

	Agenda item	8.3
	Report no	HLC/130/24

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 26 November 2024

Report title: Application for the grant of a short term let licence – Kinloch Lodge Guest House, 13 Ardconnel Street, Inverness, IV2 3EU (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 25 March 2024 a validated application for the grant of a short term let licence was received from Mr Samuel James Herbert on behalf of Melrose Villa Limited (Company number SC765282) and having their registered office at 17 Fowler Terrace, Edinburgh, Scotland, EH11 1DD.
- 4.2 The property to which the application relates is Kinloch Lodge Guest House 13, Ardconnel Street, Inverness, IV2 3EU (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 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 Melrose Villa Limited will be the host/operator of the Premises. The application was made after 1 October 2023 and, as such, the host/operator cannot operate the premises as a short term let until they have obtained a licence.
- 4.4 Melrose Villa Limited 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 Herbert.
- 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 terraced guest house which can accommodate a maximum capacity of 12 guests. The ground floor of the premises comprises of a dining room, kitchen/dining area, shower room and bedroom. On the first floor the premises comprises of 4 ensuite bedrooms. The second floor of the premises

comprises of two ensuite bedrooms. 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;
- Highland Council Environmental Health Service; and
- Highland Council Building Standards.

5.2 Police Scotland, Scottish Fire & Rescue Service, the Highland Council's Environmental Health Service and the Highland Council Building Standards 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:

- Objection received by email on 23 April 2024 from Tomer Chachamu (**Appendix 2**).

7.2 The terms of this objection have been shared with the applicant. The Highland Council's Environmental Health team visited the premises on 17 September 2024 and raised the various issues noted in the objection with the day-to-day manager with a view to addressing these issues, where the applicant had not already done so. The Licensing Team have written to Mr Chachamu to advise of this. At the time of writing, the Licensing Team have not received a reply from Mr Chachamu in this regard. If available, a verbal update can be provided to the Committee by the Principal Solicitor - Regulatory Services .

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 \(Licensing Committee\) \(highland.gov.uk\)](#)

9. Observations on objections/representations

- 9.1 In the email 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: 6 November 2024

Author: Julie Traynor

Reference: [FS599107729](#)

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 23 April 2024 from Tomer Chachamu.

APPENDIX 1 - Kinloch Lodge Guest House



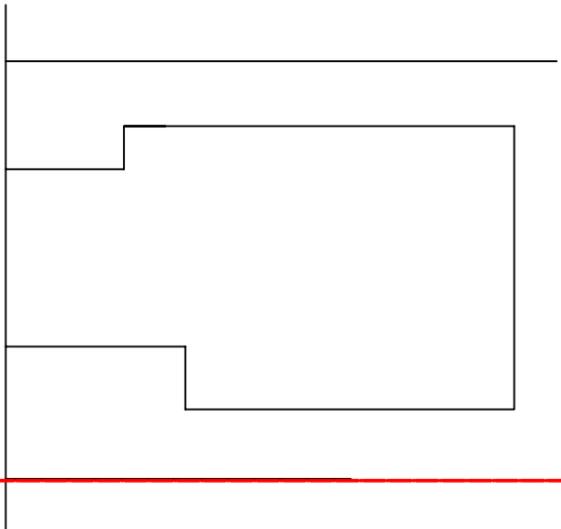
VIA MacDonnell Building Design Ltd INCORP
11 MacDonnell Street
Inverness IV2 3EX
01463 220200
0923 2531 02
Mr. A. Crear

License drawing
Kinloch Lodge
13 Ardcannel Street
Inverness IV2 3EX

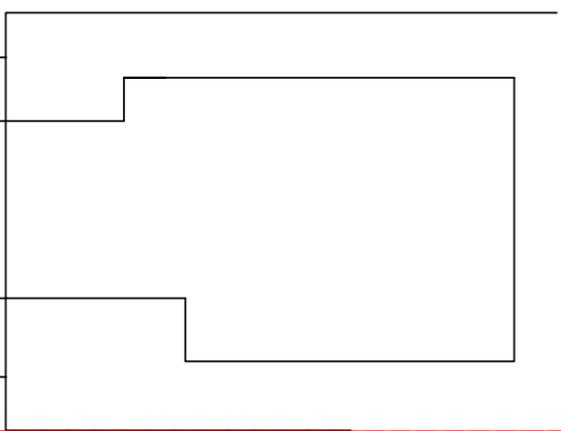
Location plan

0923 2531 02

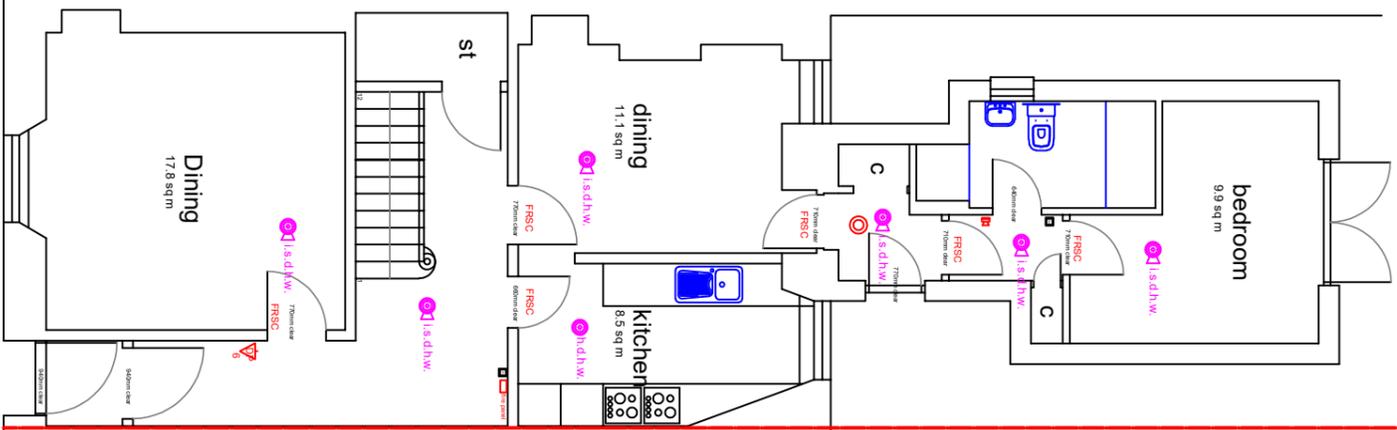
- ☉ emergency lighting (incorporating directional arrow and graphic symbol)
- 🔥 heat detector
- 🚒 smoke detector
- 🚒 push bar
- 🚒 Carbon dioxide extinguishers-capacity shown in KG
- 🚒 Dry powder extinguishers-capacity shown in KG
- 🚒 Water type extinguishers-capacity shown in litres
- 🔑 break glass call point
- 🔑 Lock on key
- 🔑 Fire resisting self closing door
- 🔑 Fire door
- 🔑 Fire from fastening
- 🔑 Fire blanket
- 🔑 Hose reel



Second floor



First floor



Ground floor

ELECTRICAL LEGEND :	
	13 Amp, Switched Double Socket Outlet
	13 Amp, Fused Switched Outlet
	Fluorescent Strip Light Fitting
	Pendant Light Fitting
	Wall Mounted Light Fitting
	Recessed Spot Light Fitting
	Light Switch
	2 Way Light Switch
	Heat Detector Hard Wired
	Ionisation Smoke Detector Hard Wired
	Multi sensor Smoke Detector Hard Wired
	Optical Smoke Detector Hard Wired
	Carbon Monoxide Detector
	Carbon Dioxide Detector
	30 Amp, Cooker control Unit
	TV, Aerial Socket
	British Telecom Outlet
	Mechanical Extractor Fan
	Luminaire Mechanical Extractor Fan & Light Distribution / Fuse Board
	Door Bell Push
	Door Bell Chime
	Shaving Socket Light
	Trickle vent (20000mm2)
	dMEV



Project: The Kinloch
Building: Kinloch Lodge
Address: Kinloch Lodge
11 Kinloch Park
Kinloch Inverness
01463 94000
074897 72000 (mobi)
www.kinlochlodges.com

Mr A Crierar
Project:
License plan
Kinloch Lodge
13 Ardconnel Street
Inverness

Floor plans

13/9/2023
scale 1:100
drawn: WJA macedonfield
0923.2531.01A

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APPENDIX 2

From: **Tomer Chachamu** [REDACTED]
Date: Tue, 23 Apr 2024, 13:40
Subject: Representation 13 Ardconnel Street
To: <stl@hIGHLAND.gov.uk>

I object to the short term let license for the following reasons.

My address is:

Tomer Chachamu, [REDACTED]

For our safety please do not inform the applicant until we have left the premises ie Thursday

Applicant has contravened the regulations

My family was offered a short term let before the end of the comment period. See booking confirmation pdf and image of the notice posted on the property

When we arrived the property had been professionally cleaned and food remained in the fridge indicating we were not the first to stay recently.

The property is listed on Airbnb with no availability until June - <https://www.airbnb.co.uk/rooms/1087667584081002103>

The property is not in a fit state - fire alarms

There are exposed wires where the thermostat should be, see image.

On the first night of our stay the fire alarm triggered at 0038. We followed instructions posted near the alarm to reset the alarm. The landlord did not reply to calls and the phone number for emergencies was an answering machine. The phone number posted on the fire alarm itself is not answered before 9am.

The fire alarm then triggered again at 0138.

According to a conversation with the property manager on WhatsApp (written), this was likely due to the radiators being set too high by the cleaning company before our arrival. All radiators were set to 3.

The following morning, when we started cooking eggs on the hob the fire alarm triggered. After we reset it, opened the kitchen windows and turned on the extraction, it continued to trigger every minute for ten minutes.

The fire alarm is a noise nuisance to neighbours especially if it triggers when the property is not occupied, there is a risk of tenants tampering with the alarm system due to frustration or becoming complacent which is a safety risk.

The installation may not be appropriate for short term lets.

The landlord did not provide information on reducing false alarms in any written material before check in or at the property.

It seems the kitchen door needs to be kept closed to prevent the alarm.

The property is not in a fit state - additional concerns

Electrical socket may be unsafe in room 6, see image - the plastic is cracked

Some devices have PAT stickers but not all.

Ventilation in room 6 shower - this is provided by a roof window. Instructions were not provided so humidity could build up if residents aren't aware the window needs to be opened during and after showering.

Required notices are not provided

We could not find any of the notices required under paragraph 12 of schedule 3 except the emergency services number and a fire alarm book.

PUBLIC NOTICE OF APPLICATION FOR SHORT TERM LETS LICENCE
The Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022

Application type: New application

Samuel James Herbert of 3, Oykel Place, Ardgay, IV24 3BH has applied to The Highland Council for a short term lets licence, for the below property.

Address of the property to be licensed: Kinloch Lodge Guest House 13, Ardconnel Street, Inverness, IV2 3EU

Licence type applied for: Secondary letting

The day-to-day managers are:

- Samuel James Herbert

Representations

Representations must:

- be in writing.
- specify the grounds of the objection or the nature of the representation.
- set out the name and address of the person making it.
- must be signed by the person, or on their behalf; and
- be made within 28 days of public notice of the application being given.

Copies of any representations will be given to the applicant. If a representation is made to The Highland Council after this date but before a final decision is taken on the application, then The Highland Council may consider the late representation if it is satisfied that it was reasonable for the representation to have been made after the deadline.

Representations should be sent to sl@highland.gov.uk or one of the following offices:

Caithness, Sutherland & Easter Ross	Ross & Skye	Lochaber	Inverness, Nairn, Badenoch & Strathspey
The Highland Council Caithness House Market Place Wick KW1 4AB	The Highland Council Tigh Na Sgìre Park Lane Portree IV51 9GP	The Highland Council Charles Kennedy Building Achintore Road Fort William PH33 7RQ	The Highland Council Charles Kennedy Building Achintore Road Fort William PH33 7RO

The application was submitted on: 24/03/2024

This notice was displayed from: 27/3/24

The last date for representations is 28 days from the date this notice was displayed.

Handwritten notes on a piece of paper, possibly detailing installation instructions or a checklist. The text is illegible due to blurring and low contrast.

CODE 344



- ZONE 1 GROUND FLOOR BEDROOM
- ZONE 2 GROUND FLOOR
- ZONE 3 1ST FLOOR
- ZONE 4 2ND FLOOR

NORTHERN
SECURITY ALARMS
For Service call 0800 336556

FRISK
BREAK GLASS
EMERGENCY STOP

Signature
SIGNED HERE

Fire Alarm

Should alarm sound
when we are out,
please key in code
& press silence
button & reset button.

It may take a few
attempts to reset depends
on why it went
off.

This only applies if
alarm sounds & we
are not on site.

Sindy

fixed tomorrow. Why don't you send an alternative so that we have something to discuss at breakfast. Although of course we wouldn't arrange anything until tomorrow.

02:22 ✓✓

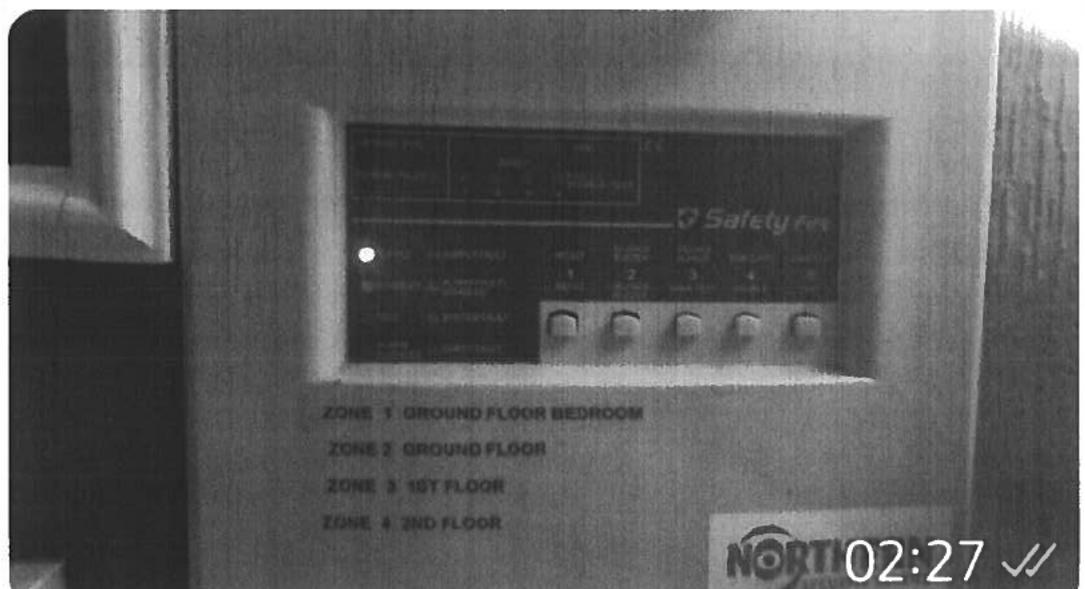
We've already sent an alarm company and they said they turned it off that's we don't know why it alarming it again.

02:25

Can you kindly take a picture of the alarm box and try to turn down the heater on room 7 as that must be the cause? 🙏

02:26

7 is ground floor? 02:27 ✓✓



NORTI 02:27 ✓✓





Yesterday

Messages and calls are end-to-end encrypted. No one outside of this chat, not even WhatsApp, can read or listen to them. Tap to learn more.

Voice call
No answer 00:38

Two false fire alarms an hour apart
01:38

We are 9 people with no car. Will you offer another accommodation?
01:49

Hello may I know who is this? And which accommodation?
02:16

13 Ardconnel st
02:17

Kinloch Lodge? Booking for Mordechai Chachamu?
02:18

Yep
02:18

I'll let our head housekeeper know that the fire alarm went off so they can check tomorrow 🙏
02:19

Well you left instructions on the wall so it's obviously already a known issue and not going to be fixed tomorrow. Why don't you send an alternative so that we have something to discuss at breakfast. Although of course we wouldn't arrange anything until tomorrow.
02:22

We've already sent an alarm company and they said they turned it off that's we don't know why it alarming it again.
02:25

Can you kindly take a picture of the alarm box and try to turn down the heater on room 7 as that must be the cause? 🙏
02:26

7 is ground floor?
02:27



Right, I have set the radiators to frost
02:30

Good night
02:30

Good night, please let us know if it happens again and if possible send us a picture while the alarm is on so we can pass to the company the area that is triggered 🙏
02:40



Zone 2 fire
07:16

Window open, extractor on full
07:17

Still triggered three times oh four
07:17

Hob and toaster off but it still goes regularly
07:21

Northern Alarms don't answer their phones before 9am
07:22

Hello, just checking if the alarm went off again today? 🙏
22:00

Not since the morning
22:03