

	Agenda item	7.4
	Report no	HLC/022/24

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 26 March 2024

Report title: Application for the grant of a short term let licence – Healabhal, Balmeanach, Struan, Isle of Skye, IV56 8FH (Ward 10 – Eilean a' Cheò)

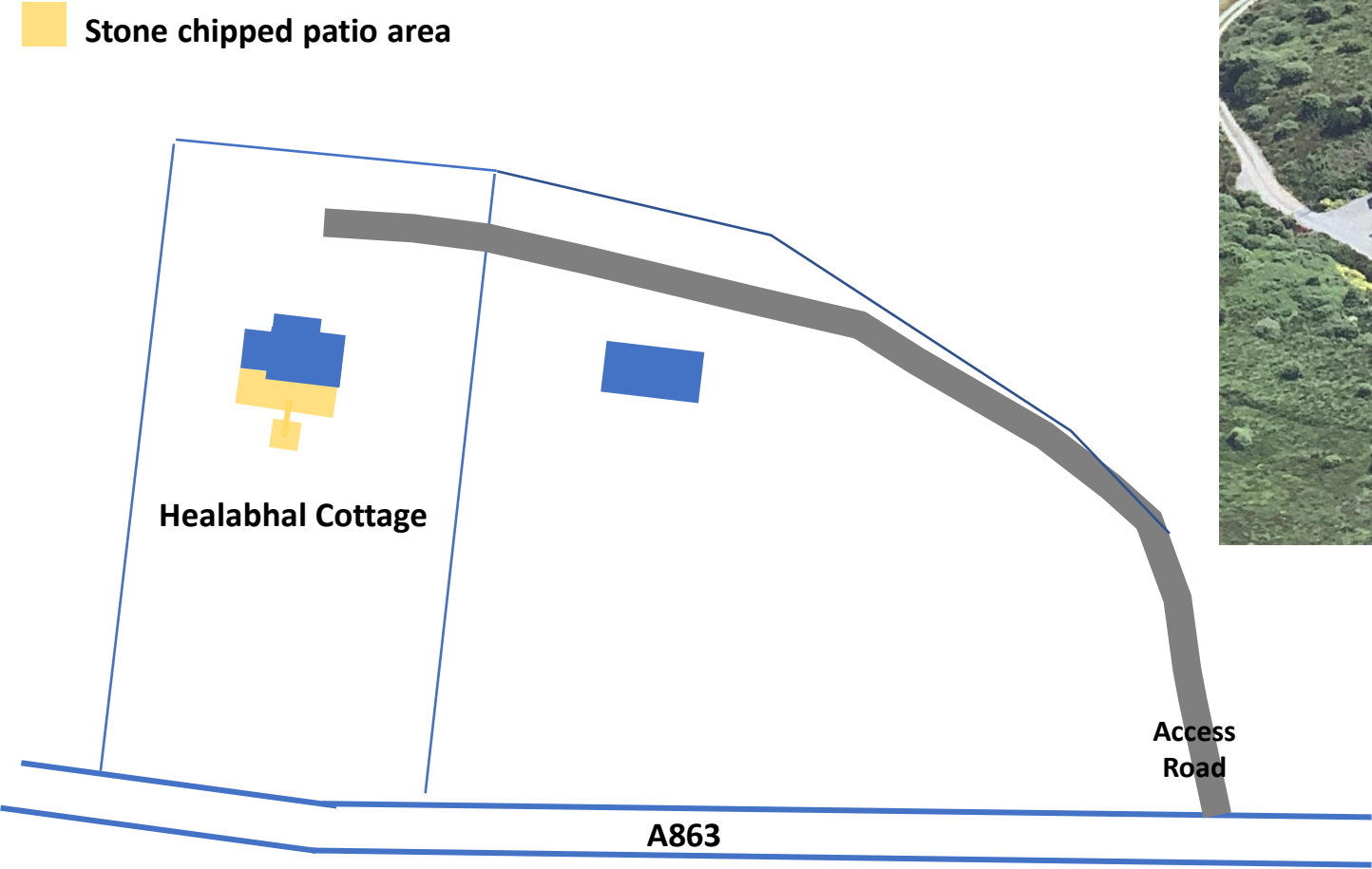
Report by: The Principal Solicitor – Regulatory Services

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	<p>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:</p> <ul style="list-style-type: none"> • 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: <ol style="list-style-type: none"> 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 13 September 2023 (date application was deemed valid) an application for the grant of a short term let licence was received from Mr John Pearson Arthur on behalf of Head in the Skye Ltd (Company number: SC672264) and having their registered office at 48 Racecourse Road, Ayr, Scotland, KA7 2UZ.
4.2	The Premises to which the application relates to is Healabhal, Balmeanach, Struan, Isle of Skye, IV56 8FH ("the Premises"). A location plan was provided by the applicant as part of the application process and this is attached as an appendix to this report (Appendix 1). The Premises are those marked up as "Healabhal Cottage", on page 1 of Appendix 1.
4.3	The application for the short term let licence has been made on the basis that Head in the Skye Limited will be the host/operator of the Premises. The application states that this company have applied for the short term let licence as an 'existing host' on the basis that, in their capacity as the host/operator, they operated the Premises as a short term let property prior to 1 October 2022. In addition, Head in the Skye Limited is named on the application as the owner of the Premises.
4.4	The person named on the application as being responsible for the day-to-day management of the Premises is Mr Arthur.
4.5	The type of short term let which has been applied for is a 'secondary let'. A 'secondary let' involves the letting of a property where the applicant does not normally live.

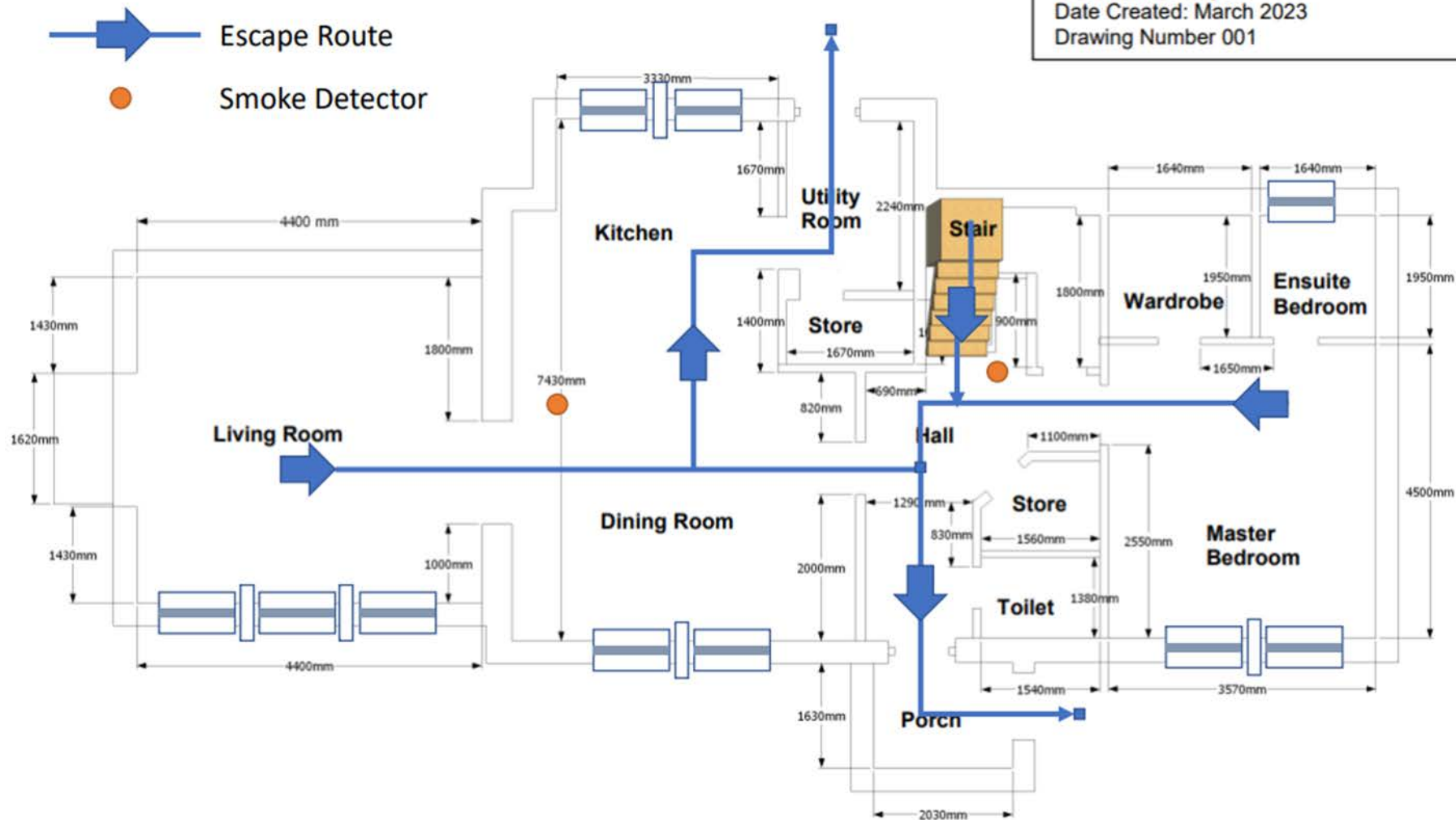
4.6	The Premises is a detached dwellinghouse which can accommodate a maximum of 8 guests. The ground floor of the Premises comprises of an open plan living room/kitchen/dining area, ensuite master bedroom, cloakroom toilet, utility room and a porch. The upper floor of the premises comprises of 3 bedrooms (one ensuite) and a bathroom. Floor plans of the premises were provided by the applicant as part of the application process and these can be found on pages 2 and 3 of Appendix 1. In addition, the premises also offers an external socialising area which comprises of a wooden table and bench located on a patio area.
5.	Process
5.1	<p>The application was circulated to the following Agencies/Services for consultation:</p> <ul style="list-style-type: none"> • Police Scotland; • Scottish Fire & Rescue Service; • Highland Council Environmental Health Service; and
5.2	All of the above Agencies/Services have confirmed that they have no objections to the licence being issued.
5.3	In addition, 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.
6.	Public objection
6.1	<p>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.</p> <p>During the notice of display period, the following timeous notice of objection was received and is attached as an Appendix to this report:</p> <ul style="list-style-type: none"> • Objection received by email on 18 October 2023 from Ken and Fiona Reynolds (Appendix 2).
7.	Determining issues
7.1	<p>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:</p> <ul style="list-style-type: none"> (a) the applicant or anyone else detailed on the application is not a fit and proper person; (b) the activity would be carried out by a person other than the applicant who, if he had made the application himself, would have been refused; (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

	<p>(i) the location, character or condition of premises or the character or condition of the vehicle or vessel,</p> <p>(ii) the nature and extent of the proposed activity,</p> <p>(iii) the kind of persons likely to be in the premises, vehicle or vessel,</p> <p>(iv) the possibility of undue public nuisance, or</p> <p>(v) public order or public safety; or</p> <p>(d) there is other good reason for refusing the application.</p> <p>If required, the Principal Solicitor – Regulatory Services will offer particular advice on the criteria relating to this particular application.</p>
7.2	<p>A copy of this report has been sent to the applicant and the objector 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.</p> <p>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:</p> <p>Licensing hearings procedures Licensing hearings procedure (Licensing Committee) (highland.gov.uk)</p>
8.	<p>Policies</p> <p>The following policy is relevant to this application:</p> <ul style="list-style-type: none"> • Short-term let licensing policy statement (which includes the mandatory and additional licence conditions attached to all Short Term Let Licences):- <p>A copy of this policy can accessed here or a hard copy can be supplied where requested.</p>
9.	Implications
9.1	Not applicable.
<p>Date: 29 February 2024</p> <p>Author: Julie Traynor</p> <p>Reference: FS527288159</p> <p>Background Papers:</p> <ul style="list-style-type: none"> • Civic Government (Scotland) Act 1982 • The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 <p>APPENDICES:</p> <p>Appendix 1: Site plan, detailing the extent of the Premises, and floor plans;</p> <p>Appendix 2 : Objection received by email from Ken and Fiona Reynolds dated 18 October 2023.</p>	



Healabhal Cottage

Head In The Sky - Healabhal Cottage
Ground Floor Layout
Date Created: March 2023
Drawing Number 001



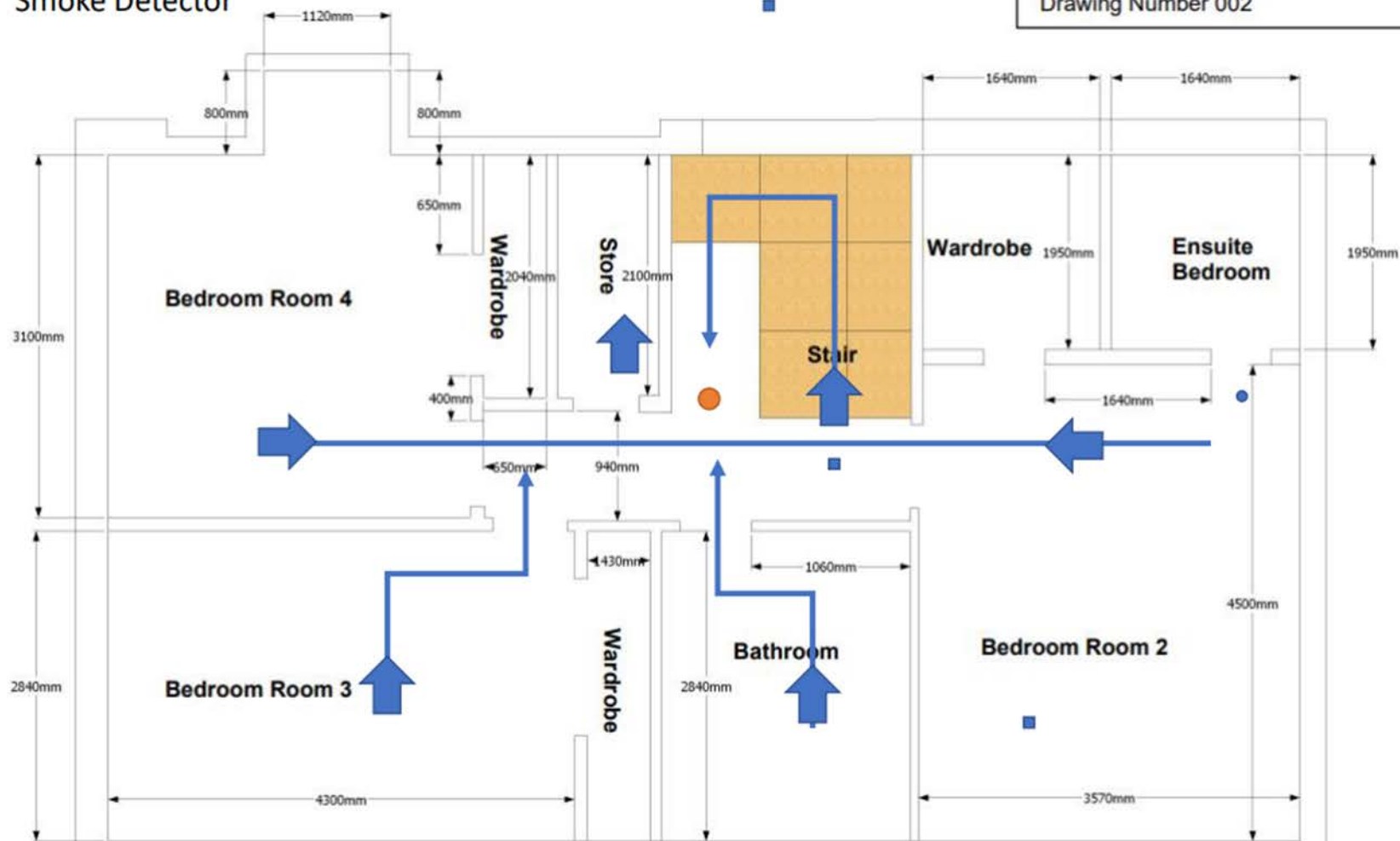


Escape Route



Smoke Detector

Head In The Skye - Healabhal Cottage
First Floor Layout
Date Created: March 2023
Drawing Number 002



From: Kenneth Reynolds
Sent: 18 October 2023 17:19
To: STL Licensing
Subject: 130114898 Healabhal Balmeanach Isle of Skye IV56 8FH
Attachments: 20231018131632.pdf

Categories:

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.

Ref: 527288159

<20231018131632.pdf>

Short Term Lets Licence Department.

130114898 - Healabhal, Balmeanach, Struan, Isle of Skye, IV56 8FH.

We wish to object to a license being granted to the above property. Access to this property is through our garden and passes a few metres to the rear of our house passing a bedroom, a bathroom, kitchen and our back door. Please see attachments which show access route and the position of both houses.

When we moved into Caoran Na Mara, Healabhal was owned by a couple who had plans to live on Skye permanently, transferring to the area with the bank he worked for. Due to family circumstances this never happened and the house was sold to the Arthur family. It has now changed from a family home to a business run by the Arthur family many miles away in Ayr and Glasgow. This is a change of use of the house.

Living so far away from their business they are not in a position to be aware of what is going on at Healabhal. Olivia who hosts their Airbnb booking site makes this obvious by advertising that she is in Glasgow. This is an invitation to guests to book the house and have a lot more than eight people staying which is obvious by the amount of bedding in the back of the cars we have passing through our garden.

Guests at Healabhal arrive in various forms of transport, cars, vans, people carriers, taxis, and motorcycles during the day or late at night. There can be up six or seven vehicles at the house using the drive numerous times day and night.

We have very recently had another wedding party staying at Healabhal, even though they don't cater for "events". There were so many cars and a camper van that they had difficulty parking. Cars had to be reversed out and left in our garden to let other cars out. During their stay traffic movements through our garden was extremely high and it was like living alongside the M6 motorway.

Drivers of vehicles and people walking through feel the need to "gawp" through each window as they pass, some have even taken photographs and videos. Also as they are not

looking where they are going they have nearly collided with our cars and the central heating boiler.

When guests are driving through our private garden a lot of them drive at excessive speed! We fear for our safety and the safety of neighbouring children, aged 2 and 4, who we look after sometimes.

Two vehicles belonging to guests collided in our garden.

We insist the gates at each end of the property are closed with hope that this limits their speed. The drive is gravel therefore the stopping distance is increased. Very little regard is given to the 5mph speed limit sign we erected.

Two groups of visitors thought it fun to race through our property with a person standing on the rear bumper holding onto the roof rails of their hire cars.

Healabhal has a wood burning stove and a fire pit in the garden. We have noticed in the past that logs have been disappearing from our log store. We felt the need to put up a sign on the log store saying "Private Property CCTV in operation".

On 30th July 2023 we parked a car as close as possible to the log store hoping this would deter thieves over the next couple of days while we were away for two nights. Late in the evening we heard a noise and thought it was a bird flying into the window and checked but found nothing. On our return from our days away we looked at our wild life camera recordings over that time. At 22.40 on 30th July 2023 it showed a man walking slowly from Healabhal looking intently through our windows and at our barge boards, as if he was looking for a CCTV camera. He walked the length of the drive to our gate then returned continuing to look for a camera. When he got near to our back door he diverted toward the log store, climbed over the bonnet of the car to steal logs. Unfortunately when leaving the log store he was too close to the camera to see him actually carrying the logs. This act of entering private land with the intent of theft was reported to the police at Portree on 3rd August 2023. PC Iona MacInnes said as the camera did not show the person carrying the logs there was little they could do but would contact the owners to discuss the matter.

After contact was made by the police we finally received a letter replying to our two letters that we had sent to the Arthur family pointing out our problems with their guests.

A few logs may seem a trivial matter but we are extremely concerned that hoards of strangers are entering our property, some with intent of criminal activities.

We have experienced loud music at a level you expect at a pop festival that vibrated the walls of our house.

Dogs are welcome at Healabhal but are not welcome in our garden. Some visitors find this difficult to understand.

Some families with children don't observe boundaries, the children invading our garden destroying trees, plants and fences.

Some people find it easier to dump their rubbish in our bin by our house instead of walking down the shared drive to their bins by the main road. Others on many occasions put their rubbish bags on their hire car roof spilling rubbish all the way down the drive for someone else to clear away. Some forget the key for the bin so think it is OK leave bags of rubbish and bottles at the bottom of the drive. We have also had soiled nappies left in our garden!

Their bins are left on the drive, sometimes blowing onto the road. They have no arrangement to have them returned to the rack they have built.

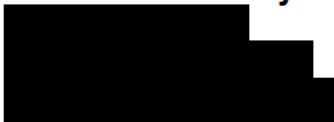
This is just a summary of the things we have had to put up with. When we first came to live here in 2006 Healabhal was not a house that was rented out. In 2020 John Arthur and his daughter came to view the house and we met them. They said they were buying Healabhal as a family holiday home, but then said they may rent it out occasionally to pay the mortgage. We expressed our concerns straight away as a shared drive, with vehicles and pedestrians passing so close to our house would not work. The occasional rental to pay the mortgage turned out to continuous rental throughout the years, even during covid lockdown, when police were called to guests from China who were trying to buy fuel at the garage and reported.

We feel that the quality of our life has been affected by Healabhal being rented out for up to 8 people, and on occasions with more staying. We are both in our seventies and we have health problems. Our retirement years have been blighted by the amount of vehicle and pedestrian traffic through our garden and the lack of consideration and respect given by some of the visitors. Sometimes we cannot even spend an evening in the garden without hearing drunken shouting and foul language. We have to lock our doors even though we are at home to prevent next doors guests coming into our home, they don't realise that our house is single storey and they are renting a two storey house. They appear unaware they are on private property and wander all around our garden.

We feel unsafe after seeing evidence of a guest prepared to enter our garden to commit a criminal act. Skye is regarded as a safe place to live, our part of Skye is becoming less so. We should not have to change our home into a fortress because people a long way away want to make money. We would prefer to have an essential worker living there, they have problems finding accommodation on Skye. Balmeanach has more rental properties than permanent residences which does not enhance a township.

We request you do not grant a Short Term Let Licence.

Ken and Fiona Reynolds.



Sent from my iPad

PRINT A



LAND REGISTER OF SCOTLAND



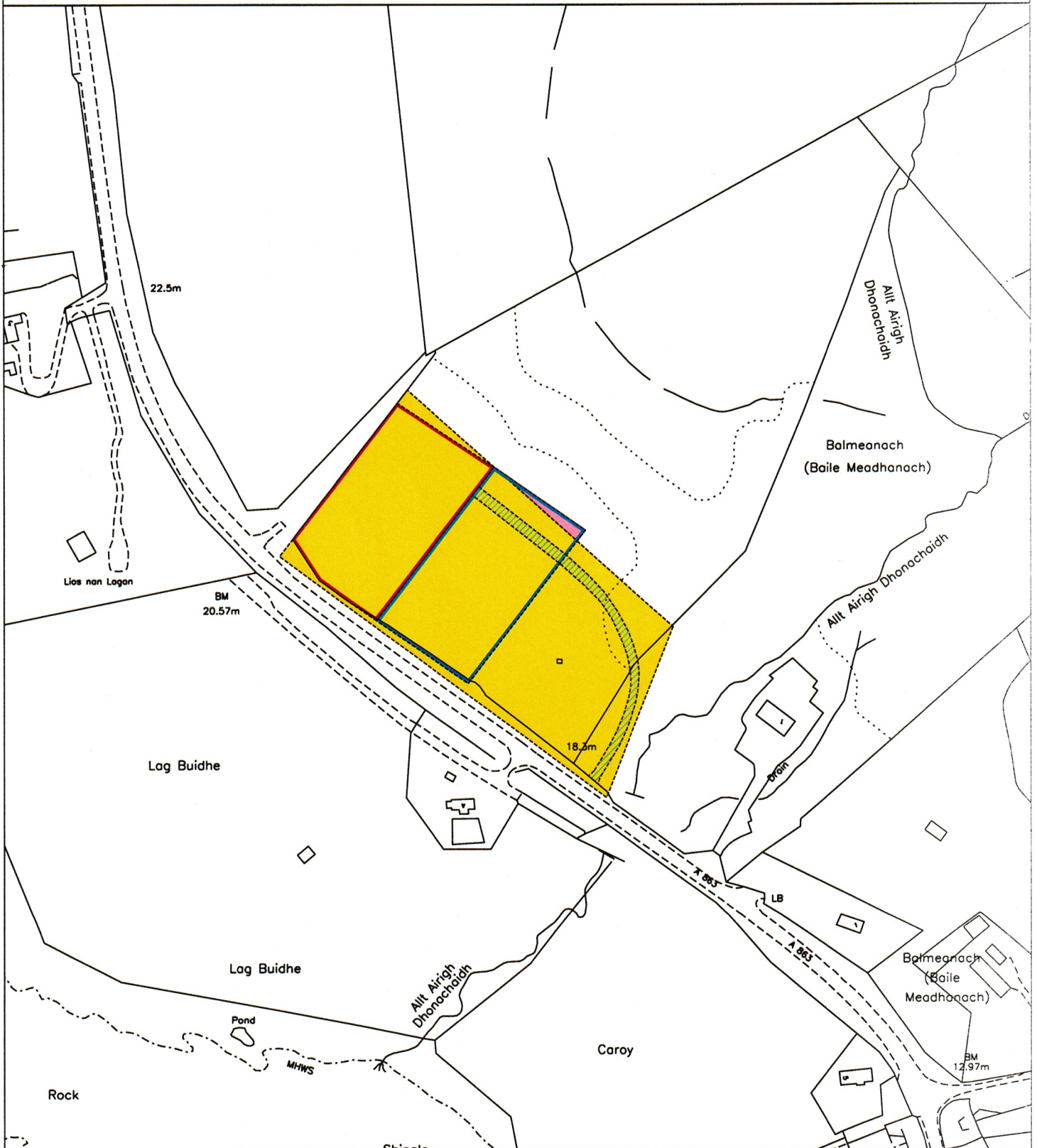
ORDNANCE SURVEY NATIONAL GRID REFERENCE

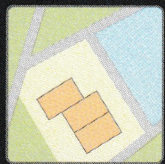
NG3042 NG3043 NG3143 NG34SW

Scale
1/2500

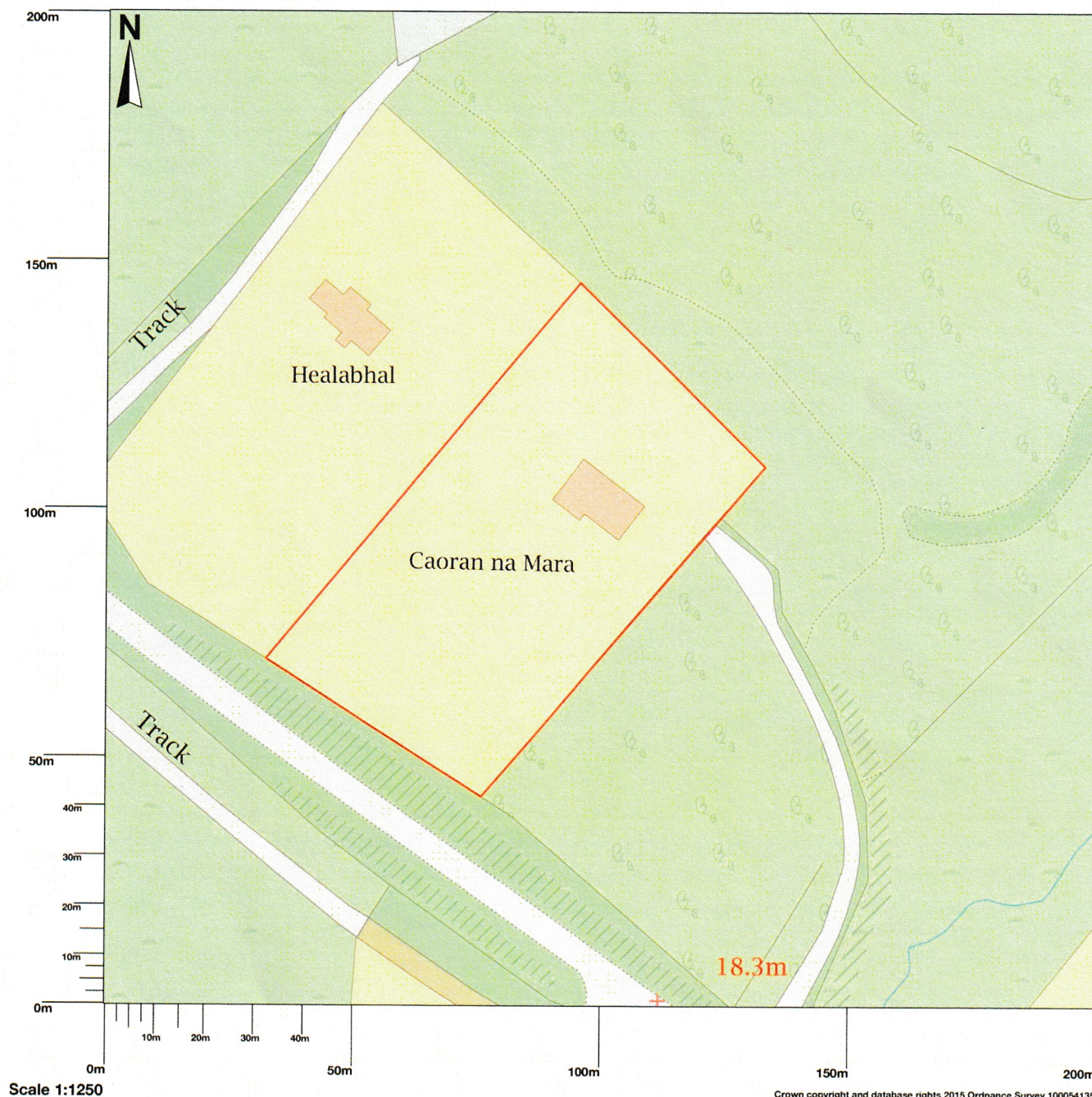
Survey Scale
1/2500

CROWN COPYRIGHT © - This copy has been produced from the ROS Digital Mapping System on 27/06/2007 and was made with the authority of Ordnance Survey pursuant to Section 47 of the Copyright, Designs and Patents Act 1988. Unless that act provides a relevant exception to copyright, the copy must not be copied without the prior permission of the copyright owner.





Caoran Na Mara, Struan, Isle Of Skye, IV56 8FH



Map area bounded by: 130678,843072 130878,843272. Produced on 03 November 2018 from the OS National Geographic Database. Reproduction in whole or part is prohibited without the prior permission of Ordnance Survey. © Crown copyright 2018. Supplied by UKPlanningMaps.com a licensed OS partner (100054135). Unique plan reference: p4b/293769/399702