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| Agenda item | 7.7 |
| Report no | HLC/38/25 |

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 25 February 2025

Report title: Application for the grant of a short term let licence – 2 South Erradale, Gairloch, IV21 2AU (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 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 2 April 2024 a validated application for the grant of a short term let licence was received from Mrs Iona Tibbitt.
- 4.2 The property to which the application relates is 2 South Erradale, Gairloch, IV21 2AU (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 1 of Appendix 1.
- 4.3 The application for the short term let licence has been made on the basis that the said Mrs Tibbitt 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 Iona Tibbitt and a Mr Alastair Tibbitt 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 Mrs Iona Tibbitt.
- 4.6 The type of letting which has been applied for is 'home sharing', which means the host/operator is using all or part of their own home for short-term lets whilst they are there.
- 4.7 The Premises are described as a detached dwellinghouse which can accommodate a maximum of four guests. Guest accommodation is on the first floor of the Premises, accessed by stairs to two bedrooms, a bathroom and a combined kitchen/sitting room.

In addition, there is an outdoor socialising area. This has a table and six chairs and a gravel ground covering and there is a charcoal BBQ available for guest use.

Floor plans of the Premises were provided by the applicant as part of the application process, and these can be found at **Appendix 2**.

5. Process

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

- Police Scotland;
- Scottish Fire & Rescue Service; and
- Highland Council Environmental Health Service.

5.2 Police Scotland, Scottish Fire & Rescue Service and the Highland Council's Environmental Health Service, 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 15 April 2024.

7. Public objections

7.1 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.

During the notice of display period, the following timeous objection was received and is attached as an Appendix to this report:

- Objection received by email on 3 May 2024 from Ms Kyrah Burr (**Appendix 3**).

8. Late Objection

8.1 The following objection was received after the 28 day period for objections had elapsed, namely on 13 May 2024, and therefore cannot automatically be considered by the Committee:

- Objection received by email on 17 May 2024 from Mr Philip Nicholson.

8.2 At the meeting Mr Nicholson will be invited to address the Members as to the reason why his 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.

8.3 If the Committee are minded to accept the late objection, copies 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 9.1 of this

Report, the Principal Solicitor – Regulatory Services will offer further advice or clarification to the Committee on such points.

9. Determining issues

9.1 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.

9.2 A copy of this report has been sent to the applicant and 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.

9.3 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:

[Licensing hearings procedures | Licensing hearings procedure \(Licensing Committee\) \(highland.gov.uk\)](https://www.highland.gov.uk/licensing-hearings-procedures)

10. Implications

10.1 Not applicable.

Date: 6 December 2024

Author: Maureen Duffy

Reference: [FS545118277](#)

Background Papers:

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

Appendices:

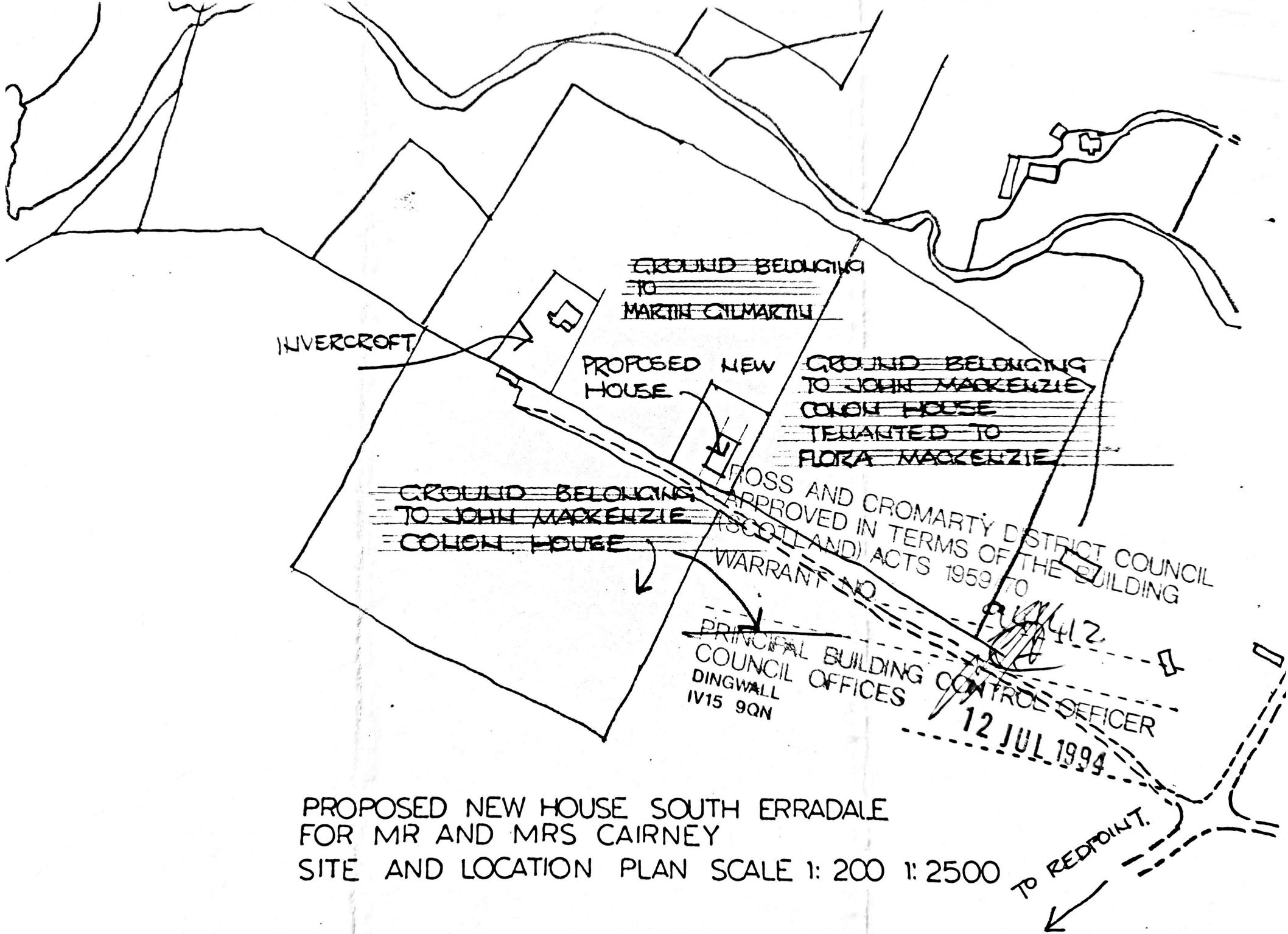
Appendix 1: Site plan detailing the extent of the Premises

Appendix 2: Floor plans for the Premises

Appendix 3: Objection received by email on 3 May 2024 from Ms Kyrrah Burr



Area outlined in red shows site boundaries of 2, South Erradale. IV21 2AU.



~~GROUND BELONGING TO MARTIN GILMARTIN~~

INVERCROFT

PROPOSED NEW HOUSE

~~GROUND BELONGING TO JOHN MACKENZIE COLON HOUSE~~
~~TEQUANTED TO FLORA MACKENZIE~~

~~GROUND BELONGING TO JOHN MACKENZIE COLON HOUSE~~

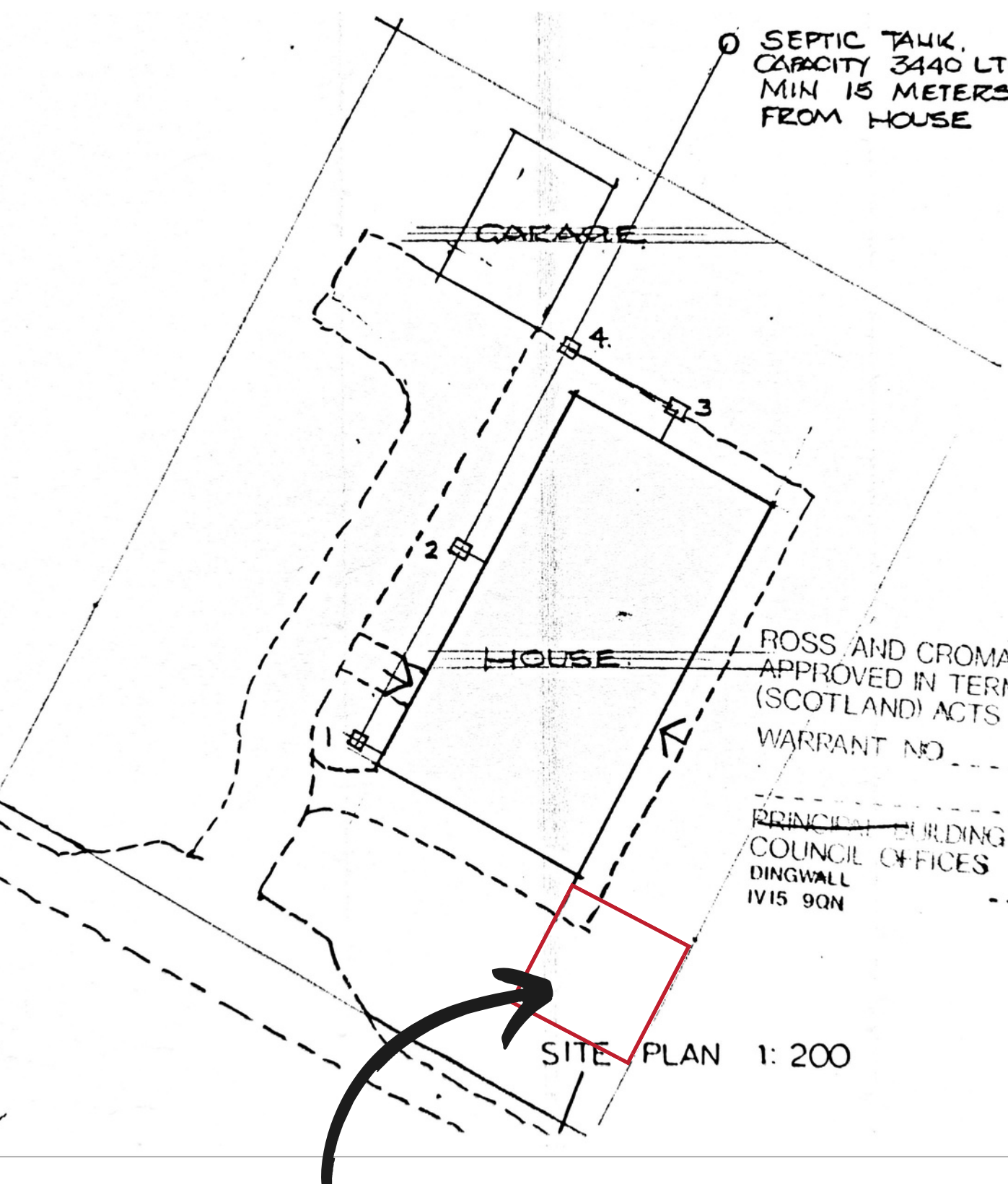
ROSS AND CROMARTY DISTRICT COUNCIL APPROVED IN TERMS OF THE BUILDING (SCOTLAND) ACTS 1959/70

WARRANTED
 PRINCIPAL BUILDING CONTROL OFFICER
 DINGWALL IV15 9QN
 12 JUL 1994

PROPOSED NEW HOUSE SOUTH ERRADALE FOR MR AND MRS CAIRNEY
 SITE AND LOCATION PLAN SCALE 1: 200 1: 2500

TO REDPOINT.

0 SEPTIC TANK,
CAPACITY 3440 LTRS
MIN 15 METERS
FROM HOUSE



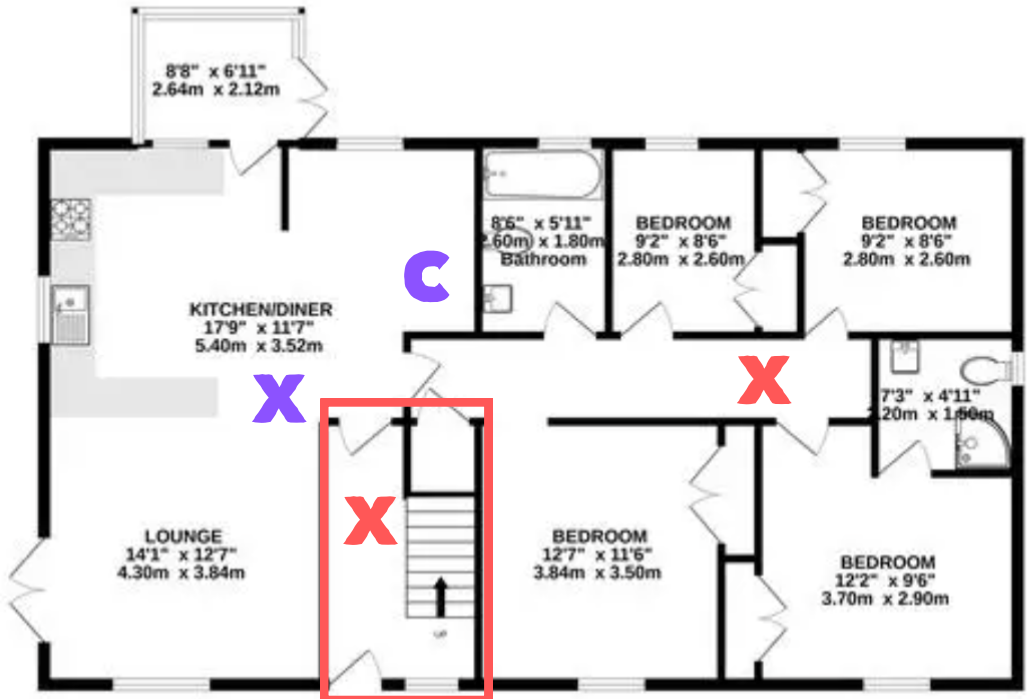
ROSS AND CROMARTY DISTRICT
APPROVED IN TERMS OF THE
(SCOTLAND) ACTS 1959/70
WARRANT NO. 94/100
PRINCIPAL BUILDING CONTROL
COUNCIL OFFICES
DINGWALL
IV15 9QN
12 JUL

Outdoor socialising area

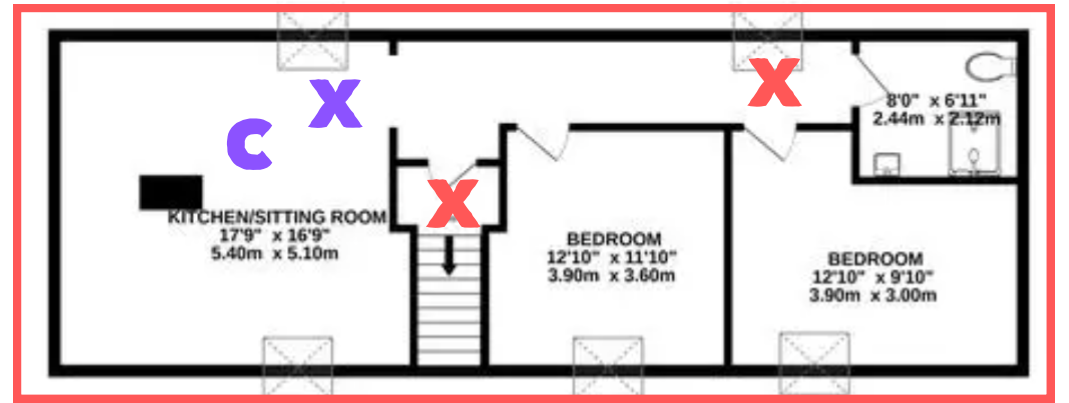
2, South Erradale floor plan

1. Guests have access to the first floor, the stairs and an internal entrance vestibule. These areas are outlined in red.
2. The maximum capacity of the STL accommodation is 4 persons. 2 people sleep in each bedroom.
3. The STL accommodation is not suitable for people with mobility impairments as it can only be accessed via stairs.
4. The fire escape route for guests is down the stairs and out of the external door at the foot of the same stairs. The external door has a keyless lock on the inside. The position of Carbon Monoxide, Smoke and Heat Alarms are indicated with coloured letters below.

GROUND FLOOR



1ST FLOOR



C = CO Alarm **X = Smoke Alarm** **X = Heat Alarm**

[REDACTED]

From: Kyrah Sheps [REDACTED]
Sent: 03 May 2024 12:47
To: STL Licensing
Subject: Short Term Let Concerns/Complaint

Categories: Objection, Martina

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.

Hello, I'd like to raise a few concerns I have regarding my next door neighbours property at:
2 South Erradale
Gairloch
IV21 2AU
Iona Tibbitt & Ally Tibbitt who run the air b&b at the above address.

Their waste water soak-away has failed due to the number of occupants they have on a daily basis, they have been pumping raw sewage onto our Croft Land surface for the last 2 years and have failed to maintain or fix the problem.

I note that they could have approximately 10 occupants in the house at one times due to the number of bedrooms they have listed on their air b&b, aswell as having 3 children and family staying at one time too. Their septic tank and soakaway can simply not keep up with the amount of waste water produced by the household. They were made aware of this before they bought the house in 2022 and have failed to maintain or fix the problem since. I do not think it is suitable for this property to run any sort of self catering accommodation due to this reason. They also do not have safe access to their property as our access road is in a blind summit and you can not see 90m in both directions. The amount of traffic on this access road due to this air b&b is unsafe.

I would request reviewing this and their license.

Yours Sincerely,
Kyrah Burr

[REDACTED]