

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 25 June 2024

Report title: Application for the grant of a short term let licence – 108 Old Edinburgh Road, Inverness, IV2 3HT (Ward 14 : Inverness Central)

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 16 January 2024 (date application was deemed valid) an application for the grant of a short term let licence was received from Ms Linda Taylor.
- 4.2 The property to which the application relates to is 108 Old Edinburgh Road, Inverness, IV2 3HT ("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 page 1 of Appendix 1.
- 4.3 The application for the short term let licence has been made on the basis that Ms Taylor 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 Ms Taylor is named on the application as the owner of the Premises and as the person responsible for the day-to-day management of the Premises.
- 4.5 The type of short term let which has been applied for is 'home sharing', which means using all or part of your own home for short-term lets while you are there.
- 4.6 The Premises is described as a semi-detached dwellinghouse which offers accommodation for a maximum of 2 guests. Entry to the letting accommodation is via the ground floor porch/hallway of the Premises. The letting accommodation is located on the first floor of the Premises and comprises of a kitchen, hall/dining area, bathroom and a bedroom. A floor plan of the Premises was provided by the applicant as part of the application process, and this can be found on page 2 of Appendix 1. The footprint of the Premises are edged red and shaded yellow on such floor plan.

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; • Highland Council's Environmental Health Service; • Highland Council's 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 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.	Public objections
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 licence.</p> <p>During the notice of display period, the following three timeous objections were received and are attached as Appendices to this report:</p> <ul style="list-style-type: none"> • Objection received by email on 24 January 2024 from Allan McLeod (Appendix 2); • Objection received by email on 29 January 2024 from Morag and Paul Kerr (Appendix 3); • Objection received by email on 11 February 2024 from Alison Dougherty (Appendix 4).
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> <ol 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

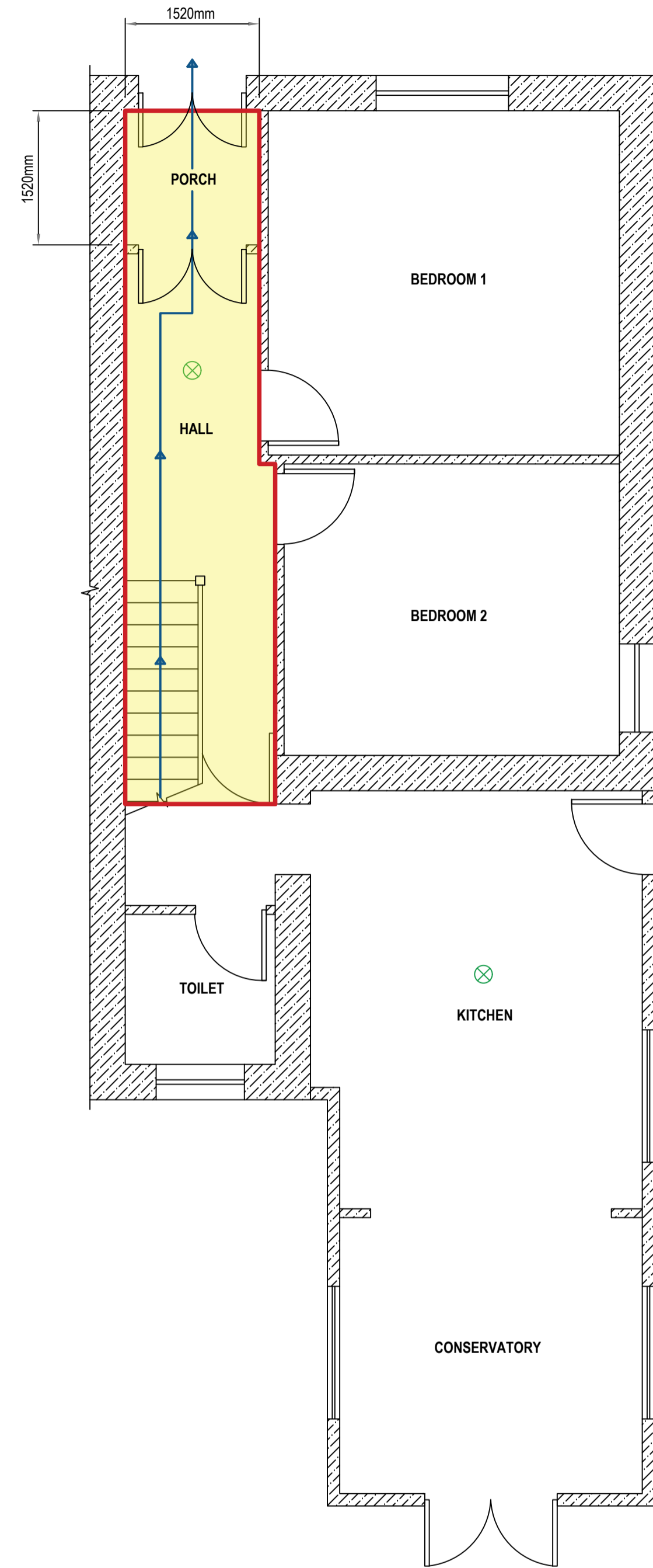
	<p>(i) the location, character or condition of premises or the character or condition of the vehicle or vessel,</p> <p>(ii) the nature and extent of the proposed activity,</p> <p>(iii) the kind of persons likely to be in the premises, vehicle or vessel,</p> <p>(iv) the possibility of undue public nuisance, 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 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.</p> <p>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:</p> <p>Licensing hearings procedures Licensing hearings procedure (Licensing Committee) (highland.gov.uk)</p>

8.	Policies
	<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>

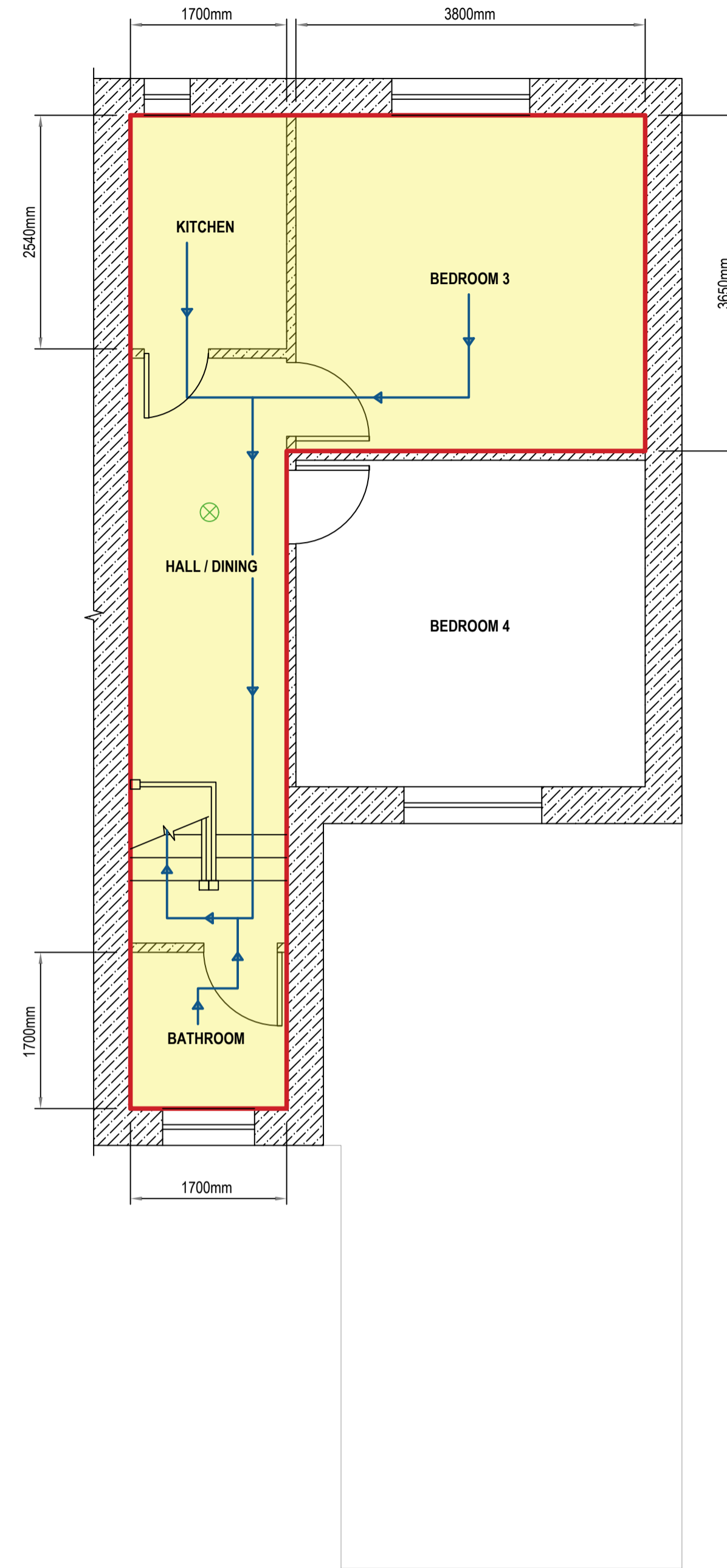
9.	Implications
9.1	Not applicable.
	<p>Date: 31 May 2024 Author: Julie Traynor Reference: FS552457706</p> <p>Background Papers:</p> <ul style="list-style-type: none"> • Civic Government (Scotland) Act 1982 • The Civic Government (Scotland) Act 1982 (Licensing of Short-term Lets) Order 2022 <p>APPENDICES:</p> <p>Appendix 1: Site plan, detailing the site boundary and extent of the Premises, and floor plan;</p> <p>Appendix 2: Objection received by email on 24 January 2024 from Allan McLeod;</p> <p>Appendix 3: Objection received by email on 29 January 2024 from Morag and Paul Kerr;</p> <p>Appendix 4: Objection received by email on 11 February 2024 from Alison Dougherty.</p>

APPENDIX 1





GROUND FLOOR LAYOUT
SCALE 1:50



FIRST FLOOR LAYOUT
SCALE 1:50

KEY:	
	INDICATES FOOTPRINT OF SHORT TERM LET PROPERTY
	INDICATES POSITION OF LINKED SMOKE DETECTOR
	INDICATES DIRECTION OF PROPOSED FIRE ESCAPE ROUTE

NOTES:	
1.	MAXIMUM OCCUPANCY: 2 PERSONS
2.	NO ACCOMMODATION FOR GUESTS WITH MOBILITY IMPAIRMENT DUE TO STAIRS

Project: -
108 OLD EDINBURGH ROAD,
INVERNESS. IV23HT

Drawing Title:
GROUND AND FIRST FLOOR
LAYOUTS

Scale at A1: As Noted	Date: SEPT. 23
Drawing No.	

[REDACTED]

From: [REDACTED]
Sent: 24 January 2024 17:33
To: STL Licensing
Subject: 130034316 - 108 Old Edinburgh Road, Inverness

Categories: [REDACTED]

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 wish to object to the Short-term Let Licensing application for 108 Old Edinburgh Road, Inverness on the grounds of lack of parking, as this property is located off a narrow rustic private lane.

Indeed, there is two letting properties off the lane. While [REDACTED] at [REDACTED] is well-run with ample in curtilage parking, 108 relies on guest parking within the lane beside the applicant's own car. It should also be noted that there is no turning head within the lane. All the other properties within the lane have formed their own in curtilage parking which also allows them to turn safely.

The applicant was aware of our concerns about them blocking our access prior to them sub-letting rooms within their property. To try and alleviate the situation they dug out the grass verge destroying the character of the lane. This non solution is far from idea as it relies on them and their guests parking their vehicles remarkably close to a stone wall to allow us to squeeze past to access to our home.

Yours Sincerely

Allan McLeod
[REDACTED]

[REDACTED]

From: Morag Kerr <[REDACTED]>
Sent: 29 January 2024 18:13
To: STL Licensing
Subject: 130034316 - 108 Old Edinburgh Road, Inverness IV2 3HT

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: [REDACTED]

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Dear Sir / Madam,

We are aware there has been an application submitted for a short term let licence by Linda Taylor, 108 Old Edinburgh Road, Inverness.

We wish to object to this request on the grounds that there is limited parking and no turning facility on this property. As there is no turning head within the private lane, guests staying at 108 Old Edinburgh Road frequently enter our property, 114 Old Edinburgh Road, which lies beyond 108 and use our drive as a turning point. There has also been occasions when guests have parked their vehicles in our parking area. This has been an ongoing issue since Ms Taylor started her business venture.

There is also the issue of when a guest/s have a larger vehicle which protrudes further into the lane when parked thus restricting access.

All other properties within the lane have made adequate provision for both parking and turning irrespective of what size of vehicle.

We are not against someone running a business within the lane as long as they ensure adequate, proper parking and turning facilities which do not affect or impinge neighbouring properties.

Yours Sincerely,

Morag and Paul Kerr
[REDACTED]

[REDACTED]

From: Alison Dougherty <[REDACTED]>
Sent: 11 February 2024 21:39
To: STL Licensing
Subject: 108 Old Edinburgh Road Airbnb
Categories: [REDACTED]

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.

[REDACTED]

The Highland Council
Charles Kennedy Building
Achintore Road,
Fort William. 7th February 2024

[Airbnb notification 108 Old Edinburgh Road, IV2 3HT](#)

Dear sirs,

I am aware of the above notification and feel that the following should be made known.

This is a small, quiet, once rural lane which has existed as such since, and before, my husband's Macdonald family first came here in 1870, and myself, who came to know it in 1952.

It is private, like one or two similar parts of old Inverness. Each householder in the lane owns and maintains the area which is part of their property, and each allows the neighbours further up to go through their ground to access their property. There are signed affidavits regarding this.

Because of limited space, all other owners in the lane have made provision for 'off-lane' parking. 108 has not.

Since Ms Taylor launched out into the Airbnb business two or three years ago, I have had a fair amount of trouble with their visitors using my ground for parking and to turn in. Ms Taylor and her companion David Anthony turn their car very niftily within their space, but strangers are not so adept, especially those with a larger vehicle or visitors from abroad with a hired car which they are not so well used to.

Guests have told me that Ms Taylor directed them on to my land and did not take it kindly when asked to move. There have been times when cars have come right up my driveway to the back door, on occasion late at night, which was discomfiting. Those who come well into my drive to turn, then find difficulty reversing back out into the lane, trying not to damage their car or the wall or the pillars. Last year two young women had eight attempts.

I make mention again the privacy of this cul de sac. A few years ago, to offset the increasing cost of legal bills due to Ms Taylor's insistent encroachment into my garden, I considered taking in overnight guests. I had to decide against it, not just because I felt it unfair to disturb the quiet tenor of this 'top' end of the lane, but because I was in no doubt whatsoever that Ms Taylor would complain to the authorities about all the activity from a business such as this being carried out next door, disturbing her peace and allowing complete strangers to cross over her land.

Ms Taylor has made many reports to various authorities in the past about anything that annoys her, to SEPA, to Highland Council, to Standards Commission Scotland, to Allied Surveyors, and even to Police Scotland.

All were unjustified and negated by those concerned.

Where Planning Department is concerned, there have been several issues over the years with 108. Information on this is overleaf.

Yours most sincerely,

Alison Dougherty

I should explain that in **April 2012**, David Anthony, in his role of planning enforcement officer, arrived in the lane in answer to a complaint about a boundary/ fence at 108/110. I had been trying to replace a section of broken down, dilapidated larch-lap fence by erecting new panels on my side a few inches away. Mr Anthony could get no answer at the door of 108, so inspected the

fence in my drive. He examined a copy of my title plan which shows the brick wall and fence very clearly as the boundary and again inspected the fence, kindly pointing out that we were putting the fence posts too far over into my side. He twice insisted that "it should be on the boundary". He was a most courteous gentleman - obviously on the ball.

Having had years of trouble from Ms Taylor insisting that the brick wall and fence were in the wrong place, I asked Mr Anthony to see that I have assurance from the Planning Dept. before continuing. By June, with no assurance forthcoming, I wrote to the Area manager. A day later, our good neighbour in 106 informed me that the car parked at Ms Taylor's gate in recent weeks belonged to her new companion, David Anthony. We thought with his experience of planning matters, he would surely help his new love to put right her 1950 faulty title plan.

On 11th July I received assurance from Allan Todd, that the planned replacement for my 70 year old garage was in order and filled the criteria of being 1 metre away from the boundary – according to the legal title plan of 1918.

By Autumn, we heard that Mr Anthony was no longer at work as he was suffering from stress, although an inside informer told us otherwise. On 25th November he embarked on the first of many letters to my solicitor in which he got his facts completely wrong, and continued to do so during the following years, causing a great deal of legal involvement, and for me personally much stress physically and financially.

But the very first issue with Planning problems dates as far back as the mid 1990's when Ms Taylor and her then partner erected a kitchen/living area extension in her back garden, without mention/notification of any kind to us, her next door neighbours. The first we knew of it was when I went out one morning and saw that 108's shed, two feet away from our garage, had been removed and workmen were digging what I thought to be for new drains. The men were surprised that I didn't know about the extension. I phoned the Planning Department.

George Boyd, Chief Planning Officer, told me that this could be stopped immediately as it had been put through planning twice and just scraped through on the second application. After a meeting with Ms Taylor that evening, my husband returned saying that Ms Taylor refused to listen to anything he had to say, just 'shouted him down' and was impossible to reason with. Ms Taylor claimed that she had put everything in the hands of her 'architect', who turned out to be the young son of our good neighbours in 106, and who became very concerned that this bloomer might effect his future career.

Because of this, my husband allowed the build to go ahead, but with the proviso that when they re-erect the missing section of boundary fence it would be high enough to give us privacy from all the windows looking right into our premises. All that was done was the erection of one bit of larch lap placed along the top of the boundary brick wall where a window had been knocked out of the old stone gable. The missing sections of boundary fence at the back was ignored. Although I knew that the fence was 108's responsibility, in April 2007 I offered to put up a fence in answer to Ms Taylor's complaint that our dogs were going through the bushes into her garden

That was many years ago, and since Ms Taylor bought out her partner John Steven in June 2007, I have been subjected to a great deal of aggravation and severe stress There have been many visits from Planning and from Police while I was having to defend the legal boundary of 1918 which shows the true outline of the plot belonging to 108 and 106. All solicitors, surveyors, architects, and Registers of Scotland have assured me of this.

Ms Taylor bought 108 despite it having a plan which is incorrect and this should have been put right by the owner/inheritor before the house was sold to her.

In 2015, Mr Anthony very cleverly turned the tables round by building a fence 3 feet over into my back garden from that legal boundary, telling me that I would now have to take this issue to Court, that it would cost me a lot of money and wouldn't cost them a penny – not a penny !

In 2016, with more fence building by Ms Taylor over into my driveway, at the front, I had no option but to do so.

Police have been most kind and understanding, and also those from the Planning Dept. who are familiar with this long on-going dispute, Mr Aidan Brennan, John Kelly, Elaine Watt. Mr Brennan is familiar with much of the story.