

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 26 March 2024

Report title: Application for the grant of a short term let licence –
Fishertown House, 37A Harbour Street, Nairn, IV12 4NX
(Ward 18 : Nairn and Cawdor)

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 August 2023 (date application was deemed valid) an application for the grant of a short term let licence was received from Mrs Pauline Jane Barron.
- 4.2 The Premises to which the application relates to is Fishertown House, 37A Harbour Street, Nairn, IV12 4NX ("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 the plan found on page 1 of Appendix 1.
- 4.3 The application for the short term let licence has been made on the basis that Mrs Barron is the host/operator of the Premises. The application states that Mrs Barron has applied for the short term let licence as an 'existing host' on the basis that, in her capacity as the host/operator, she was operating the Premises as a short term let prior to 1 October 2022. In addition, Mrs Barron is named on the application as the sole owner of the Premises and as the person responsible for the day-to-day management of the Premises.
- 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 an end terraced, two and a half storey dwellinghouse which can accommodate a maximum of 7 guests. The lower ground floor of the Premises comprises of an integral double garage. The ground floor comprises of a living room, kitchen and cloakroom WC. The first floor comprises of 2 bedrooms, a bathroom, a shower room and a store. The second floor comprises of 2 bedrooms. Floor plans of the Premises were provided by the applicant as part of the application process and these can be found on pages 2 and 3 of Appendix 1.

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; • Highland Council's Environmental Health Service; and • Scottish Fire and Rescue Service.
5.2	All of the above Agencies/Services have confirmed that they have no objections to the licence being issued.
5.3	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 objections
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 by email on 20 August 2023 from Rosa Ingrid (Appendix 2); • Objection received by email on 20 August 2023 from Gabriell Musam (Appendix 3); and • Objection received by email on 20 August 2023 from John Allan (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> <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,

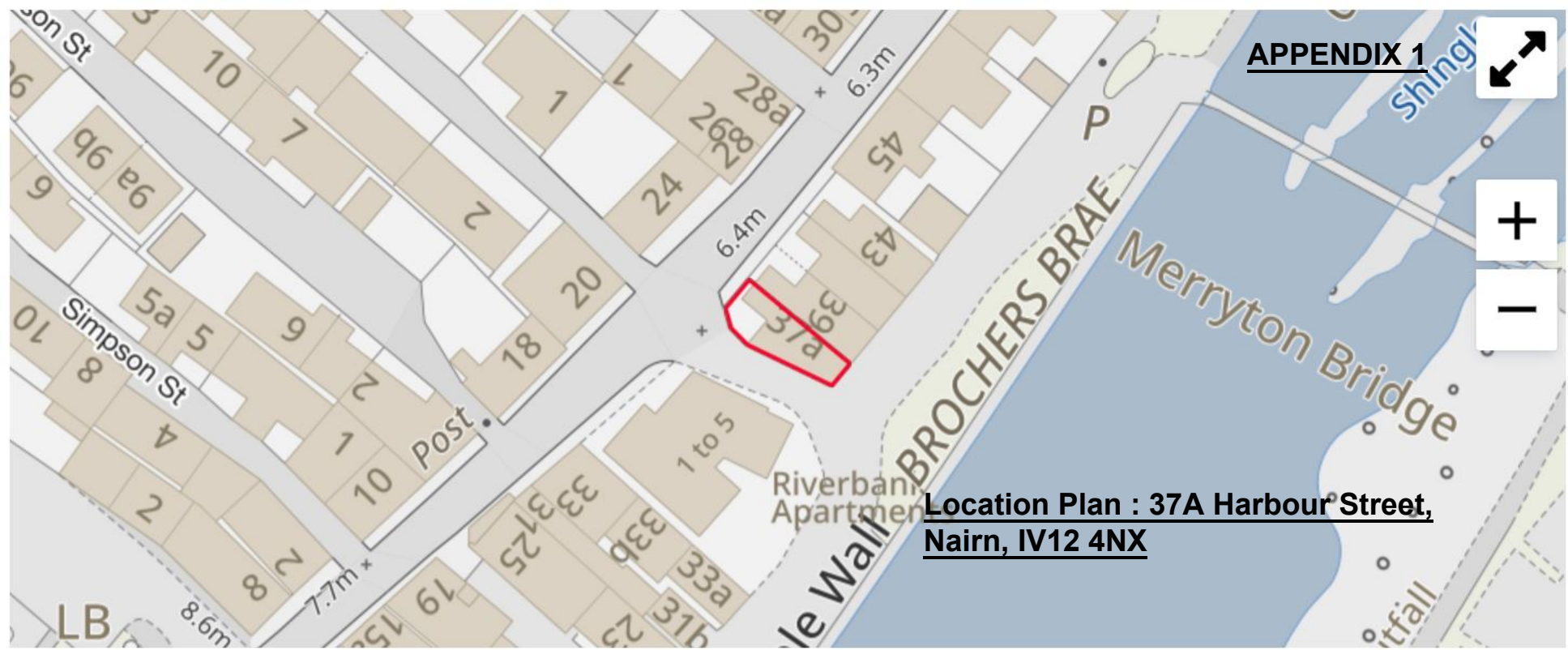
	<p>(iv) the possibility of undue public nuisance, or</p> <p>(v) public order or public safety; or</p> <p>(d) there is other good reason for refusing the application.</p> <p>If required, the Principal Solicitor – Regulatory Services will offer particular advice on the criteria relating to this particular application.</p>
7.2	<p>A copy of this report has been sent to the applicant and the 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>
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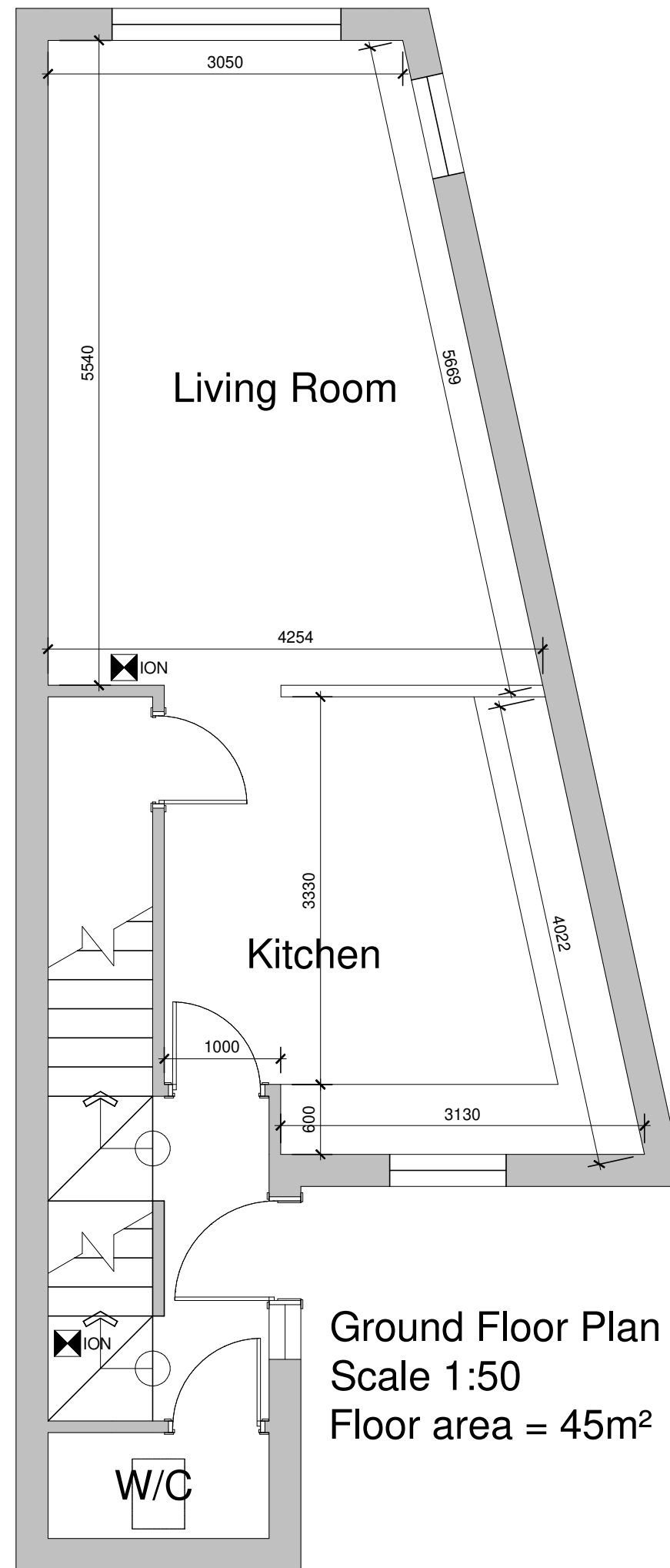
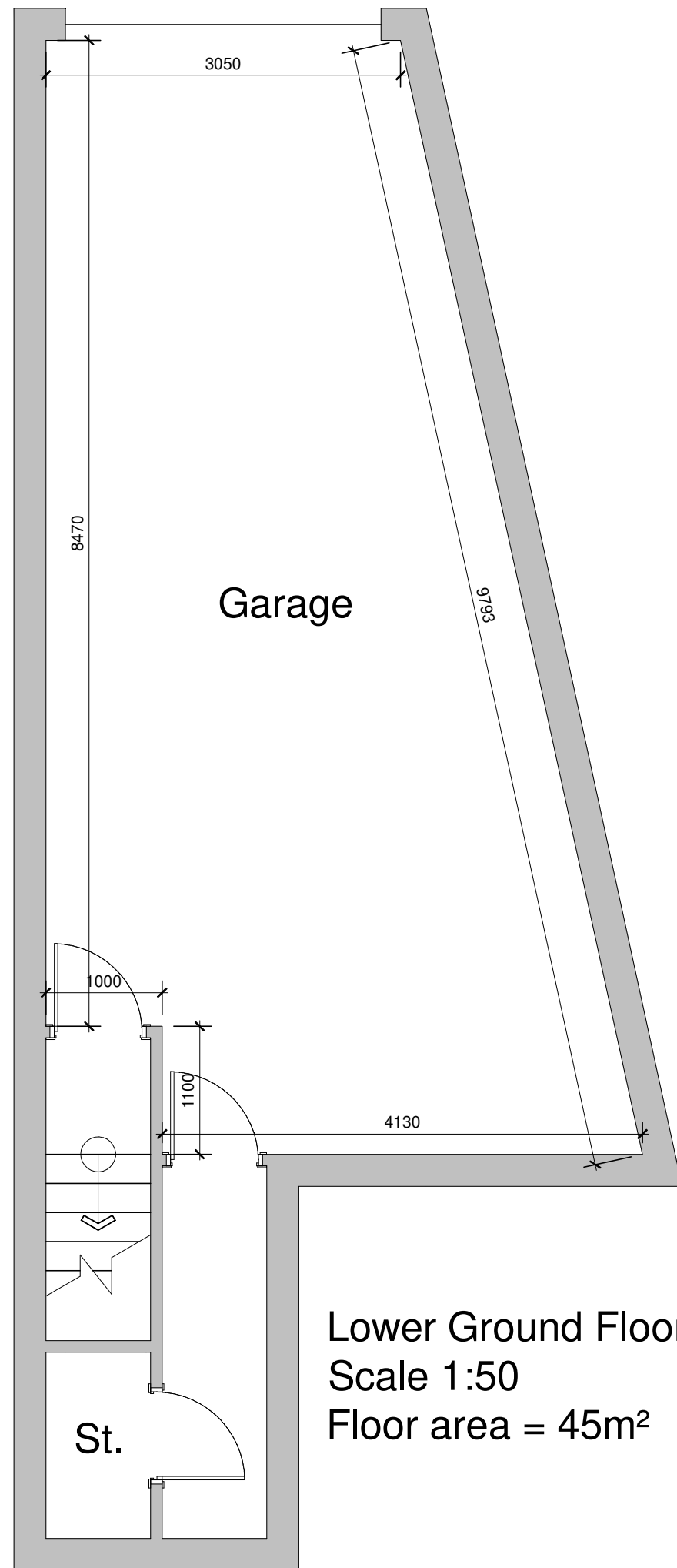
9.	Implications

9.1	Not applicable.
<p>Date: 29 February 2024 Author: Julie Traynor Reference: FS522982207</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: Appendix 1: Site plan, detailing the extent of the Premises and floor plans for the Premises; Appendix 2: Objection received by email on 20 August 2023 from Rosa Ingrid; Appendix 3: Objection received by email on 20 August 2023 from Gabriell Musam; Appendix 4: Objection received by email on 20 August 2023 from John Allan.</p>	

APPENDIX 1

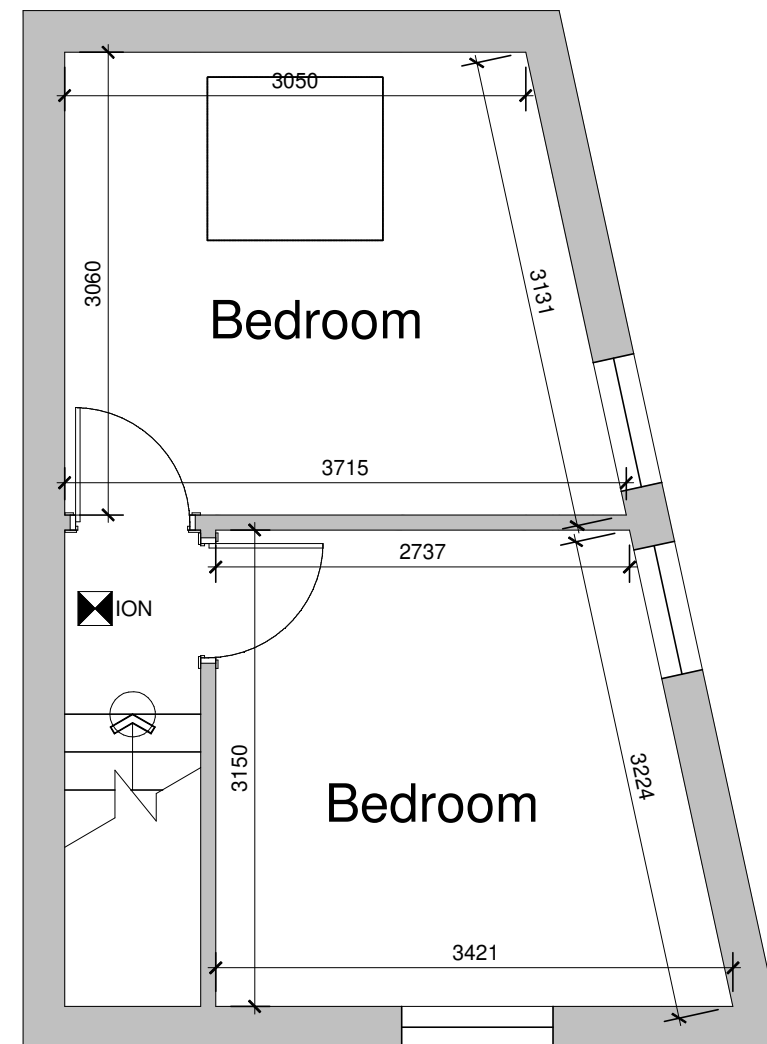
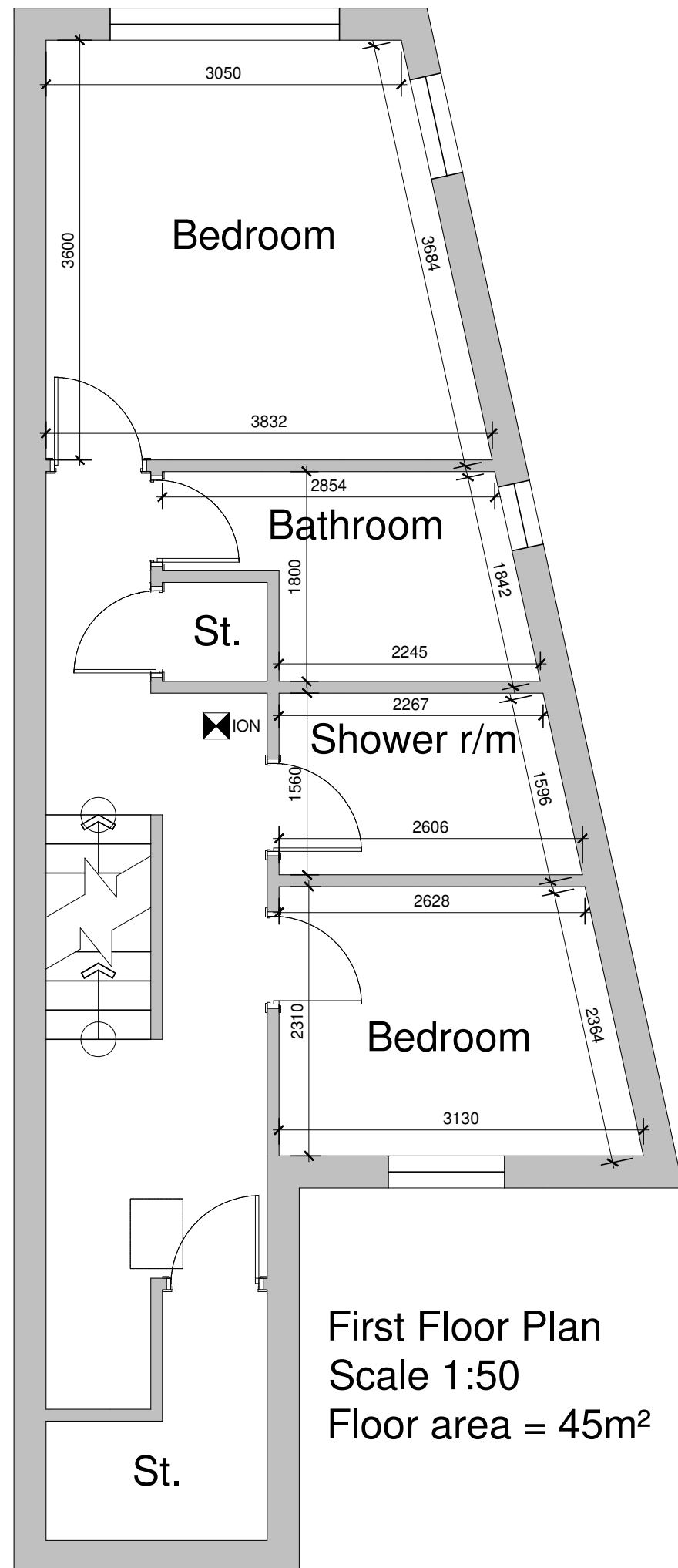


**Location Plan : 37A Harbour Street,
Nairn, IV12 4NX**



Key:
 Heat = Heat detector
 ION = Smoke detector
 CO = Carbon Monoxide detector
 FE = Fire Extinguisher
 FB = Fire Blanket
 All dimensions in mm

REV:	DESC:	BY:	DATE:
ISSUE: Licensing			
DM HALL <small>CHARTERED SURVEYORS</small> 27 Canmore Street, Dunfermline 01383 621 262 architecture@dmhall.co.uk			
PROJECT ADDRESS: 37A Harbour Street Nairn IV12 4NX			
DRAWING TITLE: Licensing Floor Plan Lower Ground and Ground			
We hereby certify that this is the plan referred to in the foregoing application for Local Authority consent LA REF - Drawing remains property of DM Hall LLP			
FILE No.	PP-23-00091		PAGE SIZE: A3
DATE: 06/02/23	DRAWN: CA	SCALE: 1:50	DRAWING NO: 1 /



Key:
 Heat = Heat detector
 ION = Smoke detector
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 All dimensions in mm

REV:	DESC:	BY:	DATE:
ISSUE: Licensing			
DM HALL <small>CHARTERED SURVEYORS</small> 27 Canmore Street, Dunfermline 01383 621 262 architecture@dmhall.co.uk			
PROJECT ADDRESS: 37A Harbour Street Nairn IV12 4NX			
DRAWING TITLE: Licensing Floor Plan First and Second			
We hereby certify that this is the plan referred to in the foregoing application for Local Authority consent LA REF - Drawing remains property of DM Hall LLP			
FILE No.	PP-23-00091		PAGE SIZE: A3
DATE:	DRAWN:	SCALE:	DRAWING NO: REV:
06/02/23	CA	1:50	2 /

From: [Rosa Ingrid](#)
To: [STL Licensing](#)
Subject: Objection.
Date: 20 August 2023 07:20:43

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.

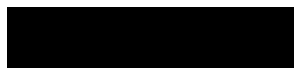
I formally object to the holiday licences of 37a harbour streets, nairn. Iv124NX.

My neighbour has 2or more cars day and nigh from holiday maker. There is no parking for this house that has room advertising as 8 people. They park and block me in. There is enough with other holiday let on site.

Applications is Pauline Barron.

They had no consideration as members to the public. It is not a house designed to manage as holiday letting.

Rosa ingrid.



From: [Gabriel Musam](#)
To: [STL Licensing](#)
Subject: 37A Harbour Street Application for second reletting
Date: 20 August 2023 18:02:38

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I live on Harbour Street (facing the river) and we have a serious parking problem and access on the riverside. The holiday let sleeps 8 people, meaning that the guests usually arrive in at least 2 vehicles which usually become illegally parked for a week at a time.

Although I believe the flat does have a garage it is small and almost never used by holidaymakers, in fact they tend to block other permanent residents' garages or park on green spaces. Someone has removed the bollards from the edges of the grass at their address and now they use the grassy area that is meant to be a public space as a parking space. It has destroyed the grass and is an eyesore on the area. It is also very dangerous in the winter when driving down the brae to have cars parked illegally there.

With the other, multiple holiday lets nextdoor in the Riverview, parking is already extremely difficult for the people who live here and we feel that if they want to use their property as a holiday let then they should have to provide private parking for the guests instead of making it our problem.

Sincerely,

Gabriell Musam



From: [John Allan](#)
To: [STL Licensing](#)
Subject: Objection 37A harbour street
Date: 20 August 2023 18:39:54

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.

Please be advised that the application for this should not go ahead as they don't have any parking. They don't manage things at all, the renters drive over and park on grass that is council property. Cars and vans block the road round!'

John Allan.

