

Agenda item	11.2
Report no	HLC/113/25

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 24 June 2025

Report title: Application for the grant of a short term let licence – 38 Old Bar Road, Nairn, IV12 5BX (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 19 September 2024 a validated application for the grant of a short term let licence was received from Mrs Jennifer Hill.
- 4.2 The property to which the application relates is 38 Old Bar Road, Nairn, IV12 5BX (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 blue 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 Hill and a Mr Calum Hill 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 Hill 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 Mrs Jennifer Hill.
- 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 communal entrance with a maximum occupancy of six guests. The Premises are comprised of three bedrooms (one en-suite), a further bathroom and an open plan kitchen/living/dining room. 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;
- Scottish Fire & Rescue Service
- Highland Council Environmental Health Service; and

5.2 Police Scotland, and the Highland Council's Environmental Health Service 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 19 October 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:

- Objection received by email on 24 October 2024 from Mr Glen Cunningham **(Appendix 2)**.
- Objection received by email on 11 November 2024 from Miss Eileen Gordon **(Appendix 3)**.
- Objection received by email on 11 November 2024 from Ms Jillian Cawdron **(Appendix 4)**.
- Objection received by email on 11 November 2024 from Mr and Mrs Farquhar **(Appendix 5)**.

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 each of the objectors who, in the 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 objections/representations

- 9.1 In the emails 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

- 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: 6 May 2025

Author: Maureen Duffy

Reference: [FS550470702](#)

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 24 October 2024 from Mr Glen Cunningham.

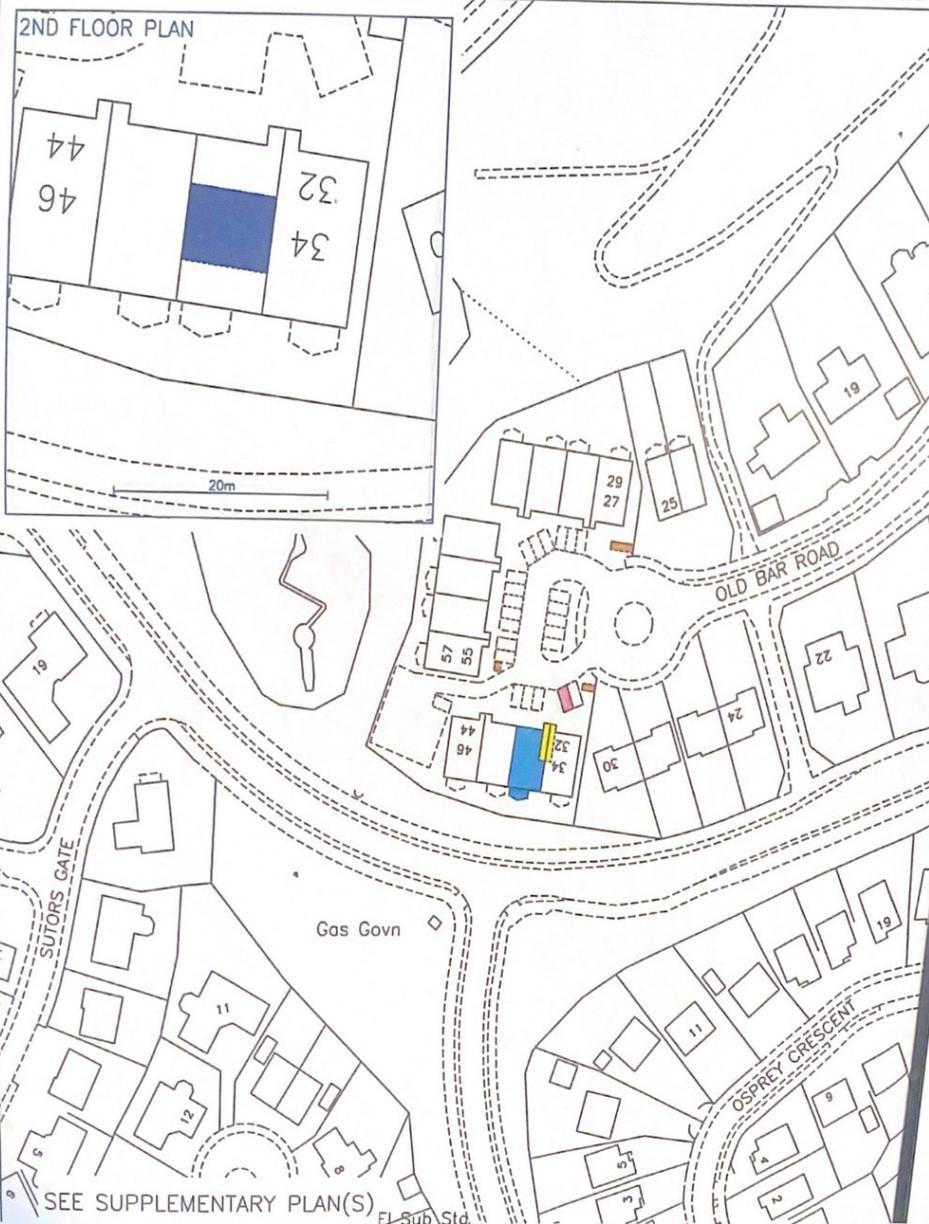
Appendix 3: Objection received by email on 11 November 2024 from Miss Eileen Gordon.

Appendix 4: Objection received by email on 11 November 2024 from Ms Jillian Cawdron.

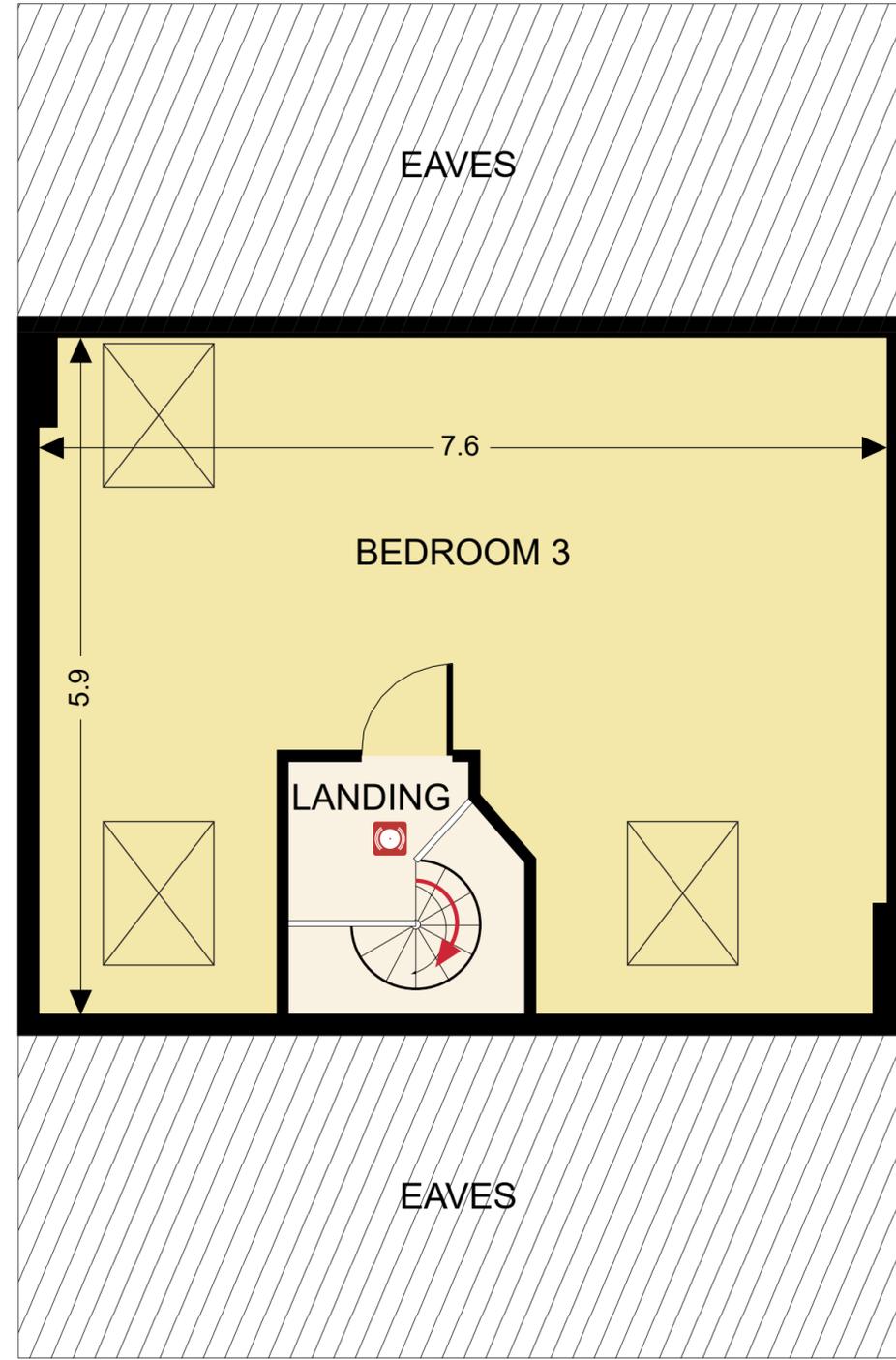
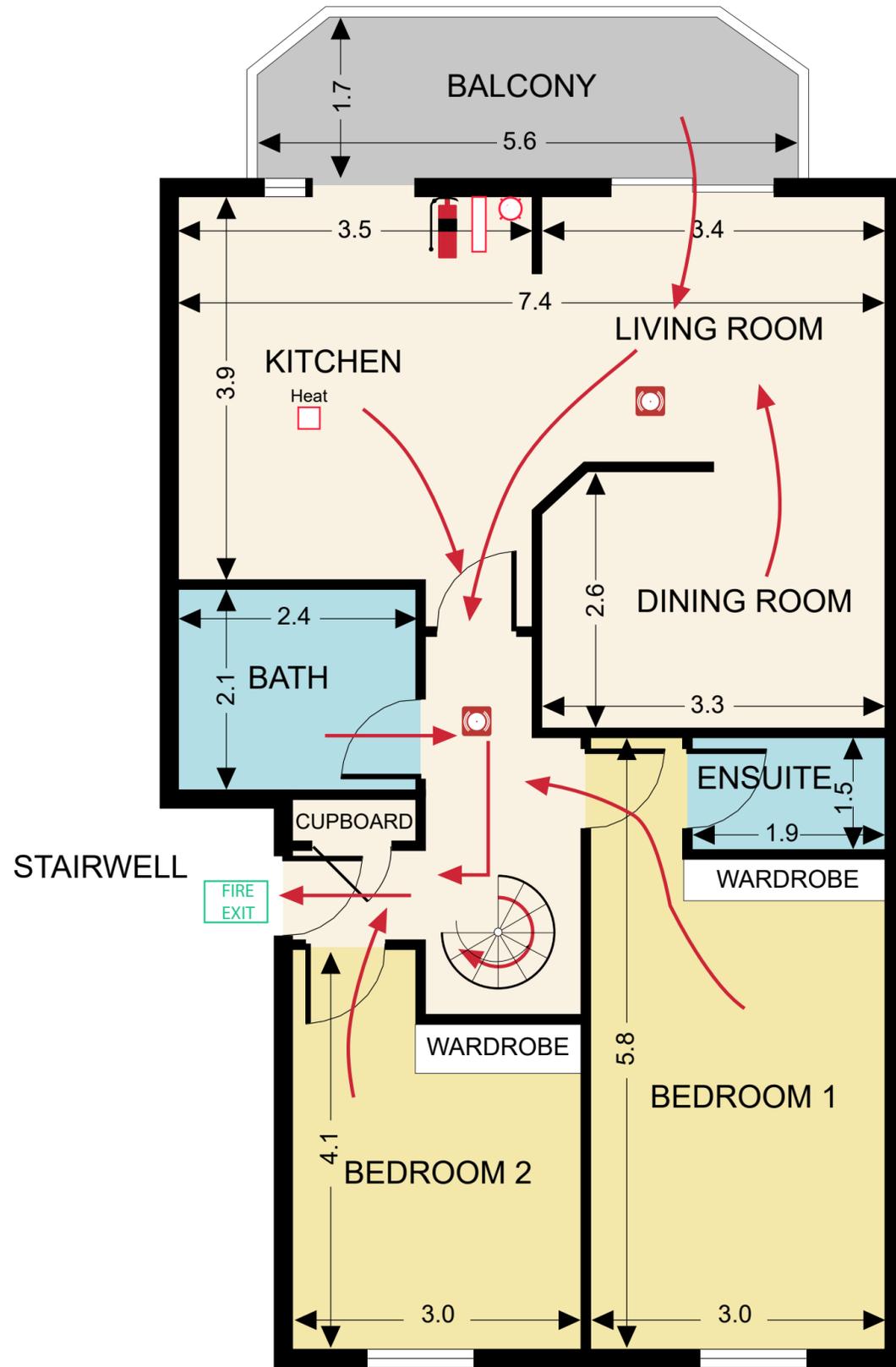
Appendix 5: Objection received by email on 11 November 2024 from Mr and Mrs Farquhar.

 LAND REGISTER OF SCOTLAND	Officer's ID / Date	TITLE NUMBER
	5269 15/10/2009	NRN2209
	ORDNANCE SURVEY NATIONAL GRID REFERENCE	Scale
	NH8956 NH8957	1/1250 Survey Scale 1/2500

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EXISTING\PROPOSED 38 OLD BAR ROAD, NAIRN IV12



- Heat
- Smoke
- Fire Extinguisher
- CO2
- Fire Blanket
- Velux Window
- Escape Route



Appendix 2

From: Glen Cunningham [REDACTED]
Sent: 24 October 2024 14:23
To: STL Licensing
Subject: 38 Old Bar Road Nairn IV125BX - STL objection letter
Attachments: 38 Old Bar Road Nairn - STL licence - Letter of Objection.pdf
Categories: Audra, Objection

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.

Dear Sir / Madam,

Please find attached my objection letter to the application for a secondary letting licence for 38 Old Bar Road, Nairn, IV12 5BX.

Please let me know if you require any further information.

Thanks

Glen Cunningham

Mr. Glen Cunningham

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

24/10/2024

To:

The Highland Council

Charles Kennedy Building, Achintore Road, Fort William

PH33 7RQ

Dear Highland Council,

Subject: Objection to Secondary Letting via Airbnb of 38 Old Bar Road, Nairn, IV12 5BX

My name is Glen Cunningham, and I am the owner of 36 Old Bar Road. I have the property rented on a long-term agreement to Mr. and Mrs. [REDACTED], my landlord registration number is [REDACTED]

I am writing to formally express my objection to short-term secondary letting of properties via platforms such as Airbnb in our neighborhood. As a resident of the Old Bar Road apartments, although in the adjacent block, I have concerns regarding the implications of short-term rentals on our community.

Firstly, the increase in transient guests has led to a disruption of the neighborhood's character and a decline in the quality of life for long-term residents. Our community thrives

on the relationships we build and the stability that comes with having permanent residents. Frequent turnover is diminishing the sense of belonging and community cohesion.

Moreover, there have been several practical issues associated with short-term rentals. These include:

1. Noise and Disturbance: Increased occupancy has led to higher noise levels, impacting the peace and quiet that residents expect in their homes. The apartment has frequently been used for “parties” with a younger element using the property for a weekend retreat or for workmen on short term contracts in area working various shift patterns.

2. Parking Issues & refuse waste: The short-term usage of the property has led to multiple issues over parking with large work vans blocking parking spaces and additional to this the occupiers totally disrespecting the waste bins and segregation leaving long term residents to clear up the mess when they depart.

3. Safety Concerns: The constant coming and going of strangers is leading to security concerns for residents, please note the residents of the 3 apartments in this block are all retirees and have faced abusive situations with short-term occupiers. There have also been instances where strong smells of marijuana have been noticed in the common hallway.

4. Damage to the common area: There have now been several instances where the common entrance door and hallway have damaged by short-term transient occupiers which has had a financial and emotional impact on the long-term residents. The short-term occupiers have no respect or understanding that fellow occupants regard the additional apartments as their home.

5. Day to Day Manager: On review of the application, the applicant states that the day-to-day managing of the short term let would be from Bearsden, [REDACTED] over 170 miles from the property. This attributes greatly to all of the issues and concerns above with no vetting of the short-term occupiers of property.

I urge the local authorities to consider these factors seriously and deny the application of secondary letting in our neighborhood. It is essential to maintain the safety, integrity and livability of our community for current and future residents.

Thank you for considering my concerns. I hope to see positive steps taken to address the impact of short-term rentals in our area.

Sincerely,

Glen Cunningham

Glen Cunningham Digitally signed by Glen
Cunningham
Date: 2024.10.24 14:14:56 +01'00'

APPENDIX 3

From: Eileen Gordon [REDACTED]
Sent: 11 November 2024 16:00
To: STL Licensing
Subject: Short Term Let Licence - 38 Old Bar Road, Nairn
Attachments: Objection Letter 38 Old Bar Road.docx
Categories: Objection, Audra

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.

Dear Sirs,

Please find attached a letter from myself objecting to the granting of a Short Term Let Licence to **Jennifer Hill** for **38 Old Bar Road, Nairn**.

Yours sincerely,

Miss Eileen Gordon

[REDACTED]

Telephone [REDACTED]

Mobile [REDACTED]

Email [REDACTED]

Miss Eileen Gordon
[REDACTED]
[REDACTED]
[REDACTED]

The Highland Council (Short Term Lets)
Charles Kennedy Building
Achintore Road
Fort William
PH33 7RQ

Dear Sirs,

Short Term Licence Application – 38 Old Bar Road, Nairn

The above mentioned property is sited within a development of 24 apartments across 3 blocks. Each of these blocks have 2 security entrance doors, servicing 4 apartments each, giving access to communal hall and stairways. This in itself does not make the development conducive to short term/holiday letting.

I am 75 years old and have resided in [REDACTED] Old Bar Road for 9 years. I have, until the past 2+ years, felt safe, secure and content in my home. However, since 38 became a Short Term Let apartment, I no longer feel the same. I list below the problems I have experienced:-

Secure in my own Home

As I share a security door, hallway and stairs with 3 other apartments – [REDACTED] (2 of which are also permanently occupied by pensioners in their 70s) it is now quite unsettling for me to open my own front door as I have no idea who I'm going to encounter and even whether or not they should be there!

Adding to my feelings of insecurity, is the fact our main entrance door is very rarely working properly due to the number of people going in and out, kicking the door open and, in one case, removing part of the lock!!

Because we have no continuity with the occupants of 38, we have no line of communication and a diminished sense of community. There have been occasions when the owners have been approached with concerns and they have been less than helpful or interested – indeed even rude.

Intrusion

The owners of 38 installed a key safe outside my bedroom window without any consultation. This has resulted in people traipsing back and fore in front of my window. Unsettling to say the least!

I've had children leaning over my balcony peering into my lounge. People walking past my balcony at night, talking loudly into their mobile phones – again, unsettling as this is not something I am used to!!! By the way, this is at the rear of the building and no one has any reason to be walking around there.

Miscellaneous

Over the past 2+ years we have had to put up with:-

Increase in noise as people move into and out of 38 at all hours of the day and night. We have doors banging, people shouting, screaming and domestic arguments*. As I said previously, the other permanent residents are all over 70 and we are not used to this!

Police visits/interviews due to domestic arguments*.

Cannabis smells permeating the communal areas AND the other apartments.

Bicycles, push chairs, luggage blocking hallway and stairs.

Cigarette ends outside front door or thrown over the balcony onto the grass – and into the balconies below!!

Mud, leaves and general mess on carpets in hall and stairs which has to be cleaned up by residents.

Rubbish deposited in first bin they come to, not number 38s. Bottles left by the bins resulting in someone else having to dispose of them.

I sincerely hope you are sympathetic to my objections and refuse 38 Old Bar Road a Short Term Lets licence.

Yours sincerely

Eileen Gordon (Miss)

■ [REDACTED]

Email [REDACTED]

Telephone [REDACTED]

Mobile [REDACTED]

APPENDIX 4

From: Jill.1 Cawdron [REDACTED]
Sent: 11 November 2024 15:48
To: STL Licensing
Subject: License objection
Attachments: Professional Letter.pdf

Categories: Objection, Audra

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.

Sent from my iPhone

JILLIAN CAWDRON

Highland council
Charles Kennedy building
Achintore road
Fort William

Dear Sir/Madam

I am writing to express my concerns and objections regarding the property

38 old bar rd Nairn IV12 5BX. This property is in a block of four apartments

Numbers 32 34 36 38 . I live opposite number 38, the named property sleeps up to six people .

Security and safety. The issues are the amount of strangers coming in and out all hours of the day this creates security concerns for the residents. Frequent changes of occupancy.

Impact on the quality of our lives. The amount of noise loud voices doors banging into the early hours . some not respecting the building and communal areas .

Maintenance We pay a monthly fee of £82 pounds a month but the wear and tear to the carpets and paintwork another issue we have had the main front door lock has been damaged on several occasions which has put the security risk up because the front door was not locked . Also damage to the cupboard where the internet cables are and tv this has been damaged and we are still waiting for the repair to be done all these repairs are putting an impact on the monthly fees .

There have been workmen staying and smoking cannabis which was smelt in my flat. The police have been here as guests staying having arguments .

The owners have no idea who they rent the air bnb to as they live 180 miles away in Glasgow, so they do not see who is staying there have been 8 and 9 people.

I purchased my property in 2019 because I am a pensioner and 80 percent of the residents are pensioners. I do not feel as safe here anymore. A month ago I suffered a minor stroke through all the stress .

I did make reports to highland council to Eleanor Hood environmental department, These are my objections which I would like to be considered

Yours sincerely Jillian cawdron

From: Ruth Farquhar <r[REDACTED]>

Date: 12 November 2024 at 19:35:26 GMT

To: stl@highland.gov.uk

Subject: Air BnB objection letter

Please find attached Air BnB objection letter regarding 38,Old Bar Road Nairn

Regards

Bruce & Ruth Farquhar

[REDACTED]

[REDACTED]

Sent from my iPhone

Mr BA & Mrs RE Farquhar



8/11/2024

The Highland Council
Charles Kennedy building
Achintore Road
Fort William
PH33 7RQ

Subject: Objection to Airbnb and Short-Term Rentals in 38, Old Bar Road, Nairn IV12 5BX

Dear Sir/Madam,

The property in question is above our home on the first floor.

I am writing to express my concerns and formally object to the granting of a license for the use of a property within our residential building, 32-38 Old Bar Road Nairn, for short-term rentals through platforms such as Airbnb. As a resident, I believe that permitting such rentals undermines the residential nature of our community, and I am concerned about the potential impact on safety, security, and quality of life for the building's permanent residents.

Security and Safety Risks:

The transient nature of short-term guests increases the likelihood of unfamiliar faces in shared spaces, creating security risks for residents (all of whom are retired and in their 70's). Frequent changes in occupancy make it difficult for residents to identify legitimate visitors. This can lead to unauthorised individuals gaining access to our premises, putting residents and their belongings at risk.

Impact on Community and Quality of Life:

Short-term rentals disrupt the sense of community in our building, which is built on familiarity and shared responsibility. Airbnb guests, who are not invested in maintaining a respectful, quiet environment, do not adhere to community standards and policies. Noise disturbances, overcrowding, and lack of respect for communal spaces are common concerns in buildings that allow short-term rentals, ultimately diminishing the living experience for long-term residents. We have experienced noise disturbances multiple times due to persistent door banging (balcony doors) which we have reported to the owner on over 30 occasions. The owner reacts by texting their visitors but we have to repeat this every time it occurs which can be 2-3 times a week. The disturbances have been ongoing for approximately two years, with the banging of doors late in the evening, the noise of guests in the stairway coming in late at night and the vibrations through the building when the guests are heavy handed with the sliding balcony door. It has also been noted that whilst the three bedroom apartment has an occupancy for 6 persons, We have witnessed 8 persons occupy this let on occasion. The owners deny this, stating extra people were visiting. It is impossible for them to know considering how far away they live. There is never anyone here to greet guests or to see them off the property. My husband had to speak to one individual re depositing their rubbish in our bin and was verbally threatened. My husband is in his 70's and shouldn't be subjected to this in his own home. We reported this to the owner. It is difficult for the owners to react to any of these situations as they live 4 hours away. There is no local representative.

Access to the flat is via a combination key box mounted on a wall in the 'common' bin area. Andy Wightman MSP, has recently published a new briefing paper which suggests that some short term let operators may be attaching key boxes to the exterior walls that they have no ownership of. The paper goes on to say that drilling into a common brick wall without prior consultation, could be considered 'encroachment' under Scots Law. Ms Hill made no effort to contact neighbours prior to drilling into the wall and installing this key box. It is also located directly outside the bedroom window of my neighbour who is an elderly lady living on her own.

Increased Wear and Tear and Maintenance Costs:

Higher turnover rate associated with short-term rentals can lead to more rapid wear and tear on shared facilities like lobbies and hallways. This does result in increased maintenance costs, which will be unfairly borne by permanent residents through higher service charges or property fees. We have had issues with the lock on the door to the communal hallway due to visitors not using the service button (as witnessed by ourselves and other residents). They obviously are not aware of the service button and push against the door breaking the lock. We have had to have the lock repaired several times at cost to all residents. We frequently have to clean the stairways between cleans due to working men with muddy boots coming and going. We also have to pick up cigarette ends from outside of our balconies on the ground floor due to smokers (I believe there is a no smoking policy in place) throwing their cigarette ends over the balcony. All these issues have been reported to the owner multiple times due to volume of visitors. Any issues arising from Air BnB visitors have to be dealt with by the residents (i.e reporting any breakages or maintenance issues caused by visitors).

Potential Liability Issues:

Insurance policies covering residential buildings often do not include provisions for commercial activities, such as short-term rentals. If issues arise, this could expose residents and the management company to liability risks, further emphasising that our building is not suitable for Airbnb-style operations.

Conclusion:

Allowing Airbnb or other short-term rentals in Old Bar Road not only compromises security, community harmony, and shared property integrity but also risks unforeseen legal and financial consequences.

Thank you for considering this matter. I look forward to seeing measures that prioritise the safety and well-being of long-term residents and help maintain the integrity of our community.

Yours sincerely,

Mr Bruce Farquhar
Mrs Ruth Farquhar