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| Agenda item | 14.4 |
| Report no | HLC/144/25 |

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 16 September 2025

Report title: Application for the grant of a short term let licence – 130 Dalnabay, Aviemore, PH22 1TD (Ward 20 – Badenoch and Strathspey)

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 (“2022 Order”), 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 nine months from receipt of the application to determine the same, therefore this application must be determined by 13 October 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 14 October 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 14 January 2025 a validated application for the grant of a short term let licence was received from Mr Mearns Taylor McCaskie.
- 4.2 The property to which the application relates is 130 Dalnabay, Aviemore, PH22 1TD (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 McCaskie 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 McCaskie 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 Ms Anne Marie Lyon.

- 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 semi-detached house 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;
 - Scottish Fire & Rescue Service
 - Highland Council Environmental Health Service; and
 - Highland Council Building Standards.
- 5.2 Police Scotland, Scottish Fire & Rescue Service, the Highland Council’s Environmental Health Service and the Highland Council Building Standards have all confirmed that they have no objections to the application.

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 18 January 2025. No public objections have been received in connection with this licence application.

7. Planning Permission

- 7.1 At 12pm on 4 March 2024, Ward 20 of The Highland Council (Badenoch and Strathspey), was designated as a short term let control area.
- 7.2 The Premises are in the short term let control area which means that the mandatory licence condition found at paragraph 13 of Schedule 3 of the 2022 Order applies. This provides that:

Where the premises is in a short-term let control area for the purposes of section 26B of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”), the holder of the licence must, where the use of the premises for a short-term let requires planning permission under the 1997 Act, ensure that either—

(a) an application has been made for planning permission under the 1997 Act and has not yet been determined, or

(b) planning permission under the 1997 Act is in force.

- 7.3 The applicant detailed on their application for a short term let licence that an application for planning permission for the use of the Premises as a short term letting unit and dwellinghouse (planning reference number 24/04014/FUL) had been made and was, at that point, pending determination.

On 29 July 2025, The Highland Council, in their capacity as Planning Authority, refused this application for planning permission. A copy of the Decision Notice by the planning authority in respect of such refusal is attached as an appendix to this report (**Appendix 2**).

- 7.4 On 22 August 2025, the applicant confirmed to the Licensing Team that he has lodged an notice of review of the refusal of such application for planning permission with the Planning Review Body.
- 7.5 The next Planning Review Body meeting dates for 2025 are 23 September, 4 November and 16 December. At the time of writing of this report, it is unknown which date the notice of review is due to be heard.
- 7.6 The Principal Solicitor is unable to grant the short term let licence using delegated powers since the applicant has not been able to demonstrate compliance with the mandatory licence condition detailed at paragraph 7.2 above, namely due to the planning application for the premises being used as a short term let being refused, as noted at paragraph 7.3 above.

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 who, in the terms of paragraph 4(2) of the Civic Government (Scotland) Act 1982, has been invited to attend and will be provided with an opportunity to be heard by the Committee.
- 8.3 The applicant has 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. 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.

10. Implications

- 10.1 Not applicable.

Date: 14 August 2025

Author: Sophie Shearer

Reference: FS677942561

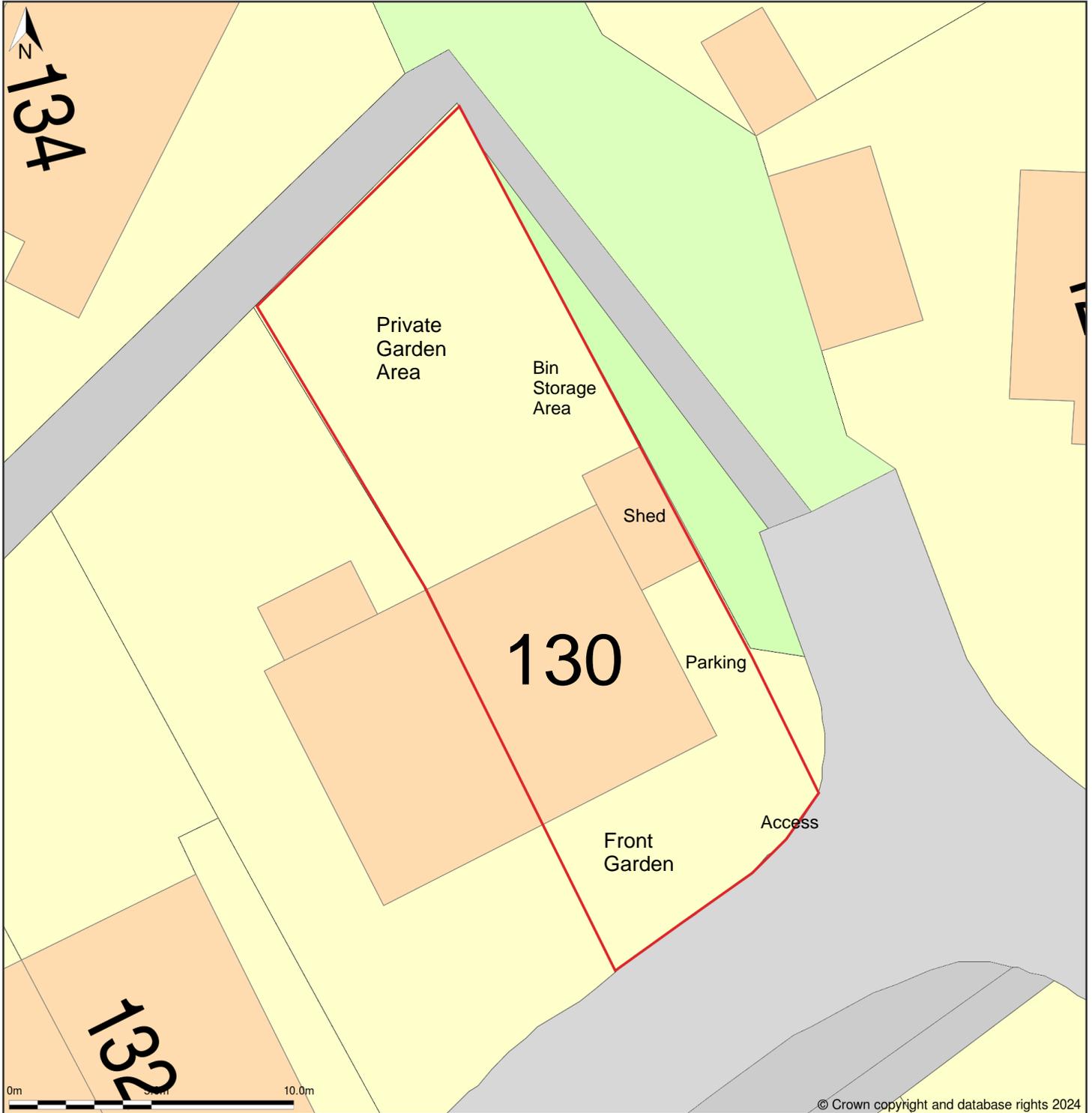
Background Papers:

- 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: Decision Notice by The Highland Council, as Planning Authority, dated 29th July 2025

130, Dalnabay, Silverglades, Aviemore, Highland, PH22 1TD



Site Plan (also called a Block Plan) shows area bounded by: 289938.3, 813139.4 289976.36, 813178.8 (at a scale of 1:200), OSGridRef: NH89951315. The representation of a road, track or path is no evidence of a right of way. The representation of features as lines is no evidence of a property boundary.

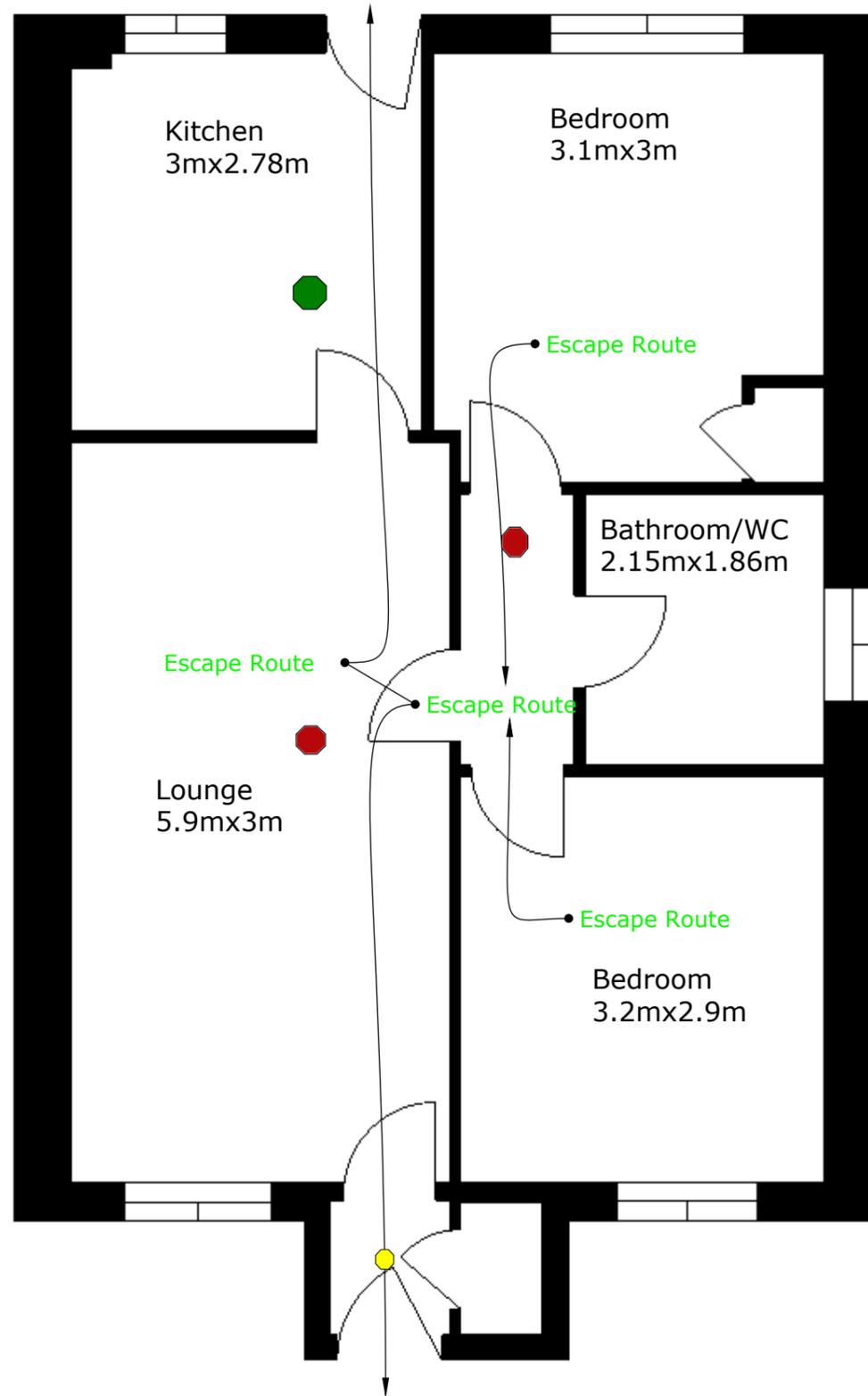
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-  Heat Detector
-  Smoke Detector
-  Heat and Carbon Monoxide (CO) Alarm
-  Escape Route



Scale 1:50

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|--|--------------------------------|
| Client | Mearns McCaskie |
| Address | 130 Dalnabay |
| Project | Use As a Short Term Let |
| Title | Existing & Proposed Floor Plan |
| Drawn By | PFS |
| Plan Revision Dates | 09/07/25 |
| Scale | 1:50 @ A3 |
| Maximum Occupancy | 4 |
| Total Floor Area. First and Ground Floor | 68.00m ² |

REFUSAL OF PLANNING PERMISSION

Reference No: 24/04014/FUL

To:
Mr Mearns McCaskie
8 Airlie Court
Gleneagles Village
Auchterarder
PH3 1SA

Per:
The Town Planner Ltd
Per: Jane Shepherd
The Craigies
Grant Road
Grantown On Spey
PH26 3LA

Town and Country Planning (Scotland) Act 1997 (As Amended)
Planning Etc. (Scotland) Act 2006

DECISION NOTICE

Use of property as short term letting unit and dwellinghouse
130 Dalnabay, Silverglades, Aviemore, PH22 1TD

The Highland Council in exercise of its powers under the above Acts **refuses planning permission** for the above development in accordance with the particulars given in the application and the following documents:

| Document Type | Document No. | Version No. | Date Received |
|----------------------|---------------------|--------------------|----------------------|
| Location Plan | 000001 | | 19.09.2024 |
| Site Layout Plan | 000002 | | 19.09.2024 |
| Floor Plan | 000003 | | 19.09.2024 |
| Elevation Plan | 000004 | | 19.09.2024 |

REASON FOR THIS DECISION

This application is refused for the following reasons: -

The proposal is not considered to meet any of the criteria in the Highland Council's Non-Statutory Short-Term Let Control Area Planning Policy (2023) that are required for the Planning Authority to support an application for a short term letting property within the Short Term Let Control Area. The purpose of the Short Term Let Control Area is to ensure that there is an adequate supply of homes for local people, and this development is contrary to that aim.

Variations

None.

Dated: 29th July 2025

Bob Robertson
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Area Planning Manager

REFUSAL OF PLANNING PERMISSION

Reference No: 24/04014/FUL

RIGHT OF REVIEW

1. If the applicant is aggrieved by the decision of the planning authority: to refuse planning permission for the proposed development; to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission; to grant planning permission or any approval, consent or agreement subject to conditions; the applicant may require the planning authority to review the case under section 43A of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months beginning with the date of this notice.

On 9 June 2025 the Scottish Government introduced fees for reviews to the Local Review Body. Any review lodged on or after 9 June 2025 will be subject to a fee as set out in [The Town and Country Planning \(Fees for Local Reviews\) \(Scotland\) Regulations](#). The [Fee Calculator \(external link\)](#) on the eDevelopment portal will assist you with working out if any fee is required.

A Notice of Review can:

- (a) be lodged online via the ePlanning Portal at:
<https://www.eplanning.scot>

Guidance on submitting a Notice of Review online can be found at:
https://www.edevelopment.scot/eDevelopmentClient/StaticFiles/Support_Desk-How_do_I_create_a_proposal_and_add_ePlanning_form.pdf

Or

- (b) Alternatively, a Notice of Review form can be downloaded at https://www.highland.gov.uk/downloads/file/6396/notice_of_review_form and the completed form and any supporting documents can be submitted by email to review.body@highland.gov.uk or sent by post to:

Highland Council Review Body
eProcessing Centre
Council Headquarters
Glenurquhart Road
Inverness
IV3 5NX

Notices of Review must not be sent to the Case Officer.

Please note that a completed Notice of Review form (and any supporting documents) MUST be received by the Review Body within three months beginning with the date of this decision notice otherwise the decision cannot be reviewed.

If permission to develop land is refused or granted subject to conditions and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).

Dated: 29th July 2025

Bob Robertson
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Area Planning Manager

REFULZ