temperature record which you can use for this purpose. Copies of this monitoring should be introduced immediately, and copies of these records retained on the vehicle so they can be checked by an officer from this department.

Adequate facilities for maintaining and monitoring suitable temperature conditions must be made.

[Regulation (EC) No 852/2004 Article 4(2), Annex II, Chapter III para 2(g)]

[Food Hygiene (Scotland) Regulations 2006, Regulation 30, Schedule 4 Paragraph 2]

Timescale for completion: Immediately

6.0 Stock Control and Traceability

There was no stock control system in operation within your food business operation– There was no dates on foods stored or sold on the vehicle other than pre-packed products bought in from some suppliers. I understand you purchase fish in boxes purchased from Eat Mair Fish in Buckie. They should be indicating the dates the fish is provided in the boxes and you should have in place your own internal traceability system for dating the fish and when it should be used by or discarded.

The Fish Labelling (Scotland) Regulations 2013 & EC) No. 1224/2009

Timescale for completion: Immediately

7.0 Personal Hygiene

You were not wearing protective clothing when operating the vehicle and handling open high-risk foods (raw and cooked fish). There must be appropriate facilities to maintain adequate personal hygiene. A white coat/apron and head wear should be provided.

[Regulation (EC) No 852/2004 Article 4(2), Annex II, Chapter III para 2 (a)]

[Regulation (EC) No 852/2004 Article 4(2), Annex II, Chapter III para 2 (h)]

Timescale for completion: Immediately

8.0 Training

Individuals who handle food must have Hygiene Awareness Instruction from a competent person within 4 weeks of starting work. The overall aim of Hygiene Awareness Instruction is to develop a knowledge of the basic principles of food hygiene. The topics covered must include:

- a) temperature control;
- b) food poisoning;
- c) personal health and hygiene;
- d) cross contamination;
- e) food storage;
- f) waste disposal;
- g) foreign body contamination;
- h) awareness of pests.

Individuals who handle or prepare open high risk food should receive training in food safety to level 2.

Individuals involved in the food operation must be instructed on any control or monitoring points identified by your Food Safety Management Procedures.

Please provide a copy of your food safety training certificate.

[Regulation (EC) No 852/2004 Article 4(2), Annex II, Chapter XII Paragraph 1]

Timescale for completion: One month

9.0 Cross-contamination - recommendation

Identifiable tongs for the separate handling of open and raw ready to eat fish should be provided to minimise any handling and cross-contamination risk.