

	Agenda item	3.4
	Report no	HLC/144/24

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 3 December 2024

Report title: Application for the grant of a short term let licence – Greenaway, Skye Of Curr Road, Dulnain Bridge, PH26 3PA (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 19 December 2023 a validated application for the grant of a short term let licence was received from Mr Paul Mitchell Duke.
- 4.2 The property to which the application relates is Greenaway, Skye Of Curr Road, Dulnain Bridge, PH26 3PA (the "Premises").
- 4.3 The application for the short term let licence has been made on the basis that the said Mr Duke will be the host/operator of the Premises. The applicant has applied as an 'existing host' and, as such, the host/operator can operate the premises as a short term let whilst their application is pending determination.
- 4.4 Mr Duke and a Mrs Sionah Margaret Duke are named on the application as the owners of the Premises.
- 4.5 The person named on the application as being responsible for the day-to-day management of the Premises is the said Mr Duke.
- 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 self-catering, detached, two storey dwellinghouse which can accommodate a maximum capacity of 8 guests. The premises comprises of 4 bedrooms, lounge, dining room, kitchen, store room and two bathrooms. The site and floor plan can be found on page 1 of Appendix 1 to this report (**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 6 February 2024.

7. Late Objection

7.1 An objection to the application was received by email on 7 March 2024 from Mr Gary and Mrs Nadia Fyvie, however this was received after the 28 day period for objections/representation to be made by members of the public had elapsed, namely on 5 March 2024, and therefore this objection cannot automatically be considered by the Committee.

7.2 At the meeting Mr and Mrs Fyvie 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.

7.3 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. If the late objection is accepted and in the event that the late objection contains points which should not be taken into account by the Committee when determining this licence application, as they are outwith the scope of the grounds that a licensing authority can consider in terms of the refusal of an application to grant or renew a licence, as detailed at point 8.1 of this Report, the Principal Solicitor – Regulatory Services will offer further advice or clarification to the Committee on such points.

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 and the objectors who, in 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.
- 8.3 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 \(Licensing Committee\) \(highland.gov.uk\)](#)

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 November 2024

Author: Maureen Duffy

Reference: [FS534148958](#)

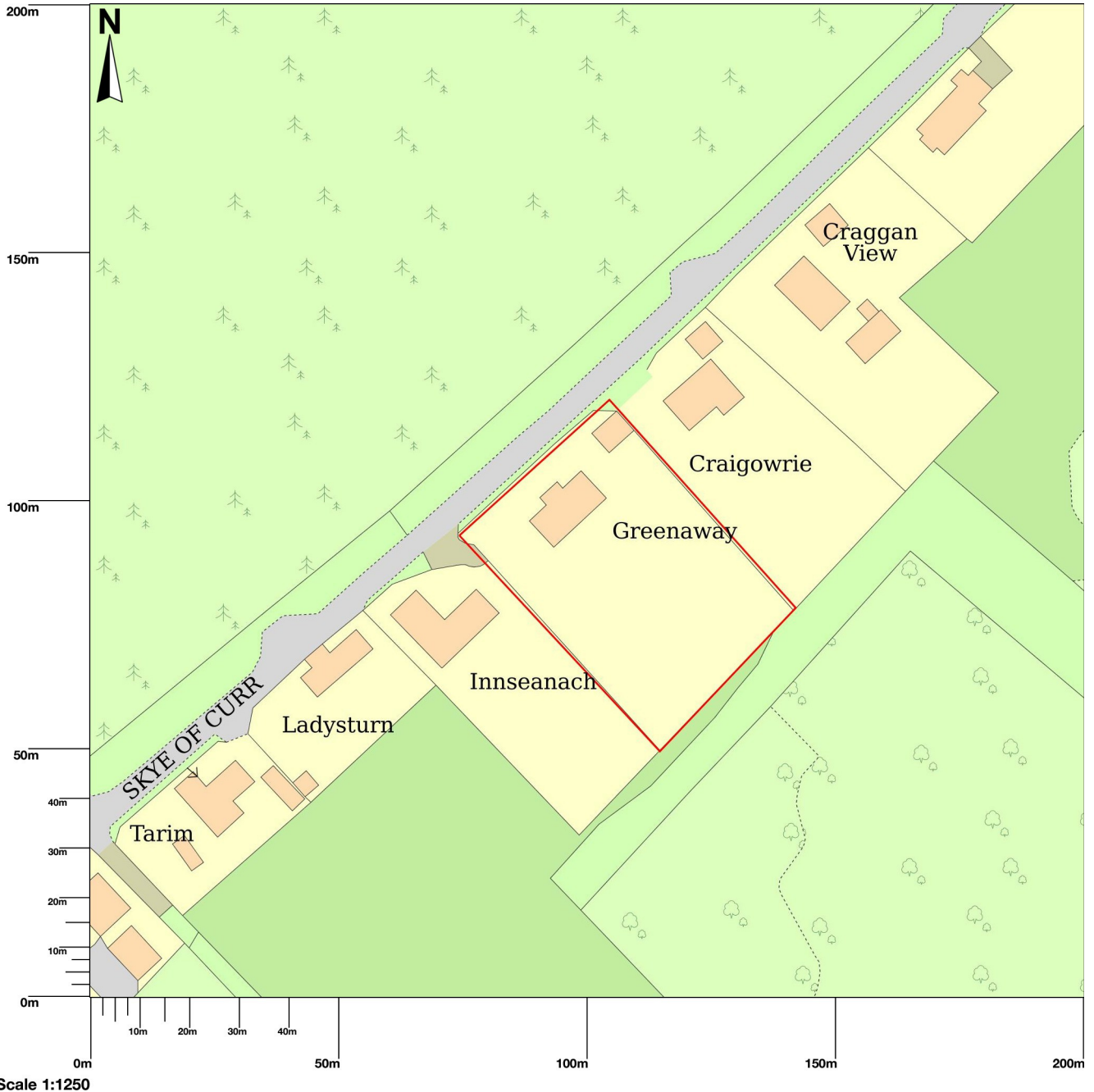
Background Papers:

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

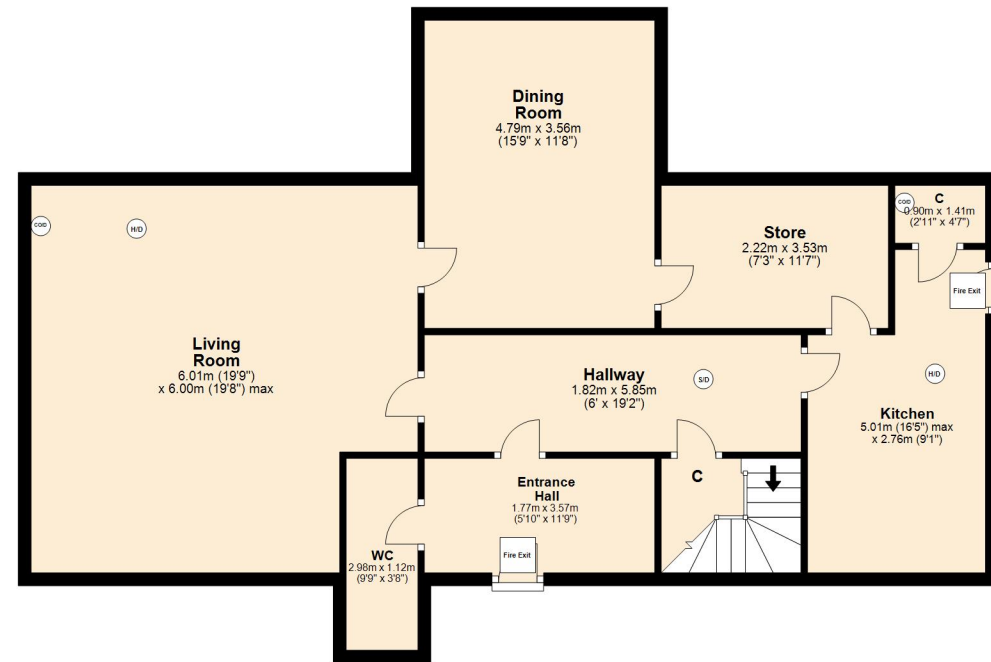
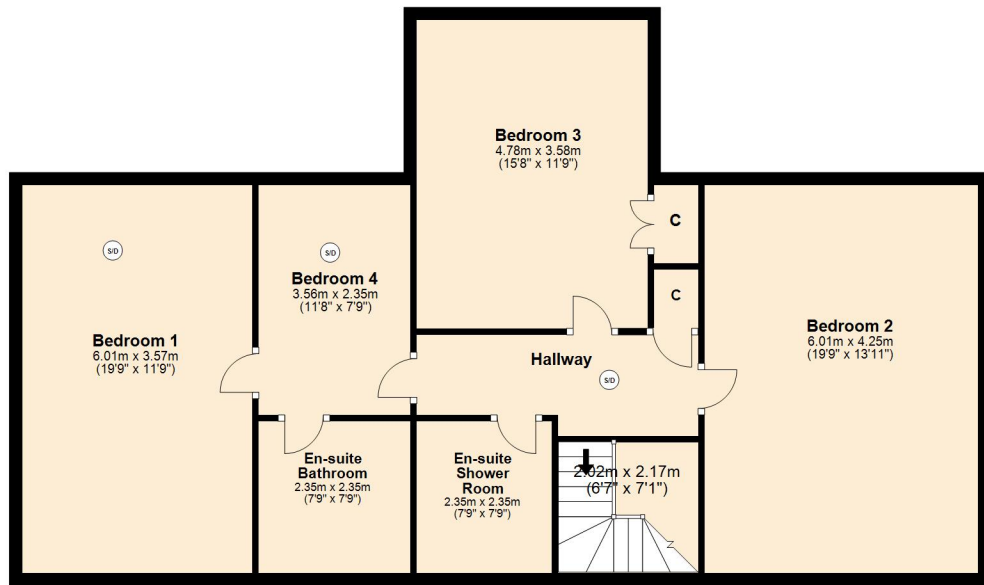
Appendix:

Appendix 1: Site and floor plan for the Premises.

Greenaway, Skye Of Curr Road, Dulnain Bridge, Granttown-On-Spey, PH26 3PA



Floor plan - Greenaway
Approx. 195.8 sq. metres (2107.6 sq. feet)



Total area: approx. 195.8 sq. metres (2107.6 sq. feet)