

	Agenda item	3.4
	Report no	HLC/113/24

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 10 October 2024

Report title: Application for the grant of a short term let licence – 6 Old Edinburgh Court, Inverness, IV2 4FD (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 6 August 2024 a validated application for the grant of a short term let licence was received from Mrs Diane Abernethy.
- 4.2 The property to which the application relates is 6 Old Edinburgh Court, Inverness, IV2 4FD (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 coloured 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 Mrs Abernethy is 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 Mrs Abernethy and a Mr Keith Abernethy are 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 Mrs Abernethy.
- 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 ground floor flat which can accommodate a maximum of 4 guests. The premises comprises of a bedroom, shower-room, kitchen and living room. 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 and
- 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 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 16 August 2024 from Jack Gillespie (**Appendix 2**);
- Objection received by email on 1 September 2024 from Susan Little (**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

- 9.1 Both emails of objection found at Appendices 2 and 3, contain points 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: [FS547668505](#)

Background Papers:

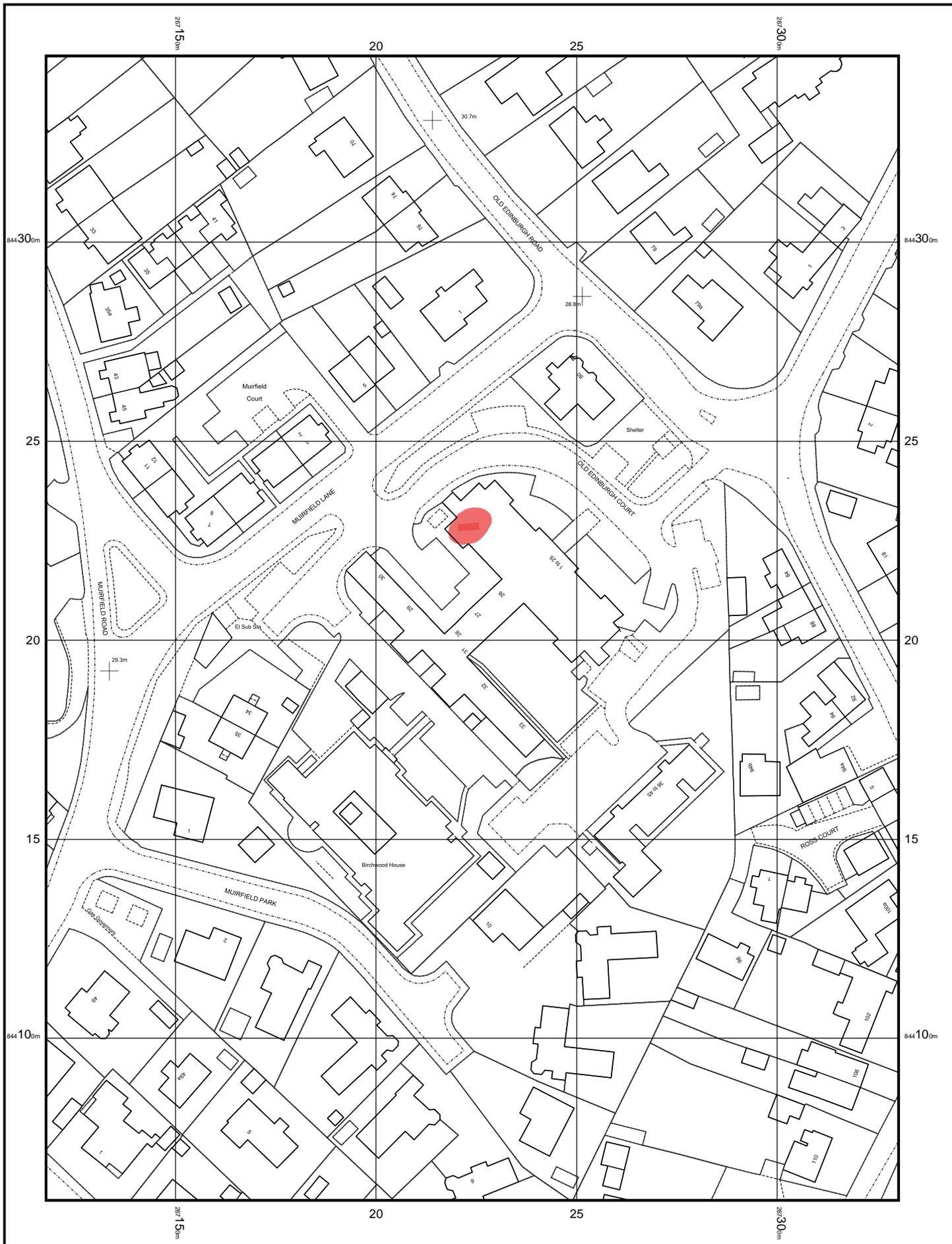
- Civic Government (Scotland) Act 1982
- The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022

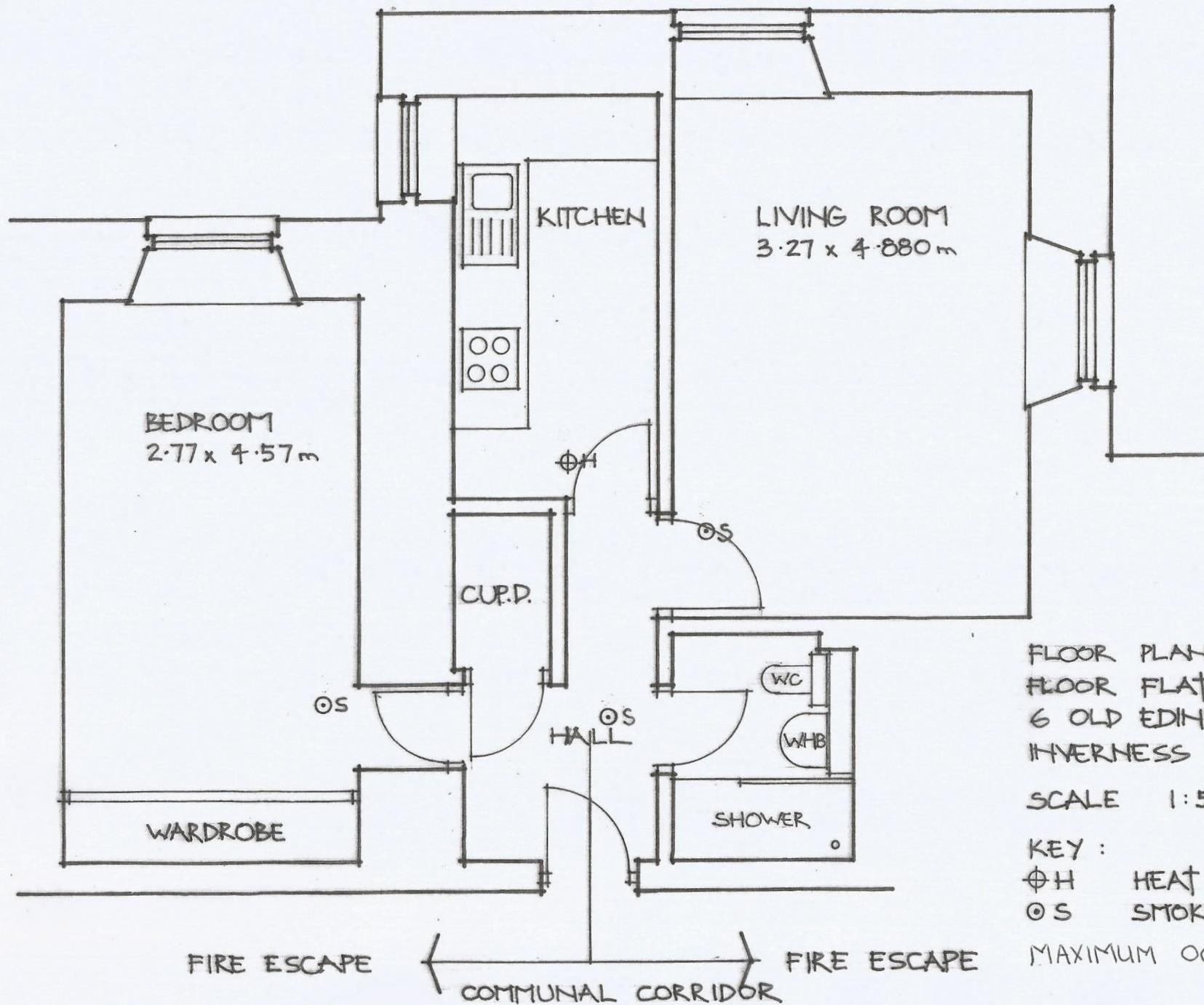
Appendices:

Appendix 1: Site plan detailing the extent of the Premises and floor plans for the Premises

Appendix 2: Objection received by email from Jack Gillespie on 16 August 2024

Appendix 3: Objection received by email from Susan Little on 1 September 2024





FLOOR PLAN OF GROUND FLOOR FLAT AT:
 6 OLD EDINBURGH COURT,
 INVERNESS IV2 4FD.

SCALE 1:50 AT A4

KEY:
 ⊕H HEAT DETECTOR
 ⊙S SMOKE DETECTOR
 MAXIMUM OCCUPANCY: 4 PAX

APPENDIX 2

From: Jack Gillespie [REDACTED]
Sent: Friday, August 16, 2024 8:46 PM
To: STL Licensing <STL@highland.gov.uk>
Subject: 6, Old Edinburgh Court, Inverness, IV2 4FD

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.

Dear sir/madam,

My fellow homeowners who live at old edinburgh court and I are absolutely sick of the short term problem at our block.

- They are noisy
- They dont follow any rules
 - Park anywhere they want
 - Don't take out bins
 - Put rubbish in anyones bin and rarely recycle
- They leave rubbish in the communal areas within and outside the building
- We are Constantly, finding strangers wandering our block late at night and early in the morning.
- They wedge our front door open leaving us open to anyone walking in the block.
- We've had our buzzers rung through the night by drunk air bnb'rs.
- Reduces the value of our property and reduced the likelihood of being able to sell. I certainly wouldn't buy a property next to short term let's again.

I have spoke to 7 others who live here and we all strongly object to furthering the absolute nuisance of short term lets.

Regards,
Jack Gillespie
[REDACTED]

APPENDIX 3

FS-Case-547668505

From: Susan Little [REDACTED]
Sent: Sunday, September 1, 2024 5:01 PM
To: STL Licensing <STL@highland.gov.uk>
Subject: Secondary Letting 6 Old Edinburgh Court

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.

To whom it may concern,

I hereby wish to express my **strong objection** to the application made by Diane Abernethy for a Short Term Lets Licence for the property at 6 Old Edinburgh Court, Inverness, IV2 4FD.

The reasons for my objection are as follows:

- The fact that the ratio of owner occupied properties or long term rentals appears to be diminishing in comparison to the short term let properties. This impacts on the residents of the building in many ways and we feel that the wear and tear on the building will increase as a result - most likely resulting in any resulting repairs having to be carried out being paid for by the residents (as has happened in the past when vomit was removed by professional cleaners resulting in each of us being billed). There is also a possible effect in reducing the value of properties in the building.
- Parking. This is already an issue due to [REDACTED] guest house and other Air bnb lets already established which frequently make use of residents' parking spaces.
- Noise and litter. Most of the residents in this building are in full time employment and it is vastly unfair that we should have our sleep disturbed on a regular basis by people standing smoking outside the building late at night or leaving to catch early flights etc and the resulting noise of shouting and wheeled suitcases. Also refer back to what I have already mentioned re the wear and tear on the building.
- The effect on the community of owner occupiers and long term renters who feel that we will very soon be in the minority. Quite simply these flats are our homes and we, the residents, feel that we should have the right to enjoy our homes and to be able to protect our investments at the same time.

I should also like to point out that the notice for making an objection to this application was removed on Friday 27th August which seemed somewhat premature. I do not know who is responsible for placing the notice in the location where it must be on show but it seemed to me that this was a ruse to discourage residents from complaining by removing the details.

Susan Little

[REDACTED]

[REDACTED]

[REDACTED]