

Agenda item	9.1
Report no	HLC/75/24

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 6 August 2024

Report title: Application for the grant of a short term let licence – Birches Lodge, 2 Camusnagaul, Dundonnell, IV23 2QT (Ward 5 – Wester Ross, Strathpeffer and Lochalsh)

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 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 21 August 2024. 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 21 August 2024 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 21 November 2023 (date application was deemed valid) an application for the grant of a short term let licence was received from Mrs Ishbel Sinclair.
- 4.2 The property to which the application relates is Birches Lodge, 2 Camusnagaul, Dundonnell, IV23 2QT (the Premises”).
- 4.3 The application for the short term let licence has been made on the basis that the said Mrs Sinclair and a Mr Angus Sinclair will be the host/operator of the Premises. The application was made on the basis that the Premises was not operated as a short term let property prior to 1 October 2022 and, as such, the host/operator cannot operate the premises as a short term let until they have obtained a licence.
- 4.4 Mrs Sinclair and Mr Sinclair are named on the application as the owners of the Premises. The person named as being responsible for the day-to-day management of the Premises is Mrs Sinclair.
- 4.5 The type of letting which has been applied for is 'secondary letting', which involves the letting of a property where the applicant does not normally live.
- 4.6 The Premises is described as a Lodge, which can accommodate a maximum of 4 guests. The premises comprises of 2 ensuite bedrooms and an open plan kitchen/living area.

In addition, there is an external socialising area which comprises of a decking area with private hot tub and outdoor dining area.

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 and The Highland Council's Environmental Health Service have 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.
- 5.4 Highland Council Building Standards have objected to the application on the basis that there is an outstanding building warrant, application 22/01171/DOM4/A, which requires to be approved and a completion certificate granted for the unit.

The applicant has confirmed to the Council's legal service that they are currently in the process of completing the necessary works with a view to shortly obtaining a completion certificate. A verbal update can be provided to the Committee by the Solicitor, if available.

6. Certificate of Compliance

- 6.1 The applicant has yet to return a certificate of compliance, which confirms 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. Such certificate of compliance must be completed by the applicant and returned to the licensing team as confirmation that the public notice of application has been displayed in terms of the legislation, before the licence can be issued.

A verbal update can be provided to the Committee by the Solicitor.

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: 15 July 2024

Author: Julie Traynor

Reference: FS-Case-552823859

Background Papers:

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