

	Agenda item	8.4
	Report no	HLC/131/24

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 26 November 2024

Report title: Application for the grant of a short term let licence – 36 Broomhall Court, Inverness, IV2 5JJ (Ward 19 – Inverness South)

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 17 May 2024 a validated application for the grant of a short term let licence was received from Mrs Lynsey Ann McPhee.
- 4.2 The property to which the application relates is 36 Broomhall Court, Inverness, IV2 5JJ (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 McPhee 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 Mrs McPhee and a Mr Stephen John McPhee 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 McPhee.
- 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 with a communal entrance which can accommodate a maximum capacity of 4 guests. The premises comprises of a kitchen, living room, bathroom and 2 bedrooms (1 ensuite). 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;
- Highland Council Environmental Health Service; and
- Highland Council Building Standards.

5.2 Police Scotland, the Highland Council's Environmental Health Service and Highland Council Building Standards have all 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 20 May 2024 from Ann P MacDonald (**Appendix 2**);
- Objection received by email on 6 June 2024 from Clara Richardson (**Appendix 3**);
- Objection received by email on 10 June 2024 from Seonaid Campbell (**Appendix 4**).

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 emails of objection found at Appendix 2, 3 and 4, 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: 7 November 2024

Author: Julie Traynor

Reference: [FS614815102](#)

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;

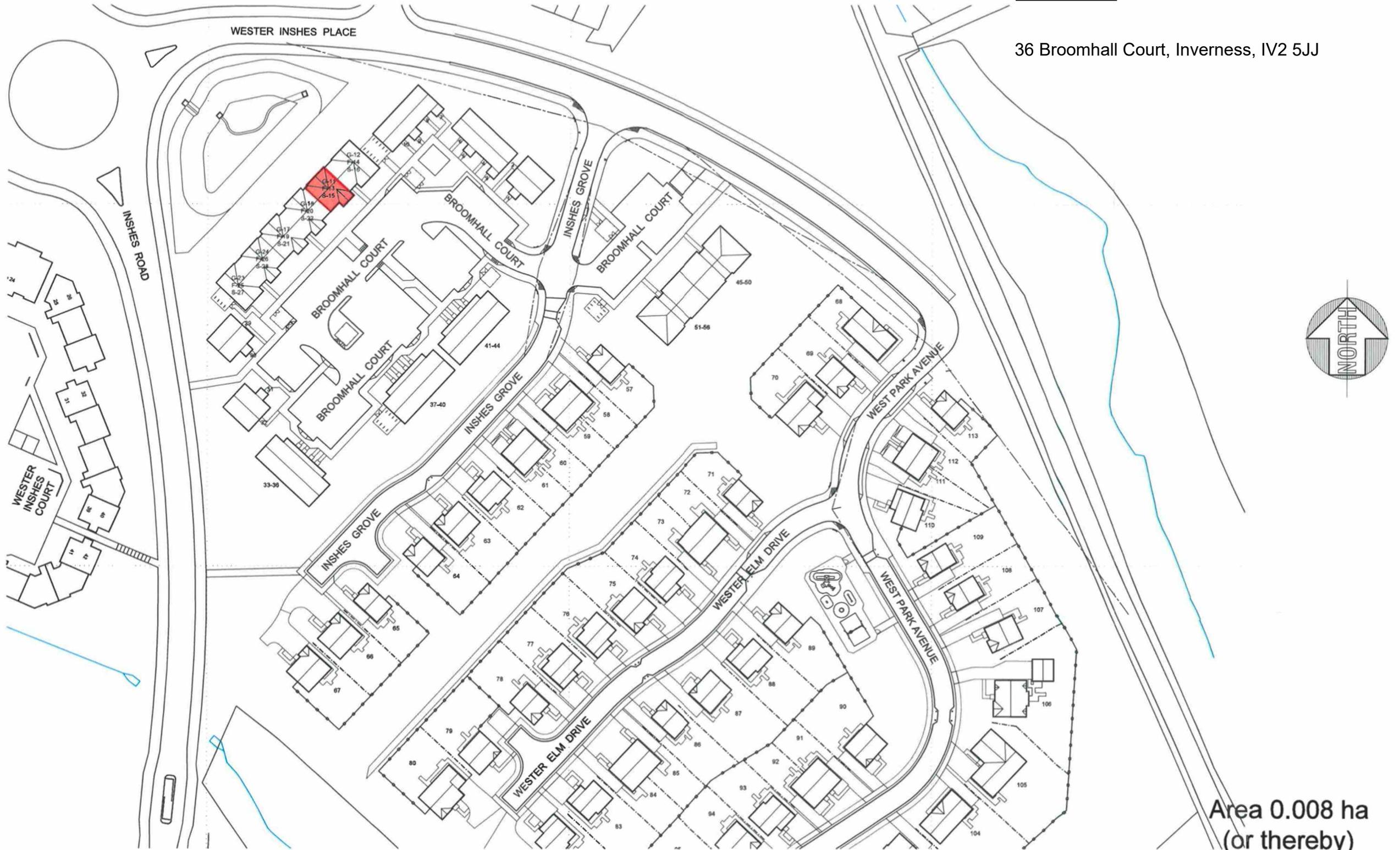
Appendix 2: Objection received by email on 20 May 2024 from Ann P MacDonald;

Appendix 3: Objection received by email on 6 June 2024 from Clara Richardson;

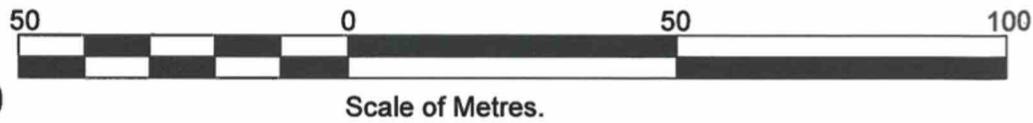
Appendix 4: Objection received by email on 10 June 2024 from Seonaid Campbell.

APPENDIX 1

36 Broomhall Court, Inverness, IV2 5JJ



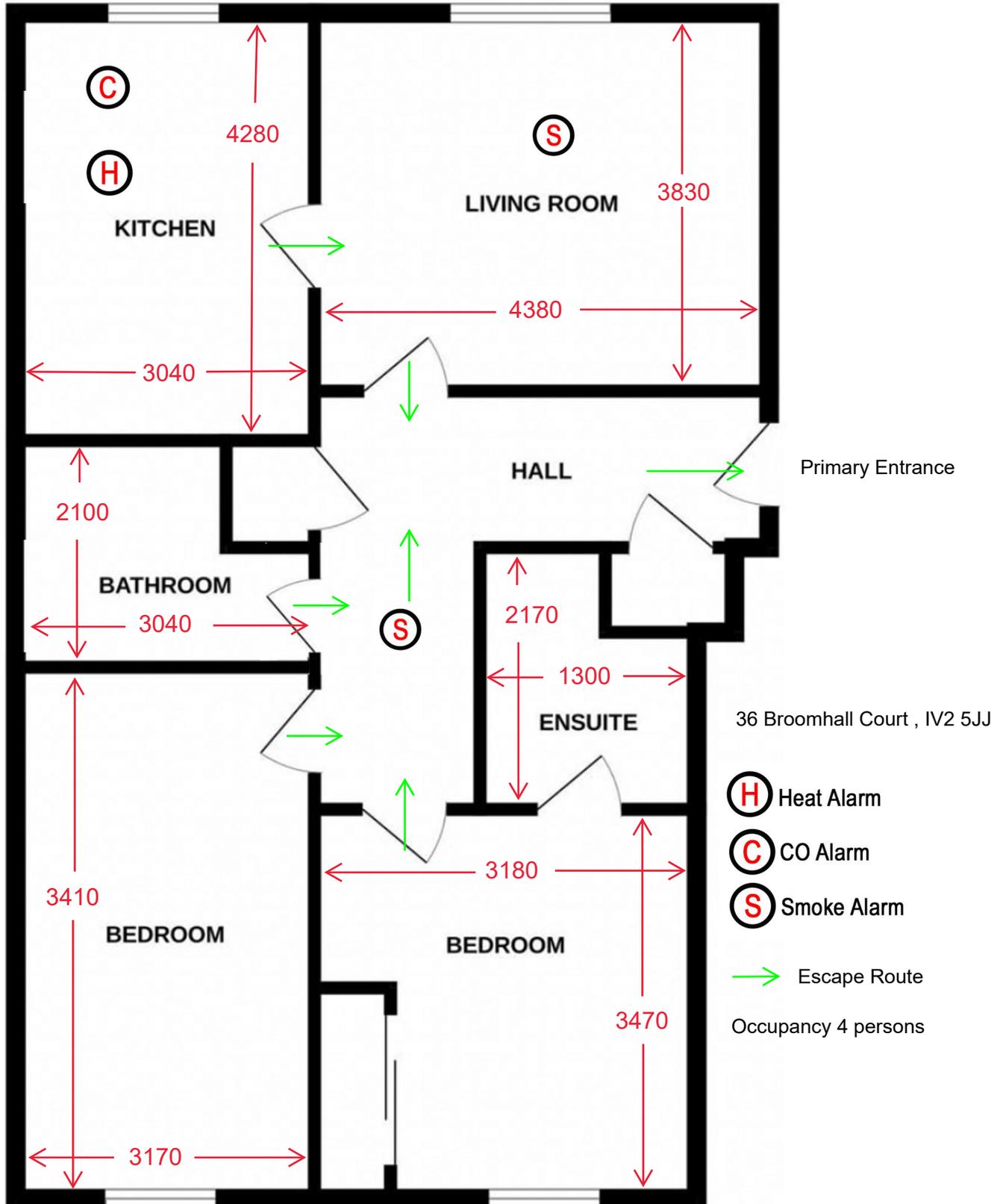
Site Plan
Scale 1/1000



Plot 11 (GF), INVERNESS
WESTER INSHES, PHASE 3

Area 0.008 ha
(or thereby)
August 21

GROUND FLOOR



Accessibility - All accomodation areas suitable for individuals with mobility issues
Access - Ground floor level access (Wheelchair Accessible)

[REDACTED]

From: Annie MacDonald [REDACTED]
Sent: 20 May 2024 13:24
To: STL Licensing
Subject: Proposed short term let of 36 Broomhall Court Inverness

Categories: [REDACTED]

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.

Good afternoon,

I have been informed by my tenants at [REDACTED] that the owner of number 36 Broomhall Court has applied for a short term let licence for the next-door property.

Granting of such a licence would be of concern as this is a residential area where properties are owned or rented out on a long-term basis.

Short term lets are known to cause nuisance and disruption particularly when they are rented out for parties e.g. stag and hen parties so I would strongly suggest that this licence is declined.

Regards

[REDACTED]

Ann P MacDonald MSc. BSc. BSc.

[REDACTED]

APPENDIX 3

From: Clara Richardson [REDACTED]

Sent: Thursday, June 6, 2024 2:49 PM

To: STL Licensing <STL@highland.gov.uk>

Subject: RE: PUBLIC NOTICE OF APPLICATION FOR SHORT TERM LETS LICENCE - LYNSEY ANN MCPHEE

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 Sirs,

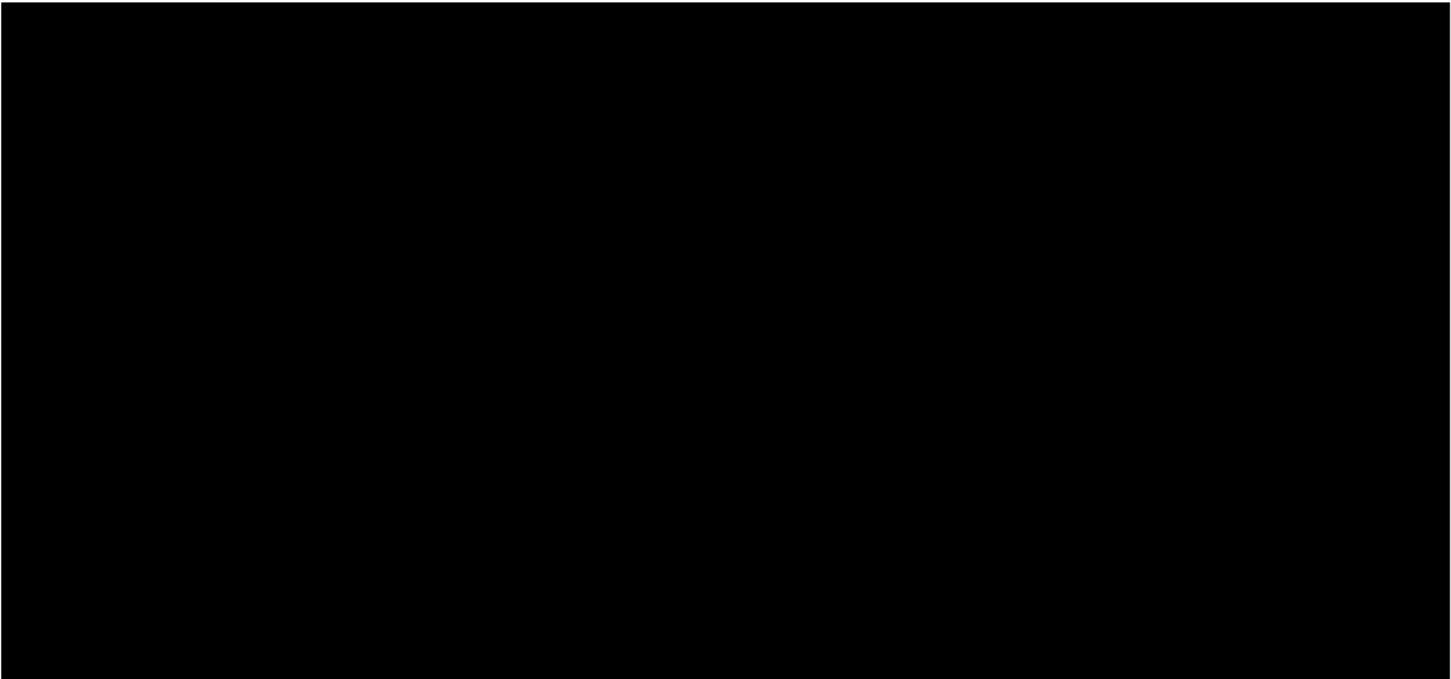
Thank you for your email.

The reason I am objecting to this is that I have lived in the block of flats for nearly 2 years and have no desire to have short term tenants in the building. In fact, it would probably cause me to find accommodation elsewhere. I feel that there is a strong possibility that persons likely to be in a short term rental could be holidaymakers, not really caring if they disturb neighbours who are working fulltime etc. Additionally, the safety aspect of having different tenants frequently is not appealing at all. This is a residential block of flats with owners/occupiers being in fulltime work. It is for these reasons that I oppose this application.

Please let me know if you require any further information.

Many thanks,

Clara Richardson
Legal Secretary



From: f mat [REDACTED]
Sent: 10 June 2024 18:27
To: STL Licensing
Subject: Objection to STL licence for 36 Broomhall Court, Inverness IV2 6AT
Categories: [REDACTED]

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

With regards to the the short term let licence application for the property at 36 Broomhall Park, Inverness, I am writing to you to object in the strongest terms. I am Seonaid Campbell, a single lady who lives at [REDACTED] [REDACTED] which is a flat in the same block of six as 36, sharing the same communal access and front door.

This application is wholly inappropriate for this area. This block of flats and the surrounding area is completely residential with working people who are on a completely different time zone from tourists. If this flat is turned into tourist accommodation it will deprive Inverness of a much needed rented property.

I have real concerns about the noise tourists would make, the block is recently built and has very heavy fire doors internally in each flat and the main door to the communal stairway for the Block. These doors if not closed carefully bang shut with enough force that they can be heard and felt two floors away. All the residents within the block are aware of this and close their doors carefully so as not to disturb other neighbours. Even with that I am sometimes still awakened by a door slamming. My worry is that no matter how many signs the applicant puts up, doors will still be slammed at hours of the day and night that will disturb the rest of the residents in the block. This would be on top of the other general noise tourists would make on a timescale not fitting in with working people.

We took on this flat away from the town centre for peace and quiet. We were guaranteed that no Short term Let would be allowed in the block as it expressly says so in the deeds as I quote bellow.

“Each dwellinghouse shall be used solely as a private dwellinghouse and for no other purpose whatever and none of the dwellinghouses shall ever in any way be sub-divided or occupied by more than one family at a time. Each Garage shall be used only as a private garage for the sole use of a Proprietor or occupant of his dwellinghouse and shall not be let separately therefrom nor used for any commercial or trading purpose.

The proprietors and parties occupying any of the dwellinghouses are hereby expressly prohibited from carrying on therein or in any other part of the Whole Area and trade, business, manufactory or profession, or from using them or any of them or causing them or any of them to be used for any purpose which might in the opinion of the Developer be deemed a nuisance and that whether or not such trade, business or profession is incidental to the ordinary residential use thereof, and notwithstanding any rule of law to the contrary.”

So I believe this application runs contrary to the legal and contractual agreement in the deeds which the applicant would have been made aware off when they took ownership of the flat

I am also concerned that the extra rubbish that they might bring may exacerbate the already shortage of bin space the flats currently have and that if they have more than one car that parking would become an issue.

I would also like to make you aware that the notice was not displayed for the mandatory period as it has not been up for several days now and initially it was hidden in a place that was not obvious to me. It was another resident that had noticed the sign and moved it so it was at the front door so all could see.

Best Regards

[REDACTED]

Seonaid Campbell,

[REDACTED]