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| | Agenda item | 7.1 |
| | Report no | HLC/073/23 |

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 24 October 2023

Report title: Application for the grant of a short term let licence – 4 Caberfeidh, Fassifern Road, Fort William, PH33 6BE (Ward 21 – Fort William and Ardnamurchan)

Report by: The Principal Solicitor – Regulatory Services

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| 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. |

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| 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 | <p>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:</p> <ul style="list-style-type: none"> • 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: <ol style="list-style-type: none"> 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 5 July 2023 (date application was deemed valid) an application for the grant of a short term let licence was received from Duncan Freshwater, on behalf of Aite Socair Limited (Company number SC309447) and having their registered office at 28/7 Brandon Terrace, Edinburgh, EH3 5DZ. |
| 4.2 | The Premises to which the application relates to are 4 Caberfeidh, Fassifern Road, Fort William, PH33 6BE (“the Premises”). A site plan was provided by the applicant as part of the application process and is attached as an appendix to this report (Appendix 1). The Premises are those edged in red on such site plan. |
| 4.3 | The application has been made on the basis that Aite Socair Limited will be the host/operator of the Premises. They have applied for the short term let licence as a ‘new host’ on the basis that the Company, in the capacity as the host/operator, had not operated the Premises as a short term let property prior to 1 October 2022. |
| 4.4 | 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. |
| 4.5 | The Premises is a semi-detached, two storey dwellinghouse which can accommodate a maximum of seven guests. The ground floor of the Premises comprises of a porch, hallway (with stairs leading to first floor of property), open plan kitchen/dining area and a living room. The first floor of the Premises comprises of 3 bedrooms and a bathroom. |

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| 5. | Process |
| 5.1 | The application was circulated to the following Agencies/Services for consultation: <ul style="list-style-type: none"> • Police Scotland; • Highland Council Environmental Health Service; and • Highland Council Building Standards. |
| 5.2 | All 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. |

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| 6. | Public representation |
| 6.1 | <p>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.</p> <p>During the notice of display period, the following timeous objections were received and are attached as Appendices to this report:</p> <ul style="list-style-type: none"> • Objection received on 19 July 2023 from Simon Purdon (Appendix 2) • Objection received on 21 July 2023 from James and Wilma McCourt (Appendix 3) • Objection received on 21 July 2023 from Ian Dewar (Appendix 4) |
| 7. | Determining issues |
| 7.1 | <p>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:</p> <p>(a) the applicant or anyone else detailed on the application is not a fit and proper person;</p> <p>(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;</p> <p>(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</p> <ul style="list-style-type: none"> (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 <p>(d) there is other good reason for refusing the application.</p> |

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| | If required, the Principal Solicitor – Regulatory Services will offer particular advice on the criteria relating to this particular application. |
| 7.2 | <p>A copy of this report has been sent to the applicant and the objectors who, 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.</p> <p>All parties have also been advised of the procedure which will be followed at the meeting which may also be viewed via the following link:</p> <p>Licensing hearings procedures Licensing hearings procedure (Licensing Committee) (highland.gov.uk)</p> |
| 8. | <p>Policies</p> <p>The following policy is relevant to this application:</p> <ul style="list-style-type: none"> • Short-term let licensing policy statement (which includes the mandatory and additional licence conditions attached to all Short Term Let Licences):- <p>A copy of this policy can accessed here or a hard copy can be supplied where requested.</p> |
| 9. | <p>Implications</p> |
| 9.1 | Not applicable. |
| Date: | 4 September 2023 |
| Author: | Julie Traynor |
| Reference: | FS527792727 |
| Background Papers: | <ul style="list-style-type: none"> • Civic Government (Scotland) Act 1982 • The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 |
| APPENDICES: | |
| Appendix 1: | Site plan, detailing the extent of the Premises |
| Appendix 2: | Objection received on 19 July 2023 from Simon Purdon |
| Appendix 3: | Objection received on 21 July 2023 from James and Wilma McCourt |
| Appendix 4: | Objection received on 21 July 2023 from Ian Dewar |







APPENDIX 1

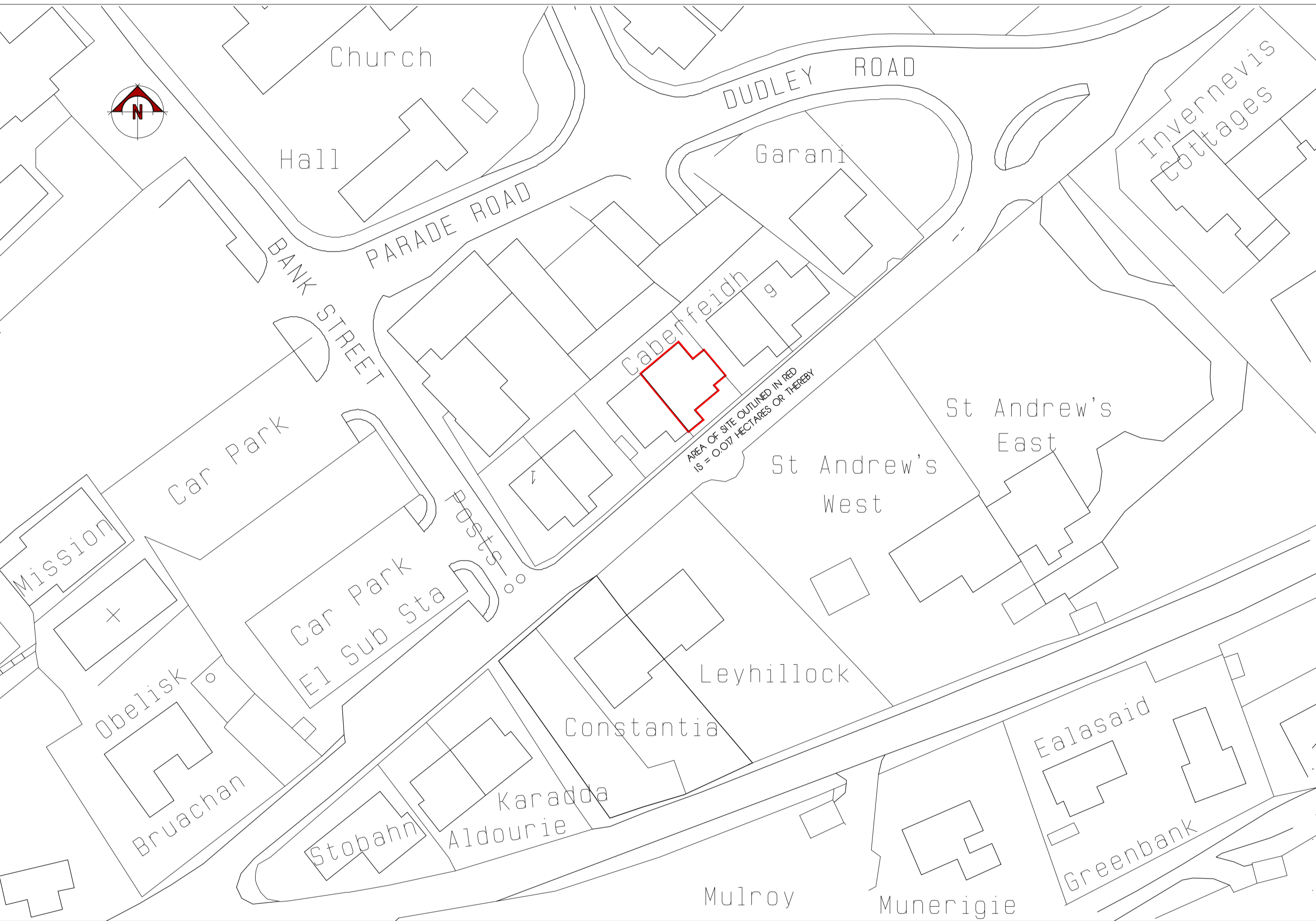
Note
The contractor will be held to have checked all dimensions before commencing with any works and, in the event of discrepancies, is to refer them directly to this office for clarification prior to commencement of work.

Written dimensions are to be taken in all cases. Drawings should not be scaled for dimensions. In case of doubt refer to this office.

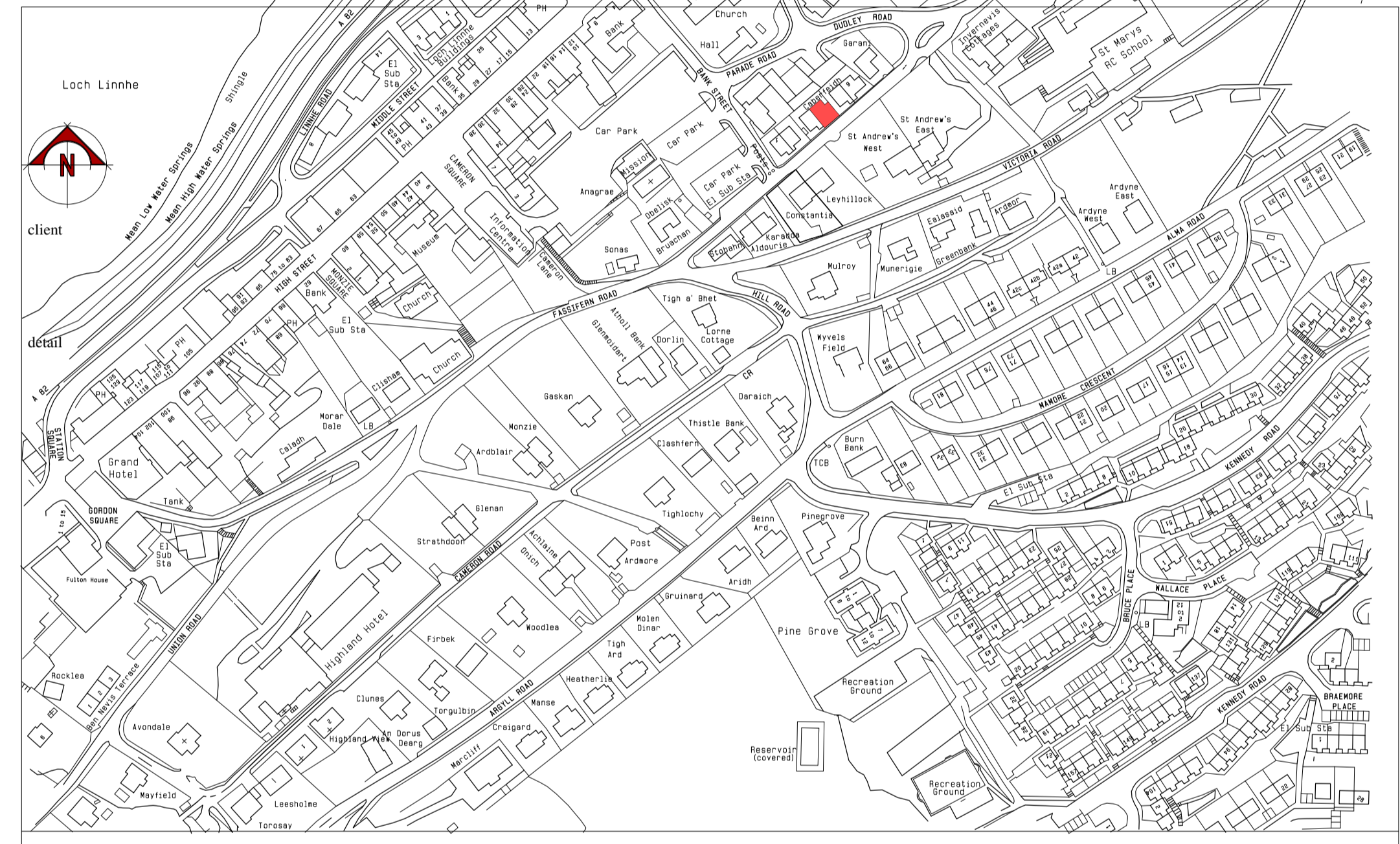
This drawing is copyright and all rights are reserved. No unauthorised copying of this drawing is permitted.

ELECTRICAL LEGEND

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|  | ELECTRICITY FUSE BOARD / TRIP SWITCH |
|  | FIRE BLANKET |
|  | FIRE EXTINGUISHER - FOAM |
|  | SMOKE DETECTOR |
|  | HEAT DETECTOR |
|  | CARBON DIOXIDE FIRE EXTINGUISHER |



SITE PLAN SCALE 1 : 500



LOCATION PLAN scale = 1: 2500

project
PROPOSED ALTERATIONS TO NO 4
CABERFEIDH, FASSIFERN ROAD

MR. D. FRESHWATER

SHORT TERM LICENSING
DRAWING

DKD
D KELLY DESIGN
Architectural Consultant

Queen Anne House • 111 High Street
Fort William • PH33 6DG
Tel: 01397 700999 • Fax: 01397 700888

scale 1 : 50 date 12 : 07 : 21

job no. 21/056 drg no. 101 drawn D. KELLY

Appendix 2

3c Caberfeidh
Fassifern Road
Fort William
Inverness-Shire
PH33 6BE

The Highland Council
Charles Kennedy Building
Achintore Road
Fort William
Inverness-Shire
PH33 7RQ

14thth July 2023

Dear Sir/Madam

4 Caberfeidh, Fassifern Road, Fort William, PH33 6BE

I am writing to object to the secondary letting application by Duncan Freshwater at the above property in Fort William. I have detailed below my reasons for objecting –

1. Having lived at 3c Caberfeidh for just under 20 years I am concerned with the potential for regular noise at No 4 Caberfeidh which my flat is directly next door to. I am well aware from media coverage of recent years the problems that permanent residents have had to put up with from constant flow of people who are staying in Airbnb properties. I already experience noise periodically from bunkhouse adjacent to my property and believe it is inevitable that this will be far more frequent in an unstaffed Airbnb. I don't think Mr Freshwater will appreciate the regular impact of noisy guests while living 130 miles away in Edinburgh.
2. Application states that Meriem Darkaoui (and his family) are refugees. While I fully appreciate and am sympathetic with their plight I am concerned about the long term management of the property. Mr Darkaoui currently resides in basement flat of our building. If Mr Darkaoui returns to his own country does Mr Freshwater have plans on how the property will be managed day to day?
3. Parking – already an issue on lower stretch where Caberfeidh sits. What are Mr Freshwater's plans for parking? He already has one space which I believe Mr Darkaoui uses for his own car.
4. A quick glance at Airbnb website shows that there is already a significant number of properties being used for short term lets. Added to the large number of B&B's, Guest Houses, Hotels, camping pods and bunkhouses, does Fort William really need one more Airbnb? There is already a housing problem in Fort William despite number of new builds in last couple of years.

5. Fort William/Lochaber is marketed as the Outdoor Capital of the UK. As such the area plays host to countless events including the UCI Mountain Bike Championships. While I appreciate that families will use No 4 for stays I believe the significant number of Mr Freshwater's customer base will be younger people visiting area for access to this kind of event. Hard not to generalise younger people are more prone to creating noise and anti-social behaviour than families with small children.

6. Directly adjacent to No 3 and No 4 Caberfeidh is McLellan Undertakers. Is there any consideration given to such a business and have they been notified with option to submit objection?

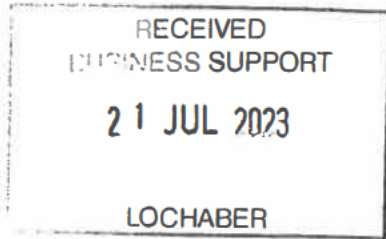
I hope you will look upon the above points favourably.

Yours sincerely

SIMON PURDON

Example:

[Edinburgh Airbnb owner told to 'cancel bookings' after noise complaints raised with police - Edinburgh Live](#)



6 Caberfeidh B&B

Fassifern Rd

Fort William

Ph33 6Be

The licensing committee

I would like to object to the short term let application submitted by Mr Duncan Freshwater of [REDACTED]

[REDACTED] in respect of property 4 Caberfeidh Fort William Ph33 6be to secondary or short term lets.

For the record we would be delighted if the status quo remained as there is a desperate need for long term lets in this area.

The appointed day to day manager Meriem Markaoui does he have any experience in short term lets? Is this likely to be a permanent position for somebody or a ploy to get the licence and then we end up with key safes all over the walls and no supervision.

The house is between two domestic properties and could cause noise and disharmony as we have seen in many similar lets all over Lochaber and think this is why this legislation was brought in.

Parking may cause problems and certainly won't help businesses and domestic properties in street.

Is this property fit for purpose? This is an investment property for Mr Freshwater and he is very much an absentee landlord. We see his car onsite every couple of years Vans and cars appear to do work we think. He doesn't use local tradesman and doesn't bring much to the table in Fort William. Always the saving grace was the facility for long term lets. Money obviously a big factor in this decision.

However it was nice of him to come to my door and "make himself known to me" the day before the notice was posted on the window, about thirteen years after the last time I met him.

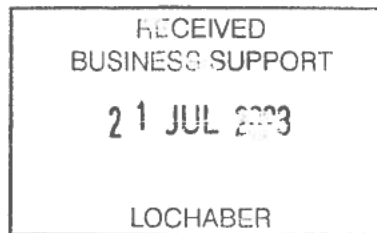
Yours sincerely

A large black rectangular redaction box covers the signature area. A small white square is visible at the bottom left corner of the redaction. A small handwritten mark is visible below the redaction box.

**3a Caberfeidh
Fassifern Road
Fort William
Inverness-Shire
PH33 6BE**

**The Highland Council
Charles Kennedy Building
Achintore Road
Fort William
Inverness-Shire
PH33 7RQ**

17/07/2023



Dear Sir/Madam

I am writing to object to the secondary letting application by Duncan Freshwater at No 4 Caberfeidh, Fassifern Road, Fort William, PH33 6BE. I am deeply concerned about Mr Freshwater's plans to change property into an Airbnb and the negative impact it will have on permanent residents of Caberfeidh, including myself. I have lived at No 3a Caberfeidh for a number of years now and had very few problems with neighbouring properties since moving here. It concerns me, however, to think that there could be a constant revolving door of visitors to No 4 who have little concern about noise that they make and how it impacts other people living on street.

I am well aware of ongoing issues with Airbnb properties in other parts of Scotland and the lack of responsibility the property owners take when it comes to things like anti social behaviour. There is a plethora of online articles referencing problems people have experienced living next door to an Airbnb and I do not wish to be another statistic.

My flat is adjoined to the proposed Airbnb and there is very little soundproofing between buildings. It's possible to hear people talking or moving about in the building. I can only imagine what the noise would be like if the property was taken over by countless different people from week to week.

I have enjoyed living on this street and have done for a few years now. I do not wish this to be spoilt by the approval of yet another Airbnb Fort William does not need.

Yours faithfully

IAN DEWAR