

Agenda item	8.2
Report no	HLC/033/23

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 9 May 2023

Report title: Application for the grant of a short term let licence – Osprey Lodge, Invertromie, Kingussie, PH21 1NS (Ward 20 - Badenoch & Strathspey)

Report by: The Principal Solicitor – Regulatory Services

1. Purpose/Executive Summary

1.1 This report relates to an application for the grant of a short term let licence.

2. Recommendation

2.1 Members are asked to determine the application in accordance with the Council's hearings procedure.

3. Background

- 3.1 In terms of The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, a licence is required for residential accommodation for use as a short term let.
- 3.2 Short term let means the use of residential accommodation provided by a host in the course of business to a guest, where all of the following criteria are met:
- The guest does not use the accommodation as their only or principal home
 - The short term let is entered into for commercial consideration
 - The guest is not:
 1. An immediate family member of the host
 2. Sharing the accommodation with the host for the principal purpose of advancing the guest's education as part of an arrangement made or approved by a school, college, or further or higher educational institution, or
 3. an owner or part-owner of the accommodation
 - the accommodation is not provided for the principal purpose of facilitating the provision of work or services by the guest to the host or to another member of the host's household
 - the accommodation is not excluded accommodation, and
 - the short-term let does not constitute an excluded tenancy

4. Application

- 4.1 On 14 December 2022 (date the application was deemed valid) an application for the grant of a short term let licence was received from Sarah A Black.
- 4.2 The premises to which the application relates to is Osprey Lodge, Invertromie, Kingussie, PH21 1NS ("the Premises").
- 4.3 The type of short term let which has been applied for is a 'secondary let'. A 'secondary let' involves the letting of a property where the applicant does not normally live.
- 4.4 The premises is described as a self-catering dwellinghouse which can accommodate a maximum of eight guests. The premises comprises of 4 bedrooms, 1 bathroom and 2 en-suites and an open plan lounge/kitchen/dining area. A copy of the layout plans which accompanied the application are attached (**Appendix 1**).

5. Process

- 5.1 The application was circulated to the following Agencies/Services for consultation:
- Police Scotland;
 - Highland Council Environmental Health Service.
- 5.2 Both of the above Agencies/Services, have confirmed that they have no objections to the licence being issued.
- 5.3 The Scottish Fire & Rescue Service was not further consulted on the application as the fire safety checklist, which was completed by the applicant, pertaining to the application was deemed satisfactory.

5.4 In addition, the applicant has provided a certificate of compliance confirming that a public notice of application for their short-term let licence was displayed at or near the Premises for a period of 21 days.

6. Public representation

6.1 It is open to any member of the public to submit an objection or representation in relation to an application for a licence for a short term let.

Following the notice of display period, the following timeous objection has been received and is attached as an Appendix to this report:

- Notice of objection dated 9 January 2023 received from David Murray (**Appendix 2**).

7. Determining issues

7.1 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.

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

7.2 A copy of this report has been sent to the applicant and David Murray, the said objector who both have been invited to attend and will be provided with an opportunity to be heard by the Committee.

Both parties have also been advised of the procedure which will be followed at the meeting which may also be viewed via the following link:

[Licensing hearings procedures | Licensing hearings procedure \(Licensing Committee\) \(highland.gov.uk\)](https://www.highland.gov.uk/licensing-hearings-procedures)

8. Policies

The following policy is relevant to this application:

- Short-term let licensing policy statement (which includes the mandatory and additional licence conditions attached to all Short Term Let Licences):-

A copy of this can accessed at

https://www.highland.gov.uk/downloads/file/25349/short-term_lets_-_policy_statement

or a hard copy can be supplied where requested.

9. Implications

9.1 Not applicable.

Date: 18 April 2023

Author: Julie Traynor

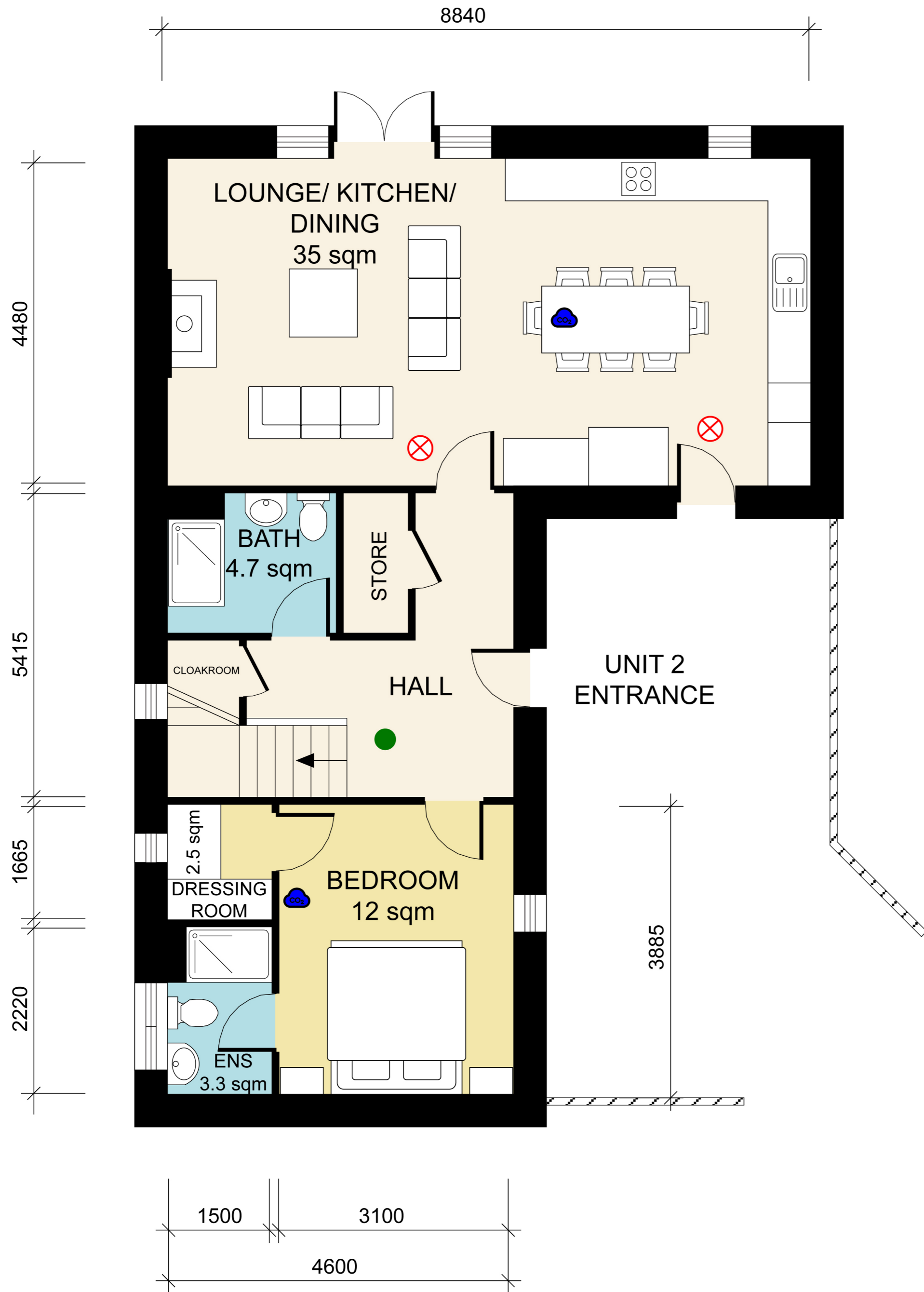
Reference: [FS466920114](#)

Background Papers:

- Civic Government (Scotland) Act 1982
- The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022

Appendix 1: Osprey Lodge ground floor and first floor layout plans which accompanied the application.

Appendix 2: Notice of objection dated 9 January 2023 from David Murray.



GROUND FLOOR

OSPREY LODGE, INVERTROMIE, KINGUSSIE, PH21 1NS



FIRST FLOOR

	CO ₂
	HEATER
	SMOKE

From: David Murray <[REDACTED]>

Sent: 09 January 2023 12:42

To: STL Licensing <STL@highland.gov.uk>

Subject: Re: Osprey Lodge, Invertromie

APPENDIX 2

CAUTION: This email was sent from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

I would like to submit the following comments regarding the application for STL for Wildcat Lodge, Osprey Lodge and Hideaway Lodge at Invertromie Steadings, Kingussie.

I feel that applications for the 3 STLs should be considered as a group application and not as separate applications due to the collective negative impact they have on the infrastructure of the development and on the quality of life of the other property owners. Issues include; parking, disruption, group bookings for celebrations, dogs off leads, bins, items being flushed into the septic tank and regularly exceeding the maximum capacity of the septic tank.

Invertromie Steadings comprises 6 residential properties developed by Ironhorse Development Company in 2015. Five properties face into a shared courtyard and the sixth is detached. The developed is within an RSPB reserve.

The planning for the development's infrastructure which includes the septic tank is based around a maximum occupancy of 31 people. SEPA may have a view on the impact of over occupancy when three STLs are all occupied. This should be investigated and considered. We would be interested to view their comments.

Three of the courtyard properties (plots 1, 2 and 3) operate as short term holiday let's, plot 4 is a second home, I live with my wife in plot 5. The detached property (plot 6) is a second home.

The 3 STLs advertise for 8 guests each this means there are regularly 24 guests with up to (sometimes exceeding) 4 cars per STL. This number of guests mean that the STLs take 77% of the planned maximum capacity for the development.

Two of the STLs are originally 3 bedroom properties; Wildcat Lodge uses a downstairs lounge as a fourth bedroom and Osprey Lodge has recently built a 4th bedroom in an upstairs living area.

Hideaway Lodge has no grass area in the back garden for dogs to use so guests often allow their dogs into the shared courtyard area.

My wife and I have chosen to live, work, volunteer and contribute to the local community and economy. We feel that our quality of life is negatively impacted by the STL properties and the pressure they place on the infrastructure of the development. Should you require specific examples, we would be happy to provide these (too numerous to list in this communication).

When reviewing these STL applications please consider

1. Whether it is appropriate for STLs to be issued or
2. Whether each property should have a maximum number of guests, for example 6.
3. Whether restrictions should be place, for example, number of cars per property, provision of grass area for dogs, no groups or group celebrations, no weekend only bookings etc.

Many thanks for considering our comments. As a result of the negative impact on our lives we have considered selling our home and moving elsewhere, the irony of this is that it would be highly likely that a new owner of the property would set up a Short Term Let. We look forward to receiving your feedback and comments.