

	Agenda item	7.3
	Report no	HLC/075/23

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 24 October 2023

Report title: Application for the grant of a short term let licence – Pine Tops, Auchterawe, Fort Augustus, PH32 4BT (Ward 12 – Aird and Loch Ness)

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 31 May 2023 (date application was deemed valid) an application for the grant of a short term let licence was received from Nas Latif.
4.2	The Premises to which the application relates to is Pine Tops, Auchterawe, Fort Augustus, PH32 4BT ("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 yellow on such site plan.
4.3	Nas Latif is the host/operator of the Premises and has applied for the short term let licence as an 'existing host' on the basis that, in his capacity as the host/operator, he was 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 single storey dwellinghouse which can accommodate a maximum of six guests. The Premises comprises of 3 bedrooms (one ensuite), a kitchen, a living area, a utility room and a bathroom.
5.	Process
5.1	<p>The application was circulated to the following Agencies/Services for consultation:</p> <ul style="list-style-type: none"> • Police Scotland; and • Highland Council Environmental Health Service.

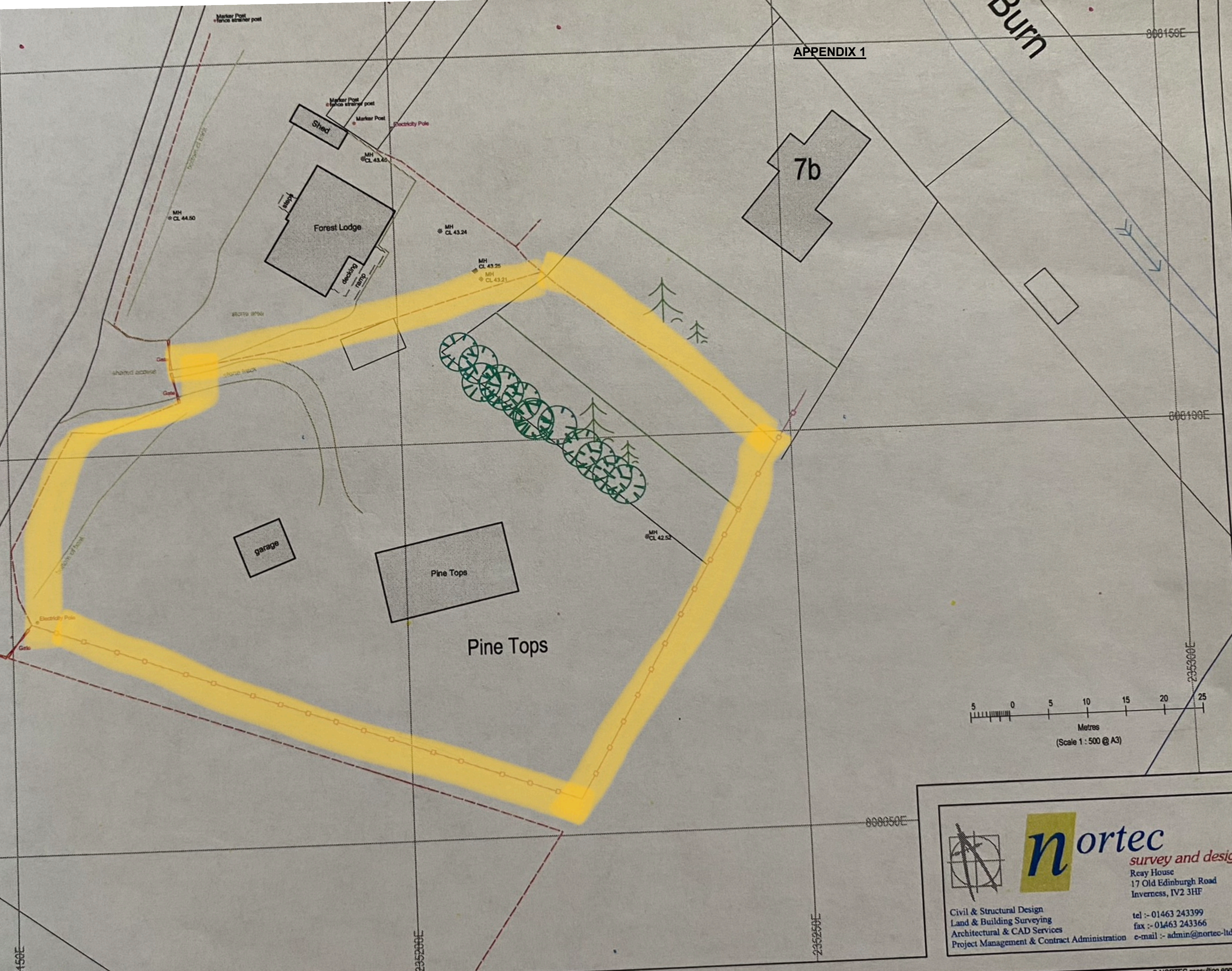
5.2	Both of the above Agencies/Services have confirmed that they have no objections to the licence being issued.
5.3	The Scottish Fire & Rescue Service was not further consulted on the application as the fire safety checklist, which was completed by the applicant, pertaining to the application was deemed satisfactory.

6.	Public representation
6.1	<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 objection was received and is attached as an Appendix to this report:</p> <ul style="list-style-type: none"> • Objection dated 13 June 2023 from Karen Felton (Appendix 2).
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> <ul style="list-style-type: none"> (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 <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 (d) 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>

	Licensing hearings procedures Licensing hearings procedure (Licensing Committee) (highland.gov.uk)
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.	Implications
9.1	Not applicable.
<p>Date: 4 September 2023</p> <p>Author: Julie Traynor</p> <p>Reference: FS493132598</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: Objection dated 13 June 2023 received from Karen Felton</p>	

PLAN 1.

APPENDIX 1



 **nortec**
survey and design
Reay House
17 Old Edinburgh Road
Inverness, IV2 3HF
tel :- 01463 243399
fax :- 01463 243366
e-mail :- admin@nortec-ltd.co.uk
Civil & Structural Design
Land & Building Surveying
Architectural & CAD Services
Project Management & Contract Administration

Forest Lodge
Auchterawe
Fort Augustus
PH32 4BT

The Highland Council

13th June 2023

Dear Sir / Madam

Application for Short-term Lets licence at Pine Tops, Auchterawe, Fort Augustus PH32 4BT

The public notice of application for the above property was displayed on 4th June and I wish to raise an objection to the licence on the grounds of nuisance.

I live at the adjacent property to Pine Tops and have made several complaints to Mr Latif over the last 18 months regarding the behaviour of dogs at the property and other nuisance by his customers.

Mr Latif takes bookings from people with up to 4 dogs and there have been numerous instances of dogs barking aggressively at us when we are in our garden, barking at our chickens, and barking at unsocial hours (eg 05:40 / 21:00). When we have spoken with the dog owners, asking them to prevent their dogs barking at us they have been dismissive. These complaints have been reported to Mr Latif but the situation has not improved.

The most recent example was on 12th June at 20:40. We were sitting in our lounge and the two dogs at the property were let into the garden unsupervised. They ran to the fence closest to our patio door, which was open, and barked at us. At around 21:00 they again ran into the garden and barked at the people at the other adjacent property (8 Auchterawe), causing their dog to bark in response.

The perimeter fencing around the garden at Pine Tops is not suitable for untrained, unsupervised dogs. It is a 1-meter post-and-wire fence that dogs can see through and many could easily jump over, into our garden. Many of the tourists staying there look around the garden for wood to block holes in the fence (there are piles of rubbish in the garden). We have witnessed a dog escape into the road and another jump the fence into the farm field on the other side of the property, where there is often livestock. We have had to carry out maintenance on the fence between our properties because Mr Latif is not here to do so.

In addition to this nuisance from dogs, we have had to relocate our bins because Mr Latif's customers used our bin when his was full. Other times his customers leave bags of rubbish on the verge because his bins are full. Through Autumn and Winter his bins are often blown over, strewing rubbish over our shared drive that we have to clear up. Also his customers regularly cut across our half of the shared drive and churn up the gravel which we have to rake back into place.

Kind regards



Karen Felton