

**THE HIGHLAND COUNCIL**

**Committee:** **THE HIGHLAND LICENSING COMMITTEE**

**Date:** **10 October 2024**

**Report title:** **Application for the grant of a short term let licence 25 Royal Marine Apartments, Marine Road, Nairn, IV12 4EN (Ward 18 – Nairn and Cawdor)**

**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 25 April 2024 a validated application for the grant of a short term let licence was received from Mrs Sheila Archibald.
- 4.2 The property to which the application relates is 25 Royal Marine Apartments, Marine Road, Nairn, IV12 4EN (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 the first floor flat on the building shown within the area coloured pink 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 Sheila Archibald and a Mr Ian Archibald 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 Mrs Archibald and Mr Archibald 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 Mrs Archibald.
- 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 with a communal entrance which can accommodate a maximum capacity of 4 guests. The premises comprises of an ensuite bedroom, open plan lounge, kitchen and bathroom.

Floor plans of the Premises were provided by the applicant as part of the application process, and these can be found on pages 2 and 3 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 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 objection was received and is attached as an Appendix to this report:

- Objection received by email on 22 May 2024 from Ryan Ralph (**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 objections/representations**

- 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.
- 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: FS543050992

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 22 May 2024 from Ryan Ralph.



LAND REGISTER  
OF SCOTLAND

Officer's ID / Date

8030  
6/8/2019

Supplementary Plan to Title

**APPENDIX 1**  
**NRN4013-1**



ORDNANCE SURVEY  
NATIONAL GRID REFERENCE

NH8756 NH8856 NH8757 NH8857

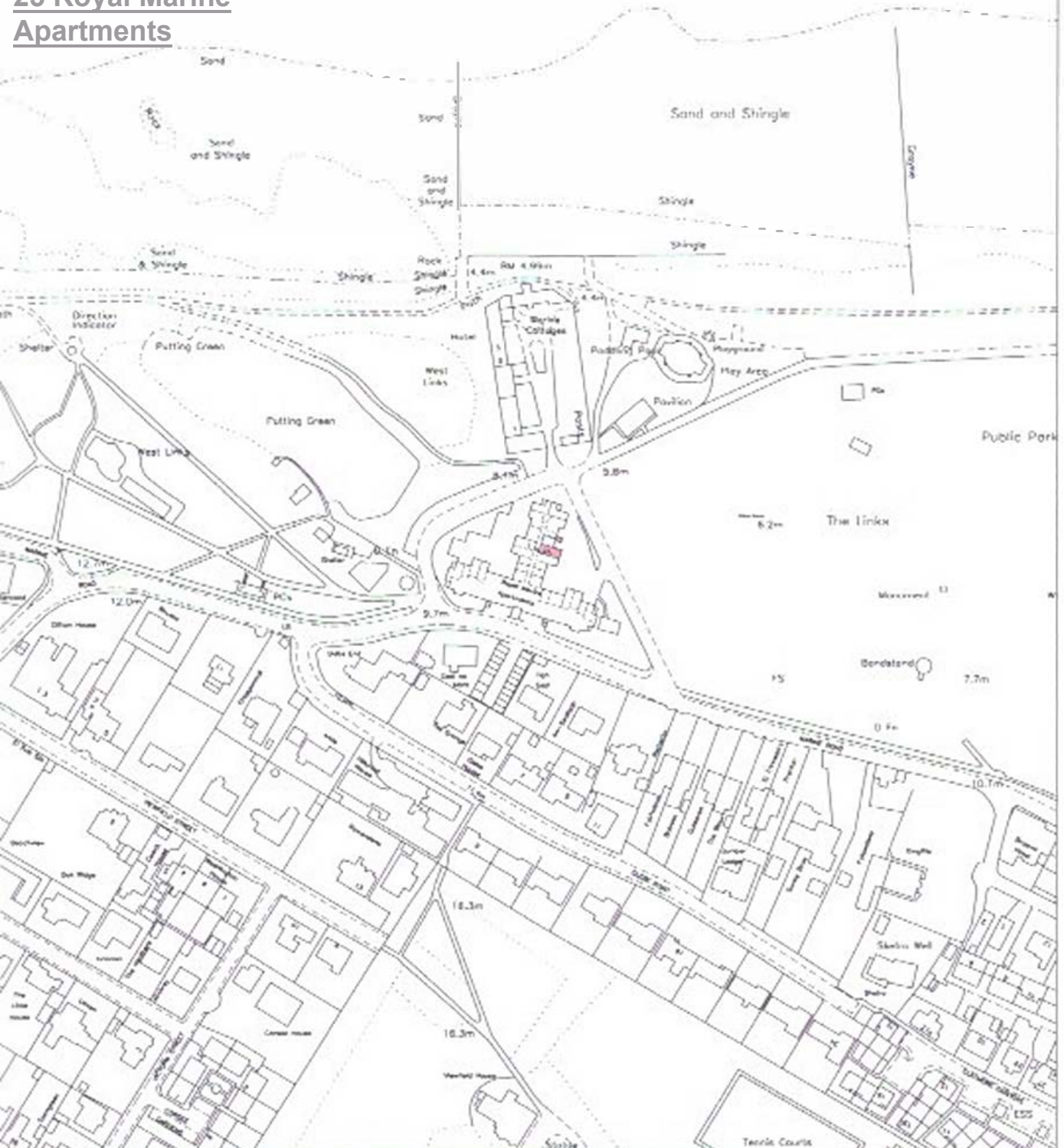
140m

Survey Scale

1/2500

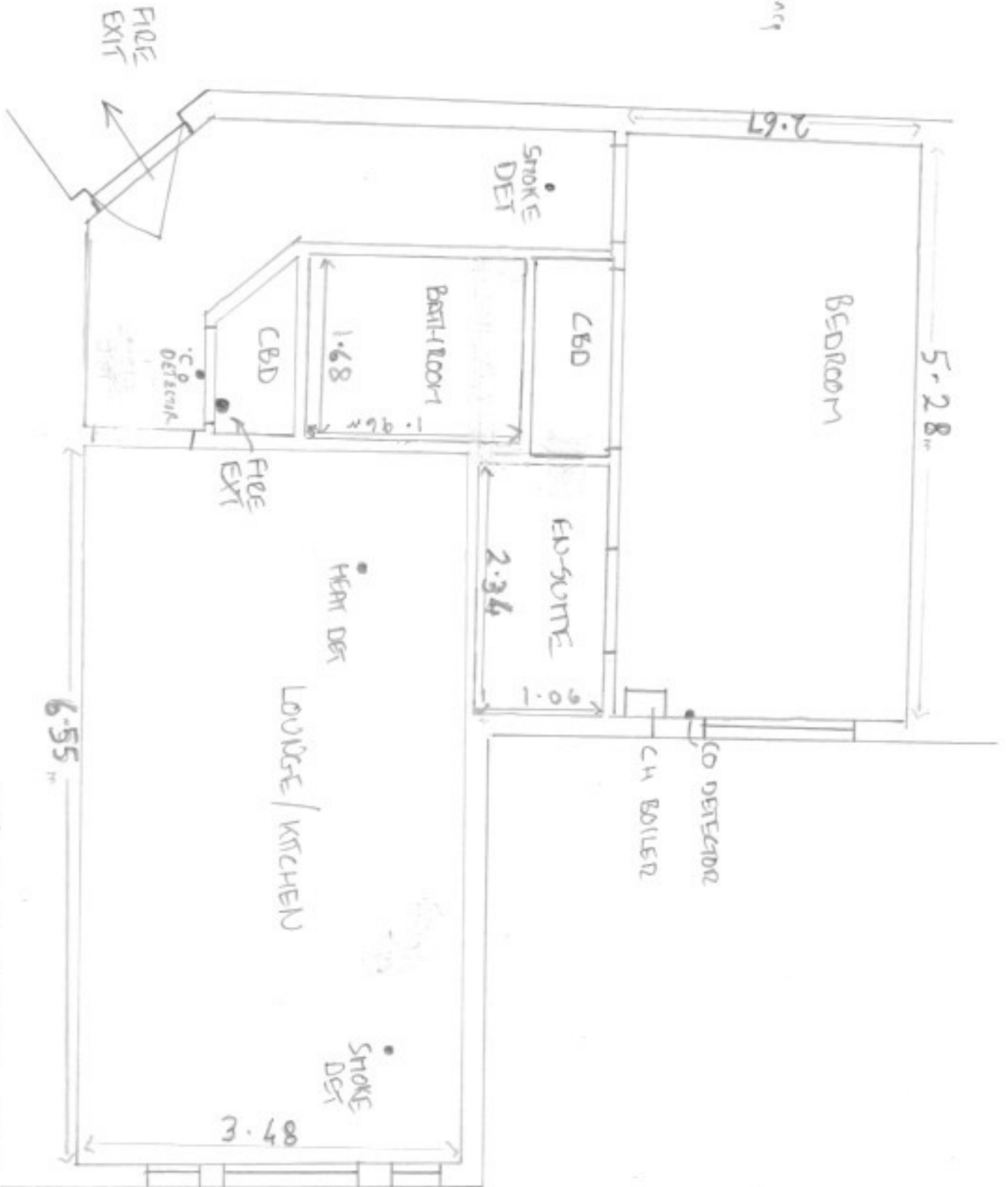
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## 25 Royal Marine Apartments



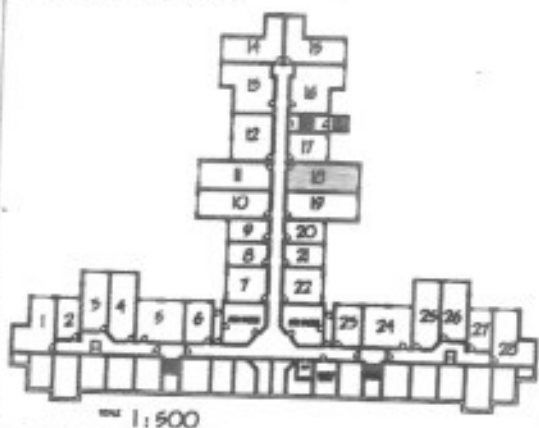
Maximum Occupancy

4 persons

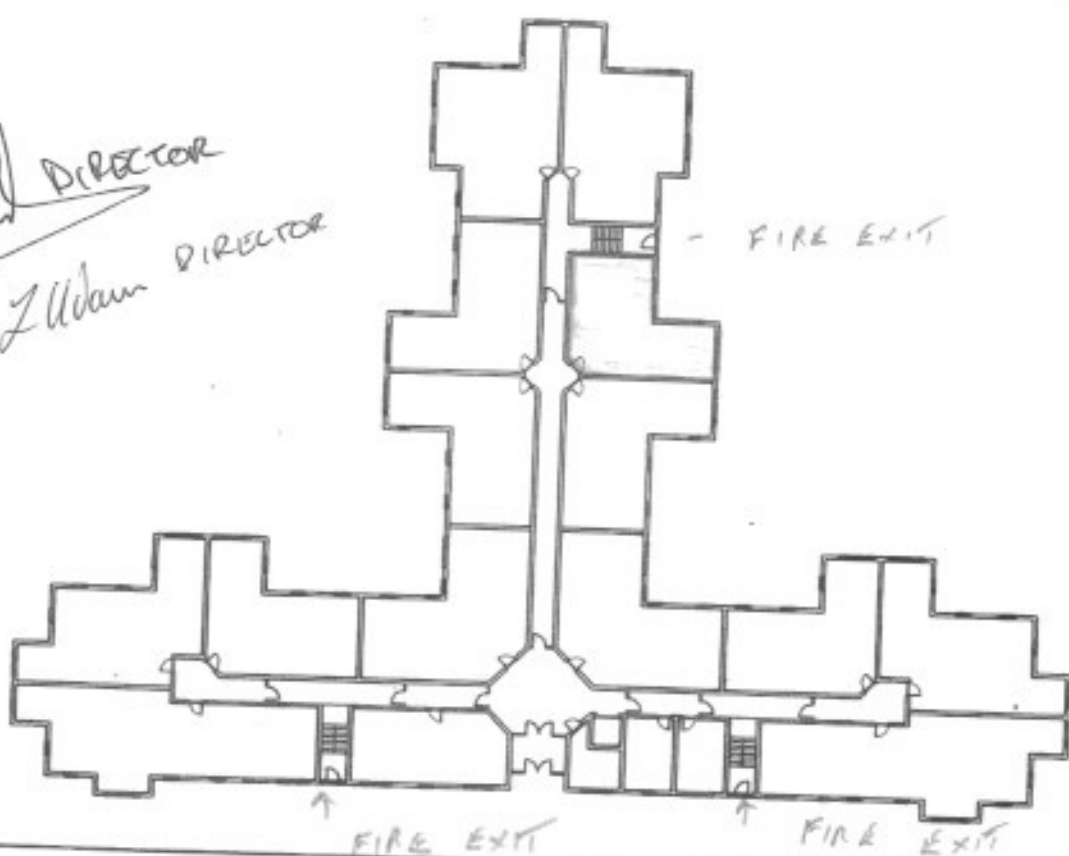


25 ROYAL MARINE APTS  
SCALE 1:50

**GARAGE FLOOR PLAN  
GARAGE No 18**



*WHD* DIRECTOR  
*A. Z. Uman* DIRECTOR



PROJECT <b>Apartment 25, First Floor</b>		<b>GAULDWELL PROPERTIES LTD</b> <b>115 SOUTH STREET</b> <b>ELGIN</b> <b>MORAY</b> <b>IV30 1JD</b>
LOCATION <b>Royal Marine Apartments, Nairn</b>		
DESCRIPTION <b>Feu Plan</b>		
CLIENT <b>Springfield Properties Ltd</b>		
SCALE <b>1:250</b>	DRAWING NO <b>276/SPR/25</b>	<b>TEL 01343 552550</b> <b>FAX 01343 551776</b> <b>E-MAIL <a href="mailto:john@gauldwell.freeserve.co.uk">john@gauldwell.freeserve.co.uk</a></b>


**GAuldwell PROPERTIES**  
Building Quality Homes



Received by email on 22 May 2024

APPENDIX 2

Mr Ryan Ralph



Dear Sir / Madam,

I am writing to object to the Secondary Letting License application for 25 Royal Marine Apartments, Marine Road, Nairn, IV12 4EN.

The Primary grounds for my objection is the fact that this apartment has been used for short term letting for some years now and it has been a constant concern of mine having an endless stream of strangers in the building. This is jeopardising the security of the residents, many of whom are pensioners and the security of the building in general. These people are being given the code for the external doors. These doors have locks which residents keys open but also a key code system for family and guests of residents to use or for if we have lost our key. To an extent, it defeats the purpose of having locks on these doors if we are giving keys and the pass code to a constant stream of strangers.

The apartment is a single bedroom residency which is advertised as sleeping up to 4 persons. This is regularly the case and on rare occasions I have seen 6 persons staying in the apartment, with 3 cars parked outside. This side of the building has 6 spaces for cars to service half of the 45 flats, which already makes parking for residents without a garage very difficult let alone when you have 2-3 cars parked there all staying in a single bedroom flat.

The persons staying also don't have the same respect for the building. I'm aware of damages regularly being caused by luggage being carried up the stairs which is being bumped a scraped against the walls which in turn needs to be repaired. Last time I checked we are paying over £110 a month factoring fee for the upkeep of the building. These damages come out of our common fund despite being caused by the guests while the owner of this property continues to pay the same as the rest of us. There has also been muddy mountain bikes hauled into the landing areas at the bottom of the stairs which are carpeted, this has to be cleaned by our cleaner and is unfair to put extra workload on her. Us residents are effectively paying for damages caused by short term guests which the owner of the apartment is profiting from.

Operating the apartment this way, is effectively running it like a hotel room, except hotels have security, they have people working constantly to deal with issues and monitor guest behaviour. On one occasion I had stones thrown against my living room window after midnight, when I addressed the persons doing it, it turned out to be 2 guests of this apartment who had forgotten the code to get in and asked if I'd let them in. I did go down to let them in the door but as I say, I have no idea who these people are or what their intentions are and being put in that very uncomfortable position puts my security at risk and is completely unacceptable.

The residents and community of the Royal Marine have no issue with flats being let out on a permanent basis, but for short term letting, I believe this works fine with private standalone properties but in my opinion it doesn't work inside buildings with communal entrances and areas.

I feel that the issues I have raised are reasonable, thank you for taking the time to read my letter. ✨

Yours Sincerely,

Ryan Ralph

