

Agenda item	3.8
Report no	HLC/100/25

## **THE HIGHLAND COUNCIL**

**Committee:** **THE HIGHLAND LICENSING COMMITTEE**

**Date:** **3 June 2025**

**Report title:** **Application for the grant of a short term let licence – Flat 2, 186 Harbour Street, Nairn, IV12 4PH - (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 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 12 March 2025 a validated application for the grant of a short term let licence was received from Mr Stewart James Morrison.
- 4.2 The property to which the application relates is Flat 2, 186 Harbour Street, Nairn, IV12 4PH (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 Morrison 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 Mr Morrison is named on the application as the owner 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 Morrison.
- 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 flatted property with a communal entrance, 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 two 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 the Highland Council's Building Standards have all confirmed that they have no objections to the application.

5.4 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 12 March 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 representation was received and is attached as an Appendix to this report:

- Objection received by email on 25 March 2025 from Mr Alwyn Foxcroft (**Appendix 2**).

## **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 objector 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.

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. Policies**

9.1 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.

## **10. Implications**

10.1 Not applicable.

Date: 14 April 2025

Author: Patrycja Bujdasz

Reference: [FS695307316](#)

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 25 March 2025 from Mr Alwyn Foxcroft.

# Appendix 1

THE HIGHLAND COUNCIL  
 PLAN 1 OF 3 OF APPLICATION REFERENCE  
 04/080/FULNA  
 RECEIVED  
 5-5-04  
 ERECTION OF FLATS AT HARBOUR STREET, NAIRN  
 For: Deanvale Ltd.  
 Project ref 02.12.1009

## LOCATION PLAN

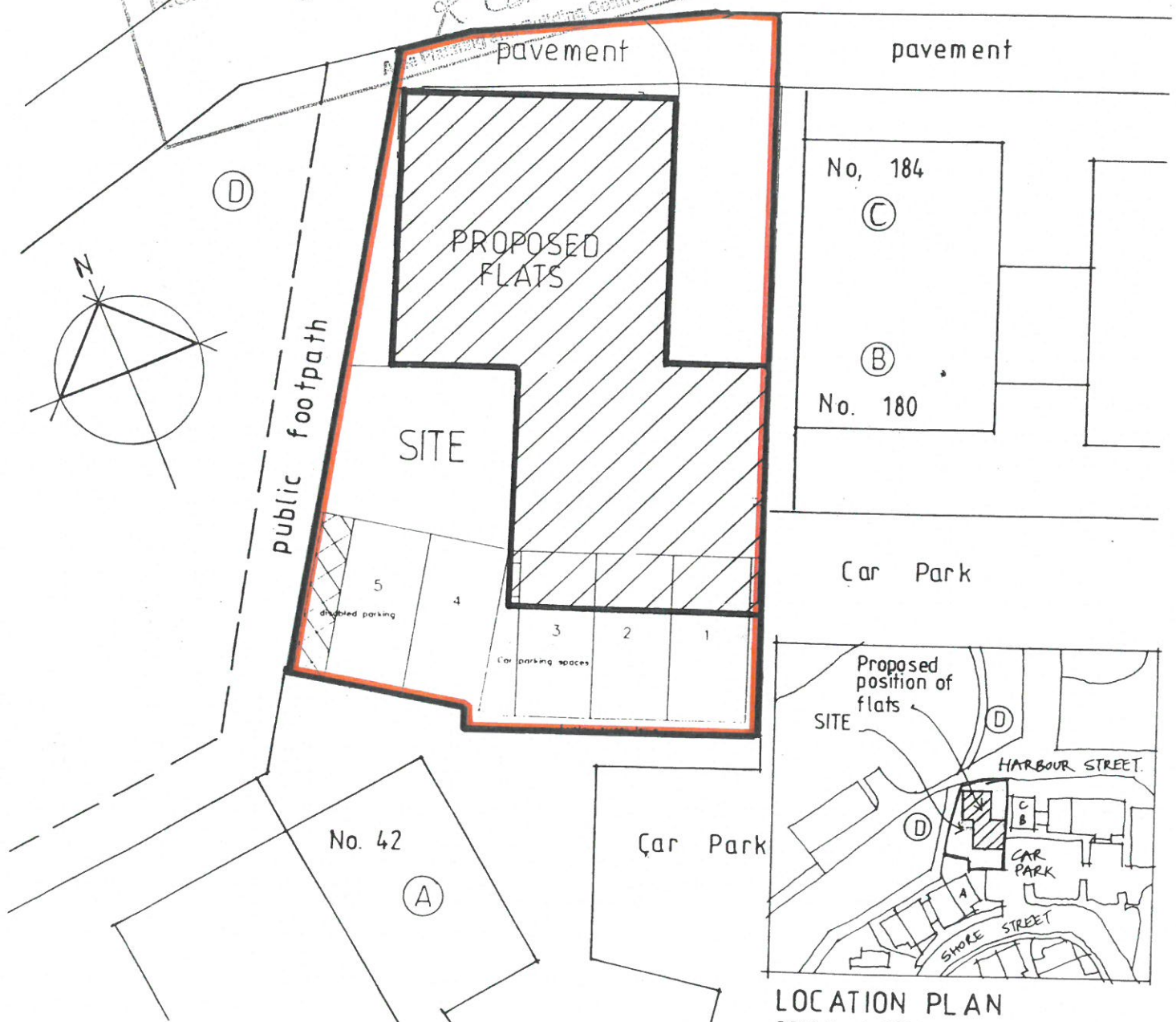
Drawing no. 02.12.1009/02

Scale 1:200

Reproduced from the Ordnance Survey map with the permission of the controller of HM Stationery Office. Crown copyright reserved

1 OF 3  
 04/080/FULNA  
 DATE 18/4/2005  
 R. Cameron  
 Building Control Manager

Harbour Street



LOCATION PLAN  
 SCALE 1:1250

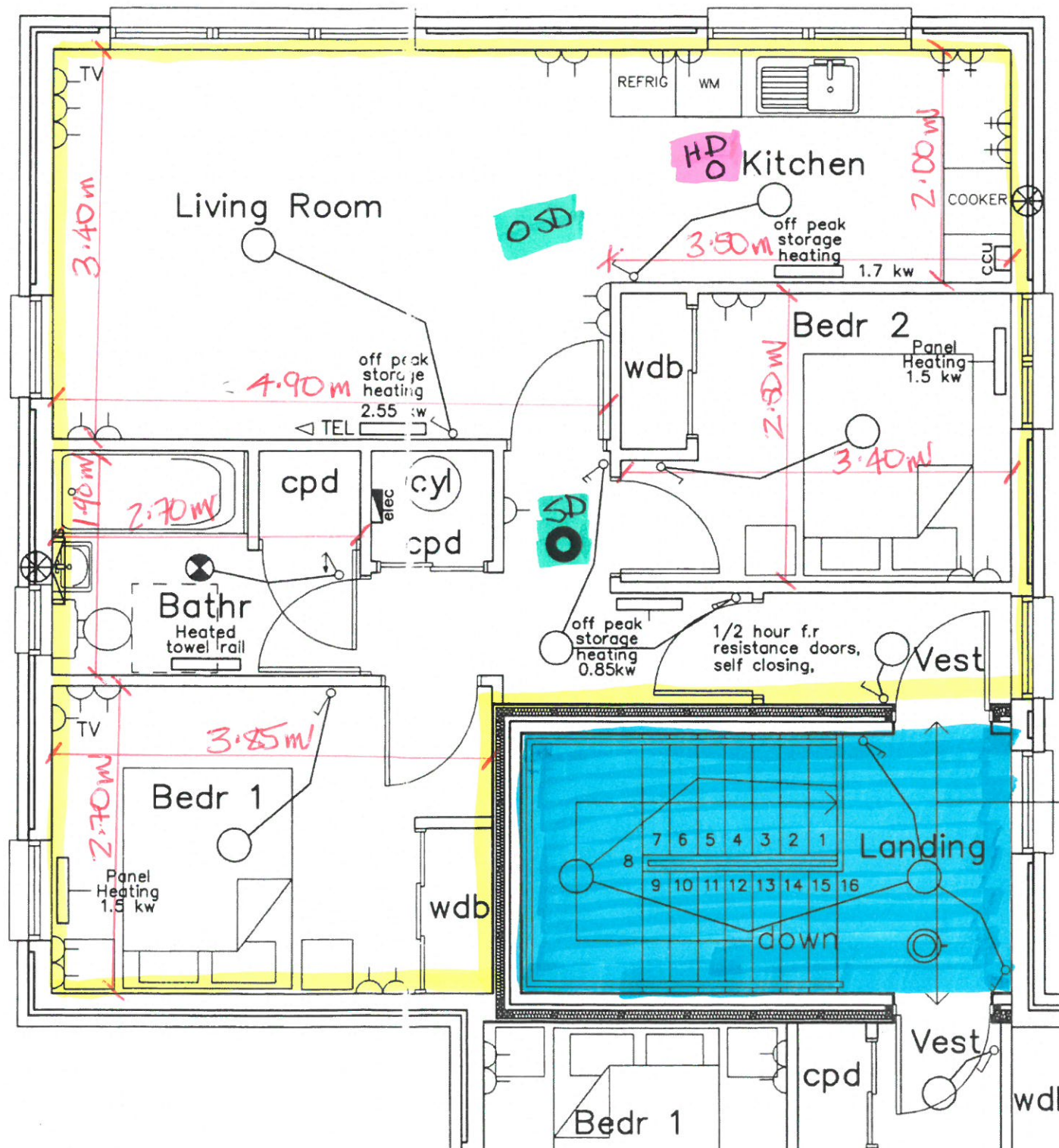
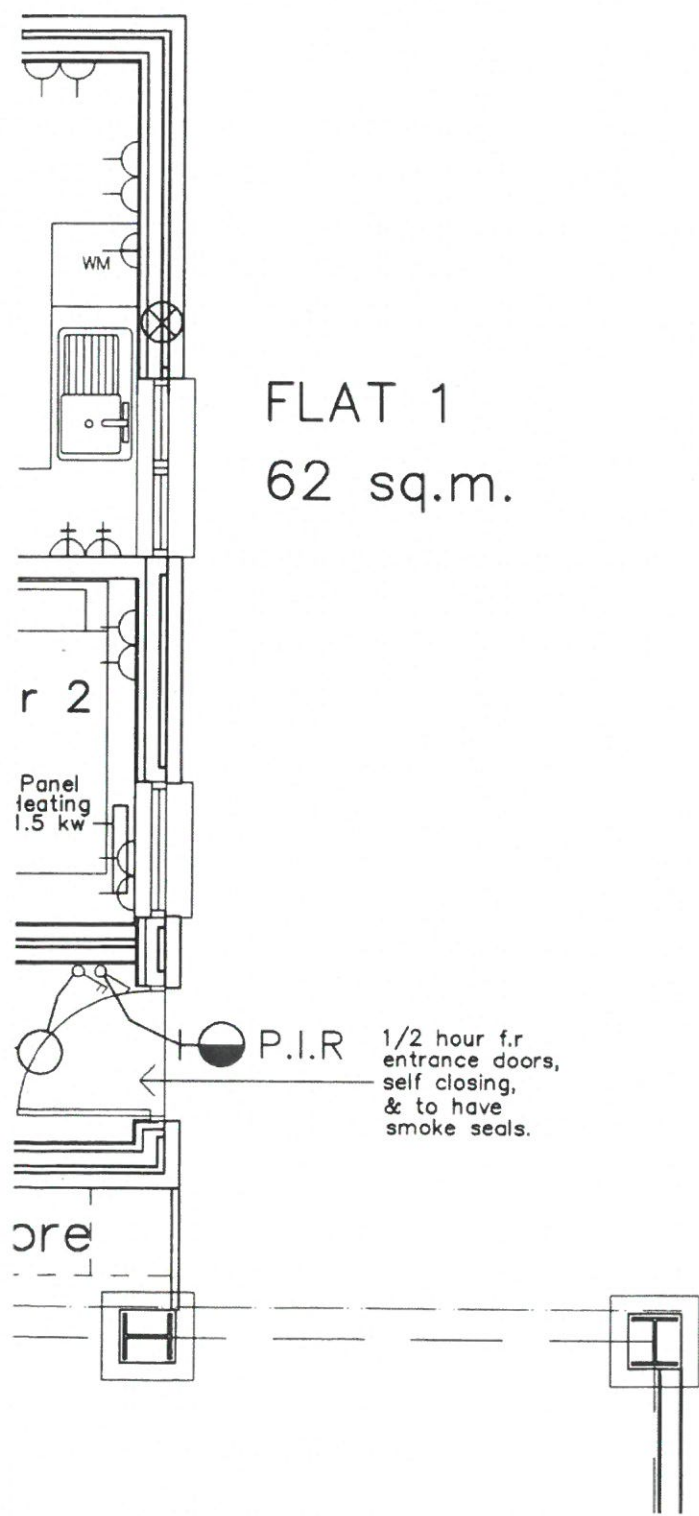
Douglas Stuart, Chartered Architect,  
 No. 24, Queensgate Business Centre, 1 Fraser Street, Inverness IV1 1DW  
 Telephone (01463) 729989 E-mail Dougstuart@btinternet.com



THIS DRAWING MUST BE READ IN CONJUNCTION  
WITH PRINTED GENERAL CONSTRUCTION SPECIFICATION

MAXIMUM OCCUPANCY 4 PERSONS

DUE TO STAIR ONLY ACCESS THE  
PROPERTY IS UNSUITABLE FOR GUESTS  
WITH MOBILITY IMPAIRMENTS.



FLAT  
2 (First Floor)  
4 (Second Floor)  
62sq.m.

HEAT DETECTOR

SMOKE DETECTOR

# Appendix 2

**Patrycja Bujdasz (Legal Team (Licensing))**

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**From:** STL Licensing  
**To:** STL Licensing  
**Subject:** RE: Representation regarding short term lets licence for specific property

-----Original Message-----

**From:** Alwyn Foxcroft [REDACTED]  
**Sent:** 25 March 2025 10:55  
**To:** STL Licensing <STL@highland.gov.uk>  
**Subject:** Representation regarding short term lets licence for specific property

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.

To Whom it may Concern

I am writing to voice my concerns regarding the application for a short term lets licence for Flat 2, 186 Harbour Street, Nairn, IV12 4PH by the owner of the flat, Mr Stewart James Morrison.

My name is Alwyn Foxcroft and I live in at [REDACTED] I live directly under Flat 2, the property in question. I have lived at my current address for almost six years now. While in principle I wouldn't usually have any objections to anyone renting out their property for use as an Air B&B, my concern is related to how easily noise travels within this building and the implications this will have for myself and other tenants once the flat above me becomes an Air B&B.

The previous tenant, who has now moved out, was very respectful of the noise levels, but I could hear every movement above whenever he was home. Other tenants, who lived in Flat 4, the flat above Flat 2, and who have subsequently moved out, told me they were always aware of when I left or entered my flat because they could hear me open my front door whenever I did so. If I needed any more proof of how noise travels within the walls of this building it came during a day when I decided to play some loud music, knowing that the tenant above was not at home and thinking this would act as a buffer to the tenants in Flat 4. These tenants immediately texted me and asked me to put the music down as they could clearly hear it from above.

In light of the above information, it does concern me what might happen if there are regular comings and goings of people on holiday who will not care or be respectful of how noise travels within this building.

I would like to add that the decision to write this email has been one I have spent a lot of time deliberating on. It is not a decision I have taken lightly because I try to avoid conflict with people and live my life peacefully coexisting with others around me. If Mr Morrison has measures he intends to put in place to ensure people respect other people's peace and privacy then I would have no objections to his application. I simply feel though that I have to voice my concerns so that if there are issues in the future my concerns were stated prior to the property being used for commercial use.

Yours sincerely

Alwyn Foxcroft