

THE HIGHLAND COUNCIL

Committee: **THE HIGHLAND LICENSING COMMITTEE**

Date: **10 October 2024**

Report title: **Application for the grant of a short term let licence Kindeace Farmhouse, Kindeace, Invergordon, IV18 0LN (Ward 7 – Tain and Easter Ross)**

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 16 May 2024 a validated application for the grant of a short term let licence was received from Mr William Munro.
- 4.2 The property to which the application relates is Kindeace Farmhouse, Kindeace, Invergordon, IV18 0LN (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 circled in black on the plan on the top right-hand side of 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 William Munro 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 Munro is named on the application as the owner 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 Munro.
- 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 detached dwellinghouse which can accommodate a maximum capacity of 10 guests. The ground floor of the premises comprises of a shower-room, kitchen, 3 bedrooms (1 accessible), open plan dining/lounge/living area, cloakroom and a bathroom. Doors from the dining room lead to an outside patio area. The first floor of the premises 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 of Appendix 1.

5. Process

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

- Police Scotland;
- Scottish Fire and Rescue Service
- Highland Council's Environmental Health Service;

- 5.2 Police Scotland, the Scottish Fire and Rescue Service and the Highland Council's Environmental Health Service have all confirmed that they have no objections to the application.

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

- 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 objections were received and are attached as Appendices to this report:

- Objection received by email on 29 May 2024 from Norman Chisholm (**Appendix 2**);
- Objection received by email on 30 May 2024 from Christina Chisholm (**Appendix 3**).

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 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.
- 8.3 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:

[Licensing hearings procedures | Licensing hearings procedure \(Licensing Committee\) \(highland.gov.uk\)](https://www.highland.gov.uk/licensing-hearings-procedures)

9. Observations on objections/representations

- 9.1 In the letters of objection found at Appendices 2 and 3, 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 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: 24 September 2024

Author: Julie Traynor

Reference: FS550215333

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;

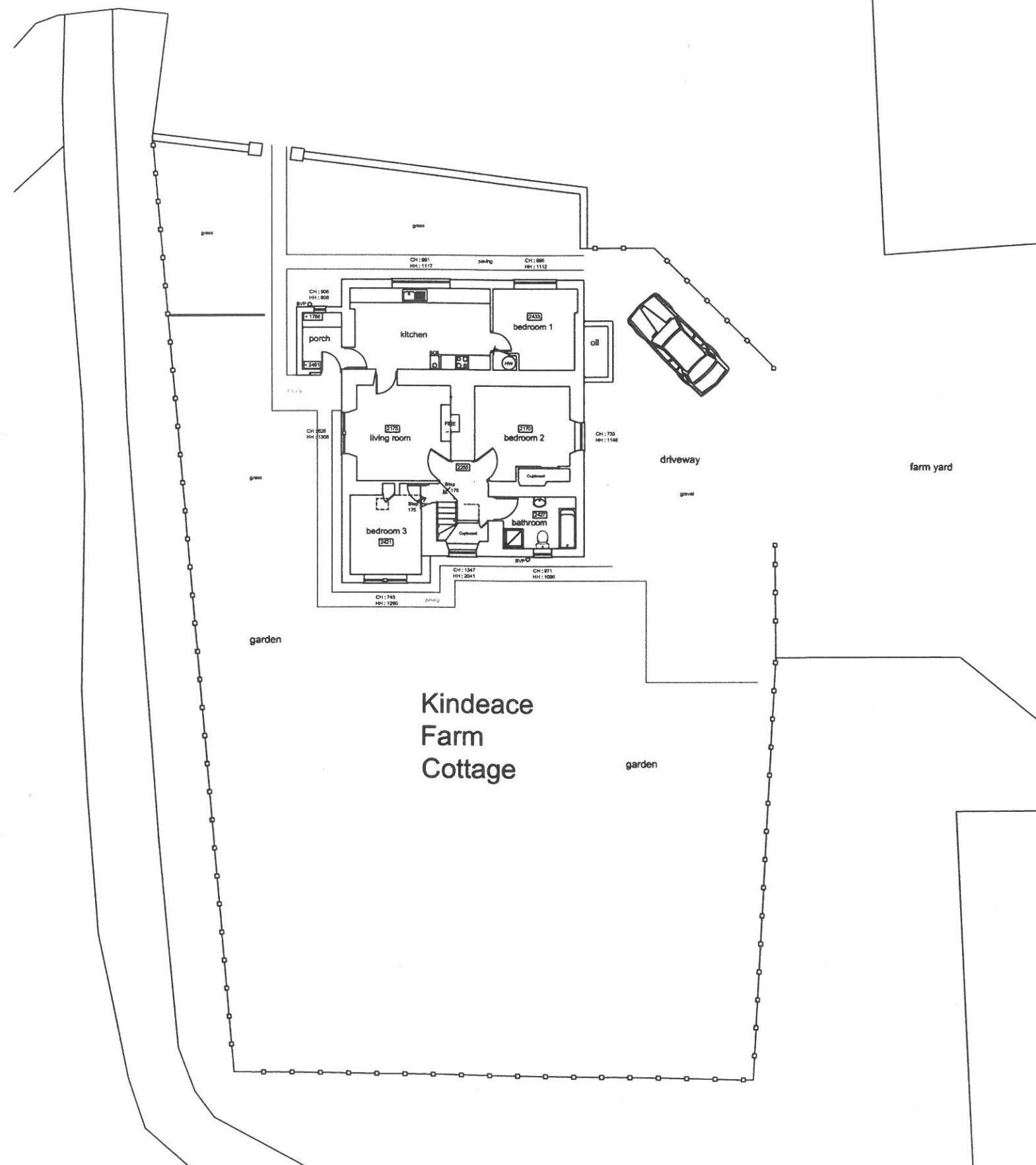
Appendix 2: Objection received by email on 29 May 2024 from Norman Chisholm;

Appendix 3: Objection received by email on 30 May 2024 from Christina Chisholm.

APPENDIX 1

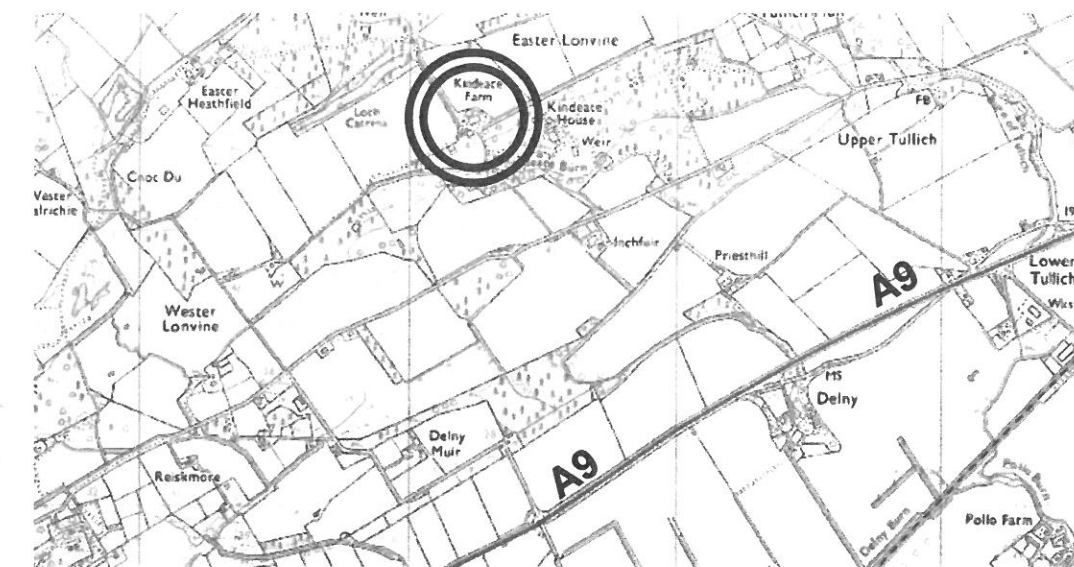
FARMYARD

farm yard

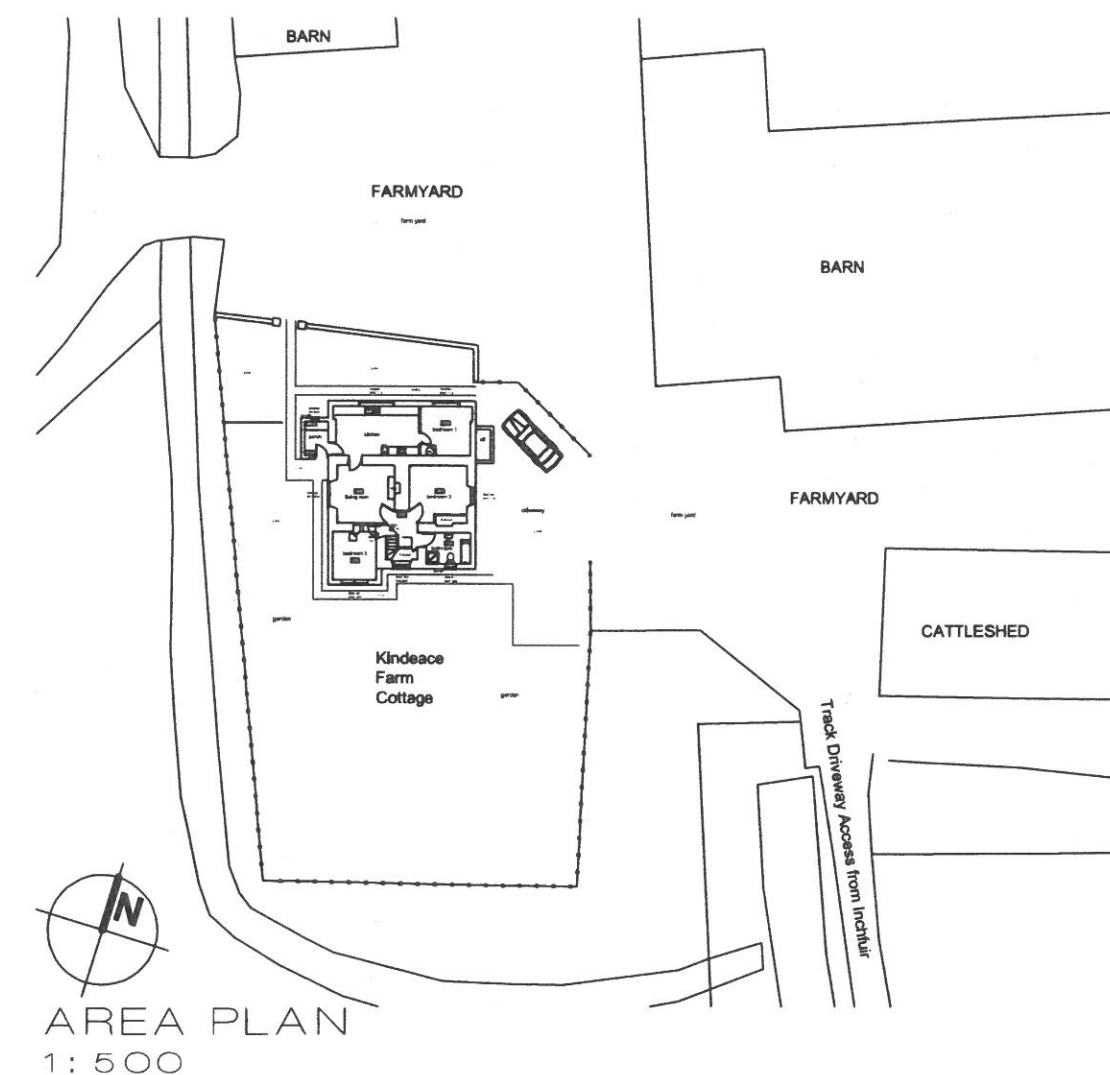


Kindeace
Farm
Cottage

 SITE PLAN
1: 200



OS LOCATION PLAN : NH722 733
NOT TO SCALE

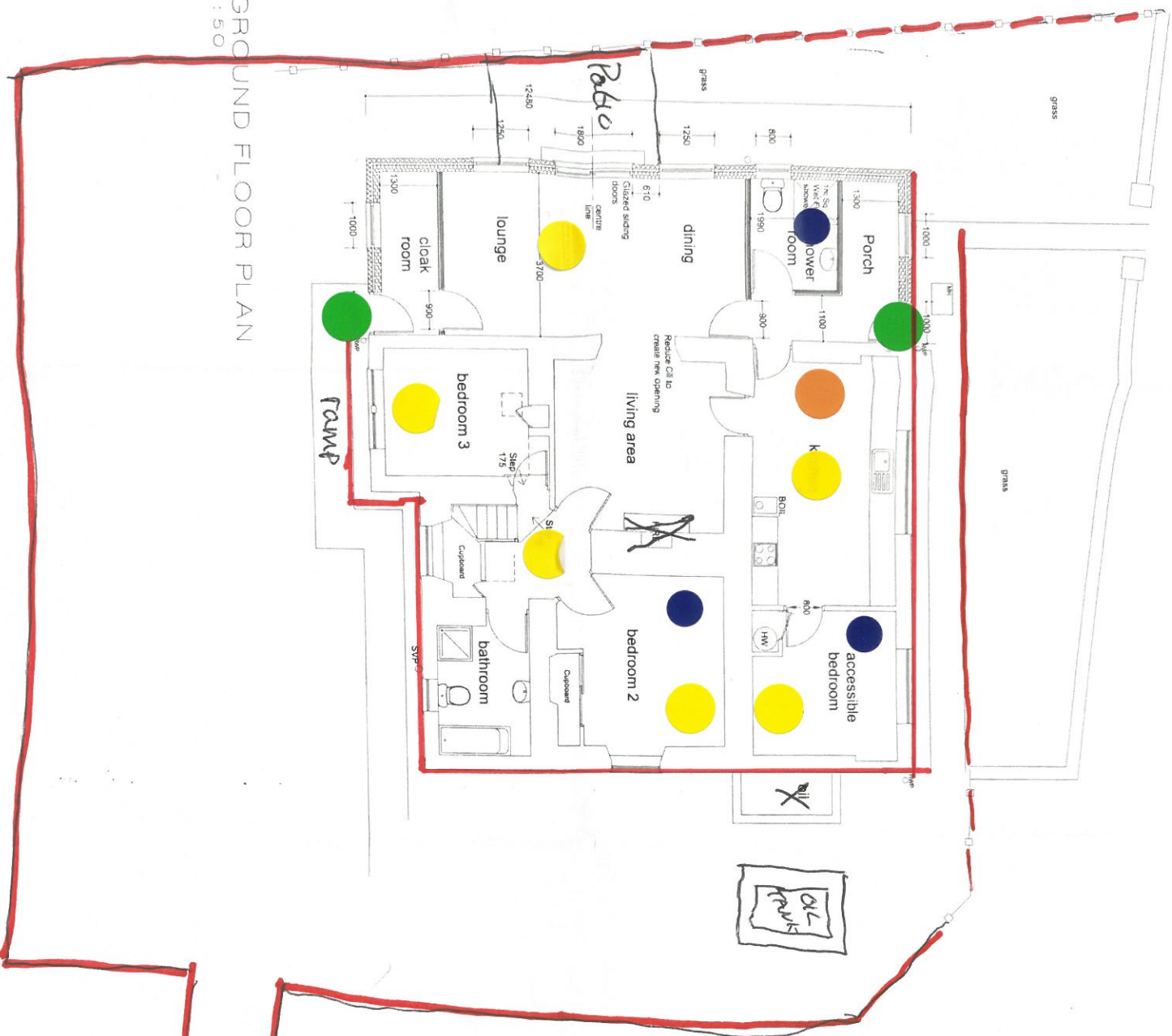


AREA PLAN
1: 500

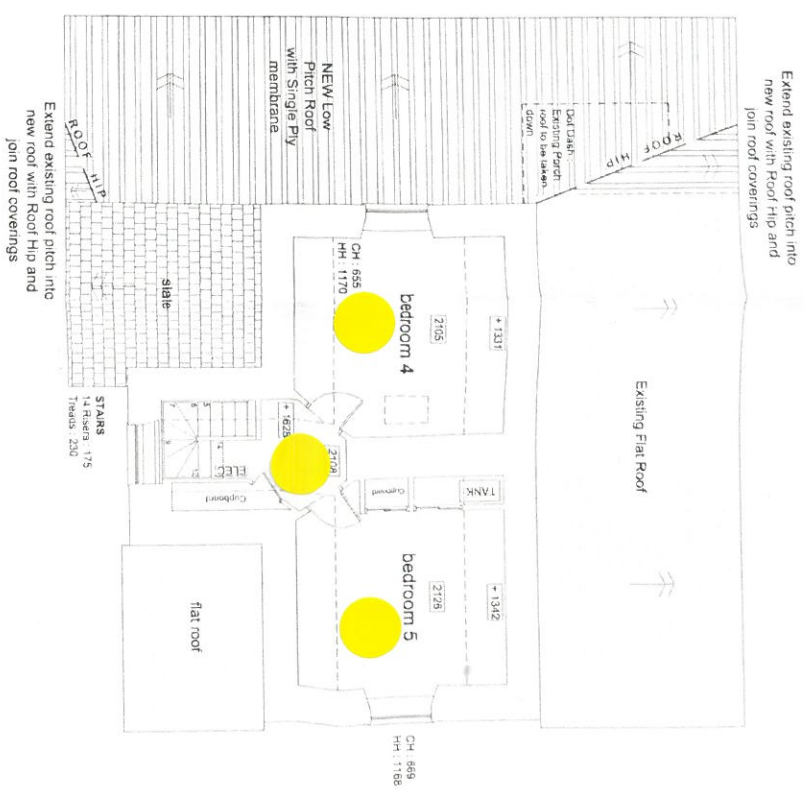
Kerr AT architects

Firthview Offices : Lentrane : Inverness : IV3 8RJ
01463 831 738 : admin@KerrATarchitects.co.uk

CLIENT MUNRO FARMS				
PROJECT EXTENSION AT KINDEACE FARM COTTAGE : ALNESS : IV18 0LL				
DRAWING TITLE LOCATION & SITE PLANS				
DRAWN BY aT	DATE November 2016	SCALE as stated at A3	PROJECT NO. 522	DWG. NO. 01
DO NOT SCALE FROM THIS DRAWING : CONTRACTOR MUST CHECK ALL DIMENSIONS BEFORE COMMENCING WORK. REPORT ANY DISCREPANCIES TO THE ARCHITECTS IMMEDIATELY. COPYRIGHT © REPRODUCTION RESERVED BY Kerr AT architects.				



GROUND FLOOR PLAN
1:50



PROPOSED (+ EXISTING) FIRST FLOOR PLAN
1:50

- Smoke + heat detectors
- Carbon monoxide detectors
- Fire Exits
- Disability Access

Kerr AT architects		MUNRO FARMS	
PROJECT EXTENSION + ALTERATIONS: KINDEACE FARM COTTAGE		ADDRESS: 14/18 DILL	
DRAWING TITLE PROPOSED PLANS (+ EXISTING FIRST FLOOR)		DATE March 2017	
SCALE AS SHOWN AT A1		PROJECT NO. 522	
DRAWN BY AT		CHECKED BY O2	

Kindeace Farmhouse

Room sizes in metres

Lounge	6.9 x 3.8
Disabled Toilet	3.5 x 3.67
Kitchen	5.7 x 3.5
Utility Room	2.5 x 1.3
Dining Room	4.50 x 4.55
Bedroom 1	3.47 x 3.55 (accessible)
Bedroom 2	3.9 x 4.1
Bedroom 3	3.70 x 2.90
Bedroom 4	3.9 x 4.1
Bedroom 5	4.88 x 3.87
Bathroom	3 x 2.1

Maximum Capacity 10

Dear Sir/Madam,

I wish to formally OBJECT to the application by William Munro for a Short Term Letting Licence at the above property on the follow grounds:

1. The property has always been tied farm workers accommodation on this farm and this only stopped being used as such recently when the current farm worker and his family moved into his own accommodation in Alness and gave up this accommodation. We feel this property should be retained as a farm worker's on-site accommodation (see also item 3 below).
2. There is a shortage of long terms lets for workers in this area and this is going to reach critical stages when the proposed development and expansion of the Cromarty Firth and Nigg Free Ports takes off. This accommodation would therefore be better used for long term letting to local workers rather than for more lucrative short term holiday lets.
3. A few years ago William Munro justified getting planning permission (with a s 75 agreement which he subsequently managed to get the Council to remove) for a site adjacent to the driveway of Kindeace House on the grounds that this was needed for his own accommodation as he personally provided additional security back up for the farm when the existing farm employees were on holiday. Apart from clearing the site and casting the foundations for this new property (no doubt to keep the planning permission alive or the site can be sold off in the future) no further works has been undertaken and the site and surrounding areas are now being used to graze his cattle. What has happened to his insistence that there was a need to have proper security at his farm with ongoing occupied farm worker's accommodation now that he has decided to short term let this property for his own personal financial gain all to the detriment of the previous claimed farm security requirements?
4. Does this property pay the correct Council Tax banding charge or is this still being claimed as exempt as farm worker's tied accommodation despite having been used as Air B&B Holiday Accommodation during recent summers.
5. This property is situated right in the middle of a working farm and is surrounded by farm buildings which are occupied by cattle including bulls for most of the year. The farm yard that bounds this property is in in constant use by large farm vehicles and by cattle being moved around the farm from time to time. We therefore do not consider this is an appropriate building for holiday Short Term Lets from a health and Safety point of view especially when children and dogs may be occupying this as holiday accommodation. We have witnessed young children who were living in this holiday accommodation in the past who were climbing all over/playing on farm machinery and trailers parked up in the farm yard when the farm workers had gone home in the evening and feel that there is an accident here waiting to happen. We have also noted a mini digger parked up in the farmyard in the past which had its keys still left in the ignition and presume that the tractors used on the farm may have been left in a similar condition.
6. We were advised by one of the farm workers in the past that the farm was overrun with rats and that he had difficulty trying to control the infestation despite using buckets of

rat poison regularly in an attempt to keep numbers in check. We had a problem with rats at our property in the past ourselves and had to seek the advice of the Council's Environmental Health Departments Rat Catcher at the time. He advised us that the rat infestation we were experiencing had more than likely come from the nearby farm. We therefore feel that it is inappropriate for a holiday Short Term Let in close proximity to steadings with rat infestations especially when young children and dogs could be exposed when outside playing to rat urine around the property and the resulting possibility of contracting Weil's disease.

7. I understand that the existing Septic tank serving this property and an ad hoc adjacent farm workers portable toilet block with above ground discharge pipe currently discharges its wastewater directly into the adjacent watercourse/burn without and adequate soakaway provision. This is currently causing pollution problem especially when the current Waste Water Treatment arrangement is way too close to an existing watercourse. The tank and discharge is located just over the rear garden fence and adjacent to the rear vehicle driveway/access to the property. The foul smells emanating from this offending discharge are very noticeable especially in the summer months and is highly likely to constitute a Public Heath Nuisance as this is located immediately adjacent and near to the public right of way running through this farm. We understand SEPA is now aware of this offending discharge and is requiring that major remedial action is now urgently required to remedy the situation before they take further legal action. If you contact SEPA (David Wilby) they will be able to confirm the current status of this matter although to date as far as we can determine the discharge to the watercourse/burn remains and no further improvement/remedial works have so far been undertaken to this existing waste water treatment system. We therefore do not consider that this property is totally suitable for Short Term Letting in its current state as clearly the foul water disposal system is not up to an acceptable recognisable standard and is currently causing a pollution and potential Public Health problem.

8. [REDACTED]

We trust the above is self-explanatory and is sufficient to be fully taken into account when considering granting a Short Term Letting Licence on this property. If however you require any further information or clarification then please do not hesitate to get back in touch with use.

Kind regards,

Norman Chisholm

[REDACTED]

[REDACTED]

1

—

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Hello,

I hereby OBJECT to the application by William Munro for a Short Term Letting Licence at the above property for the following reasons:

1. The property has always been farm workers' accommodation as it is centrally located in the working area adjacent to the steadings, and has only stopped being used as such recently when the current farm worker and his family moved into his own accommodation in Alness (we understand because of various problems with the accommodation provided as part of his remuneration package). Because of its location, the house should nevertheless be retained as farm worker's on-site accommodation. During the spring calving period, the farm worker is backwards and forwards from Alness to the farm to check on calving cows (hardly sustainable in the light of the concern regarding climate change etc.) and indeed sometimes has to occupy a caravan parked in the farmyard instead.
2. There is in any case a shortage of long term lets for workers in this area and this is going to reach critical stages when the proposed development and expansion of the Cromarty Firth and Nigg Free Ports takes off. This accommodation would therefore be better used for long term letting to local workers rather than for no doubt more lucrative short term holiday lets.
3. A few years ago William Munro justified getting planning permission (with a s 75 agreement which he subsequently managed to get the Council to remove) to build a house on a site adjacent to the driveway of Kindeace House, actually quite remote from the farm steadings (very well out of earshot and vision), on the grounds that this was ostensibly needed for his own accommodation as he personally provided additional security back up for the farm when the existing farm employee (then located in the farmhouse) was on holiday. Apart from clearing the site and casting the foundations for this new property (no doubt to keep the planning permission live) no further works has been undertaken and the site and surrounding areas are now being used to graze his cattle. What has happened to his insistence that there was a need to have proper security at his farm with ongoing occupied farm worker's accommodation now that he has decided to short term let the farmhouse for his own personal financial gain all to the detriment of the previous claimed farm security requirements?
4. This property is situated right in the middle of a working farm and is surrounded by farm buildings which are occupied by cattle including bulls for most of the year. The farm yard that bounds this property is in constant use by large farm vehicles and by cattle being moved around the farm from time to time. The Health and Safety Executive now consider that farm work is one of the most hazardous occupations, having overtaken even construction work in this respect. It is clearly an unsuitable holiday location from a Health and Safety point of view, especially when children and dogs may be occupying this as holiday accommodation. My family has witnessed young children who were living in this holiday accommodation in the past climbing all over/playing on farm machinery and trailers parked up in the farm yard when the farm workers had gone home in the evening and feel that there is an accident here waiting to happen.

5. I understand that the existing Septic tank serving this property and a farm workers portable toilet block with above ground discharge pipe both currently discharge wastewater directly into the adjacent watercourse/burn without an adequate soakaway provision. This is currently causing a very evident pollution problem (in fact clearly visible and offensive to both eyes and sense of smell). The tank and discharge is located just over the rear garden fence and adjacent to the rear vehicle driveway/access to the property. The foul smells emanating from this offending discharge are very noticeable especially in the summer months and are highly likely to constitute a Public Health Nuisance as this is located immediately adjacent and near to the public right of way running through this farm. I understand SEPA is now aware of this offending discharge and is requiring that major remedial action is now urgently required to remedy the situation before they take further action. In its current condition, this property is clearly totally unsuitable for Short Term Letting as the foul water disposal system is not up to an acceptable recognisable standard and is currently causing a pollution and potential Public Health problem.

Please acknowledge receipt of this objection and I look forward to your confirmation that the comments above will be taken into account when considering this application.

Christina Chisholm

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]