

	Agenda item	3.1
	Report no	HLC/110/24

THE HIGHLAND COUNCIL

Committee: **THE HIGHLAND LICENSING COMMITTEE**

Date: **10 October 2024**

Report title: **Application for the grant of a short term let licence Valhalla, Sutherland Street, Helmsdale, KW8 6JE (Ward 4 – East Sutherland and Edderton)**

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 15 May 2024 a validated application for the grant of a short term let licence was received from Mr Ian Alexander Gordon.
- 4.2 The property to which the application relates is Valhalla, Sutherland Street, Helmsdale, KW8 6JE (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 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 Gordon, Miss Faith Jacqueline Chelton, Mrs Jacqueline Mary Boyd, Mr Alexander Boyd and Miss Jennifer Jane Gordon 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 Gordon, Miss Chelton, Mrs Boyd, Mr Boyd and Miss Gordon 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 Gordon.
- 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 semi-detached dwellinghouse which can accommodate a maximum capacity of 8 guests. The ground floor of the premises comprises of a sitting room, kitchen, bedroom, shower-room and W/C. The first floor comprises of 3 bedrooms and a bathroom. Floor plans of the Premises were provided

by the applicant as part of the application process, and these 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;
- Highland Council's 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 objection

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 objection was received and is attached as an Appendix to this report:

- Letter of objection received by email on 1 June 2024 from Dr Sue Morrison and William Morrison ("the Objectors") (**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, where the applicant is not a natural person, any director of it or partner in it or any other person responsible for its management, is either:
 - i. for the time being disqualified under section 7(6) of the Civic Government (Scotland) Act 1982, or;
 - ii. is not a fit and proper person to be the holder of the licence.
- b) The activity to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such licence if he made the application himself;

- 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 the 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
 - (iv) public order or public safety; or
- d) there is other good reason for refusing the application.

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

- 8.2 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.
- 8.3 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 \(Licensing Committee\) \(highland.gov.uk\)](https://www.highland.gov.uk/licensing-hearings-procedures)

9. Observations on objection

- 9.1 In the letter of objection 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. If required, the Principal Solicitor – Regulatory Services will offer further advice or clarification on these points.

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: 23 September 2024

Author: Julie Traynor

Reference: [FS543968706](#)

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 plans for the Premises

Appendix 2: Objection received by email on 1 June 2024 from Dr Sue Morrison and William Morrison together with the appendices referred to therein

APPENDIX 1

Valhalla, Sutherland Street, Helmsdale, KW8 6JE



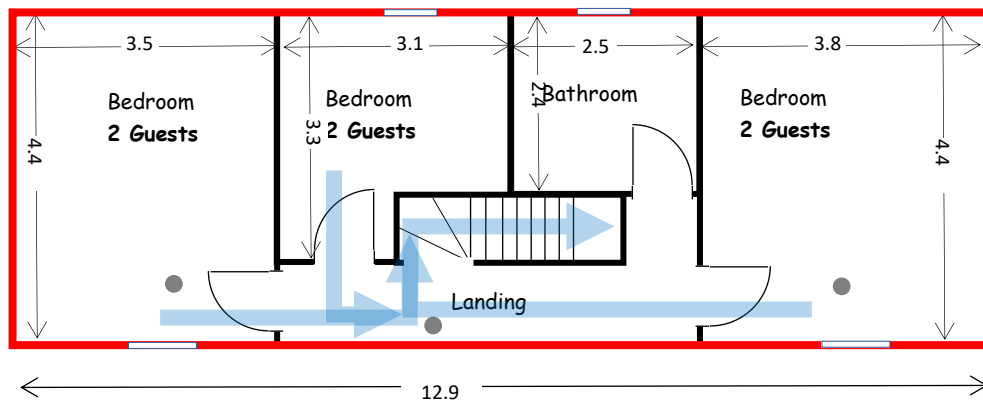
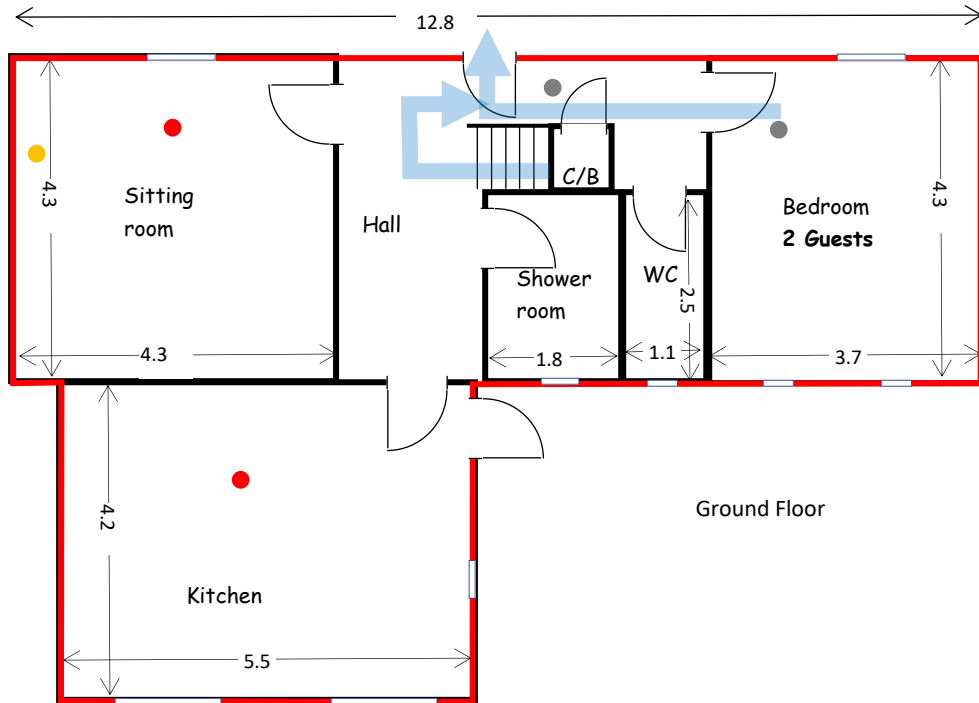
→ Fire Escape Route

● Heat Detector

● Carbon Monoxide Detector

● Smoke Detector

**VALHALLA
SUTHERLAND STREET
HELMSDALE
KW8 6JE**



First Floor

Rendezvous Point

Across Road opposite drive

Call 999

Ensure everyone accounted for

APPENDIX 2

(received 1 June 2024 by email)

Sue & William Morrison

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Email: [REDACTED]

29th May 2024

To whom it may concern,

**Re: Objection to STL Licence Application: 'Valhalla',
Sutherland Street Helmsdale. KW8 6JE (UPRN: 130019864)**

Objections:

Further to our earlier correspondence last year and adhering to advice provided by Highland Council at that time, my husband and I hereby give notice of our objection to Ian Gordon's STL application in respect of 'Valhalla' holiday rental, Helmsdale.

Our main objection pertains to the condition of the premises and the implications for public safety and public nuisance arising from the owners' refusal to fully repair a drystone wall built on their property, which separates its garden from ours. Their wall is in a serious state of disrepair which renders the property unsafe for residential use and, specifically, Valhalla's garden is unsafe for its paying guests and even more unsafe for our family and pets who use the garden daily.

The state of the wall, owned wholly by Valhalla's five co-owners, and its potential for causing nuisance, and serious injury or worse, is an ongoing concern to us and our family. We have experienced Valhalla's guests' dogs jumping over the wall into our garden, which on one occasion resulted in large stones from that wall being dislodged and falling to the ground, narrowly missing that dog. These incidents cause us great concern for our own dog and his welfare. Guests' children also play beside and on the wall, sometimes playing hide and seek behind Valhalla's shed, which backs on to one of the most seriously unsafe sections of the wall. The implications for their wellbeing are clear.

Secondly, and despite our then-offer (now rescinded), in July 2023, to share costs to rebuild the entire wall, when we raised the issue with Mr Gordon and the other Valhalla owners via emails (please see appendices) we found their response to be arrogant, ignorant, and dismissive of our valid concerns about the safety of both gardens' users, which raises the question of their fitness to hold a STL Licence.

Historical Background:

Mr Gordon and four other people bought Valhalla in 2005 for the sum of £128,000; the property's estimated value is currently £266,000 ([Zoopla, 29th May 2024](#)). The owners have run the property as a holiday let since purchase. When we met Mr Gordon and Mr Alex Boyd (another co-owner), they claimed that Valhalla was always very busy throughout the year and was a fantastic investment. The minimum cost of a seven-day rental for the property is currently £950, rising to £1,200 (<https://www.valhallarental.co.uk/bookings>, 29th May 2024).

A c.18-20-meter-long wall separates Valhalla's back garden from that of the semi-detached neighbouring property, Bluebell House. The wall is visibly erected wholly on Valhalla's land. The Valhalla owners planted several trees, large bushes and trailing plants along the length of the wall, and erected several structures, including a large shed, close against the wall. Almost the whole of the wall was hidden by plants and structures to provide privacy for the owners and visitors. The owners failed to maintain the wall, though they did ask a former Bluebell House owner (in 2014) to remove a tree and later to repair the wall where the tree had been, which they said she did. At that time, they admitted that:

'The wall is quiet [sic] unstable at the moment but as long as no one climbs over it then it should be OK. Depending on what we do about the tree I'm looking to having the wall rebuilt using mortar to give some rigidity in the short term but will be able to do so until September/October [2014]'.
(See appendix 3).

The owners failed to carry out the repairs they had identified as needing urgent attention.

We bought the adjoining property (Bluebell House) as an existing holiday let in December 2020. It was our intention to retain the holiday let as a business until my husband retired (which he has now done and we moved into Bluebell in April 2023). Upon purchase, we immediately noticed that the Valhalla boundary wall was in a state of serious disrepair, which we mentioned to Mr Gordon and Mr Boyd when we met them in April 2021. They agreed and said that it would have to be repaired at some point. The section of the wall nearest to the houses is c.2 meters high and was/is the most seriously damaged; it was/is partially collapsed and posed a real danger to life and limb should the higher stones fall onto someone; some of those stones are over 45 cm in length and badly cracked (see photographic appendices). We began to ask around for recommendations for drystone wallers but due to the pandemic we could not find anyone suitably qualified or available to repair the wall. We placed a large log shed in front of the tall wall section and left existing low-level plants in place to try to deter anyone in our garden from going near the wall until it was repaired.

It is well known that dry stone walls require checks and maintenance to prevent deterioration, particularly where trees, small and large, and other vegetation may

seriously destabilise the structure of the wall. Unchecked growth will eventually lead to stones being dislodged, or the wall being slowly pushed out of line, and eventually to areas of collapse. Unfortunately, former owners of Bluebell House and the present owners of Valhalla have failed to award due diligence to the dry-stone wall that separates the gardens of these properties. Coping stones that were dislodged or removed were not replaced; likewise, where other damage occurred to the structure of the wall it was not repaired. The result is that the deterioration now exists along much of the length of the wall; it has collapsed in several places and more sections are in danger of collapsing in the immediate/near future.

The Current Situation:

Valhalla allows guests to take dogs to the property, which would not be an issue if they stayed in that property's garden. We like dogs and have one of our own. However, we have seen several excited dogs jump up at or over the wall from Valhalla; the most recent incident involved a small dog jumping into our garden and dislodging a large wall stone in the process. This caused distress to the dog (which thankfully appeared unhurt), its owners, and us. Valhalla owners eventually agreed to share the repair costs for that section of wall (completed September 2023).

Valhalla owners paid for a further section to be repaired after their wall-penetrating plants caused it to be dislodged during strong winds.

As Valhalla has numerous large plants with roots and branches growing through the wall plants there is a strong likelihood of a reoccurrence, which is an ongoing worry and nuisance to us. We also have to consider the safety of our own dog and our young grandchild when playing in our garden.

In July (2023), I (Sue) notified Mr Gordon (the 'Primus inter Pares' of the 'Valhalla Committee/Jury') that the wall had further collapsed in several places and was now in need of urgent repairs. I informed him about the latest incident with the dog. I also said that we had finally found a local dry stone waller willing to undertake the repairs at a fair price, and we offered to pay half the cost of full repairs, despite knowing that the wall was the responsibility of Valhalla's owners, as we have always done this with previous neighbours to hasten repairs. Mr Gordon's initial response was to wrongly suggest that the recent collapse was due to an earlier repair (by a previous Bluebell House owner to a different part of the wall – please refer to appendix 3)) and he claimed that the majority of the wall was fine, despite him later admitting that he had not actually looked at the wall for years (and had not repaired the wall since himself identifying severe structural faults in 2014 – appendix 3). He added that the co-owners would be at Valhalla shortly (29th July - 9th August 2023) and would speak with us face-to-face and assess the wall for themselves during that stay. He further suggested that the owners were financially struggling and could not afford repairs.

Five car-loads of c.12 adults and children arrived at Valhalla on 29th July, which included the owners and their families. Over the next eleven days, the owners and

visitors spent time in their garden and walked past our house on a daily basis, but not one of them came to our door to speak with us or to assess the state of the wall from our side. After realising that they had left on 9th August, I emailed Mr Gordon to register our disappointment (see appendix 1; email from me dated 15/8/2023). I again emphasised our safety concerns and I sent him a link to a video I had made to show the wall failures. I again stated that we were (then-) prepared to pay half the cost of full remedial work.

He responded with a vague excuse as to why no-one had been to speak with us, and added:

‘We are awaiting the view from the solicitor which is due the next day or two. As soon as we have it I'll get back to you with a voting of the 5 person Valhalla jury.’

Twelve days later, Mr Gordon sent an email alleging that the ‘legal view’ was that the wall belonged to Bluebell House and was nothing to do with Valhalla as it was not noted in that property’s title deeds. He further stated:

‘We do believe there are grounds for repair to some sections of the wall. However, this is complicated by the recognition that much of the wall is concealed to ourselves for much of its length. As such it represents neither a health and safety risk nor an aesthetic consideration for ourselves and therefore our interest is limited. From our side of the wall there is no imperative to address much of the structure of the wall.’

Mr Gordon did, however, agree to pay half the cost of repairs to a short section of the wall (where their guests’ dog (and other dogs) had jumped over) and which included where the Bluebell tree had been removed in 2012.

We started those repairs that same day and that small section of wall is now safe, though the rest of the wall remains dangerous. Mr Gordon also stated in his email that Mr and Mrs Boyd (both co-owners) would be at Valhalla in September (2023) and would ‘happily remove any planting that is overhanging or trespassing.’

Mr and Mrs Boyd arrived at Valhalla on 10th September and left 17th September. Neither made any attempt to cut back the invasive trees, bushes and other plants that are damaging and growing through the wall. Neither made any attempt to view any part of the wall, not even the newly repaired section. And neither co-owner made any effort to speak with us, apart from when Mr Boyd walked around to our driveway, and without any greeting or introduction, abruptly asked the dry stone waller which company was doing work on our driveway and back garden wall. This is a separate contract and has nothing to do with Valhalla or its owners. Mr Boyd had every opportunity to speak with the waller about the Valhalla wall but did not.

Since the Valhalla owners dismissed our concerns and denied all responsibility and even the ownership of the wall, and as they stated that their ‘interest is limited’, we

decided that we have no option but to formally object to the 'Valhalla Committee's' STL application.

We have attached a full copy of the email communications and email attachments pertaining to this objection, along with several images of the wall and a link to the video recording the state of the wall and the many incursions by plants and structural collapses. (Please see the PDF version of appendices that I have WeTransferred to STL Licence Assessors).

Please note that the attached photographs show that the wall is undeniably on Valhalla land and it is the responsibility of Valhalla owners to maintain and repair the structures on their land. This is particularly evident upon live inspection and we would be happy for STL Licence Assessors to visit Bluebell House and view the situation for themselves.

As to the fitness of Valhalla's owners to hold a STL Licence, we are perturbed by several issues. It is highly unlikely that any qualified solicitor would claim that a property was owned by another party based simply on looking at one set of title deeds; rather they would first check both sets of title deeds (which are easily available online) and any additional empirical evidence, and visually check the physical boundary in question. The owners made no attempt to assess the wall or to speak with us, despite stating that they would do so, and they have made no attempt to remove any of the offending plants (though this would be like closing the stable door after the horse had bolted). They have shown absolute disregard for the safety and wellbeing of our family and pets, as well as their own guests and their children and dogs.

In light of all of the above, we would question whether Mr Gordon and the other members of the Valhalla Committee are fit and proper people to operate an establishment which is let out to members of the public.

The property boundary wall is simply not safe and therefore should breach the requirements of a STL licence. Furthermore, the holiday-let insurers should be made aware of this safety issue.

Please contact us if you would like any additional information or to arrange a site inspection.

Yours faithfully,

Dr Sue Morrison and Mr William Morrison

Appendices

Appendix 1: Email Correspondence between Sue Morrison (Bluebell House) and Ian Gordon (Valhalla). July – September 2023

Appendix 2: Wall Repair Estimate

Appendix 3: Email from Ian Gordon to Alison Polson (A former owner of Bluebell House)

Appendix 4: Link to video of wall from Bluebell House side

Appendix 5: Additional images of wall

Appendix 1

Email Correspondence between Sue Morrison (Bluebell House) and Ian Gordon (Valhalla)
July – September 2023

Sue Morrison<[REDACTED]>

19/7/2023 20:34

Repairs to the joint boundary wall

To [REDACTED] Copy [REDACTED] Blind copy [REDACTED]

1 attachment (See appendix 2)

Hello Ian,

We haven't seen you for a while and hope that you and your family are well.

Sorry to bother you but we've noticed that the joint boundary wall has worsened over the winter and is now dangerous in several places. One of your guests' wee dogs jumped over it at the weekend and dislodged more stones, though he didn't seem injured, thank heavens.

It's not something that you or I can repair ourselves (unless you're a dry stone waller?) but I found someone to do the work - a local named [REDACTED]. Ironically, he told us that he was the guy who repaired our outer boundary wall when the property was for sale. He did a good job then. Anyway, he sent us an estimate (attached) to repair the whole wall as necessary and can start in the next few weeks (not sure of dates). Are you happy to go halves?

Many thanks and best wishes.

Sue

Ian Gordon<[REDACTED]>

20/7/2023 13:28

RE: Repairs to the joint boundary wall

To [REDACTED] Copy [REDACTED]

1 attachment (See appendix 3)

Hello Sue, I hope you are fully settled into Bluebell and the summer is treating you well.

Walls! There is history here. Please see attached email going back to 2014. This follows on from 2012 when a large tree has to be taken down as it was disturbing the wall. On that occasion the then owner, [REDACTED] had part of the wall put back together again.

We spoke to the current guests and he was not aware of the little dog causing any problems and was taken aback by the implications. They forwarded some photos so we can see the issue. I'm not sure but it appears that the problem is with the part of the wall that [REDACTED] had repaired!!!

Anyway, we are up ourselves shortly and maybe its best to talk face-to-face and see what the options are then. The majority of the wall is fairly solid and has stood the test of time and the weather and unfortunately due to ridiculous Short Term Licencing obligations we are struggling at the moment so we will need to investigate the minimum it takes to make the wall safe. We hope you understand.

We arrive 29th so will drop by during the week.

Regards

Ian

Sue Morrison<[REDACTED]>

20/7/2023 19:47

RE: Repairs to the joint boundary wall

To [REDACTED] Copy [REDACTED]

Hi Gordon,

We're still betwixt & between, though mostly in Helmsdale, which is lovely.

We had noticed fewer guests at Valhalla this year and we're saddened though not surprised that you've been effected by the STL debacle. Hope a solution is found quickly as so many people are dropping out of the business because of this and the impact will be felt across the tourism industry.

Glad [REDACTED] was able to resolve the earlier issue (which is one of the areas now unsafe but not the place where the dog jumped over). Unfortunately the problems with the wall now run along quite a bit of its length, mainly due to roots and branches from both gardens growing under and between the stones, but you can see that for yourself when you're next up. We're

happy to work with you to find a solution, though we would rather not pay for temporary or incomplete repairs that will have to be redone at a later date.

██████ suggested taking down the wall (one section at a time to minimise disruption to your guests), removing any offending growth where possible, and rebuilding the walls with mortar. Maybe the most dangerous sections can be repaired this year, and the rest next year to spread the cost?

Looking forward to seeing you soon. Have a safe journey - hopefully the weather will be kind to you!

All the best,

Sue

Sue Morrison<████████████████████>

15/8/2023 19:07

RE: Repairs to the joint boundary wall

To ██████████ Copy ██████████

Hello Ian,

Hope you and your family are well and you all enjoyed your stay in Helmsdale.

We were disappointed to learn that you and the other Valhalla property owners had left without popping round to discuss the necessary repairs to the wall, as suggested by you last month. However, we would still like to settle the situation amicably and I am sending you a wetransfer link (Appendix 3) to video footage of the wall - please check you junk folder if you do not receive the link this evening. You will see that the whole length of the wall is in a dangerous state due to lack of maintenance over many years, probably decades, with branches and roots exacerbating the problems. The wall now needs urgent repairs to prevent further damage and, more importantly, to prevent injury to our families and to your paying guests.

As I said earlier, we are prepared to pay half the cost of the remedial work and, after much searching, we have found a builder who is prepared to do the work at a fair price, asap.

I look forward to your speedy response.

Best wishes.

Sue

Ian Gordon<████████████████████>

17/8/2023 10:48

RE: Repairs to the joint boundary wall

To ██████████

Hello Sue

That's what happens when you ask someone to do something and each thinks the other has done it!!!

We are awaiting the view from the solicitor which is due the next day or two. As soon as we have it I'll get back to you with a voting of the 5 person Valhalla jury.

Regards

Ian

[REDACTED]
[REDACTED]

Sue Morrison [REDACTED] >

17/8/2023 12:02

RE: Repairs to the joint boundary wall

To [REDACTED] Copy [REDACTED]

Hi Ian,

Thanks for our reply. Sorry to learn that you and others in your party were unwell and that spoiled your stay. Hopefully, your next visit will be much better for everyone.

We're not sure why you need to involve a solicitor at this stage but feel free to send them the video as it's impossible to see the wall properly from your side due to all the trees and shrubs. I'm sure they'll agree that full repairs are urgent and costs should be equally shared between the two properties.

We look forward to your response within the next few days.

All the best.

Sue

PS. I've cc'd Jackie into my emails to you but they keep bouncing back undelivered, not sure what the issue is?

Ian Gordon<[REDACTED]>

19/8/2023 13:46

RE: Repairs to the joint boundary wall

To [REDACTED]

Hi again,

The solicitor thing arises because none of the 5 owners of Valhalla can find copies of the advice we were given way back when the original problems arose. Goodness knows where the email ended up. In the end it wasn't needed as [REDACTED] took the lead. We also consulted with the solicitor when we heard the Masonic Hall had been sold and heard who we thought had bought it and some of the experiences others had faced. As the say in the Scouts , "Be Prepared". So we felt it was worth getting a view from the solicitor.

The other angle is that although I act as the Primus inter Pares for the 5 of us, I do have to consider all views - and in this case some have very strong ones! Therefore gathering all the relevant facts is key. I'm sure you will understand.

Hopefully the solicitor will come through in next few days and help us.

I will say that if we use your definition of "needing repair", then half the walls in Helmsdale would need attention. We have owned Valhalla for 15 years and in that time the only section that "failed" is where the tree root flair caused the problem.

Regards

Ian

Ian Gordon<[REDACTED]>

24/8/2023 12:41

RE: Repairs to the joint boundary wall

To [REDACTED]

The solicitor offers her apology but I'm promised she will deliver tomorrow - the Valhalla Committee will consider over the weekend and get back you Monday

Thanks for your understanding

Ian

Sue Morrison<[REDACTED]>

24/8/2023 13:03

RE: Repairs to the joint boundary wall

To [REDACTED]

Hello Ian,

This further delay is disappointing but we will wait until Monday to learn your decision before we take further action. Hopefully, that will not be necessary.

Best wishes.

Sue

Ian Gordon [REDACTED] m>
28/8/2023 08:52
Valhalla position on costs for wall rebuilding
To [REDACTED]

Hello Sue

Finally, we now have the feedback from the solicitor. This aligns with what we recall being the guidance from the previous solicitor on the occasion of the initial problems. As I pointed out previously, the five of us do not have an alignment of views regarding how to progress and much robust discussion has taken place between us.

According to the title deeds the wall itself has not been designated as a "joint boundary or mutual wall" nor do they ascribe ownership to Valhalla in any way. From a review of available documentation and plans we firmly believe the wall belongs to yourselves. If repairs are required (and also in relation to an historic matter where the wall was not adequately repaired following upon the tree root flair) then this is a matter for the owners of Bluebell Cottage. That's the legal view. However, that is not the only consideration.

We do believe there are grounds for repair to some sections of the wall. However, this is complicated by the recognition that much of the wall is concealed to ourselves for much of its length. As such it represents neither a health and safety risk nor an aesthetic consideration for ourselves and therefore our interest is limited. From our side of the wall there is no imperative to address much of the structure of the wall. For whatever reason the wall on our side does not appear to be in the same condition as yours. It's more like the condition of the wall sheltered by your shed. If this matter had not been brought to our attention, we would not have seen the need to spend considerable amounts of money on its restoration.

We do agree that the restoration of the wall following the partial collapse arising from the historic root flair is a matter of concern and work is required in this area. Referring to the video, we believe the section from about 2 minutes 10 seconds through to 3.37 should be the priority and without obligation we would be prepared to share the costs of restoration of this section. Clearly this is the area that will require the most work and therefore incur the most cost. Hopefully you will acknowledge our willingness to meet you in a reasonable manner.

However, apart from the damage arising from the root flair, in the 18 years we have owned Valhalla we have no evidence of actual failures of the wall. Clearly some work has taken place in the past but as the wall is over a hundred years old it has endured rather well and this is despite some significant weather events. Clearly it is in both our interests to ensure the wall does not suffer a catastrophic failure necessitating additional costs.

Some of your commentary accompanying the video regarding the wall is concerning and maybe we have significant differences of opinion in a number of areas. Such as :-

- The role of garden planting. The wall acts as shelter to the plants and these being in contact with the wall should not be an issue. The plants that are visible on your side are honeysuckle and clematis neither of which are invasive. The one yew shrub is easily removed. Alex and Jackie are up in Valhalla in about 2 weeks and weather permitting, will happily remove any planting that is overhanging or trespassing. Further plant management can take place during the winter.
- Presence of moss/lichen. Traditionally these indicate that the air is clean and offers insects etc a valuable resource. We do not see moss as a sign of any problems.
- The ability to “straighten” the wall by removing “bowing”. The bowing I was referring historically to was from top to bottom – The suggestion I picked up from the video is that you suspect the wall is not straight along its length and I doubt the ability to correct this. Of course, we need to separate the purposeful incline/tapering of the wall where the base is widest to support the rest of the structure.
- The extent of any restoration work and whether this extends to the foundations of the wall and root removal. The lower sections comprised of larger stones look to have retained their integrity and should continue to form the foundation. Any attempt to remove roots will actually destabilise the wall.
- The need to remove any sycamore trees within 10 meters of the wall to reduce future risk the result of the invasive sycamore root system which, apart from the tap root has a shallow (less than 60cms) root system extending far beyond the drip line. These trees grow like weeds and several trees have removed over the years.

Any work to the wall will need to be mainly from your side as the log store, shed, planting etc will make access very difficult from our side.

Whilst you are clearly hoping we would contribute more I hope you recognise the willingness to share in the costs for the section that should have been properly repaired in the first place. Of course we have no problems with Shaun undertaking the work.

Regards

Ian

Sue Morrison<[REDACTED]>

28/8/2023 19:42

Re: Valhalla position on costs for wall rebuilding

To [REDACTED] **Blind copy** [REDACTED]

Hello Ian,

Thank you for your email. Unsurprisingly, we cannot accept full responsibility for the boundary wall as it is not referred to in our title deeds either. I am surprised that your lawyer did not check this on your behalf. Moreover, we are in a position to argue that the wall is on your land, not ours, and it is therefore your sole responsibility. Perhaps you had not noticed this for yourselves but the evidence is plain to see (please see attached photos). We offered to pay half

towards full repairs because that is what responsible neighbours would do, and we have always sought to be good neighbours.

Sadly, as ownership and responsibility are in dispute, and while the majority of the wall remains unsafe, especially to small children and dogs, we are forced to notify Highland Council of the situation. We are happy to have Council staff visit Bluebell to assess the wall and land boundary for themselves. We will be advised by them as to how to proceed and whether to submit formal objections to the licencing board.

Meanwhile, as you have admitted that at least some of the wall is unsafe, though we dispute your reasoning for this, we have today started repairs on that section. Shaun is working mainly from our side of the wall, which is inconvenient for us but, hopefully, will not overly disturb your holiday guests. We will advise Shaun to invoice you by email for half the cost of that section of repairs.

We are sad that the situation has come to this but we are content that we have been more than fair, even generous, towards you and the other Valhalla business owners.

Regards,

Sue

PS. Images below: Valhalla is the taller property on the left of the pictures.





Appendix 2.

Wall Repair Estimate

Estimate

Macrae & Bricks, [REDACTED]

FOR

Sue Morrison
Bluebell Cottage
United Kingdom

Estimate No.: 001
Issue date: 19 Jul 2023
Valid until: 2 Aug 2023

Estimate No.: 001	Issue date: 19 Jul 2023	Valid until: 2 Aug 2023	Total due £3,120.00	
Description	Quantity	Unit price (£)	Amount (£)	
stone wall	10	300.00	3,000.00	
To take down and rebuild stone wall taking 10 days with labourer				
materials	1	120.00	120.00	
Cement and sand				
Total (GBP):			£3,120.00	

Appendix 3.

Email from Ian Gordon to [REDACTED] (A former owner of Bluebell House)

Blue Bell Cottage/ Valhalla Wall

Blue Bell Cottage/ Valhalla Wall



Ian BT <[REDACTED]>
To [REDACTED]

Mon 07/07/2014 12:49

Hello Alison,

I hope all is well with you. I understand from speaking with Alastair (!) recently that you are planning to visit Helmsdale shortly. Hopefully it may coincide with a visit by my sister Jackie at the end of the month.

We appreciate you having the sycamore tree trimmed. Unfortunately we have another problem. I attach a photo of the dividing wall between our two properties and as you can see the wall has collapsed into our garden. This is the second time this has happened. Although the photo does not show it clearly, if you look up the line of the wall you can see where the wall is being pushed out by the root/base of the tree. This is a more serious problem as it can only get worse over time.

The wall is quiet unstable at the moment but as long as no one climbs over it then it should be OK. Depending on what we do about the tree I'm looking to having the wall rebuilt using mortar to give some rigidity in the short term but will be able to do so until September/October.

Once you have had a chance to look for yourself perhaps we could speak about the options going forward. In the meantime I hope your bookings are high and clients plentiful. We are running on returning business but not missing C4U.

Best regards

Ian Gordon

Appendix 4.

Link to video of wall from Bluebell House side

[REDACTED]
[REDACTED]
[REDACTED]

Appendix 5.

Additional images:

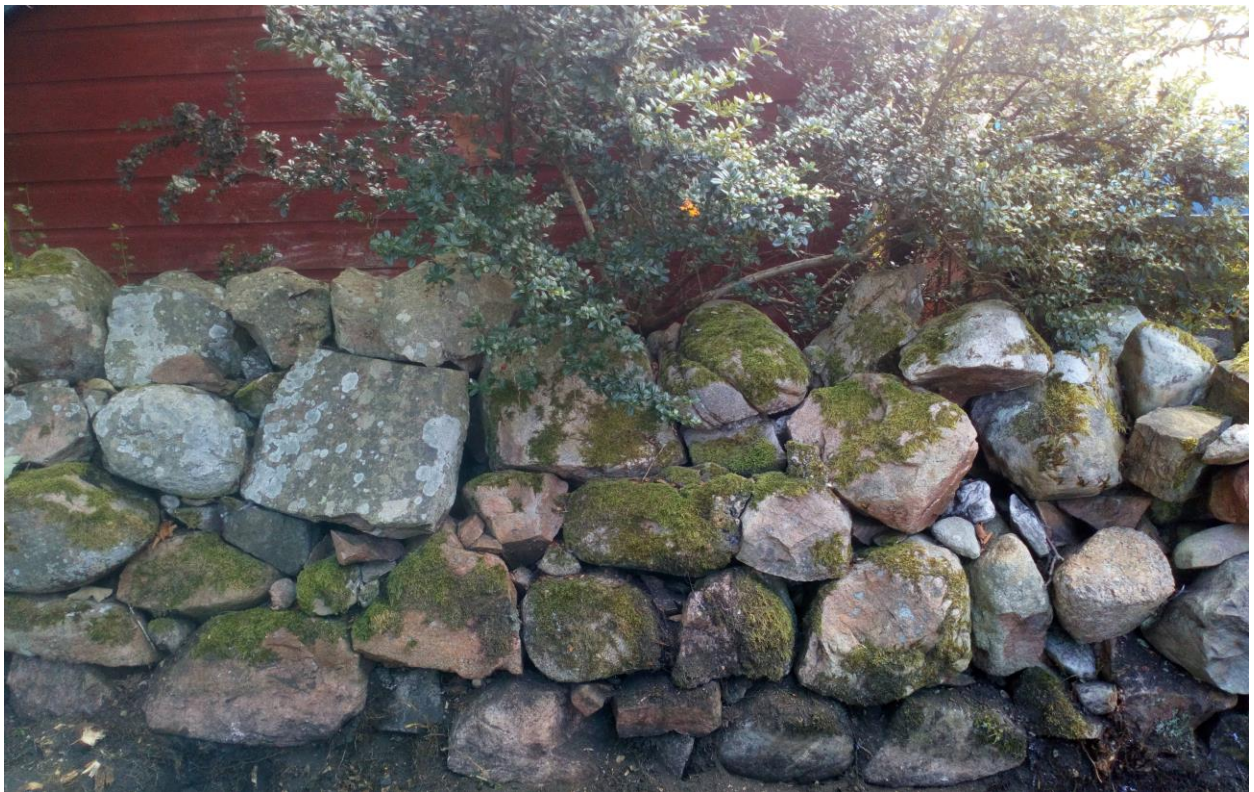
Views from Bluebell House side of the wall. Please note that the wall is c.6 feet high nearest the house and all the coping stones have fallen away and some of the remaining stones are cracked through. We have had to put a log shed in front of it to try to prevent falling stones landing on people/animals.

The first two photos again clearly show the wall to be on Valhalla land.





The Valhalla owners erected a large shed too close to the wall and random plants are growing in the small cavity between, further pushing out the already dangerously fragile wall.





These next images are from the middle section of the wall not yet repaired. The damage has been done over many years due to lack of maintenance and simply cutting back the Valhalla plants now will not prevent further collapses.





We have repaired the top wall, seen on the left of this next photo, as a separate project. The taller wall is the Valhalla owners' boundary wall; the roots of their tree and holly bush are clearly protruding between the stones and through the wall.



