

**THE HIGHLAND COUNCIL**

**Committee:** THE HIGHLAND LICENSING COMMITTEE

**Date:** 25 February 2025

**Report title:** Application for the grant of a short term let licence – Cove Sea, Kyleakin, IV41 8PN (Ward 10 – Eilean a' Cheò)

**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 twelve months from receipt of the application to determine the same for existing hosts, therefore this application must be determined by 7 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 6 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 7 March 2024 a validated application for the grant of a short term let licence was received from Mrs Shelagh Fraser.
- 4.2 The property to which the application relates is Cove Sea, Kyleakin, IV41 8PN (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 the plan on page 2 of Appendix 1.
- 4.3 The application for the short term let licence has been made on the basis that the said Mrs Fraser will be the host/operator of the Premises. The host/operator has applied for a short term let licence as an 'existing host' on the basis that the Premises were operated as a short term let property prior to 1 October 2022.
- 4.4 Mrs Fraser 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 Fraser.
- 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 dwellinghouse comprising two bedrooms, a bathroom, kitchen and living room, 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 pages 3 and 4 of **Appendix 1**.

## **5. Process**

5.1 The application was circulated to the following Agencies/Services for consultation:

- Police Scotland; and
- Highland Council Environmental Health Service.

5.2 Police Scotland 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.

## **6. Highland Council Environmental Health Service**

6.1 On 28 March 2024 the Highland Council's Environmental Health Service lodged a representation to the application on the grounds that the applicant has not provided a valid and satisfactory Electrical Installation Condition Report to support the application. (**Appendix 2**)

6.2 Until the matter referred to at paragraph 6.1 above have been resolved, the Principal Solicitor – Regulatory Services cannot issue the short term let licence under delegated powers. As detailed at paragraph 3.2 the application requires to be determined by 7 March 2025.

## **7. Certificate of Compliance**

7.1 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 7 March 2024. No public objections have been received.

## **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 Highland Council's Environmental Health Service 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.
- 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**

- 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: 20 January 2025

Author: Maureen Duffy

Reference: [FS544356030](#)

Background Papers:

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

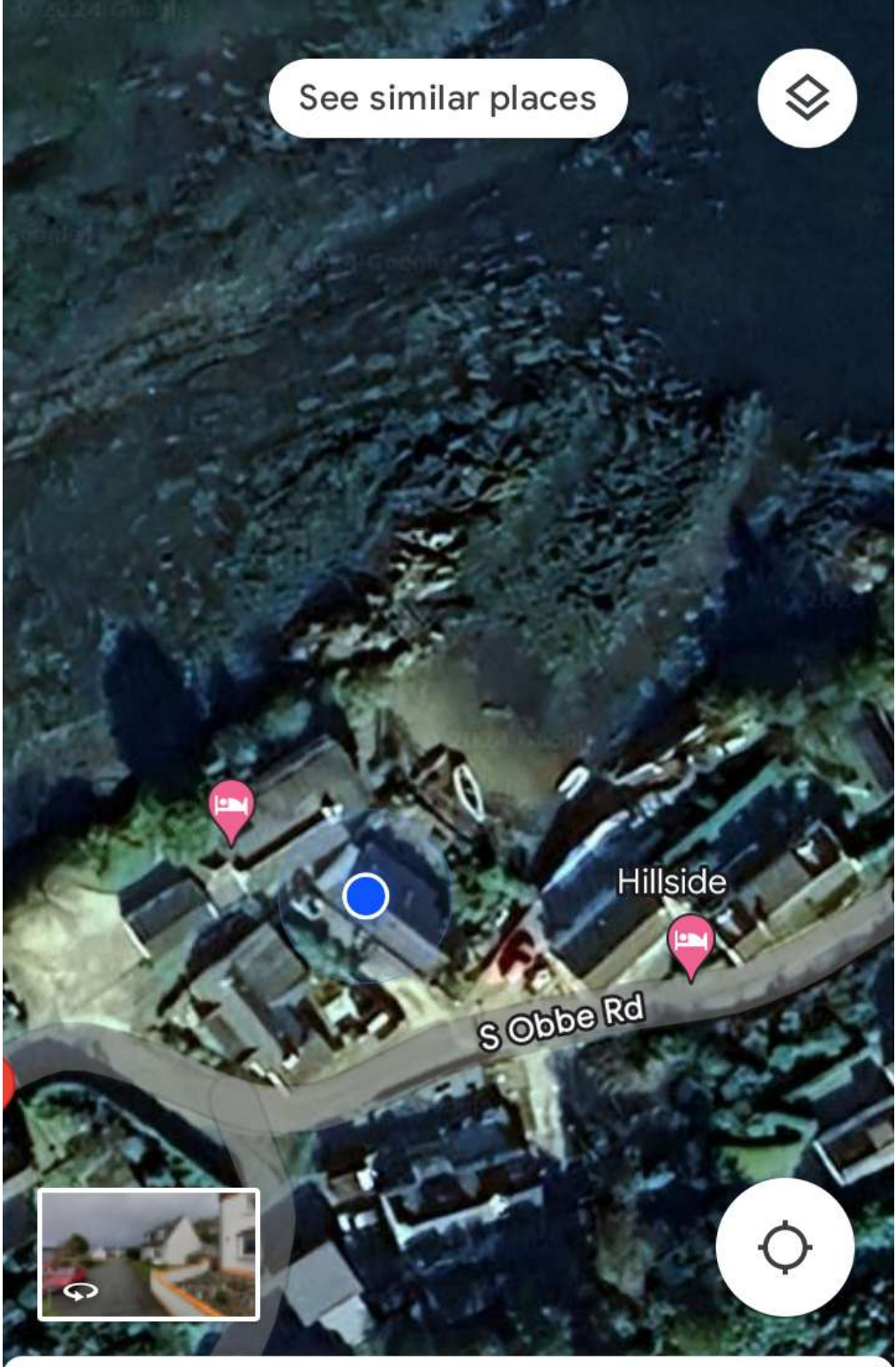
Appendix:

Appendix 1: Floor plan and site plan for the Premises.





Appendix 2: Representation from Highland Council Environmental Health Service received by email on 28 March 2024.

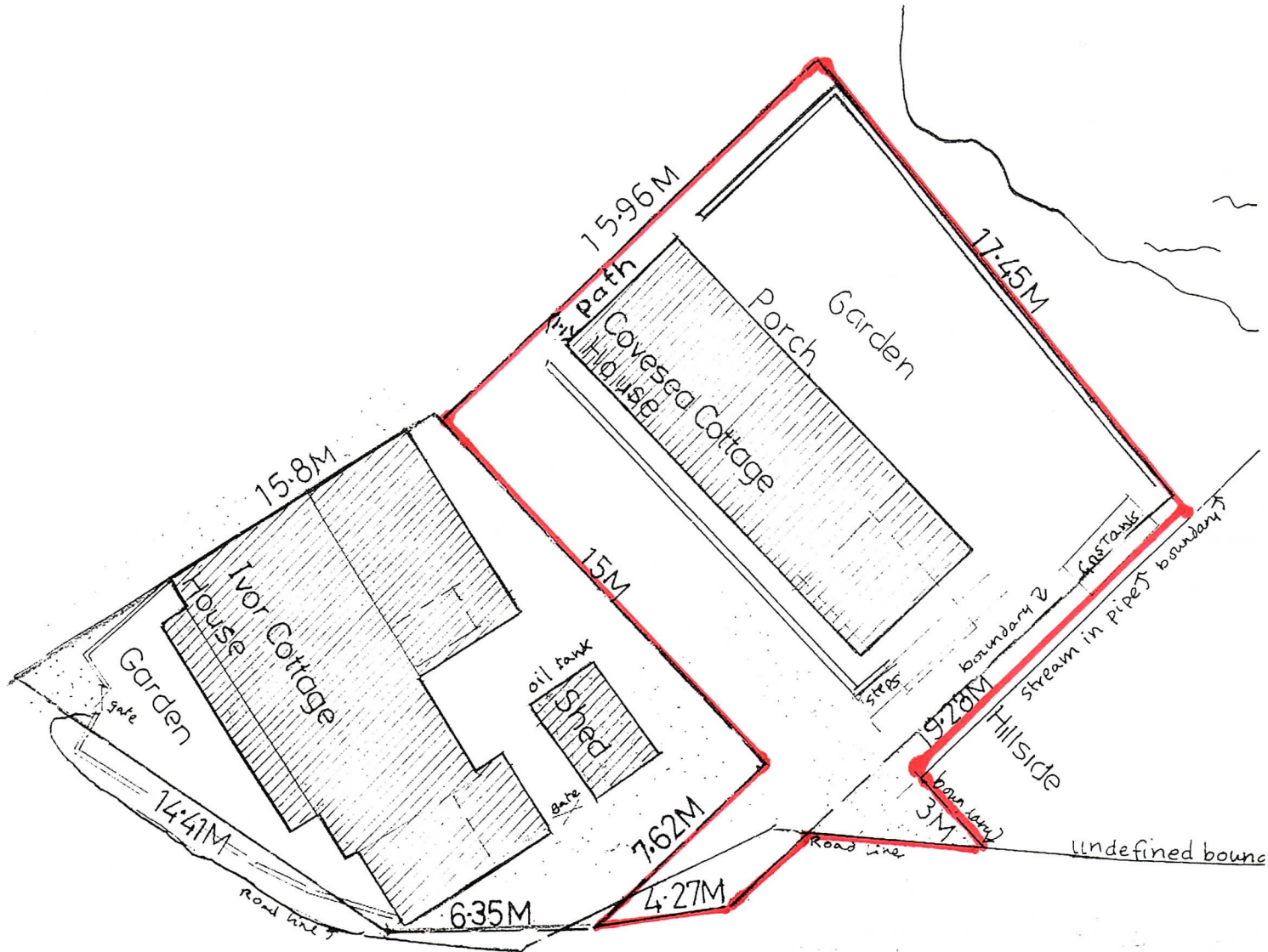
← Covesea Cottage, S O... X 

See similar places



Covesea Cottage

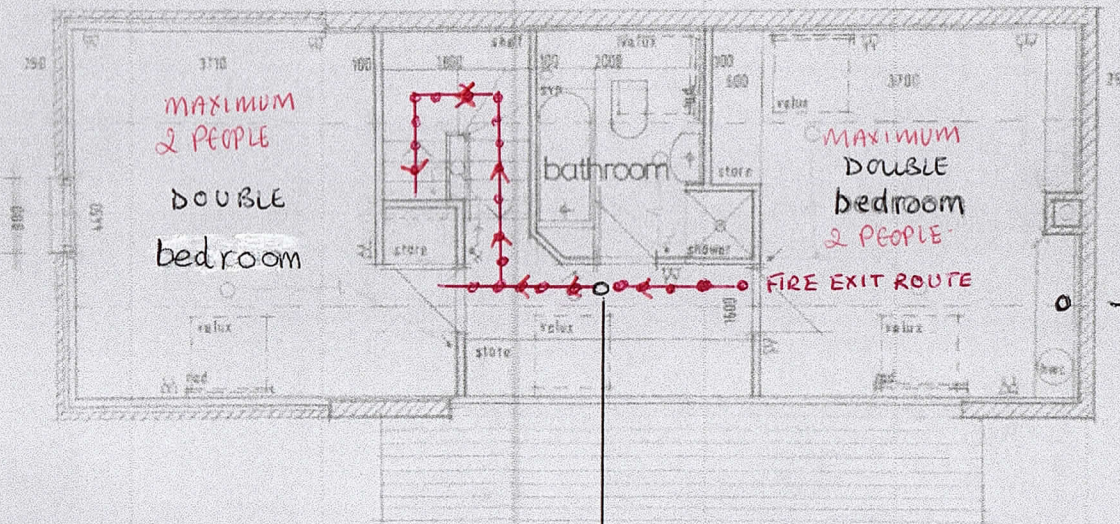
 Directions  Start  Save 



1:200







FIRST FLOOR PLAN 1:50

MAXIMUM OCCUPANCY 4 PEOPLE IN 2 DOUBLE ROOMS

FIRE ALARM

CARBON MONOXIDE MONITOR

'COVESEA' KYLEAKIN

J. & W. WITTET.  
 CHARTERED ARCHITECTS  
 8 MOSS STREET ELGIN MORAY  
 TELEPHONE 0543 3237/8

SCALE	DATE	DRG N°
	FEB 85	70.80.6
DRAWN BY	ALW	

COVESEA COTTAGE 1ST FLOOR.

## APPENDIX 2

**From:** Lisa Roberts (Environmental Health (West)) <[REDACTED]@highland.gov.uk>

**Sent:** 28 March 2024 13:56

**To:** STL Licensing <STL@highland.gov.uk>

**Subject:** Short term let licence - FS-Case-544356030 (Cove Sea Cottage)

Good afternoon,

Please see attached memo

Kind regards

Lisa Roberts

**Licensing Standards Officer**

Highland Council, S & L Community Services, Broom Place, Dunvegan Road, Portree, Isle of Skye, IV51 9HL

Telephone Number: [REDACTED] E mail: [REDACTED]

# Memorandum

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**To:** Principal Solicitor – Corporate Governance  
**From:** Senior Environmental Health Officer

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

**Date:** 28 March 2024  
Your ref: FS-Case-544356030  
Our ref: SR 198423

**Please ask for:** Lisa Roberts  
**Phone:** [REDACTED] **Email:** [REDACTED]

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**CASE REFERENCE:** FS-Case-544356030  
**SUBJECT:** Short Term Let Application

I refer to the recent consultation in connection with the above-mentioned Short Term Lets (STL) licence application.

The applicant specified that the **maximum number** of persons to be accommodated in the premises at any one time would be **four (4) persons**.

In making an assessment of this application our Service has undertaken the following process:-

- Checked accuracy of layout plans
- Checked supporting documentation & safety related certification (i.e electrical & gas inspection records)
- Checked relevant complaint history on Env Health database within previous 12months
- Completed a desktop assessment of application

Following this assessment process, I would confirm that our Service is satisfied that the premises meets the licence conditions based upon the occupancy figure stated.

I would confirm that our Service would be satisfied that the premises meets the licence conditions based upon our desktop assessment, however, our Pass Memo will be subject to:

- the submission of a 'satisfactory' Electrical Installation Condition Report carried out by a competent electrician.

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**Environmental Health/Licensing Standards Officer**

Community Services, The Highland Council Tec Services Office, Broom Place, Portree, Highland, IV51 9HL

**Phone:** 01349 886603 **Fax:** 01478 612255

**Email:** envhealth@highland.gov.uk **Web:** www.highland.gov.uk