

	Agenda item	<b>8.1</b>
	Report no	<b>HLC/128/24</b>

## **THE HIGHLAND COUNCIL**

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

**Date:** **26 November 2024**

**Report title:** **Application for the grant of a short term let licence – Mulroy, 14 Carn Elrig View, Aviemore, PH22 1UL (Ward 20 – Badenoch & Strathspey)**

**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 13 December 2023 a validated application for the grant of a short term let licence was received from Mrs Gillian Christie.
- 4.2 The property to which the application relates is Mulroy, 14, Carn Elrig View, Aviemore, PH22 1UL (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 green 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 Mrs Christie 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 Christie and a Mr Iain Christie 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 Christie.
- 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 8 guests. The ground floor of the premises comprises of a garage, utility, open plan kitchen/dining area, bedroom, lounge and cloakroom w/c. The upper floor of the premises comprises of 3 bedrooms (one ensuite) and a bathroom. In addition, there is an external socialising area which accommodates a hot tub. 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;
- Scottish Fire & Rescue Service; and
- Highland Council Environmental Health Service.

5.2 Police Scotland, the Scottish Fire & 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 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:

- Notice of objection received on 15 January 2024 from David and Anne Housby (**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. 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.

## **10. Implications**

10.1 Not applicable.

Date: 31 October 2024

Author: Julie Traynor

Reference: [FS537929461](#)

Background Papers:

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

Appendices:

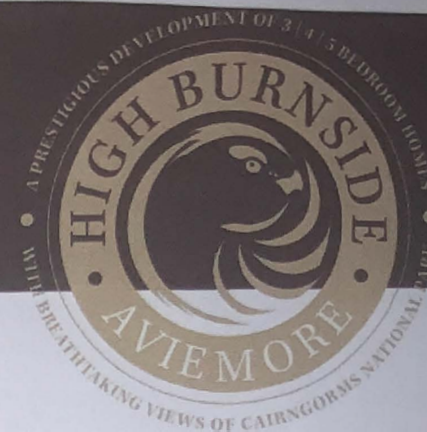
Appendix 1: Site plan detailing the extent of the Premises and floor plans for the Premises;

Appendix 2: Notice of objection received on 15 January 2024 from David and Anne Housby.

High Burnside  
Aviemore  
3154A  
Bedrooms  
Homes  
Tulloch Homes

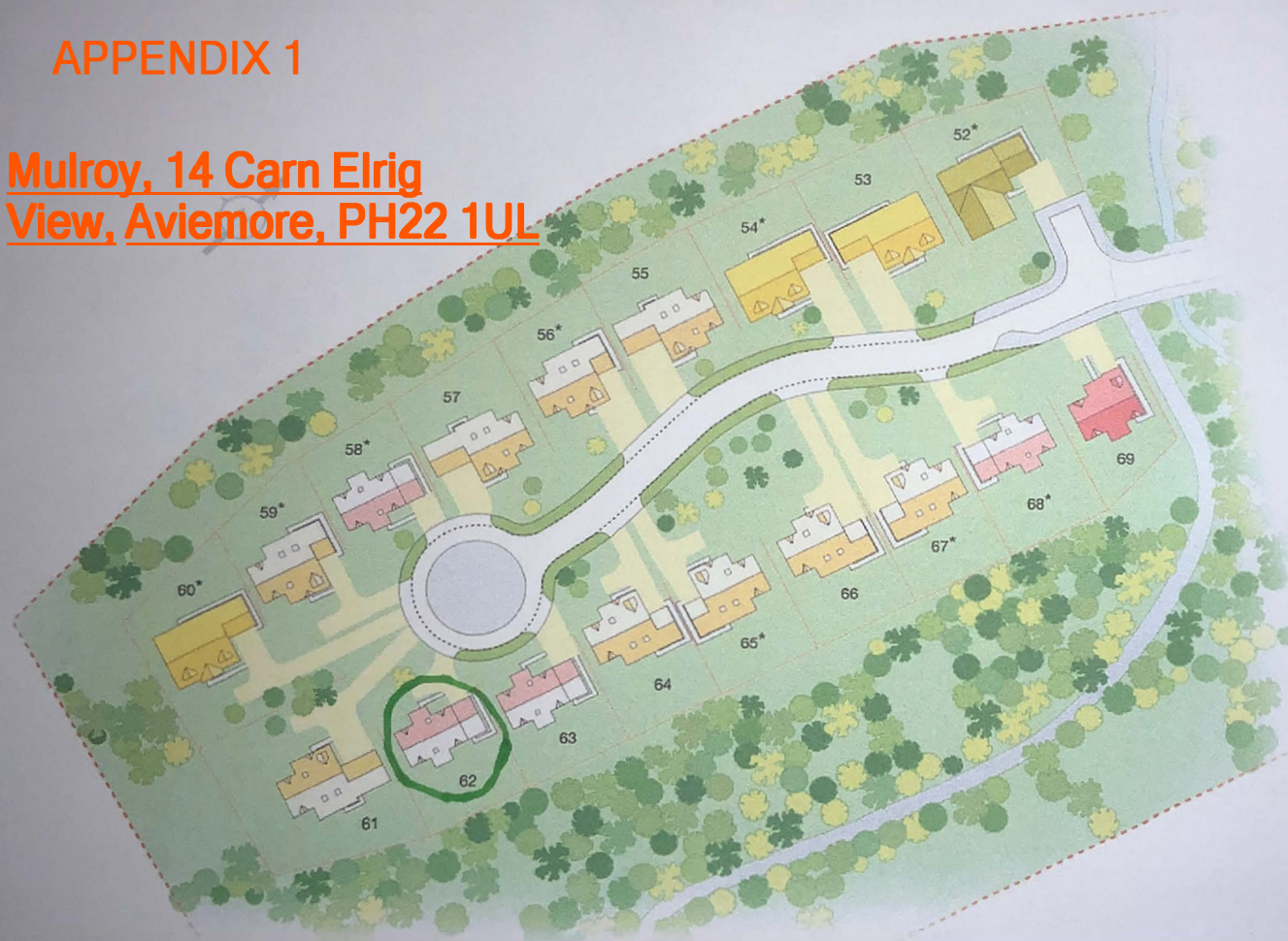
# High Burnside

Aviemore – Gateway to the Cairngorms National Park



## APPENDIX 1

Mulroy, 14 Carn Elrig  
View, Aviemore, PH22 1UL



The Macdui 4 bedroom detached villa with integral garage



The Avon 4 bedroom detached villa with garage and car port



The Avon 4 bedroom detached villa with integral garage



The Cairn Toul 5 bedroom detached villa with garage



The Conival 3 bedroom detached bungalow with integral garage



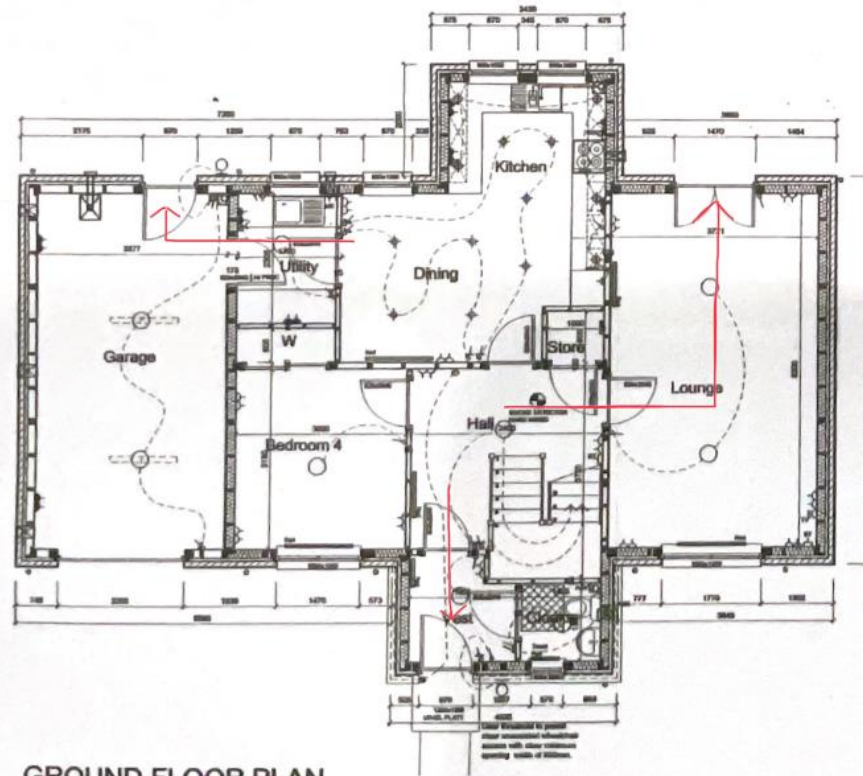
The Cairngorm 3 bedroom detached villa with integral garage

\*Denotes mirrored house type

 Tulloch Homes

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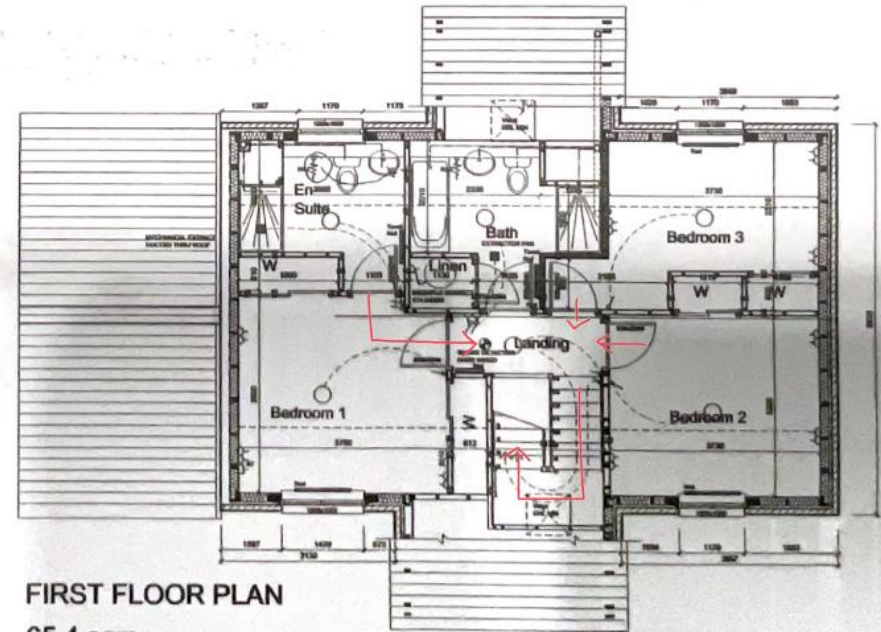




GROUND FLOOR PLAN  
77.8 sqm (Excluding Garage)

Mulroy, 14 Carn Elrig View, Aviemore, PH22 1UL

openings to have joints sealed with mastic or similar appropriate. All access hatches to have expanded polystyrene seal. Latex to have neoprene seal around opening.



FIRST FLOOR PLAN  
65,4 sqm

#### VENTILATION

##### BATHROOM AIRWAYS/CLIMATE

Mechanical extract to give min 100% extract. Fan to be linked to light switch with 15 minute on/off. Allow the landing switch located adjacent to light switch.

##### KITCHEN

Mechanical extract to give min 100% extract. Fan to be operated via independent switch located adjacent to light switch.

##### UTILITY

Mechanical extract to give min 100% extract. Fan to be operated via independent switch located adjacent to light switch.

DATE RECEIVED: 15 JANUARY 2024

Notice of Objection

Objection against the Short Term Licence Application:

Address of Property to be Licensed: 14 Carn Elrig View, High Burnside, Aviemore

Licence applied for: Secondary letting.

Applicant: GILLIAN CHRISTIE

Objectors:

Name/s: David and Anne Housby

Address: [REDACTED]

Reason for objection: The premises is not suitable for the conduct of the activity, having regard to

- 1- The kind of persons likely to be in the premises and
- 2- The possibility of undue public nuisance, public order or public safety.

We purchased [REDACTED] High Burnside, Aviemore in May 2015 as we needed to move for work purposes. My wife and I both work as shift workers in the public sector and this became our family home where we welcomed our son in January 2016.

Now 8 years later our experience of living at our family home has been regularly disrupted by anti-social behaviour by way of shouting, screaming, singing, loud music, vile and disgusting language, litter by a considerable percentage of the clients that frequent the neighbouring property at 14 Carn Elrig View managed by Gillian Christie.

It is our very real experience that the house is let out on a short term basis (minimum 3 nights) to large groups of males, females and a mixture of both. These groups of which many choose to use 14 Carn Elrig view as an opportunity for a social gathering which again in our experience means significant alcohol consumption which inevitably leads to anti-social and disruptive behaviour emanating, but not confined to, the use of the Hot Tub located in the garden at the rear of property which is in close proximity to our home.

We raised this issue a considerable number of times to the applicant in the first couple of years however we saw no improvement in the clientele or the behaviour we had to endure. We felt then we had no choice but to engage with the Anti-Social behaviour officer in October 2016 who met with both parties. This led to a number of recommendations including increased signage, increased security deposit fees, no bookings from stag and hen parties and emphasis to monitor our complaints and records of those who book the property.

We were told to record any instance of noise nuisance, inform the applicant, to personally go round and speak to those causing the noise and to then contact the police if necessary.



Despite this, it is our experience the applicant is often not contactable after 9pm (she has informed us that she goes to bed early, a right often not afforded to us). She has stated to us that she often has no idea of who is turning up. Why should we have to confront a large group of often likely highly intoxicated individuals and request they keep the noise down? We contact the Police but by the time the Police attend, often over an hour later (if they are able to attend) the noise has either abated or the group has gone inside, and our complaint is simply written off.

The noise is often so loud that we can hear it within our home even with the windows closed. During the summer months the upstairs can get very warm but we are often unable to open our windows due to the noise from next door.

We moved our son from the back bedroom to the front room (furthest away from the source) as he grew older and more aware of his surroundings. We have experienced vile and disgusting language from intoxicated sounding groups using the Hot Tub during the afternoons, mostly at weekends, and have had to take our son indoors to protect him. We have picked up champagne corks, beer cans, a flip flop, wet boxers shorts and other litter projected over her garden fence.

There is no time limit on the use of the Hot Tub. Her website simply says to 'Please show consideration to the neighbours especially after 11pm'. With this we have experienced some of her clients still making excessive noise in the Hot Tub until 0400 hours.

During the Covid restrictions where large groups were not permitted to congregate inside and travel was also restricted, I was forced to contact the Police due to a group of 8 highly intoxicated sounding males singing at the top of their voices in the Hot Tub after midnight. These males were evicted by the Police the following morning. I was unable to contact Mrs Christie at the time. (This is evidenced below and an audio recording was taken).

Evidence: These events were noted after several hours of anti-social behaviour and could be heard within our home. Often we tolerate the same noise levels but choose not document it as it stops after a shorter period of time.

w/e 15 May 2015 – Away for a family function in the first weekend in our home. On our return we were informed we were lucky not to have been home as a group had to be evicted refusing to leave – requiring assistance from neighbour.

25/09/2015 – Screaming and shouting coming from persons using Hot Tub. Owner texted

31/10/2015 – Screaming and shouting from persons using Hot Tub until 0130 hours

21/11/2015 – Screaming and shouting from intoxicated sounding persons using Hot Tub. Recording at 0016 hours. Audio recorded.

27/02/2016 – Noise at 2340 hours. Spoken to by us.

06/09/2016 – 2000 hours onwards - Loud music, screaming, shouting, loud laughter from intoxicated sounding persons using Hot Tub.

09/06/2018 – shouting from mature couples drinking within Hot Tub

31/03/2021 – Shouting/screaming in Hot Tub. Anne went round and spoke with them. Lasted 3 hours.

12-13/5/21 – Group of males. Singing, shouting and loud music whilst out in Hot Tub. Aware at 2100 hours. Police contacted at midnight and group requested to go indoors. 3 males then returned outside at 0145 hours and more noise. Audio recording available. Breaking Covid restrictions. No reply from owner until the following morning.

31/05/2021 – shouting from persons within Hot Tub

16/6/21 – 2000 hours onwards. Loud music/talking from group of males using Hot Tub Owner texted.

20/9/21 – Mixed group shouting. Sounded intoxicated and shouting became louder. Spoken to by self. Owner texted. Audio recorded.

27/09/21 – Mixed group in Hot Tub from 1800. Screaming/shouting for 5 hours. Owner texted at 11pm. No reply until morning. Apologised.

24/1/23 – 5 cars. All young males. Shouting whilst using Hot Tub Got loud as they became more intoxicated. Owner texted. 2-3 hours of noise. Audio recorded.

17/3/23 – Loud Music and singing heard from within the kitchen area at 0100 hours. Large group of males. Police contacted and call handler heard the noise. Police had no resources to attend. Noise stopped at 0230. I was early shift that morning. No response from owner until mid morning. No apology. Audio recorded.

We feel we have suffered for long enough. On a number of occasions, I have turned up for work (0700 hours) unfit for duty as I have not slept due to being disturbed. We appreciate that the applicant is running a business but this should not be at the detriment to our health and wellbeing which we can honestly say has been significantly affected. We should be able and are entitled to live peacefully and without fear of antisocial behaviour in our family home and given our experiences to date the issue of a Short Term Let Licence would be detrimental to this.

Regards,

David Housby

Anne Housby