

	Agenda item	7.3
	Report no	HLC/021/24

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 26 March 2024

Report title: Application for the grant of a short term let licence – Mountain View Lodge, Dulnain Bridge, Grantown on Spey, PH26 3LY (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	<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 24 August 2023 (date application was deemed valid) an application for the grant of a short term let licence was received from Mrs Paula Mary Duthie.
4.2	The Premises to which the application relates to is Mountain View Lodge, Rosarden, Dulnain Bridge, Grantown-on-Spey, PH26 3LY ("the Premises"). Site plans were provided by the applicant as part of the application process and they are attached as an appendix to this report (Appendix 1). The Premises are those edged red on the site plans found on pages 1 and 2 of Appendix 1.
4.3	The application for the short term let licence has been made on the basis that the said Mrs Duthie will be the host/operator of the Premises. The application states that the applicant has applied for a short term let licence as an 'existing host' on the basis that the Premises were operated by Mrs Duthie as a short term let property prior to 1 October 2022. In addition, Mrs Duthie is named on the application as the owner of the Premises and 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.

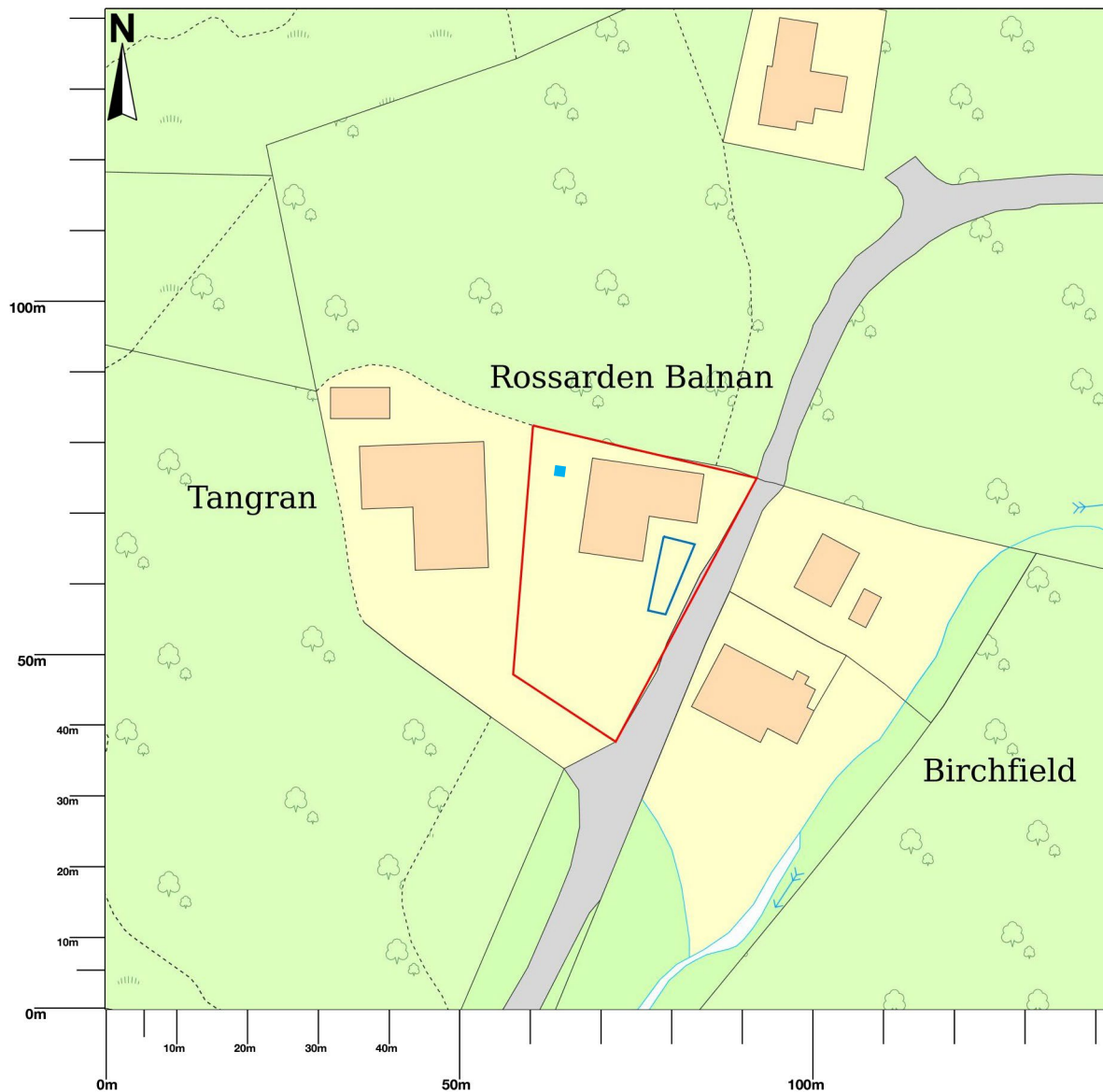
4.5	The Premises is described as a detached dwellinghouse which can accommodate a maximum of 9 guests. The ground floor of the Premises comprises of an open plan living room/kitchen/dining area, 2 bedrooms (one ensuite), utility room and a cloakroom toilet. The upper floor of the premises comprises of 2 bedrooms, a bathroom and a lounge area with double doors which lead out to a balcony. Floor plans of the premises were provided by the applicant as part of the application process and these can be found on pages 3 and 4 of Appendix 1. In addition, the premises also offers an external socialising area which comprises of an outside garden and a hot tub located on a patio area. The location of the hot tub has been identified by the applicant on page 2 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 Environmental Health Service; and • Scottish Fire & 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 representations
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.
6.2	<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 1 September 2023 from Graham Lawrence and Lesley A. Calder (Appendix 2) • Objection received on 21 September 2023 from Judith Turner (Appendix 3)
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> <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>

9.	Implications
9.1	Not applicable.
<p>Date: 1 March 2024</p> <p>Author: Julie Traynor</p> <p>Reference: FS523637708</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 plans, detailing the extent of the Premises including the location of the outdoor socialising area, and floor plans;</p> <p>Appendix 2: Objection received on 1 September 2023 from Graham Lawrence and Lesley A. Calder;</p> <p>Appendix 3: Objection received on 21 September 2023 from Judith Turner.</p>	

MOUNTAIN VIEW LODGE

**Rossarden, Balnaan, Dulnain Bridge, Grantown-On-Spey, PH26
3LY**

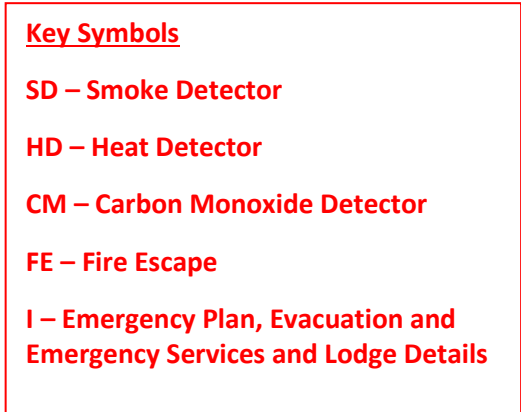


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Rossarden Balna



MOUNTAIN VIEW LODGE – GROUND FLOOR





1st September 2023

Planning application Ref: 22/04531/FUL

Dear Sirs/Madams.

We refer to the above application regarding the address of Rossarden (known as Mountain View Lodge for the STL business).

We are one of two full time resident neighbouring properties with Rossarden (or MVL) sandwiched in between. We immediately border this property and from our experience of the last four years, since its' conversion from a private residence into a STL business, the quiet rural nature of the locality has changed, in such a way that we consider that it is inappropriately situated for such a business.

It also results in yet another home lost for a family to reside and work locally in the community of our National Park.

Please place yourself in the position of living as its' neighbour!

The main points causing concern revolve around the consequences of the number of occupancy and the very short term of stay in this remote rural area of the Cairngorm National Park.

The reasons that I purchased this house, similar to neighbouring residents, including Rossardens' previous owner, include residing in a quiet rural residential community for family/working/retired life in the country, with dark skies (specifically without street lighting).

Let me say that a good number of holiday guests have been fine, respectful of the area and of us; a pleasure.

Also, in our experience, the company running the letting, Seasgair, have been excellent with the restrictions they lay down regarding the 'Family' nature of occupancy, noise pollution, light pollution, use of the hot tub, being respectful of intrusion on the quiet rural neighbourhood and its residents; and in trying to address the various problems which have arisen.

Unfortunately the reality of human mentality all too often has resulted in the flouting of these restrictions either by way of ignorance, a lack of care, lying when booking, and/or blatant "I'm on holiday – I will do... just what I like"!

As I say we do not in any way blame Seasgair (by the way, we have no financial interest in Seasgair) for the problems occurring but these problems are exacerbated by an advertised occupancy of nine, with hot tub, and often a turnaround of twice per week (Fri – Mon / Mon – Fri). "Holiday excitement" hasn't had time to calm before change-over and the next 'party' arrive, for the cycle to repeat all over again.

This is unlike a B & B or guest house (which, by the way, in my opinion should not be seen in the same light as a STL), where behaviour is more readily kept in check, there being the owner/manager on site. The STL has no such restraint.

The STL in question has changed the nature of the immediate area, with the aforementioned flouting of rules resulting in various combinations of excess noise, also noise into the night, (one would expect permanent residents to have some 'party/noisy' times throughout a year – but nothing compared to the repetitive nature from the STL). Excess noise often relates with the use of the hot tub (situated two metres or so from our property boundary) and used outwith stated hours. Frequently outside lighting is left on night and day. There have also been numerous intrusions onto our property including vehicles (delivery/service vehicles and 'holiday' vehicles), pets – and their owners, beer containers and 'party glitz' litter. Also when contravening the stipulations, the occupancy of nine (give or take!) has actually resulted in a number of (family!) bookings which have turned out to be either a group of males or females or of multiple families/couples, usually then with four or more cars (for which there is plenty of room on their driveway) – as well as their "visitors".

Rossarden and [REDACTED] were built as private family houses by the same builder in the same time-frame and with the same waste capacity. [REDACTED] (our home) is actually somewhat larger and we are restricted by SEPA to a maximum population equivalent of five and with the septic tank in good working order - as per septic tank registration with SEPA. It does raise concern of potential sewage pollution if Rossarden is allowed to exceed this restriction and if used as a STL, reality is that by no means everybody is familiar with the requirements for keeping a septic tank working properly, with regard to items/products that should not be allowed into it. As mentioned in previous paragraphs, the letting agent's rules may not always be adhered to.

These are the various reasons why we consider the property Rossarden inappropriate to be used as a STL business and we oppose the granting of permission for use as a short term let (STL) business.

Yours sincerely,

[REDACTED]

[REDACTED]

Graham Lawrence and Lesley A. Calder.

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Sent from [Outlook](#)

From: Judith Turner

Sent: 21 September 2023 07:20

To: stl@highland.govuk <stl@highland.govuk>

Subject: Objection to Short term holiday let for Rosarden [REDACTED] Badenoch and Strathpey

Dear Badenoch and Strathspey short term let licencing team,

Further to the request for a short holiday let application notice display on the 25 Aug 23 for Rosarden also known as Mountain Lodge Balnaan PH26 3LY by Paula May Duthie, I am writing within the specified 28 day period to object. I live next door at [REDACTED] PH26 3Ly (I provide my name and address as required for this objection only and do not want my e-mail address to be disclosed), The nature of the objections have also been outlined in the request for planning also.

Excessive noise outside of Council defined quiet hours. My bedrooms face on to the reception areas and outside seating areas at the front of the property and also the games room. The restrictions of timings for use of the hot tub and Games room are most certainly not always complied with. I have had to pre-empt a build up of noise by speaking to the holiday makers after 1100 pm or have had to get out of bed (despite triple glazed closed windows) in the region of 1230 am to 3 am on far too many times since this property has been commercially let. I am in my 60s and feel vulnerable having to do this particularly knowing that alcohol is also often a contributing factor. There are usually 4 cars at the properties and groups of couples rather than the mixed generation family with young children have been predominantly associated with the noise problem. Paula May Duthie effectively uses the property as a commercial holiday let and lives in Aberdeen, she uses a Management Company but there should be a 24 hour contact to resolve such scenarios and a defined process. No neighbour wants compensation for such disturbance and would rather have a good night sleep but at the very least there should be such a system linked to the deposit which would also act as a deterrent. Short term lets of 3 or 4 days also change some of the dynamics as it becomes a venue for celebrations rather than the more traditional family holiday. The feedback I have had from the holiday makers in the early hours is that they specifically booked thinking the property was remote so they would not be disturbed or disturb others. There are lots of large remote properties within Badenoch and Strathspey that could supply the demand for groups not wanting to use facilities on

established resorts with Managers in place whilst not affecting an established neighbourhood.

Lights in the Games room for instance can be left on at night for instance which affects viewing of the night sky.

My husband and I purchased the property in the late 90s because of its tranquil neighbourhood, rural environment, views and nature. I work in Badenoch and Strathspey and leave for work shortly after 7 am or just before 8 am. There is no comparison with having a neighbour to a commercial holiday on Balnaan PH26 3LY which we selected as our home.

Kind Regards,

Judith Turner

Sent from [Outlook](#)