

Agenda item	
Report no	HLC/***/24

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 3 September 2024

Report title: Application for the grant of a short term let licence – Flat 6, 13 Culduthel Road, Inverness, IV2 4AG (Ward 14 – Inverness Central)

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 29 February 2024 a validated application for the grant of a short term let licence was received from Mr Kevin Alfred Stuart Johnston.
- 4.2 The property to which the application relates is Flat 6, 13 Culduthel Road, Inverness, IV2 4AG (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 by a blue dashed line on the site plan on page 1 of Appendix 1.
- 4.3 The application for the short term let licence has been made on the basis that the said Mr Johnston and a Mrs Sandra Elizabeth Johnston will be the host/operator of the Premises. The host/operator has applied for a short term let licence as an 'existing host' on the basis that the Premises were operated as a short term let property prior to 1 October 2022.
- 4.4 Mr Kevin Alfred Stuart Johnston and Mrs Sandra Elizabeth Johnston are named on the application as the owners of the Premises.
- 4.5 The person named on the application as being responsible for the day-to-day management of the Premises is the said Mr Kevin Alfred Stuart Johnston.
- 4.6 The type of letting which has been applied for is 'secondary letting', which means the host/operator is letting a property where they do not normally live.

4.7 The Premises is described as a first floor flat which can accommodate a maximum capacity of 6 guests.

A floor plan of the Premises was provided by the applicant as part of the application process, and this can be found on page 2 of Appendix 1.

5. Process

5.1 The application was circulated to the following Agencies/Services for consultation:

- Police Scotland; and
- Highland Council Environmental Health Service.

5.2 Police Scotland and the Highland Council's Environmental Health Service have both confirmed that they have no objections to the application.

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. Certificate of Compliance

6.1 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.

7. Public objections/representations

7.1 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 licence.

During the notice of display period, the following timeous representation was received and is attached as an Appendix to this report:

- Representation received by letter on 29 March 2024 from Mr N M MacKay **(Appendix 2)**.

8. Determining issues

8.1 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:

- (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
- (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.

8.2 If required, the Principal Solicitor – Regulatory Services will offer particular advice on the criteria relating to this particular application.

8.3 A copy of this report has been sent to the applicant and Mr MacKay 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.

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:

[Licensing hearings procedures | Licensing hearings procedure \(Licensing Committee\) \(highland.gov.uk\)](#)

9. Observations on objections/representations

9.1 In the letter of representation found at Appendix 2, points have been made which should not be taken into account by the Committee when determining this licence application, as they are outwith the scope of the grounds that a licensing authority can consider in terms of the refusal of an application to grant or renew a licence, as detailed at point 8.1 of this Report.

9.2 The Principal Solicitor – Regulatory Services will offer verbal advice/clarification on these points at the meeting.

10. Policies

The following policy is relevant to this application:

- Short-term let licensing policy statement (which includes the mandatory and additional licence conditions attached to all Short Term Let Licences):-

A copy of this policy can accessed [here](#) or a hard copy can be supplied where requested.

11. Implications

11.1 Not applicable.

Date: 14 August 2024

Author: Julie Traynor

Reference: [FS541493204](#)

Background Papers:

- 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 and floor plan for the Premises;

Appendix 2: Representation received by letter on 29 March 2024 from Mr N M MacKay.

[REDACTED]
Date 29th March 2024

Mr N.M. Mackay

Representation regarding: APPLICATION FOR SHORT TERM LETS LICENCE

Flat 6, 13 Culduthel Road, Inverness IV2 4AG

13 Culduthel Road Consists of block of 6 flats

4 off owner occupied

1 off long term let

1 off currently remote owner, applied for short term Licence for letting. Property advertised as The Culduthel NO6

The Culduthel NO6.

Property details advertised:

Free parking: Parking is free but THE property has only **ONE** dedicated parking space.

Sleeps 6, should this occur it usual for more than one vehicle would be in attendance, therefore no space for additional vehicles, visitor spaces for the complex are then taken over.

Sleeps 6: This infers a maximum of 6, to date, this is not the case and frequently the number exceeds 6.

Management System: No evidence of this in operation, current owner resides in Orkney,

Existing host: Those operating short term lets before 1st October 2022 should have applied for licence by 1 October 2023, note that application submitted 23/08/2023.

Licence: Note the application does not state a maximum number of guests.

Guest Entrance: Key box on wall Communal Entrance "no host involvement"

Planning Permission: No indication if Planning permission is required or has been applied for,

Communal Entry: Main entry is a secure entry, busser type to each property, this provides a level of security, guests leaving the main entrance open removes level of security for other owners. Note that some local authorities only permit short term lets where a separate entrance is available.

Lift/Elevator: Guests use the lift for luggage, lift has a key lock to hold lift door open to give time for removing luggage, frequently the key lock is not disengaged therefore other owners cannot call lift.

Noise: An issue due to frequency of movement

[REDACTED]
N.M.Mackay