

Agenda item	10.3
Report no	HLC/042/24

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 7 May 2024

Report title: Application for the grant of a short term let licence – 23 Caledonia Place, Aviemore, PH22 1NW (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, 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 10 January 2024 (date application was deemed valid) an application for the grant of a short term let licence was received from Mr Colin Alasdair Maciver.

4.2 The Premises to which the application relates is 23 Caledonia Place, Aviemore, PH22 1NW (the Premises"). A site plan and floor plan were provided by the applicant as part of the application process which are attached as an appendix to this report (**Appendix 1**). The Premises are those identified as "23 GF" on the site plan found on page 1 of Appendix 1.

4.3 The application has been made on the basis that Mr Colin Alasdair Maciver will be the host/operator of the Premises. In addition, Mr Maciver has been named on the application as the sole owner of the Premises and the person responsible for the day-to-day management 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 The type of short term let which has been applied for 'home letting', which means using all or part of a host/operator's home for short term lets while they are absent.

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 Building Standards have all confirmed that they have no objections to the licence being issued.

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.

5.4 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. Late Objection

6.1 An objection to the application was received on 9 February 2024 from Mr James Flanagan, however this was received after the 28 day period for objections had elapsed, namely on 7 February 2024, and therefore cannot automatically be considered by the Committee.

6.2 At the meeting Mr Flanagan will be invited to address the Members as to the reason why the objection was submitted after the required timescale. The applicant will be invited to address the Committee on the same and thereafter Members will require to determine whether there were sufficient reasons for the late objection and whether it should be heard.

6.3 If the Committee are minded to accept the late objection a copy will be circulated at the meeting. If not, the application will be determined in its absence.

7. Determining issues

7.1 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 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:-
 - (i) the location, character or condition of 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
 - (v) 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.

7.2 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.

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)

8. 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.

9. Implications

9.1 Not applicable.

Date: 16 April 2024

Author: Julie Traynor

Reference: [FS553749154](#)

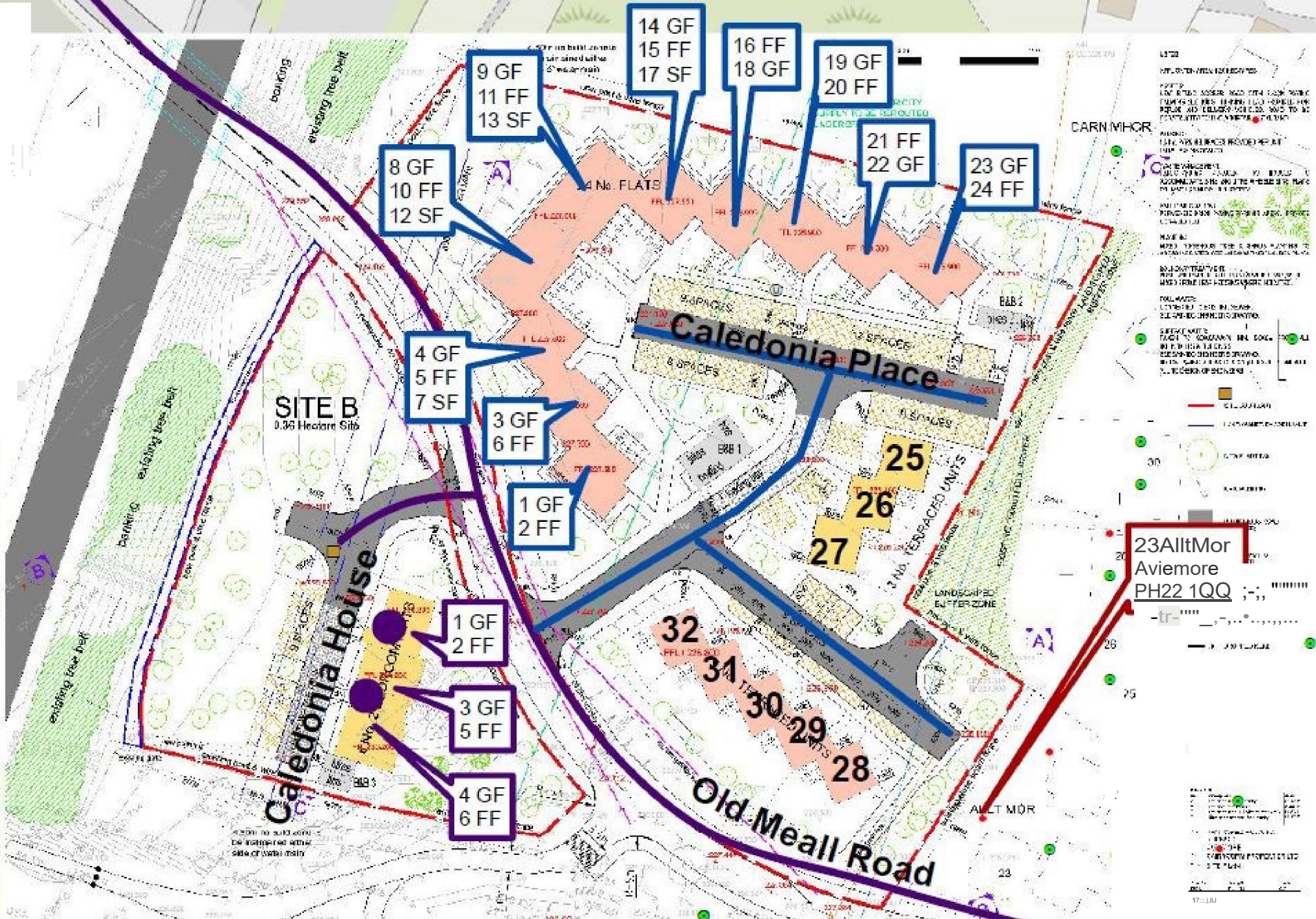
Background Papers:

- Civic Government (Scotland) Act 1982
- The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022

APPENDIX:

Appendix 1: Site plan detailing extent of premises, together with floor plan

ay Area



le Sheili

Ar_achai

23AlltMor
Aviemore
PH22 1QQ ;;;

22. C.A.I.£00NIA
 PLK.6: Av \CMO.e.E
 P!-1'2."2.. IN hi

