

Agenda item	3.7
Report no	HLC/72/25

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 29 April 2025

Report title: Application for the grant of a short term let licence – 71 Castle Heather Drive, Inverness, IV2 4EB (Ward 15 – Inverness Ness-side)

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 30 May 2024 a validated application for the grant of a short term let licence was received from Miss Sandra Olender.
- 4.2 The property to which the application relates is 71 Castle Heather Drive, Inverness, IV2 4EB (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 Miss Olender 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 Ms Amanda Millar 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 is the said Miss Sandra Olender.
- 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 flat with a communal entrance with a maximum capacity of four guests. The Premises comprise of two bedrooms, one 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 31 May 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 objection was received and is attached as an Appendix to this report:

- Objection received by email on 28 June 2024 from Andrew Gray (**Appendix 3**).

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 both the applicant and objector 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 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. 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: 9 April 2025

Author: Maureen Duffy

Reference: [FS549268139](#)

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 plan for the Premises.

Appendix 3: Objection received by email on 28 June 2024 from Mr Andrew Gray.

Site Location Plan

skala 1:500

APPENDIX 1



100m

50m

40m

30m

20m

10m

5m

0m

0m

5m

10m

20m

30m

40m

50m

0m

10m

0ft

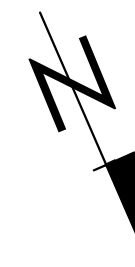
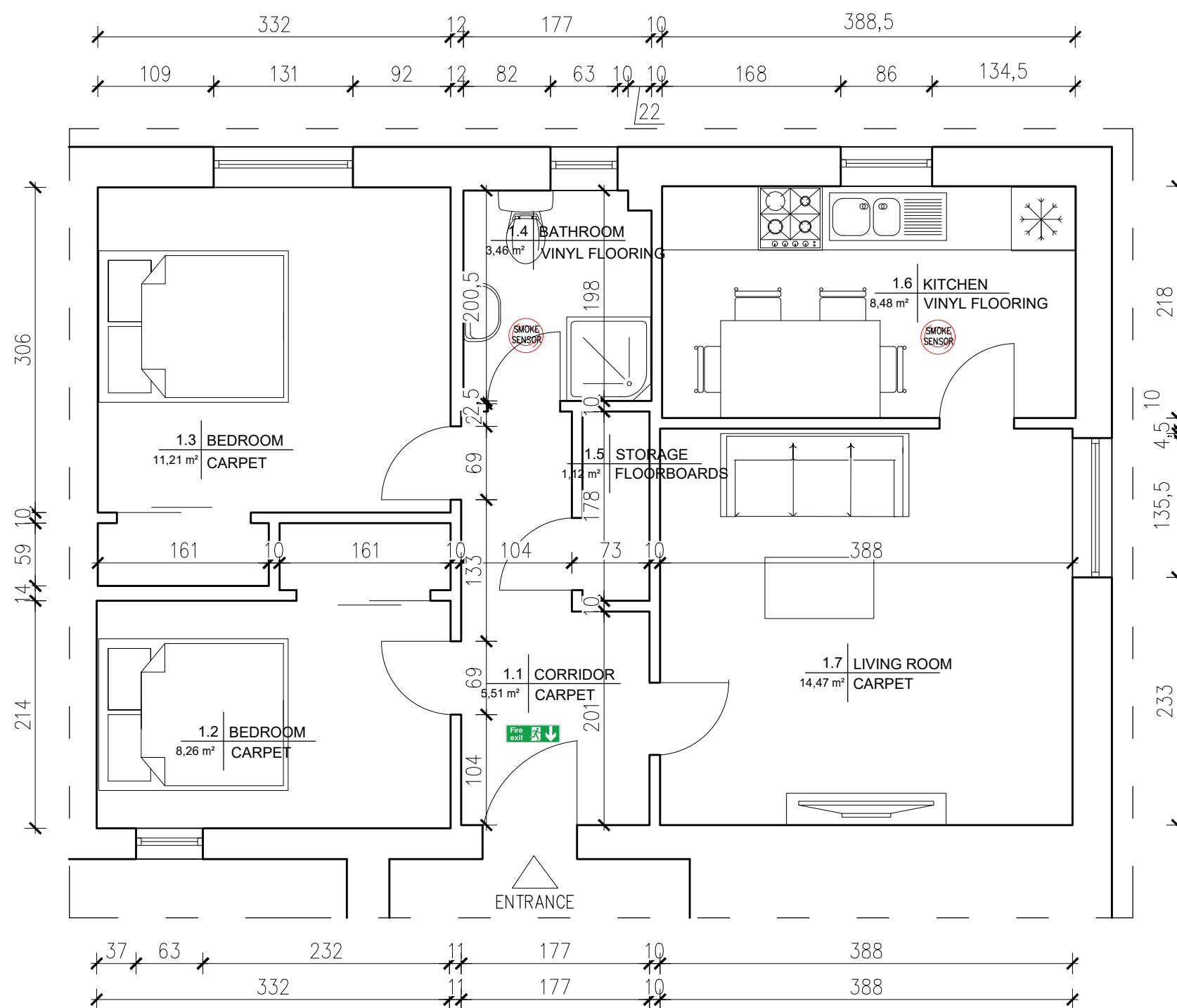
50ft

Object	Scale	Date
71 Castle Heather Dr, IV2 4PR	1:500	09.2023
Title	Number	
Site location plan	1.0	

Section

skala 1:100

APPENDIX 2



-  MAIN ENTRANCE
-  EVACUATION ROUTE
-  SMOKE SENSOR

Object	Scale	Date
71 Castle Heather Dr, IV2 4PR	1:100	09.2023
Title	Number	
Section	1.2	

From: andrew gray [REDACTED]
Sent: 28 June 2024 08:36
To: STL Licensing
Subject: STL representation 71 castle heather drive
Categories: Alex

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.

any persons authorized by them, but without the surface of the said area of ground, to search, raise, calcine, manufacture and carry away and others and to do everything necessary for these purposes; Declaring that the Superior of the said reserved rights and powers, shall payment to the feuars of compensation for any thereby occasioned to the surface of the buildings erected or to be erected there shall, failing agreement, be ascertained by

(Second)

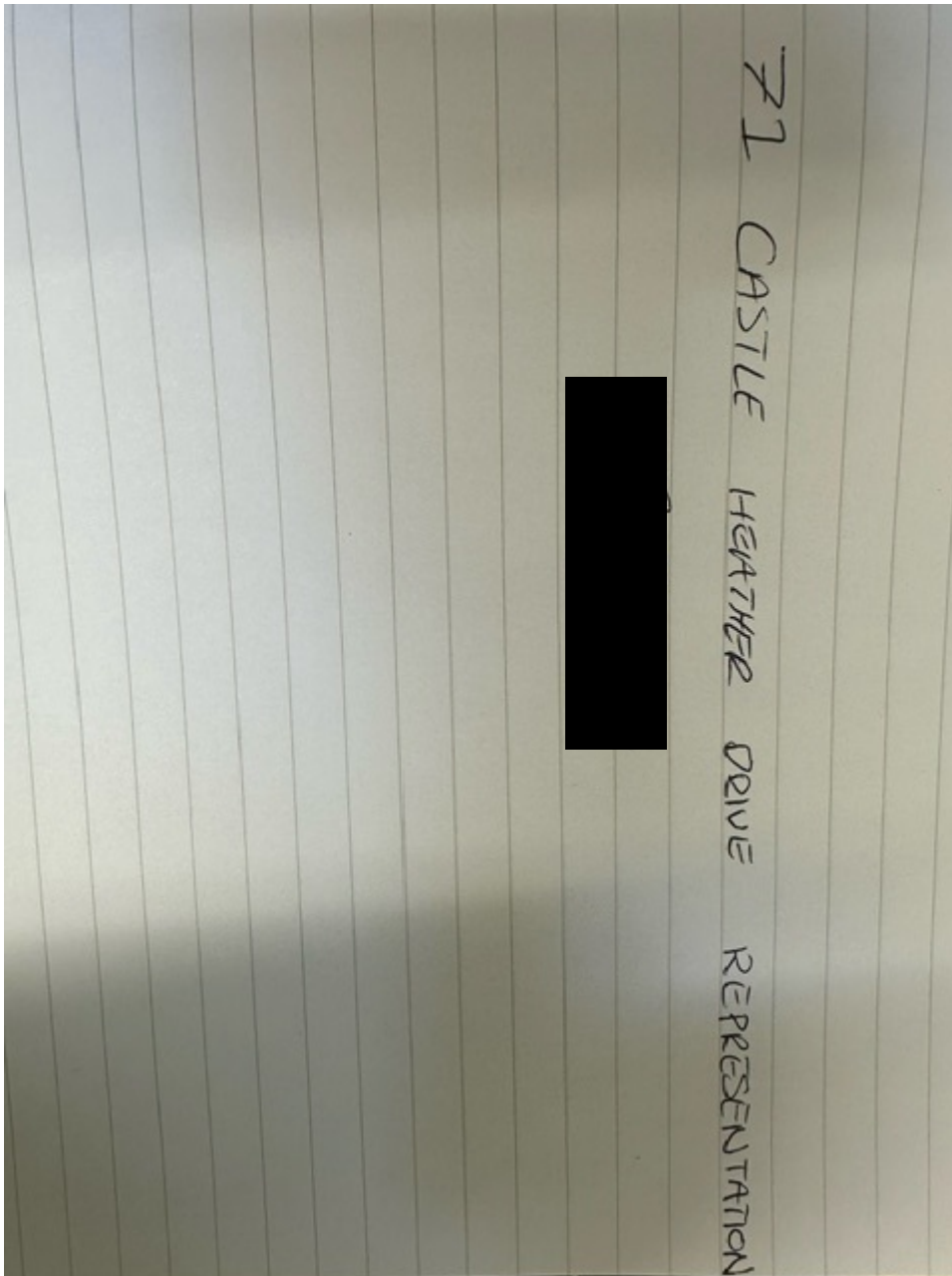
Restrictions on use of feus

Each of the feus if not containing a flat shall be used solely for the purpose of the use for the occupation of one family, with relation if desired, a garage or garages for not more than one total, which garage or garages shall be according to specifications to be approved in writing by the Council having a double pitched roof and external to match the external roughcast finish of the buildings

(Third)

Restriction on use of houses

The houses shall be used and occupied as dwellinghouses for the accommodation of one family for no other purpose whatsoever, and none of the houses in any way be sub-divided nor shall any addition whether of a permanent, temporary or portable nature be made to any of the houses



Good morning,

Please see attached signature and section from building title deeds. Below are typed concerns with air BnB in the building.

In the property title rights it says the property is to be used as a private dwelling house for one family only and I don't see how this permits it to be used for a short term rental property such as Air BnB.

The building has a shared hallway for entry and the use of the property as an air BnB means there are often complete strangers in the hallway outside the individual property doors, these people often come in later in the evening and can hear doors slamming repeatedly as they go in and out from their cars moving in luggage. This noise is particularly heard in my building as both front and back door are next to my flat and I am below the property in question. I wouldn't say that is noise you would normally get as a neighbour especially living directly below the flat.

Regards
Andrew Gray



Sent from my iPhone