Agenda item	3.4
Report	HLC/96/25
no	

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 3 June 2025

Report title: Application for the grant of a short term let licence – 68

Ballifeary Road, Inverness, IV3 5PF (Ward 13 – Inverness

West)

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 2 April 2025 a validated application for the grant of a short term let licence was received from Mrs Aleksandra Kaleva.
- 4.2 The property to which the application relates is 68 Ballifeary Road, Inverness, IV3 5PF (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 Mrs Kaleva and a Mr Diyan Kalev and will be the hosts/operators of the Premises. The application was made after 1 October 2023 and, as such, the hosts/operators cannot operate the premises as a short term let until they have obtained a licence.
- 4.4 Mr Kalev and Mrs Kaleva 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 Mrs Kaleva.
- 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 detached cottage which can accommodate a maximum capacity of four guests. 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 Service.
- 5.2 Police Scotland, the Highland Council's Environmental Health Service and the Highland Council's 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 from 4 April 2025.

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 8 April 2025 from Ms Emma Stark (Appendix 2) and further written submission received by email on11 April 2025 from Ms Stark (Appendix 3);
- Objection received by email on 10 April 2025 from Ms Gill O'Connell (Appendix 4);
- Objection received by email on 12 April 2025 from Mr Alistair and Mrs Gladys Bell (Appendix 5);
- Objection received by email on 14 April 2025 from Ms Gillian Forrest (Appendix 6) and further written submission received by email on 16 April 2025 from Ms Forrest (Appendix 7); and
- Objection received by email on 30 April 2025 from Ms Margaret Anderson (Appendix 8)

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 objectors who, in the terms of paragraph 4(2) of the Civic Government (Scotland) Act 1982, have all 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:

<u>Licensing hearings procedures | Licensing hearings procedure (Licensing Committee)</u> (highland.gov.uk)

9. Observations on objections

- 9.1 In the objection emails and further written submissions detailed at point 7.1 of this Report, 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 <u>here</u> or a hard copy can be supplied where requested.

11. Implications

11.1 Not applicable.

Date: 6 May 2025

Author: Patrycja Bujdasz

Reference: <u>FS701402312</u>

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 8 April 2025 from Ms Emma Stark.

Appendix 3: Further written submission received by email on 11 April 2025 from Ms Stark

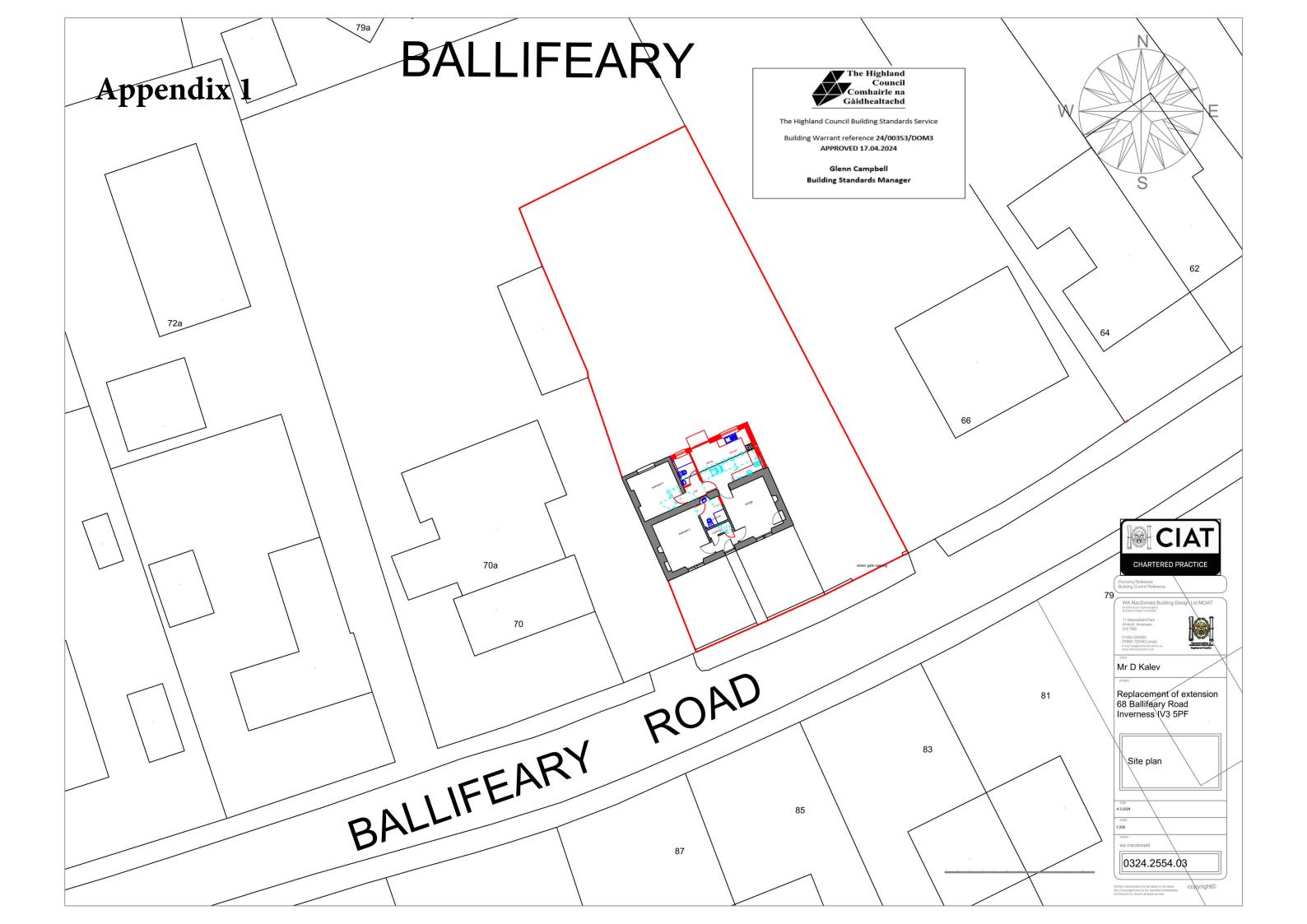
Appendix 4: Objection received by email on 10 April 2025 from Ms Gill O'Connell.

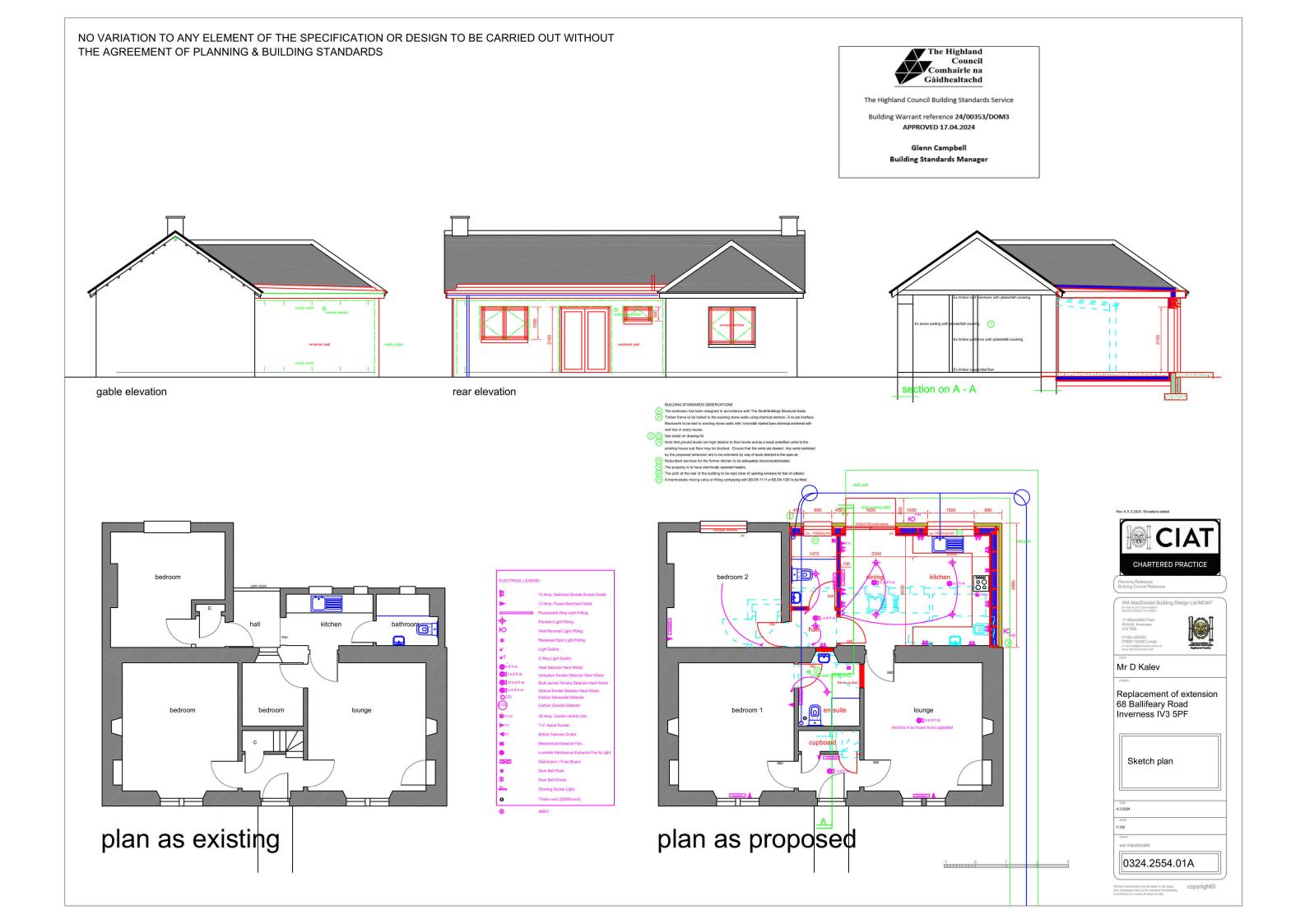
Appendix 5: Objection received by email on 12 April 2025 from Mr Alistair and Mrs Gladys Bell.

Appendix 6: Objection received by email on 14 April 2025 from Ms Gillian Forrest

Appendix 7: Further written submission received by email on 16 April 2025 from Ms Forrest

Appendix 8: Objection received by email on 30 April 2025 from Ms Margaret Anderson.





Patrycja Bujdasz (Legal Team (Licensing))

From: Emma Stark

Sent: 08 April 2025 21:24 **To:** STL Licensing

Subject: Letter of objection to Short term rental proposal in the Ballifeary...

Categories: Objection, Trisha

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.

Letter of objection to Short term rental proposal in the Ballifeary Road area- 68 Ballifeary Road, Inverness, IV3 5PF.

y name is Emma Stark

08/04/25.

I am writing to object to the proposed short term let on the following basis:

I have concerns about the impact of a short term rental on this street for the following reasons:

- Noise Complaints: Short-term guests can be noisy, especially during late hours, leading to complaints from neighbors. The houses are situated close together so any disruption from rentals is likely to significantly impact on a number of residents.
- 2. Residents in the area range from families with young children to elderly people living alone and people with chronic health problems. Noise disruption in such a small tightly grouped area of housing with vulnerable people is likely to have a devastating impact on our quality of life.
- 3. This area is a quiet residential area where the homes are all owner occupied. This is a sought after, quiet area and I am aware of noise issues from forger short term lets on the street.
- 4. **Parking Issues:** Short-term guests may park illegally or take up parking spaces that belong to residents, causing conflict. The street is narrow and already parking is difficult and the road is difficult for traffic to run smoothly. Granted the house car park itself has space for two cars.
- 5. **Disrespect for Property:** Short-term guests may not respect the property or its surroundings, leading to complaints from neighbours. This is a very sought after residential area and we live close together. We all know our neighbours and this is a friendly and safe area to live in. To have people coming and going from the address will impact on the quality of all our lives. This isn't fair.
- 6. Lack of Community Responsibility: Short-term guests may not feel a sense of responsibility for the community, leading to a lack of respect for local rules and regulations. This is a close community, respectful and safe. To have people who do not normally live here coming and going with no investment in our street is a worrying situation
- 7. Agreeing to Short term rents in a highly sought after area is unfair for the people who live here currently and invest in our community. It is also failing to take account of the number of people in Highland who have no where to live, who are homeless and desperate for a long term home. This is what Highland Council should be encouraging and not people who want to

profit from second homes without investing in our community. Thank you for considering my objection to this proposal. Yours Sincerely. Emma Stark

Sent from my iPhone

Patrycja Bujdasz (Legal Team (Licensing))

To: STL Licensing

Subject: RE: Objection to short term let applicant -68 Ballifeary Road, IV3 5PF

----Original Message-----

From: Emma Stark

Sent: 11 April 2025 10:35

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

Subject: Objection to short term let applicant -68 Ballifeary Road, IV3 5PF

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 morning

Please add this to my objection.

The house where the application is being made is right at the front of the main road and close to other houses, our homes are close together and therefore any noise issues from this house which will not be occupied by the owners is likely to become unmanageable. The noise would not be managed and controlled and we will be impacted by this. I am also aware that the back garden has had its old, mature trees removed by the owners changing the garden in the area from a garden to a sterile flattened area where I understand the owners plan to further develop. I am unsure if this will be other short term lets on site but I believe this to be the case.

We are a warm, close knit community with a heart and short term lets set the tone for an area and ruin communities.

Please save Ballifeary from the fate we see so many other communities experiencing. Please stand up for what is right for us.

Thanks

Emma Stark



Patrycja Bujdasz (Legal Team (Licensing))

From: STL Licensing
To: Gill O'Connell

Subject: RE: Air b&b ballifeary road

Appendix 4

From: Gill O'Connel

Sent: 10 April 2025 18:45

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

Subject: Re: Air b&b ballifeary road

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.

Sorry, it's

From: Gill O'Connel

Sent: 09 April 2025 20:45

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

Subject: Air b&b ballifeary road

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.

I would like to register my strong objections to, yet another, airb^b in Ballifeary Road(no.68). Residents already have problems in this area with the amount of noise and anti-social behaviour from short term lets. The bottom end of Ballifeary has v restricted parking and is not a suitable area. Let's not let Ballifeary turn into Crown where families are priced out. Gill O'Connell

Unless related to the business of The Highland Council, the views or opinions expressed within this e-mail are those of the sender and do not necessarily reflect those of The Highland Council, or associated bodies, nor does this e-mail form part of any contract unless so stated. Mura h-eil na beachdan a tha air an cur an cèill sa phost-d seo a' buntainn ri gnothachas Chomhairle na Gàidhealtachd, 's ann leis an neach fhèin a chuir air falbh e a tha iad, is chan eil iad an-còmhnaidh a' riochdachadh beachdan na Comhairle, no buidhnean buntainneach, agus chan eil am post-d seo na phàirt de chunnradh sam bith mura h-eil sin air innse.

Patrycja Bujdasz (Legal Team (Licensing))

From:	Gladys Bell
Sent:	12 April 2025 21:34
To:	STL Licensing
Subject:	Letter of objection to short term rent proposal - 68 Ballifeary Road, Inverness, IV3 5PF
Categories:	Maureen, Objection, Trisha

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.

We are Alistair and Gladys Bell,	

We are writing to object to the proposed short term let for the following basis:

- 1. The property, 68 Ballifeary Road, will not be occupied by the owners. There will be a lack of direct oversight and management of guests and as such there is a real potential for issues for residents.
- The houses in the vicinity are close together and short-term guests can be disrespectful of others, particularly with the sense of self entitlement that has been prevalent for the last few years. Any disrespect will be upsetting to residence.
- 3. Ballifeary Road is a quiet residential area. The residents range from families with young children to elderly people, living on their own. Our neighbour at relatively active. She is an extremely anxious lady who likes to know who her neighbours are. She needs familiarity with her surroundings not a stream of strangers coming and going. This will add to her anxieties and have a negative impact on her quality of life.
- 4. Going back to point 1 and 2, there will be no one to control noise levels late at night into the early mornings which will lead to complaints from neighbours. Short term guests can be noisy, and any noise disruption will have a significant impact on a number of close neighbours and impact our quality of life.
- Whilst the house in question has parking there is still the potential for guests to use street parking, which is extremely limited. Parking has become a significant issue in the area, with the narrow road effectively becoming a single track road, with no passing places. This along with the increase in traffic from the one-way system in place at the riverside is a nightmare for residents.
- 6. Short term guests do not need to invest or take any responsibility for the community. We are a close, quiet, respectful, caring and safe community. There are many locals who would appreciate an opportunity to have a long term rent in the Ballifeary area of Inverness. In agreeing to this short term let you are depriving locals, or possibly professionals from out with the area, to secure accommodation.
- 7 Highland Council should not be encouraging people or property developers who want to profit from holiday short term lets without investing in the community.
- 8 The back garden to the property has had its old, mature trees removed by the owners changing the garden in the area from a garden to a sterile flattened area. A neighbours understanding is that the owners

plan to further develop. Although unsure if this will be other short term lets on site, it is believed that this will be the case which will add to the parking issue described point 5 and the other concerns.

Please consider our objection very careful and prevent our Ballifeary community from suffering from the nemesis that so many that so many other communities are experiencing.

Yours Sincerely. Alistair and Gladys Bell

Sent from my iPad

From: Gillian Forrest

Sent: 14 April 2025 19:14

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

Subject: Objection - STL Application - Secondary letting 68 Ballifeary Road

Good evening,

My name is Gillian Forrest and I live at

l am a STL Licence holder for Home sharing after providing accommodation in my own home for many years (mainly theatre digs or accommodation for folk working away from home at a reasonable cost which I have been able to maintain)

I would like to raise my objections to the STL Application- Secondary Letting for the above-mentioned property for the following reasons;

- -There is a shortage of long term residential rental housing in Inverness and this property is in a close knit community in a residential area which would be prime property for a longer term rental where folk would be made very welcome.
- -Secondary Letting is not in keeping with the needs of this community. I am of the view an STL Licence for home sharing in owners home, rather than secondary letting is in keeping with traditional Highland hospitality where owners residing in the house are able to host guests in their own home and extend a warm Highland welcome i.e. like traditional B and B's which had been a feature of Highland hospitality for many generations.
- -I am concerned that if the house is operated more as a kind of Air B and B model this could cause issues for local residents in the area where the properties are quite close together and along a narrow road e.g. Parking, noise levels, safety concerns etc. There are also many settled older individuals who have lived in this area for many years and its an established community where a secondary let would not be a good fit.
- -I am also of the view that there appears to be more than enough STLs already in this area of Inverness for the tourist market which has an impact on the availability of residential housing in a pleasant residential part of Inverness.

With my own experience as a STL Licence holder (and of providing digs prior to this for many years) Inverness has a short season and it is likely this property would lie empty for periods of time which would have an impact on the community and is also unfair to Highlanders struggling with housing (I.e. local folk having limited housing options vs a house lying empty over the winter months)

Many thanks,

Warm regards,

Gillian Forrest

Patrycja Bujdasz (Legal Team (Licensing))

To: Gary Somers (Legal Team (Licensing))

Subject: RE: Objection - STL Application - Secondary letting 68 Ballifeary Road

From: Gillian Forrest <

Sent: 16 April 2025 18:13

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

Subject: Re: Objection - STL Application - Secondary letting 68 Ballifeary Road

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 evening,

Many thanks for the Guidance on making an objection or representation in relation to an application submitted under the Civic Government (Scotland)

Act 1982

My objectuins to the Application for a STL at the above property are:

- Where the application relates to a premise, vehicle or vessel, these are not suitable for the conduct of the activity, having regard to:
- o The nature and extent of the proposed activity the STL Application is for secondary letting where the owner lives elsewhere. This property is in a close knit community in a residential area and secondary letting is not in keeping with the needs of this community. This could cause issues for local residents due to anticipated frequent changes of residents in the STL where the owner resides elsewhere. It is in an area where the properties are quite close together and along a narrow road e.g. Parking, noise levels, safety concerns etc. There are also many settled older individuals who have lived in this area for many years and its an established community where a secondary let would not be a good fit.
- o The kind of persons likely to be in the premises, vehicle or vessel whilst this is unpredictable a stand alone no owner occupied STL carries with it an increase in risk to the members of the community due to multiple people residing there.
- o The possibility of undue pulic nuisance, public order or public safety
- Where there is other good reaso

Sent from Outlook for Android

Patrycja Bujdasz (Legal Team (Licensing))

From: Margaret Anderson
Sent: 30 April 2025 20:54
To: STL Licensing

Subject: 68 Ballifeary Road Inverness IV3 5PF

Categories: Objection, Trisha

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.

Objection to approval of Secondary Letting Licence: 68 Ballifeary Road Inverness IV3 5PF

Grounds for objection

The property is in a residential area of Inverness which already has numerous letting premises including Bed and Breakfasts, Guest houses and numerous houses offering self-catering or "Airbnb" type accommodation. The numbers of these business are now reducing the permanent population of the road, thus diminishing the nature of the area and its community. Non-residential accommodation now means that the first section of Ballifeary Road has no housing for residents who live and work locally.

The community within Ballifeary Road is a mixed age group with families and elderly residents, many having lived here a long time, however we now seem to be having an influx of properties with occupants who do not contribute to the immediate area. With houses empty in the off-peak seasons this reduces the feeling of community and security leaving some occupied properties surrounded by empty properties in the off season.

In regard to the property at no 68, this Short term letting accommodation will be next to a self catering property and a B&B and also, a few houses away, a further Guest House (bunk house), with additional accommodation out the back.

No 68 also appears to have a non-resident landlord, so should any issue arise with the occupants, it will not be addressed with any immediacy and as the tenants stay will be short-term occupants, issues of noise, anti-social behaviour or general disruption to the neighbourhood will most likely not be addressed at all. Should the licence be granted I would ask that you inform neighbours of how to register complaints should they arise.

I also have concerns due to the current development at the rear of the garden and removal of trees and am wondering whether this will be a landscaped area or clearance for further living accommodation, pods, or a cabin similar to the neighbours at 66, which has been adapted as separate living accommodation.

Whilst I am aware that there is a need for good holiday lets within the Inverness and Highland area I feel that this is often to the detriment of the local communities these houses are set amongst and would suggest Highland Council looks to set limits on the amounts of properties that they grant Short Term licences to within each area. I am also aware of the need for housing both permanent and temporary in Inverness and the Highlands in general both by the local population and workers wishing to move to the Highlands including those wishing to work within the tourism sector.

Margaret Anderson			