

	Agenda item	<b>3.4</b>
	Report no	HLC/69/25

## **THE HIGHLAND COUNCIL**

**Committee:** THE HIGHLAND LICENSING COMMITTEE

**Date:** 29 April 2025

**Report title:** Application for the grant of a short term let licence – 47 Society Street, Nairn, IV12 4PF (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 In terms of the abovementioned Act, the Licensing Authority have twelve months from receipt of the application to determine the same, therefore this application must be determined by 30 May 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 31 May 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 31 May 2024 a validated application for the grant of a short term let licence was received from Mr Anthony John Haynes.
- 4.2 The property to which the application relates is 47 Society Street, Nairn, IV12 4PF (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 in 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 Mr Haynes and Mrs Sian Haynes are the hosts/operators 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 Mr and Mrs Haynes 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 Anthony Haynes.
- 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 are described as a terraced dwellinghouse with a maximum capacity of six guests. The Premises are comprised of 3 bedrooms, a bathroom, kitchen and living room. Floor plans of the Premises were provided by the applicant as part of the application process, and these can be found at **Appendix 2**.

## 5. Process

5.1 The application was circulated to the following Agencies/Services for consultation:

- Police Scotland; and
- Highland Council 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 from 4 June 2024.

## 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:

- Email of objection by Mr Peter and Mrs Cecilia Thompson, received on 17 June 2024 (**Appendix 3**).
- Email of objection by Mr Andrew and Mrs Jean Purkis, received on 24 June 2024 (**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 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 \(Licensing Committee\) \(highland.gov.uk\)](#)

## **9. Observations on objection**

- 9.1 In the emails of objection found at Appendix 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: 9 April 2025

Author: Maureen Duffy

Reference: [FS549268545](#)

Background Papers:

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

Appendices:



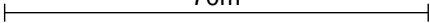
Appendix 1: Site plan detailing the extent of the Premises

Appendix 2: Floor plans for the Premises

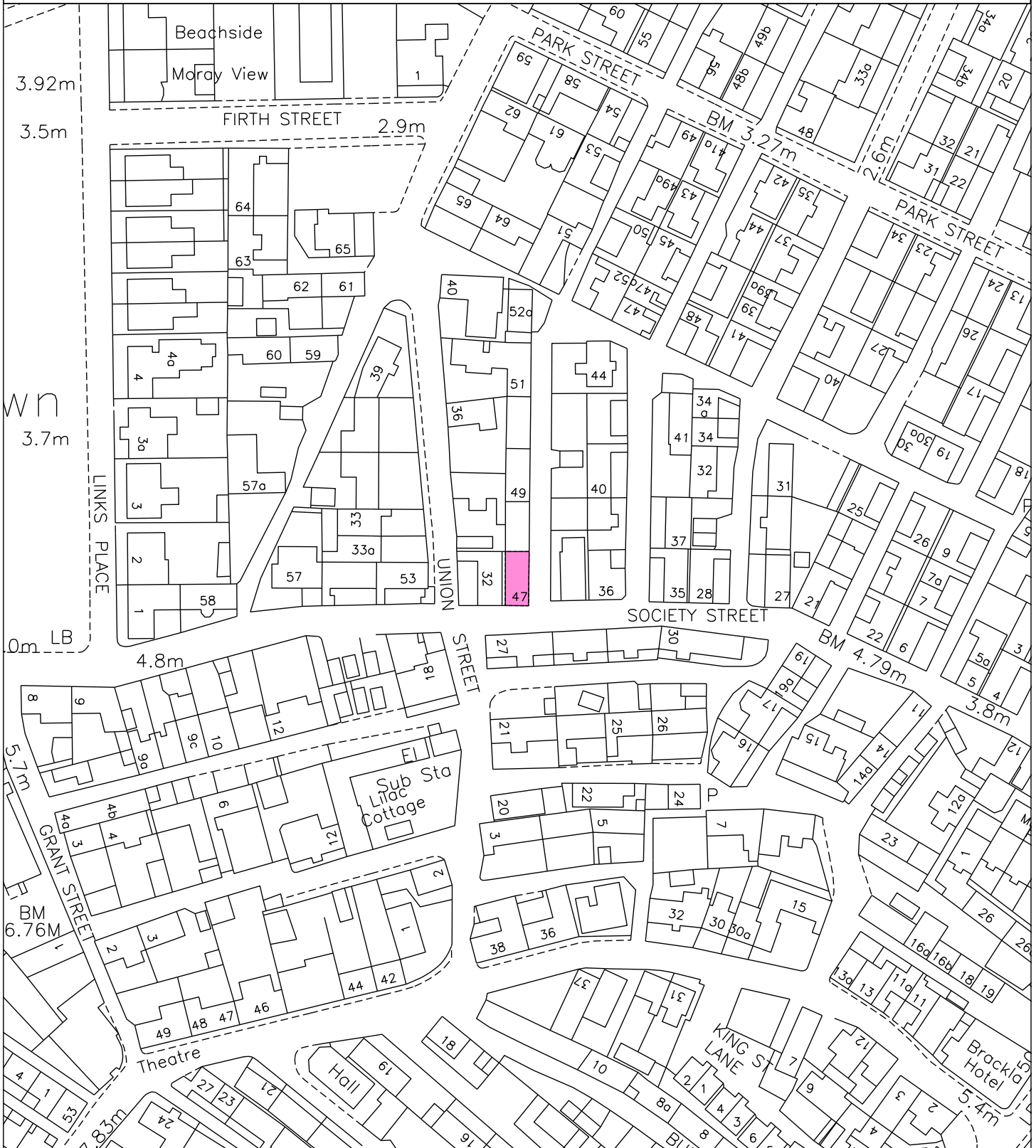
Appendix 3: Email of objection by Mr Peter and Mrs Cecilia Thompson, received on 17 June 2024

Appendix 4: Email of objection by Mr Andrew and Mrs Jean Purkis, received on 24 June 2024

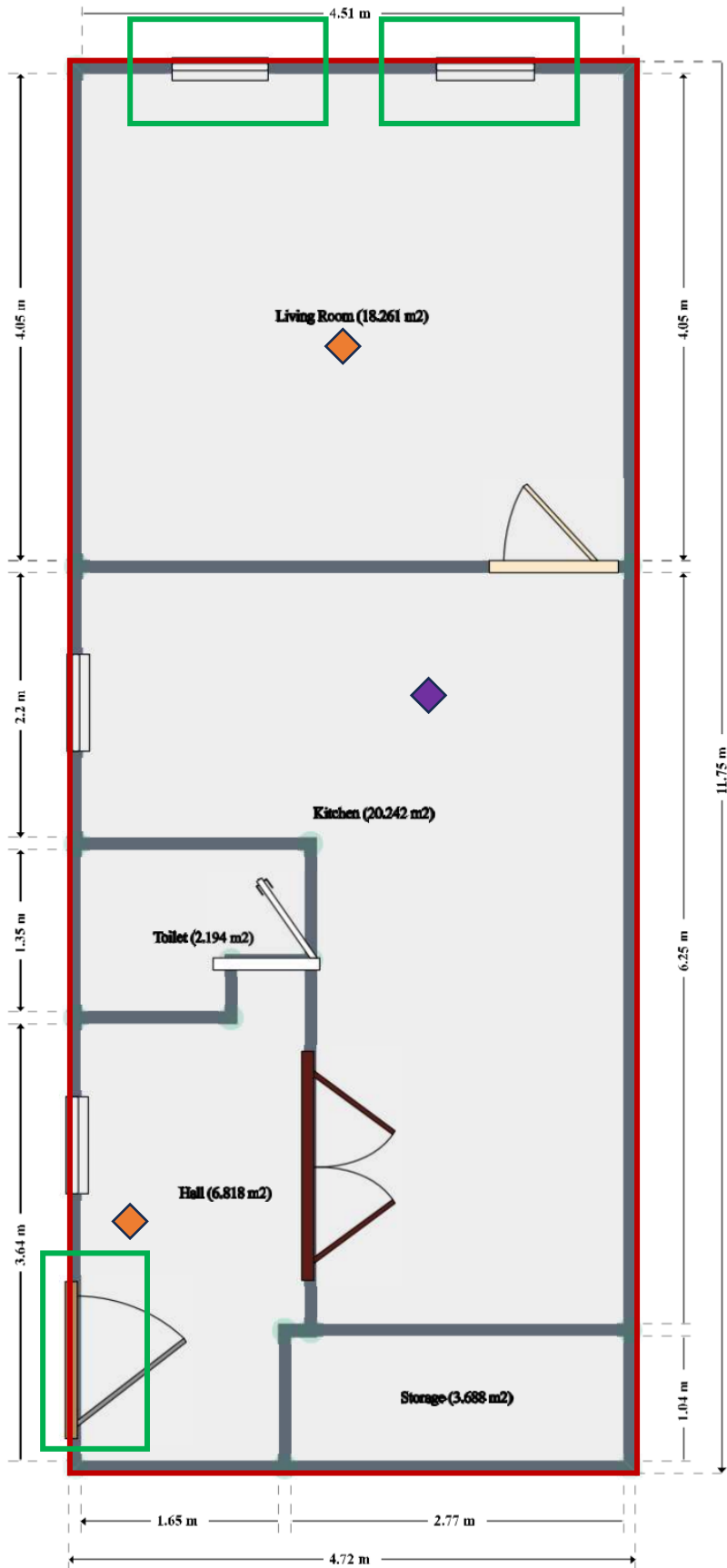
# APPENDIX 1

 <b>LAND REGISTER OF SCOTLAND</b>	Officer's ID / Date	TITLE NUMBER
	3070 28/7/2005	<b>NRN231</b>
	ORDNANCE SURVEY NATIONAL GRID REFERENCE	70m 
	NH8856 NH8857	Survey Scale 1/2500

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# APPENDIX 2



**Floor plan key**

**47 Society Street**

**Maximum occupancy – 6 people**



Boundary of property



Exit suitable for escape with direct outside access in the event of a fire



Smoke detector

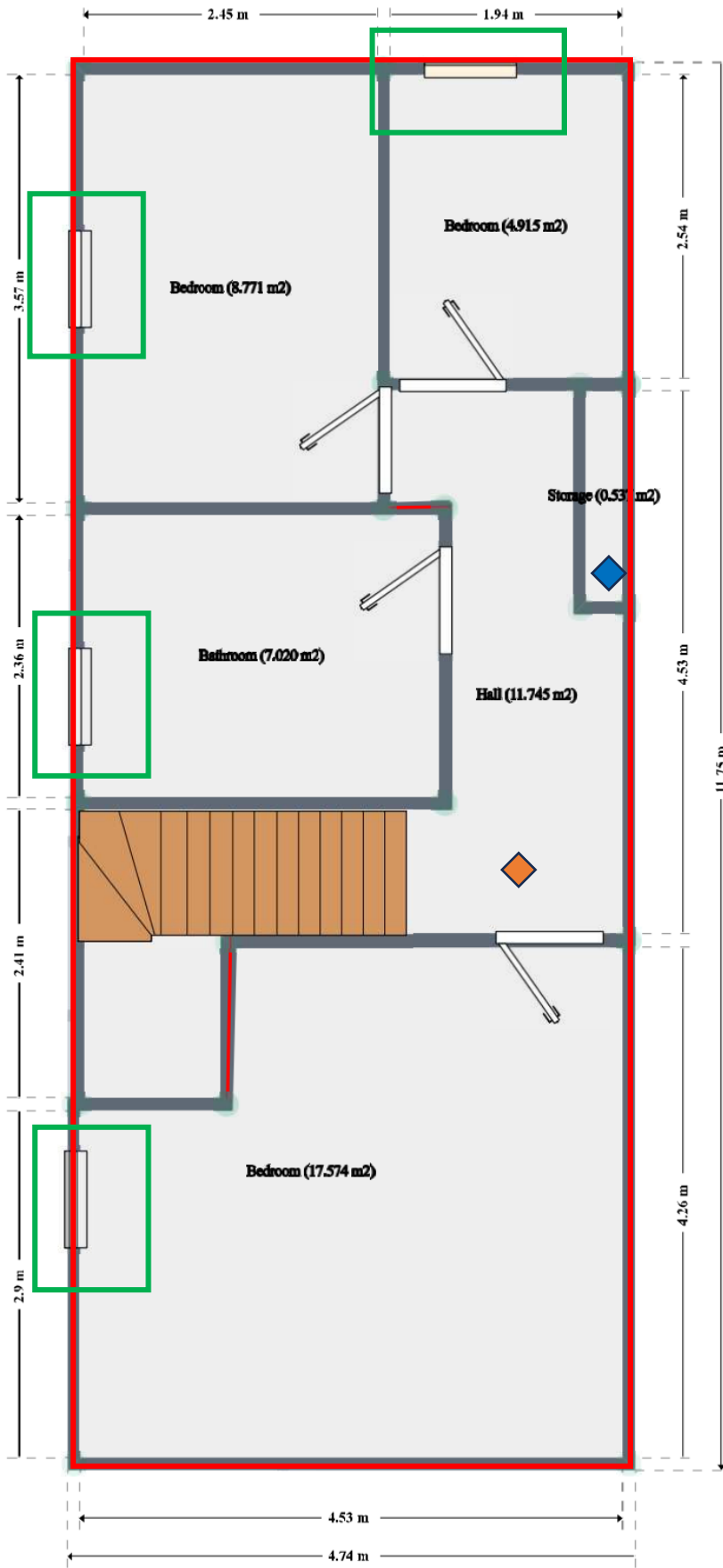


Heat Detector



Carbon monoxide alarm





**Floor plan key**

**47 Society Street**

**Maximum occupancy – 6 people**



Boundary of property



Fire escape route



Smoke detector



Heat Detector



Carbon monoxide alarm

17 June 2024

The Highland Council  
Charles Kennedy Building  
Achintore Road  
Fort William  
PH337RQ

Dear Sir/Madam,

We, Cecilia and Peter Thompson, the above named, and of said address, write in response to the Public Notice of Application for a Short Term Lets Licence, displayed by Mr Anthony John Haynes of 47 Society Street, Nairn IV124PF .

We wish to **object** to the granting of a Short Term Lets licence for reasons, which we outline as follows:

### **The Property Context**

This property is situated in the conservation area of Fishertown Nairn. At the current time our street has 8 owner occupiers, 1 long term rental, 4 second homes and 3 short let holiday properties.

No. 47 is one of the latter and is a large two storied, 3 bedroom end terraced home which sleeps 6. It is immediately adjoined to our house. It has no garden, nor a designated driveway for parking a vehicle.

Guests enter and leave the property directly from the roadway. There are no pavements in the street or in many of the streets nearby.

The front door to this property lies 2.4 metres from one of our main living room windows and our master bedroom window lies directly above this aforementioned window. The relevance of which will be expanded upon later in our submission.

Checking in and out times for this holiday let is officially 10 am and 3 pm, however, guests can and do arrive and leave at various times of the day and night.

The road outside our properties is approximately 5.0 metres wide this between the exterior house walls of No. 47 and the garden wall of the property opposite.

Bins for the property are situated on either side of the front door of No 47 and one is situated in front of the key box within 1.8 metres of our windows.

### **Loss of Privacy and Noise Nuisance**

Guests arrival and departures: Early morning departures between 4.15am and 5.30 am to catch the first flights out and return hire cars, or journeys to distant golf courses for early tee off or arrivals late of an evening after a long journey arriving after 11.30 pm, are a significant annoyance and a cause of sleep disturbance.

Vehicle noise: We are frequently awakened by taxis arriving in the early hours to collect guests, with the engine left running (usually diesel) whilst guests pack in their luggage, shout to others or, when self-driving, continuously slam doors and the boot as they pack up, and lastly, dispose of household rubbish into the outdoor bins with a clatter of the lids and items.

Guests frequently gather outside in groups to chat loudly, smoke (since the property is non-smoking), and consume alcohol at all hours of the day and night.



## **Environmental Impact**

On occasions, the plumbing at No. 47 has failed, disgorging toilet paper and human faeces onto the street from the down pipes. Whilst Mr Haynes promptly responded to our flagging of these problems, it still required us to contact him to so alert, despite cleaners going in and out for changeovers. A responsibility that would not fall on the neighbours should the house not be a short term let.

We regularly have cigarette butts strewn under our window and across the street as these are flicked and discarded and we have picked them up on numerous occasions to keep the street tidy. Whenever guests stand outside to smoke, the smoke enters our home through our opened main bedroom and living room windows. This is not only a significant social and environmental nuisance but also exacerbates and acts as an irritant to an underlying health issue which one of us has.

Bin collection by the Highland Council has recently changed and requires guests to actively recycle into a multitude of bins including food waste. We have significant concerns that guests will not actively comply and that, as a consequence bins, will not be uplifted. These concerns are based on our previous experience of refuse disposal by guests. The volume of guests passing through this STL has meant that bins are often overflowing. When guests have rubbish to dispose of and their own bins are full, they use ours, sometimes without asking. Worse still, they leave black bags on top of the bins as they leave, which are then duly opened and scavenged by seagulls. Cleaners do not always attend on the day of departure so, again, the responsibility to clean up the mess falls upon the neighbours.

## **Over Occupancy**

Whilst the property is clearly advertised for 6 persons, there have been occasions when more than this number have stayed in the property.

## **Parking**

Guests rarely park at the gable end of the building but choose to park near the front door on the corner, which causes an obstruction to other vehicles trying to enter and leave Society Street. Whilst other residents park by their door too, these houses are not on the corner and the passengers are let out first, and then the driver parks close in to the exterior of the buildings. This so as not to impede traffic flow, which comes into the street from the main Society Street and from the opposite direction from the parallel Society Street (an improvised and unofficial one way system used by residents to keep traffic flowing). Guests however often park up and leave enough room for passenger doors to open and close. This in turn narrows the road width and makes entering onto Society Street from the main Society Street oft times near impossible, especially from an eastern approach to the turn and most definitely impossible for emergency vehicular access. The Roads (Scotland) Act 1984 does make provision for the prevention of obstruction of views at corners, bends, and junctions but guests are either not aware or choose to ignore this road law.

## **Conclusion**

Mr Haynes has operated the property as a holiday let since 2022 and it is no doubt a successful business venture (presumed by the volume of guests arriving and departing). However as his neighbours and permanent residents, this is the first opportunity we have been given to express our view as to what it feels like to be caught up in a never ending flow of different peoples coming and going at all times of the day and night, in holiday mood, with scant regard to the everyday needs of neighbours for clean air, undisturbed sleep, freedom of movement, the right to enjoy their own homes and compliance with the Roads( Scotland) Act 1984.

One of the platforms used to advertise the property as a holiday let has a complaints process entitled Neighbourhood Concern to report a party, noise complaint or neighbourhood concern about the neighbours for action to be taken. The irony of this has not been lost upon us since the applicant has never enquired of us if we have any Neighbourly Concern about any of his guests.

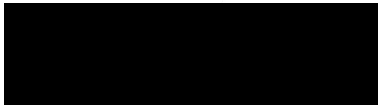
We strongly object and express our concern about having No. 47 as a short term let property for the reasons we have outlined.

We wish it known that we have not objected to any other applications in the near vicinity for STLs as their operating circumstances differ and do not impinge on our civil freedoms and rights.

We look forward to hearing the outcome of your decision making and would be happy to provide any further detail you may require.

Yours sincerely,

Cecilia and Peter Thompson



CECILIA THOMPSON



PETER THOMPSON

## APPENDIX 4

24/06/2024

Dear Sir/Madam

On behalf of Andrew and Jean Purkis of the above address.

We would like to write to make our objections known regarding secondary letting of an Air BandB by Anthony J Haynes at 47 Society Street Nairn.

The owners are a nice couple but we wish to explain issues that have arisen due to using the property as an Airbnb.

We live in Fishertown which is full of small narrow lanes, where the houses are in close proximity to each other. It was normally a very quiet residential area which is not suited to the amount of cars and people who continually stream in and out of number 47. We don't know how many it sleeps but frequently it feels too many due to unsociable hours and noise. We feel that the experiences we have had over the past year or so since the Air BnB was set up have directly affected our privacy and family life.

We frequently have 2 cars and sometimes 3 parked in this narrow street, wrapped around the corner of the lane making it difficult for residents to negotiate the lane.

Instead of normal neighbours as we have had in the past 20 years, who have a normal routine. We now have continual very unsociable arrivals sometimes well into the small hours. This is a narrow lane and noise reverberates off the stone buildings directly to us. Due to this we rarely miss an arrival due to noise but this is heightened by the unsociable arrivals which are frequent enough to cause sleeplessness and annoyance. We have been on a good number of occasions woken up with the doors and the boot being continually slammed shut, reopened and slammed shut again not to mention hearing every word of the conversations as they unpack the car oblivious that we are asleep just because they are on holiday. We then have to go through this all again on departure which is often also unsociably early.

Number 47 does not have a garden so the street outside our house naturally at a beach becomes a receptacle for all sorts of beach paraphernalia including drying washing, it also becomes a gathering place for people. This as it takes place on the street instead of a garden can feel quite intimidating and affects privacy in what should be a normal residential area. We have taken to locking our door as we don't know who is visiting and in fact have had a

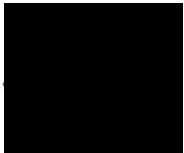
number of dodgy looking occupants. One gentleman never closed the curtains and undressed in front of them.

It is noticable also that with no garden, visitors to 47 who are smokers also stand outside in the street talking into the late of night. They drop cigarette butts which are not cleaned up by the cleaner and look unsightly until either our neighbour or we sweep them up.

In fact during the winter months we had for several weeks men who would sit in the car smoking as it was cold with the engine and radio reverating its noise to us.

As mentioned we are directly opposite number 47 so we have windows upstairs which look directly at each other. this has not been a problem until we had air BnB visitors as we feel intimidated by the way some visitors behave.

Finally we also directly see that whilst inside is cleaned regulary outside is neglected. the windows were covered in seagull muck and remained uncleaned for over a year until the owners visited. As mentioned cigarette butts are not cleaned up and the weeds outside the house have not been cleared except by us or our neighbours.



Andrew and Jean Purkis