

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 25 February 2025

**Report title: Application for the grant of a short term let licence –
Balnakeil Farm Bothy Balnakeil, Durness, IV27 4PX (Ward 1 –
North, West and Central Sutherland)**

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 13 March 2025. 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 12 March 2025 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 13 June 2024 a validated application for the grant of a short term let licence was received from Mrs Elizabeth Elliot.
- 4.2 The property to which the application relates is Balnakeil Farm Bothy, Balnakeil, Durness, IV27 4PX (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 coloured in grey on the plan on page 1 of Appendix 1 and labelled 'Cattleman's Bothy'.
- 4.3 The application for the short term let licence has been made on the basis that the said Mrs Elliot 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 Mrs Elliott is named on the application as the owner 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 Mrs Elliot.

- 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 are described as a detached single storey dwellinghouse which can accommodate a maximum capacity of four guests.

Floor plans of the Premises were provided by the applicant as part of the application process, and these can be found on page 2 of 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 and Highland Council Building Standards have both confirmed that they have no objections to the application.

6. Late Representations

- 6.1 The Scottish Fire and Rescue Service submitted a non-timeous representation. This representation was received by email on 25 July 2024. A further email submission was received on 3 February 2025. Both submissions were received after the 28-day period for objections or representations to be made had elapsed, namely on 12 July 2024 and therefore this cannot automatically be considered by the Committee.
- 6.2 The Highland Council's Environmental Health Service also submitted a non-timeous representation on 7 October 2024. This was received after the 28-day period for objections or representations to be made had elapsed, namely on 12 July 2024 and therefore this cannot automatically be considered by the Committee
- 6.3 At the meeting, Scottish Fire and Rescue Service and Highland Council Environmental Health Service will each be invited to address the Members as to the reason why their respective representations were 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 each of the late representations and whether they should be heard.
- 6.4 If the Committee are minded to accept either or both of these representation, copies of the emails will be circulated at the meeting. If not, the application will be determined in their absence.

7. Certificate of Compliance

- 7.1 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. If available, a verbal update can be provided to the Committee by the Principal Solicitor – Regulatory Services.

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, the Scottish Fire and Rescue Service and the Highland Council's Environmental Health Service who, in the terms of paragraph 4(2) of the Civic Government (Scotland) Act 1982, have both been invited to attend and will be provided with an opportunity to be heard by the Committee.
- 8.3 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:

9. Policies

9.1 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: 4 February 2025

Author: Maureen Duffy

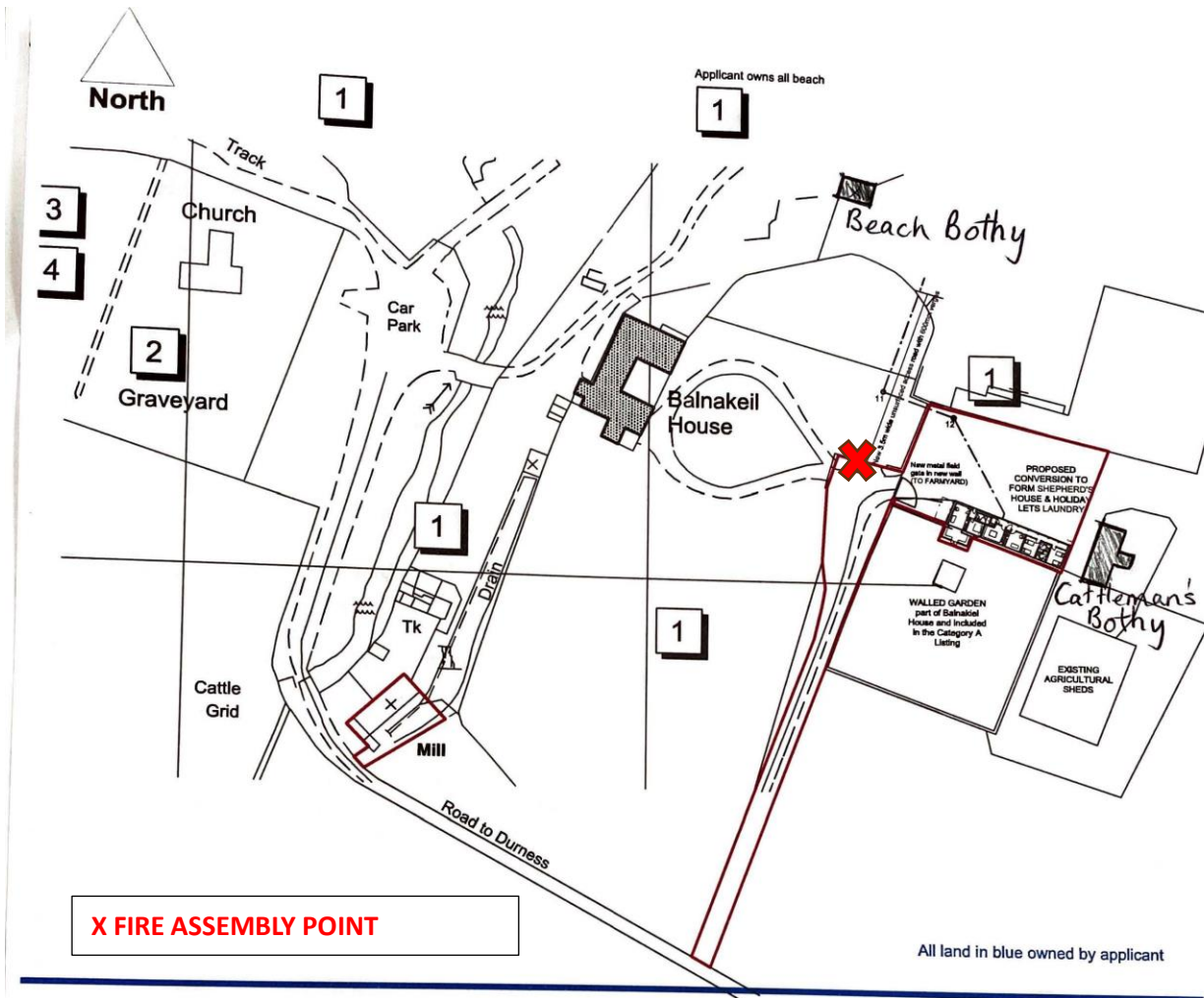
Reference: [FS551354982](#)

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 the extent of the Premises and floor plans for the Premises.



Location Plan

Scale 1:1250

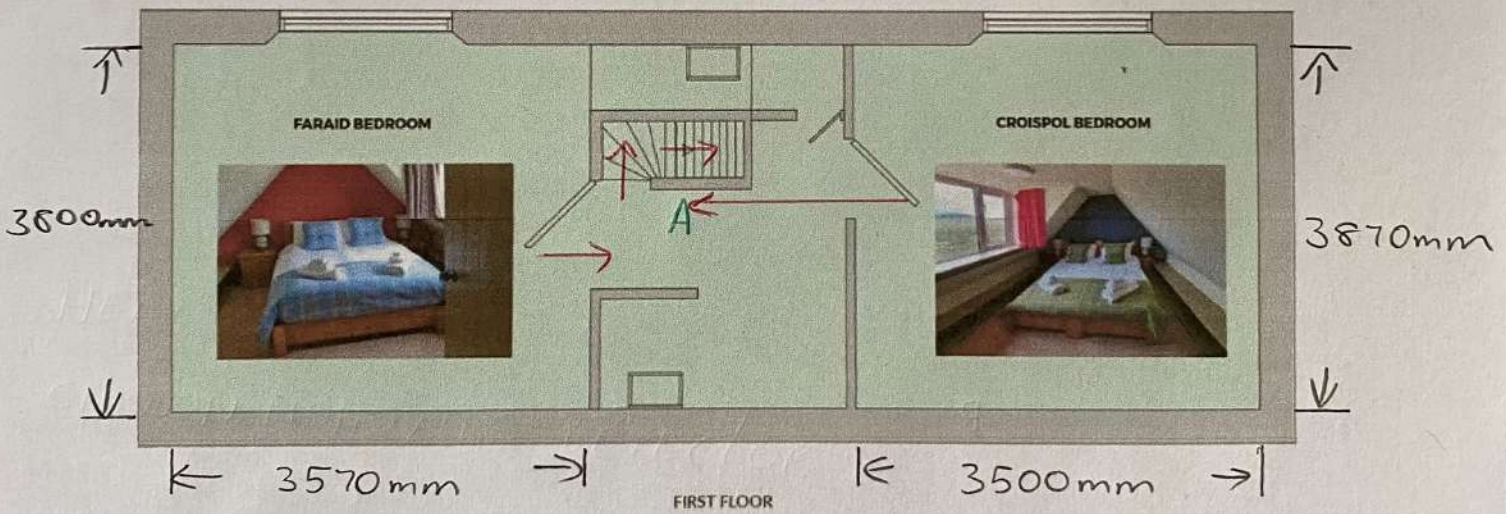
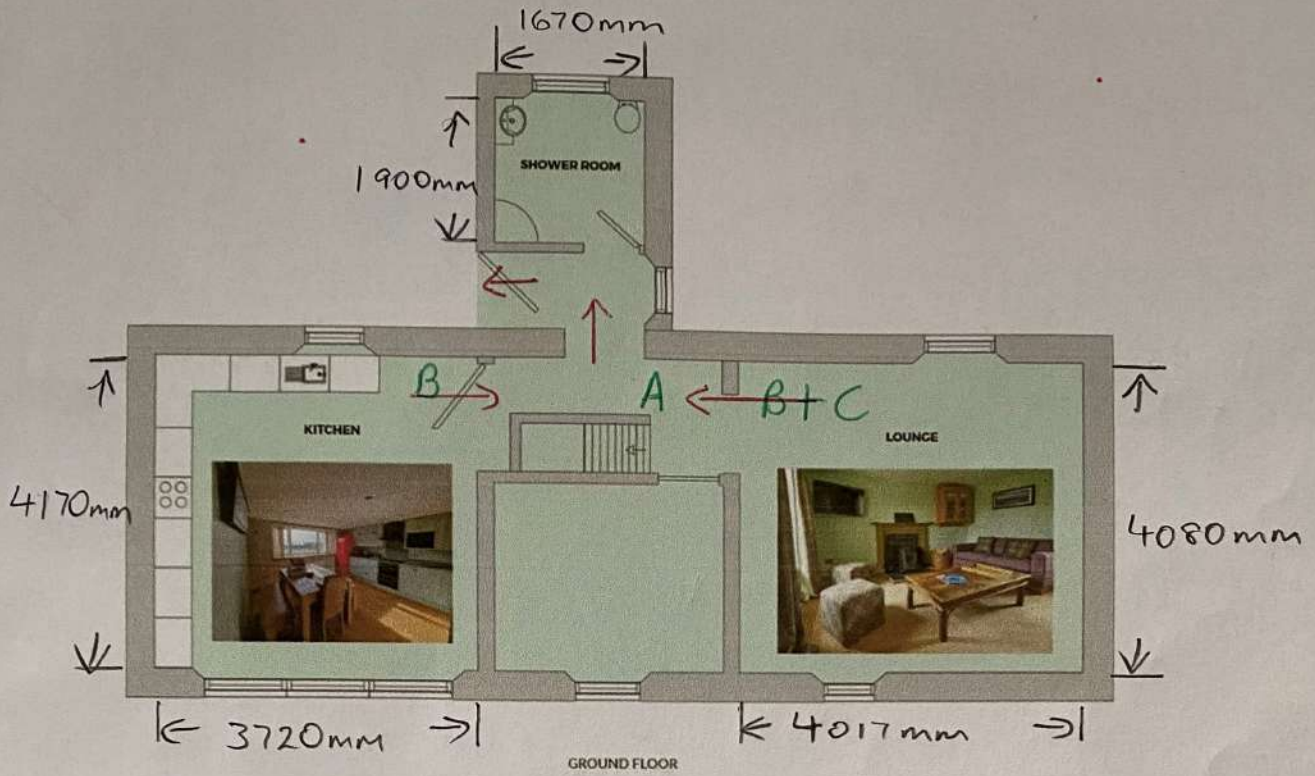
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1. Applicant Mr Elliot owns all ground surrounding Balnakeil House.
2. The Highland Council Glenurquhart Road, Inverness IV3 5NX.
3. Owner Scottish Government Estates Management, Saughton House, Broomhouse Drive, Edinburgh EH11 3XD.
4. Tenant Keoldales Sheep Stock Club, Grazing Secretary, Martin MacKay, Glengolly, Dumess, Sutherland.

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|---|-------------------------|---|--------------------------|---------------------------|-----------|
| Project Works at Balnakeil House for Mr Andrew Elliot | | ANTA Architecture | | | |
| Subject Site Location Plan with Neighbour Notifications | | Fearn • by Tain • Ross-shire • IV20 1XW Tel: 01862 832477 fax: 01862 832616 | | | |
| Scale 1:1250 | Date Dec 2021 | Drawn By | Project N° 490 | Drawing N° P001 | Revision: |

POINT

CATTLEMANS BOTHY PLAN



← FIRE ESCAPE ROUTE

A SMOKE ALARM

B HEAT DETECTOR

C CARBON MONOXIDE DETECTOR

MAXIMUM SLEEPS 4 FOR SHORT TERM LET PROPERTY
 NOT INTENDED FOR GUESTS WITH MOBILITY IMPAIRMENT