

REPORT TO GARIOCH AREA COMMITTEE – 8th October 2024

**CIVIC GOVERNMENT (SCOTLAND) ACT 1982
APPLICATION FOR GRANT OF STREET TRADER'S LICENCE**

1 Executive Summary/Recommendations

- 1.1 An application for the grant of a Street Trader's Licence has been received which has attracted a late objection from the Roads & Infrastructure Department of Aberdeenshire Council and so requires the Committee to determine the application.

Recommendations

- 1.2 **It is recommended that the Committee considers the materials before them and –**

1. **As a preliminary matter, hears the reasons why the late objection was not submitted on time and determines whether there are sufficient reasons to allow the Committee to entertain the late objection in considering the application or not.**
2. **Thereafter, having heard all relevant parties -**
 - (a) **Determines whether there is enough evidence before the Committee to allow a determination to be made, or whether the Committee needs to defer consideration of the matter to the next available meeting; and**
 - (b) **Where the Committee has concluded that there is sufficient evidence before them to allow a determination to be made, to consider whether the application should be granted or refused.**

2 Decision-Making Route

- 2.1 This application was deferred from the meeting of Garioch Area Committee on 27th August 2024 to allow the applicant the opportunity to address the Committee.

3 Discussion

Consideration of an Application for Licence

- 3.1 Ahmad Araman of 7 Coldwells House, Provost's Circle, Inverurie, AB51 4TG submitted an application for the grant of a Street Trader's licence to operate a food trailer business in a small side corner, off of the road from Station Road, Inverurie, AB51 3SD on 13th May 2024.
- 3.2 The applicant is seeking to operate as follows:

Monday – Sunday 9:00 – 16:00

- 3.3 A copy of the application is attached as **Appendix 1** to this Report.

Consultations

- 3.4 The Chief Constable, Planning Services, Environmental Health, Roads & Infrastructure Service and Car Parks were consulted on the application.

- 3.5 The following consultees advised that they had no objections to this application:-

(a) Planning Services initially responded on 15th May 2024 advising that as the trailer was sited off a public road, planning permission would be required. On 6th June 2024, further comment was made that based on the subsequent information the Applicant had supplied, namely that the takeaway van will be removed each night, planning permission will not be required. If that changes then planning permission will be required for the permanent siting of the takeaway van.

(b) Police Scotland by email dated 13th May 2024 had no objections.

The Environmental Health Service and Car Parks did not respond to the consultation.

- 3.6 One late objection was lodged from the Roads & Infrastructure Department by email dated 12th June 2024.
- 3.7 Paragraph 3 of Schedule 1 to the 1982 Act requires objections or representations to be made in writing; specifying the ground of objection or nature of the representation; specifying the name and address of the person making it; and being signed. It also allows for electronic delivery and for objections or representations to be lodged as an email.
- 3.8 All objections and representations require to be lodged with the Licensing Service not later than 28 days of the publication of an advert advertising the application. Notwithstanding these provisions, it shall be competent for a Licensing Authority to entertain an objection or representation received by them before they take a final decision upon the application to which it relates if they are satisfied that there is sufficient reason why it was not made on time.
- 3.9 The Committee can hear the person making the late objection/representation as to their reasons why the objection/representation was not timeously made before making a determination of whether or not to accept the late item but will not receive sight of the late item until it has been accepted. For this reason, the late objection is not attached to this report. However, copies of the late objection require to be given to the applicant in advance of the meeting to ensure a fair hearing.
- 3.10 Should the Committee agree to accept the late objection [recommendation 1.2.1] it will be circulated electronically to members and time will be given for

members to peruse same before proceeding to consider the application. Any accepted late objection will be taken to form part of **Appendix 2** to this report.

- 3.11 Where the applicant intends to trade from a fixed location, rather than operating a mobile route, the applicant requires to advertise the application in the local press or by publication of a notice on the licensing authority's website advising members of the public that an application has been made. This application was advertised on the website on 13th May 2024. Objections/representations could be made within a period of 28 days from that day, namely until 10th June 2024.
- 3.12 No objections or representations have been lodged by Members of the public in response to the publicising of the application.
- 3.13 The late objection was intimated to the Applicant by email dated 17th July 2024.
- 3.14 All parties were requested to attend the meeting on 23 September 2024. All parties were given copies of this Report, the legal background, procedures for remote licensing hearings and the Guidance Document for Applications and Objections on procedures for licensing hearings.
- 3.15 All parties have been given the option of participating in the hearing by way of attending in person, or by telephone and/or by lodging of written submissions. Any written submissions will be circulated to Committee Members and all parties prior to the meeting taking place, where it is possible to do so. Such written submissions will form **Appendix 3** to this report.

Procedure

- 3.16 Each application should be considered on its own merits.
- 3.17 The legal test to be applied is attached as **Appendix 4** to this Report.
- 3.18 Members should follow the procedures set out at **Appendix 5** to this Report.

Options for Disposal

- 3.19 The Committee's options in disposing of the Application are:
- (a) To defer consideration of the application to allow further evidence to be provided to the Committee
 - (b) To grant the licence as applied for subject to standard conditions
 - (c) To grant the licence subject to specific conditions in addition to standard conditions
 - (d) To refuse to grant the licence
- 3.20 When coming to a decision, the Committee must consider the contents of this report, the evidence heard, and the grounds of refusal outlined in the Legal Test attached at **Appendix 4**. Supplementary advice and information can be requested, if required.

- 3.21 If the Committee refuses the application, the same applicant cannot apply again for a period of one year, unless there are material changes in circumstances.
- 3.22 It should be noted that it is the applicant's responsibility to ensure that they have the landowner's consent to trade on the proposed site. The granting of a street trader's licence does not in any way imply that they have that consent. Even if the licence is granted, without this consent the applicant cannot trade at that site.

Date by which application must be determined

- 3.23 Section 3 of the Civic Government (Scotland) Act 1982 requires a licensing authority to determine an application within 9 months of the date of receipt of the application.
- 3.24 This application must be determined by **12th February 2025**.

Duration of Licence

- 3.25 Where the Committee determines that the application should be granted, Paragraph 8(2) of Schedule 1 to the 1982 Act provides that a licence shall have effect –
- (a) For a period of three years from the date the licence comes into force; or
- (b) for such shorter period as the licensing authority may decide at the time they grant or renew the licence.

4 Council Priorities, Implications and Risk

- 4.1 There are no Council Priorities identified in respect of this matter as the Committee is considering the application as the Licensing Authority in a quasi-judicial role and must determine the application on its own merits in accordance with the legal tests set out in the relevant legislation.
- 4.2 The table below shows whether risks and implications apply if the recommendations are agreed.

Subject	Yes	No	N/A
Financial		X	
Staffing		X	
Equalities and Fairer Duty Scotland		x	
Children and Young People's Rights and Wellbeing		X	
Climate Change and Sustainability		X	
Health and Wellbeing		X	
Town Centre First		X	

- 4.3 An Integrated Impact Assessment (IIA) is not needed in this case as the Committee is considering this application as licensing authority in a quasi-

judicial role and must determine the application on its own merits in accordance with the legal tests set out in the relevant legislation. This application does not engage any of the areas included as part of the IIA.

- 4.4 There are no Risks identified in respect of this matter in terms of the [Corporate Risk Register](#) and [Directorate Risk Registers](#) as the Committee is considering the application as the Licensing Authority in a quasi-judicial role and must determine the application on its own merits in accordance with the legal tests set out in the relevant legislation.

5 Scheme of Governance

- 5.1 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this and their comments are incorporated within the report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.
- 5.2 The Area Committee is able to consider and take a decision on this item in terms of Section B 7.1(m) of the List of Committee Powers in Part 2A of the Scheme of Governance which enables the Committee to decide on an application where adverse representations or objections have been lodged or there is an officer recommendation that an application be refused.

Rob Simpson Director of Business Services

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Date: 18th September 2024
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- Appendix 1** – Copy Application Form and Related Paperwork
Appendix 2 – Copy Late Objection (if accepted)
Appendix 3 – Written Submissions (if received)
Appendix 4 – Legal Test
Appendix 5 – Procedure for Remote Licensing Hearings