

Agenda item	8.8
Report no	HLC/16/25

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 7 January 2025

Report title: Application for the grant of a short term let licence – The Bothy 86a, High Street, Grantown-on-Spey, PH26 3EL (Ward 20 – Badenoch and 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 In terms of the abovementioned Act, the Licensing Authority have nine months from receipt of the application to determine the same, therefore this application must be determined by 24 January 2025. Failure to determine the application by this time would result in the application being subject of a 'deemed grant' which means that a licence would require to be issued on 23 January 2025 for a period of 12 months. The application is before this Committee as this is the last meeting before the determination date expires.
- 3.3 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 24 April 2024 a validated application for the grant of a short term let licence was received from Mr Simon Milligan.
- 4.2 The property to which the application relates is The Bothy, 86a High Street, Grantown-on-Spey, PH26 3EL (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 in 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 Mr Milligan and Mrs Amy Milligan will be the hosts/operators 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 Mr Milligan is named on the application as the owner of the Premises.
- 4.5 The persons named on the application as being responsible for the day-to-day management of the Premises are the said Mr Simon Milligan and Mrs Amy Milligan.
- 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 garage conversion which can accommodate a maximum of two guests. 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;
- Scottish Fire & Rescue Service;
- Highland Council Environmental Health Service; and
- Highland Council Building Standards.

5.2 Police Scotland has confirmed that they have no objections to the application.

5.3 Highland Council Environmental Health Service

Highland Council Environmental Health Service have confirmed that they do not have any objections or representations in connection with the application, provided that:

“The applicant has agreed to not use the mezzanine area for sleeping and will be removing the access ladder to this area, prohibiting its use by guests.”

5.4 Highland Council Building Standards

Highland Council Building Standards have confirmed that they do not have any objections or representations in connection with the application, provided that:

“On the basis the applicant has confirmed they will not be using the mezzanine level I can confirm building standards no longer have any objections to the granting of the STL licence.”

5.5 The applicant has confirmed to the licensing team that they would agree to proceed with further additional conditions on their licence, which provide that that the mezzanine area would not be used for sleeping, that guests would be prohibited from accessing this mezzanine area and that the ladder used to access this mezzanine area would be removed.

6. Scottish Fire & Rescue Service

6.1 On 13 May 2024, a timeous representation was submitted by email by the Scottish Fire & Rescue Service and this is attached as an Appendix to this report (**Appendix 2**).

6.2 Scottish Fire & Rescue Service have advised the licensing team that they have contacted the applicant to discuss these points directly. At the time of writing, the Licensing Team await an update from Scottish Fire & Rescue Service that the measures undertaken by the applicant are acceptable to them. If available, a verbal update can be provided to the Committee by the Principal Solicitor - Regulatory Services.

7. Late Submission

- 7.1 In addition to the email of representation found at Appendix 2, Scottish Fire & Rescue Service submitted a further email of representation, containing details of matters which were separate to those mentioned in their original email of representation. This further email of representation was received on 26 September 2024, which was after the 28 day period for objections/representation to be made in connection with the application had elapsed, namely on 23 May 2024 and therefore this cannot automatically be considered by the Committee.
- 7.2 At the meeting, Scottish Fire & Rescue Service will be invited to address the Members as to the reason why this further email of representation was submitted after the required timescale. The applicant will be invited to address the Committee on the same and thereafter Members will require to determine whether there were sufficient reasons for the late representation and whether it should be heard.
- 7.3 If the Committee are minded to accept the further email of representation, a copy will be circulated at the meeting. If not, the application will be determined in its absence.

8. Certificate of Compliance

- 8.1 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 from 25 April 2024. No public objections have been received.

9. Determining issues

- 9.1 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.

9.2 A copy of this report has been sent to the applicant and the Scottish Fire & Rescue Service who, in the terms of paragraph 4(2) of the Civic Government (Scotland) Act 1982, have both been invited to attend and will be provided with an opportunity to be heard by the Committee.

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

10. Policies

10.1 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: 11 December 2024

Author: Maureen Duffy

Reference: [FS607119008](#)

Background Papers:

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

Appendix:

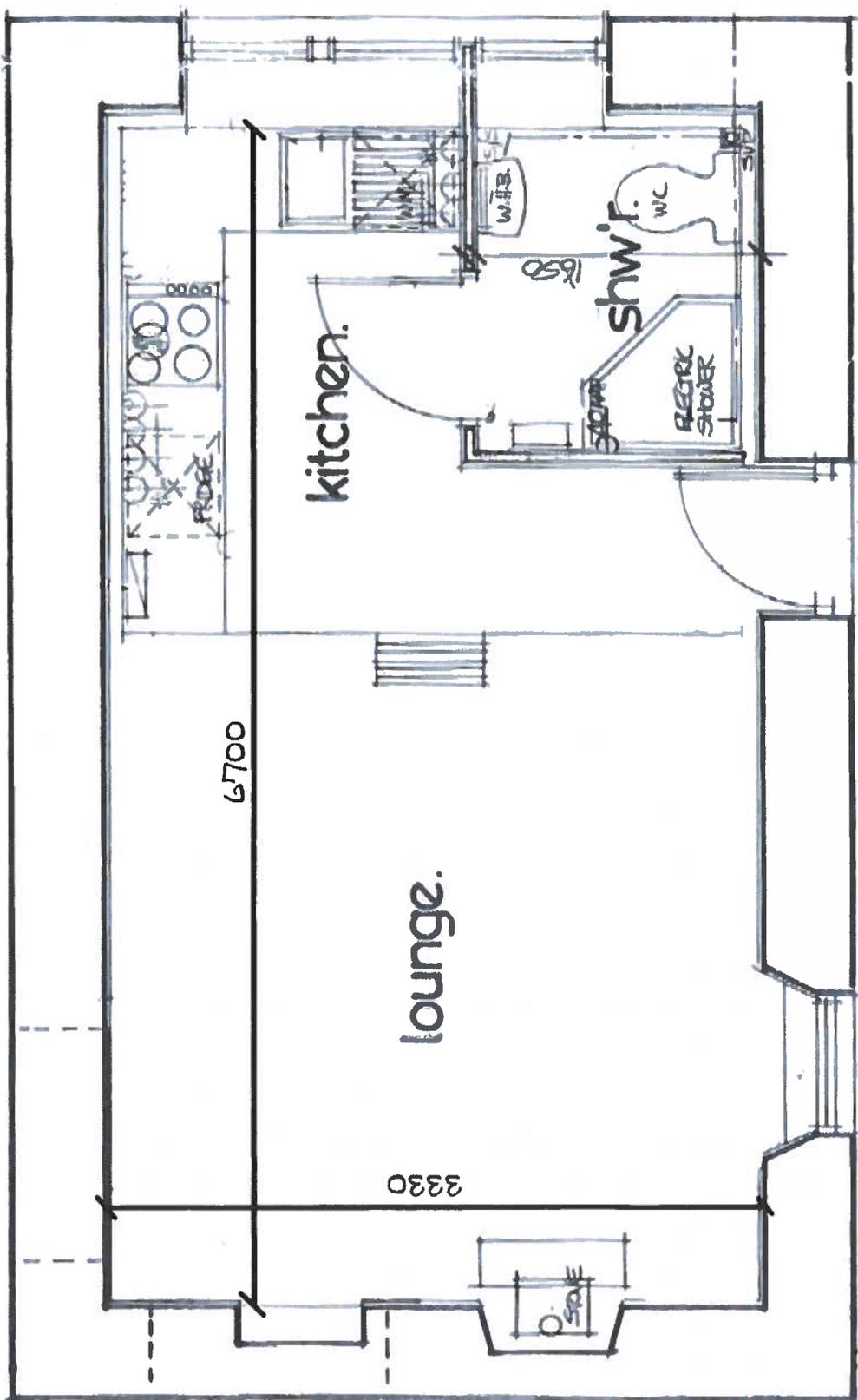
Appendix 1: Site plan detailing the extent of the Premises and floor plans for the Premises;
and

Appendix 2: Email of representation from Scottish Fire & Rescue Service, dated 13 May 2024

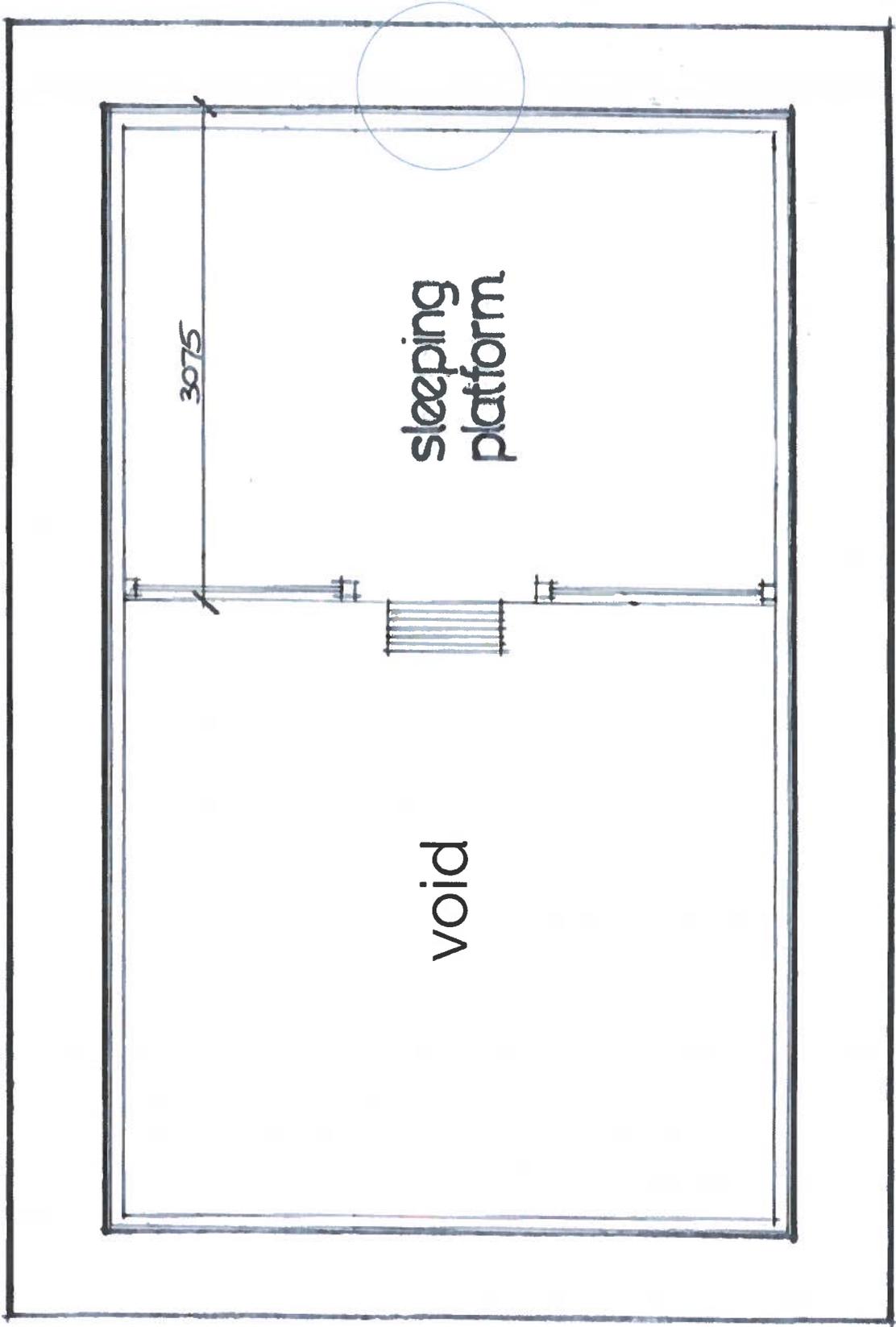
APPENDIX 1



Footprint of short term let property in red



ground floor plan. no alterations needed



first floor plan. no alterations needed



From: STL Licensing
Subject: FW: Reference: FS-Case-607119008, The Bothy 86a, High Street, Grantown-on-spey, PH26 3EL.

From: Mcculloch, Moray 2 <[redacted]>
Sent: 13 May 2024 16:41
To: Eleanor Hood (Environmental Health (Mid 3)) <[redacted]@highland.gov.uk>; STL Licensing <STL@highland.gov.uk>
Cc: STL buildingstandards <STLbuildingstandards@highland.gov.uk>
Subject: RE: Reference: FS-Case-607119008, The Bothy 86a, High Street, Grantown-on-spey, PH26 3EL.

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.

Hi All,

SFRS have declined the application for the Bothy due to:

- The ladder to the mezzanine floor not being of a fixed/secured type, which could be moved from this position leaving any guest stranded.
- The ladder to the mezzanine floor having no hand rail.
- The sleeping accommodation being above the Kitchen area.
- Adequate safety lighting would need to be in place to ensure the illumination of the ladder in the event of a power failure.

Regards

Moray

Moray McCulloch | Fire Safety Enforcement Officer- Watch Commander |
Prevention & Protection Directorate | Highland LSO | Scottish Fire & Rescue Service |
MOB: [redacted] | CISCO [redacted] | EMAIL: [redacted]



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