

	Agenda item	7.2
	Report no	HLC/074/23

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 24 October 2023

Report title: Application for the grant of a short term let licence – Birch Corner, 8 Patterson Place, Aviemore, PH22 1TZ (Ward 20 - Badenoch and 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.

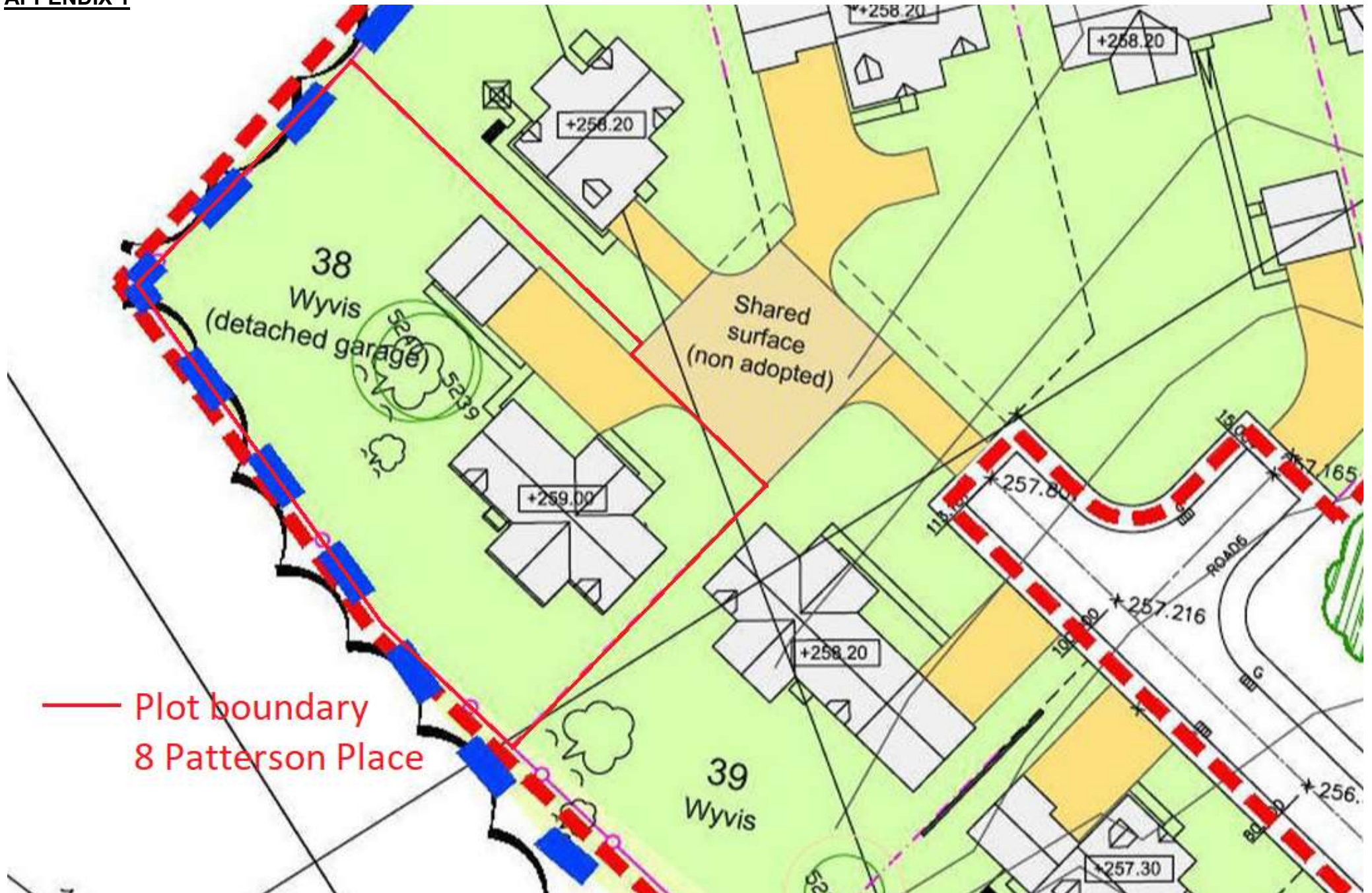
3.	Background
3.1	In terms of The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022, a licence is required for residential accommodation for use as a short term let.
3.2	<p>Short term let means the use of residential accommodation provided by a host in the course of business 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 30 January 2023 (date application was deemed valid) an application for the grant of a short term let licence was received from a Martin Ward, on behalf of Birch Corner Limited (Company number 09586341) and having their registered office at 6a Whirlow Park Road, Sheffield, S11 9NP.
4.2	The Premises to which the application relates to is Birch Corner, 8 Patterson Place, Aviemore, PH22 1TZ ("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 for the short term let licence has been made on the basis that Birch Corner Limited will be the host/operator of the Premises. The application states they are an 'existing host' on the basis that the Company, in the capacity as the host/operator, have been operating 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 detached 1.5 storey dwellinghouse which can accommodate a maximum of eight guests. The ground floor of the Premises comprises of 1 ensuite bedroom, an open plan lounge/family/kitchen area, a dining room, a utility room and a small cloakroom toilet. The upper floor of the Premises comprises of 3 bedrooms (one ensuite) and a bathroom.

5.	Process
5.1	The application was circulated to the following Agencies/Services for consultation: <ul style="list-style-type: none"> • Police Scotland; and • 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.

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. During the notice of display period, the following timeous representation was received and is attached as an Appendix to this report: <ul style="list-style-type: none"> • Representation received by email on 12 February 2023 from Alison McLachlan (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: <ol style="list-style-type: none"> the applicant or anyone else detailed on the application is not a fit and proper person; 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; 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 <ol style="list-style-type: none"> the location, character or condition of premises or the character or condition of the vehicle or vessel, the nature and extent of the proposed activity, the kind of persons likely to be in the premises, vehicle or vessel, the possibility of undue public nuisance, or public order or public safety; or there is other good reason for refusing the application. <p>If required, the Principal Solicitor – Regulatory Services will offer particular advice on the criteria relating to this particular application.</p>

7.2	<p>A copy of this report has been sent to the applicant and the objector 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>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:</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	<p>Not applicable.</p>
<p>Date: 4 September 2023</p> <p>Author: Julie Traynor</p> <p>Reference: FS476915926</p> <p>Background Papers:</p> <ul style="list-style-type: none"> • Civic Government (Scotland) Act 1982 • The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 <p>APPENDICES:</p> <p>Appendix 1: Site plan, detailing the extent of the Premises</p> <p>Appendix 2: Representation dated 12 February 2023 received from Alison McLachlan</p>	

APPENDIX 1



— Plot boundary
8 Patterson Place

From: Alison McLachlan <[REDACTED]>
Sent: 12 February 2023 20:48
To: STL Licensing
Subject: Fwd: 8 Patterson place PH2 1 TZ

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: [REDACTED]

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 raise awareness of a few issues we have with the STL business operating at 8 Patterson Place in relation to licence application.

1. Issues with private access:

- Properties 8,9,10 share a private access and turning circle but the STL business at no.8 uses this access excessively. Cracks have appeared in the tarmac including around the drain covers and also there are cracks in cement blocks at the start of the access area. This private access area is not designed for or able to sustain the volume of traffic that currently is making use of it, most of which relates to the STL

As this area is not maintained by the council, any damage/repairs will need to be resolved by the 3 properties, but the usage is greatly uneven.

The STL property is rented out near constantly and often there are multiple shorter rentals within a week period. There can be 4/5 guest vehicles and vans using the access area per rental. Each of these rentals is served by a stream of service vehicles using the access area. (There are usually 2 cleaning vans per rental, often multiple visits by hot tub service van per rental as well as supermarket delivery and commercial refuse trucks on a regular basis. The council bin lorries don't come into the private area with their trucks and residential bins need to be walked down to the start of the public road.

- During periods of ice and snow, this private area is not gritted by council gritter trucks as is not a public road. Guests are not aware of the need to have appropriate tyres etc for driving in ungritted areas and we have had to rescue several guests' cars that have ended up blocking the access area. We have had to use our grit stocks to help guests come and go. (We all have winter tyres on our vehicles).
- Guests and some service vehicles regularly drive over neighbouring gardens as they are not aware that the private access lane is much narrower than the public road. The evidence of this is sadly clear to see.
- Up until a few months ago, guests were parking in the turning circle. As the house is rented near constantly (and with many guests coming with 4/5 vehicles), it meant the turning circle was being used for additional STL parking on a near constant basis even though it is shared by 3 properties. I did raise this issue with the owner and eventually signage went up to ask people not to park in the turning circle.
- The notification for this licence has been placed in the window of no.8, which is not accessible to the public due to the private access to properties. It also had no date detailed as to

when it was put up so people who do wish to add a comment/objection may be unaware of the cut off point for submissions.

2. Issues with guests lack of awareness /care for residential nature of area –

- Guests show no awareness that they are renting a property in a residential neighbourhood:
We have had people from the property enter our gated back garden.
We have had guest children playing in our front garden.
We have had guests walking over our front lawn and other neighbouring gardens with dogs off lead.
We have had people drinking alcohol in the access area and leaving empty broken bottles in our front garden.
We have also been subjected to excessive noise on several occasions from Stag, Hen and birthday party events.
We have had large dogs jump over the fence into our garden which meant keeping my dog inside until my complaint to the owner was dealt with.
- These types of events make me feel unsafe in and around my own property as I have no idea who is visiting the property or if visitors' dogs are being properly supervised.

3. The owners, who don't live in this country, have not been proactive in resolving these issues and indeed the responsibility falls to the neighbouring houses to raise complaints /issues – These impacts adversely on neighbours as not only do we suffer from these negative impacts, unless we take the time to raise the issue nothing gets done. The owner suggested if people are in my back or front garden, I should contact the police but I think a responsible STL business owner should be making sure there are none of these sort of issues happening by checking in with neighbours regularly and ensuring guests behave in an appropriate manner in this residential area.

I don't think this reflects a well-managed property and/or conscientious business owners, who operate in a residential neighbourhood.

Signed

[Redacted signature]



ReplyForward