



**MINUTES OF THE MEETING OF THE  
OF THE LICENSING SUB-COMMITTEE**

**THURSDAY 9 MAY 2024  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON  
& HYBRID ONLINE MEETING FACILITY**

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**Committee Members Present:**

Councillor C McGinn (Convener)  
Councillor J Findlay  
Councillor C McFarlane  
Councillor T Trotter

**Other Councillors Present:**

None

**Council Officials Present:**

Mr I Forrest, Senior Solicitor  
Ms S Fitzpatrick, Team Manager – Licensing and Landlord Registration  
Ms A Rafferty, Licensing Officer

**Others Present:**

None

**Clerk:**

Ms B Crichton, Committees Officer

**Apologies:**

Councillor J McMillan and Councillor C Cassini

**Declarations of Interest:**

None

**1. MINUTES FOR APPROVAL**  
**a. Licensing Sub-Committee, 18 April 2024**

Members approved the minutes as an accurate record of the meeting.

**2. APPLICATION FOR GRANT OF A LICENCE TO OPERATE A SHORT-TERM LET**  
**a. 35E Edinburgh Road, Musselburgh**

An application had been received from Montgomery Empire for a licence to operate 35E Edinburgh Road, Musselburgh, as a short-term let (STL). The application would be heard by the Licensing Sub-Committee on the basis that public objections had been received. The Sub-Committee was required to focus on the suitability of the property to operate as an STL, and on the applicant to hold an STL licence.

Ian Forrest, Senior Solicitor, highlighted the number and terms of the public objections. He confirmed that no objections had been received from any of the statutory consultees. He advised of the impact of a recent court decision in Edinburgh which, in summary, said that in determining an STL licence application, the Sub-Committee should not look at matters already addressed as part of the planning process. He advised that two applications had been made to obtain Certificate of Lawfulness, but as neither had been deemed to be valid, the planning situation remained unresolved; carrying on business prior to resolution could leave the applicant open to enforcement action.

Alan Montgomery spoke to the application, and was accompanied by Leanne Montgomery. He began by advising the Convener that there was no reason that the planning situation had not yet been resolved, and said that this was just an outstanding task. He provided background information and a description of the property, which he had used as an STL since September 2022. He highlighted positive reviews from guests, and addressed various points raised in the public objection. He advised that house rules were emailed to guests prior to arrival, and they also received a text. He advised that smoking was banned in the stairwell and a fine, administered by Airbnb, could be imposed on guests who broke this rule. He would strengthen the message to future guests to use the green bin for cigarette ends. Responding to reports of noise disturbance, overconsumption of alcohol, and threatening behaviour, he said he screened guests prior to their arrival to confirm the purpose of their stay, and he did not allow stag and hen parties. He addressed two incidents with specific groups of guests and said they had apologised. He advised that the house rules stated that quiet times in the property were between 11pm-8am, and that access to the drying area at the back of the property was strictly prohibited. He had asked guests to be respectful of residents when moving their cases on the stairwell. He suggested that laminate flooring could be replaced by carpets, and said Mrs Montgomery sorted the bins at the property. He summarised that they did their utmost to be good neighbours.

Responding to questions from Members, Mr Montgomery advised that he had been abroad when a party at the property had been stopped by police, and only became aware of the incident in the following week. He had contacted the guest, who had reported that no complaint of noise had been made to them prior to the police's arrival; they had been surprised at the police's arrival as there had had only been a few people talking loudly. Mr Montgomery advised that his parents lived only 200m from the property, there was a handyman to carry out jobs, and he had a manager who

looked after clients and any issues when he was on holiday. He confirmed that his application was for a self-catering secondary letting apartment, and reiterated that the property had operated as an STL for 20 months.

Maxine Wood represented her own household and her neighbours in speaking against the application. She said that she was on good speaking terms with Mr Montgomery, and had previously made representation to him personally. She described the STL as having been problematic from the beginning, and said Mr Montgomery did not contact neighbours to explain that the property would be used as an STL. She reported problems with parking, which was restrictive in the area, and said that STL guests tended to leave their vehicles for long periods in the five bays in front of their flats. She described the bins as having been problematic even before the move to a three-week uplift cycle, and said that they were always full and overflowing. When guests could not get their rubbish into the STL's bins, they would put rubbish in neighbours' bins. She acknowledged that Mr Montgomery's parents had attended to clear up on one occasion, but said the issue with bins was generally not sorted. She recounted having asked Mr Montgomery to meet guests upon their arrival, but reported that Mr Montgomery had responded that it would not be convenient for him to do so. She said that the noise caused issues to neighbours, and reported that police had once confirmed that there had been 20 people in the flat who had clubbed together to hire the property for a night. She also reported that a hen party had jeered at a resident when they came home, and also advised of issues of public urination, and of smoking cannabis in the back garden. She complained of personal comments made about one of the residents by Mr Montgomery. She also raised concern about fire safety, particularly when there were narrow stairs and one of the residents had a physical disability.

Responding to questions from Councillor Trotter, Ms Wood said that one of the residents had blocked Mr Montgomery's communications as she had found them upsetting, and had also been to the police on three occasions. Ms Wood said that there was no track record of Mr Montgomery being willing to improve the situation for residents.

Responding to further questions from Councillor Trotter and the Convener, Mr Montgomery suggested that noise could be controlled by fitting carpets in the flat, and by installing a Ring doorbell; this device could count heads entering the property and alert Mr Montgomery if capacity was exceeded. He also suggested it would be possible to install noise monitoring equipment. He advised that he did not hire the property out for one night as a rule, and provided statistics which showed that more than half of the stays were for two nights, and 21% were over five nights. He suggested that it could be possible to increase the minimum number of nights guests could book for decrease the chances of the property being used as a party venue. There was discussion about instances of the flat being hired out for only one night, or to more guests than the maximum capacity of six, and Councillor Trotter pointed out that Members had to consider whether Mr Montgomery was a fit and proper person to hold an STL licence.

Councillor Trotter and the Convener both expressed concern about the catalogue of issues raised. Responding to a question from Councillor Trotter, Mr Forrest advised that conditions could be imposed where Members saw fit and where there were reasons to do so, however, there was not power under legislation to limit the number of days per year the property could be let.

Following further discussion, Mr Montgomery reiterated his suggestions that noise could be decreased by fitting carpets, and capacity could be controlled by installing a

camera. He said he wanted to be able to continue his business and was keen to make changes to reduce noise and other issues. Ms Wood responded that Mr Montgomery had to be available if residents called him to report an issue.

The Convener commented that there had been a catalogue of issues built up in only 20 months. He felt that some of these issues could have been avoided if respectful discussions had taken place with neighbours. He felt that responsiveness to issues had to improve. Mr Montgomery advised that he lived a 10-minute drive from the property.

The Convener was keen to impose conditions relating to noise monitoring, a Ring doorbell, and changing the flooring to decrease noise. He would not wish to grant the licence unless residents could have some comfort that some of these issues would be addressed. Mr Forrest advised that actions requiring installations of a Ring doorbell and carpeting could be evidenced and enforced, but it would be difficult to judge whether dialogue between parties was ongoing and working. He reminded Members that conditions had to be measurable.

The Convener suggested that house rules should be sent out to guests, including contact details, and that neighbours should have a copy. He said rules should explicitly highlight respect to neighbours, and responsibilities of the guests with regards to waste and parking. He also felt that installation of a Ring doorbell, carpeting, and noise monitoring equipment was also necessary.

Councillor Trotter added that Mr Montgomery was also responsible for trips to the recycling centre when needed. He also felt it would be appropriate to grant the licence for a shorter period.

The Convener proposed various conditions, as noted below, and these were seconded by Councillor Trotter.

Sheila Fitzpatrick, Team Manager – Licensing and Landlord Registration, advised that a timeframe for completion of the proposed installation actions should be added. Mr Montgomery proposed that this work could be completed within one month.

The Convener moved to a roll call vote on the application for a period of 18 months, including the proposed conditions. Members unanimously supported the application on this basis.

## **Decision**

The Sub-Committee agreed to grant the licence for a period of 18 months, subject to the following conditions:

- A Ring doorbell and noise monitors must be installed within one month from the grant of the licence;
- Flooring to be replaced to reduce noise within one month from the grant of the licence;
- House rules which highlight the above concerns to be developed and a copy shared with guests and neighbours.
- Licence holder to ensure bins do not overflow; and

- Licence holder to ensure guests know where they can and cannot park.

**b. 19 Old Abbey Road, North Berwick**

An application had been received from Steve Coyle for a licence to operate 19 Old Abbey Road, North Berwick, as an STL. The application would be heard by the Licensing Sub-Committee on the basis that public objections had been received. The Sub-Committee was required to focus on the suitability of the property to operate as an STL, and on the applicant to hold an STL licence.

Mr Forrest highlighted the number and terms of the public objections. He confirmed that no objections had been received from any of the statutory consultees, and highlighted that planning consent was not required for this property. He advised that a late objection had been received, and that it was within the remit of the Sub-Committee to accept and consider this late objection. He also highlighted Mr Coyle's responses to the original objection and the late objection.

Members unanimously agreed to consider the late objection.

Mr Coyle spoke to the application. He highlighted an issue with the public register of short-term lets which showed that the application had been granted, and Ms Fitzpatrick confirmed that this clerical error had since been corrected. Mr Coyle noted that there had been no objections from statutory consultees. He addressed issues raised in the original objection from Mr McFarlane. He acknowledged that the houses overlooked each other, but said that no paths were blocked, and the only property which had to walk past the STL was unoccupied. Mr Coyle advised that the Council had installed a communal light, but Mr McFarlane had asked that use of an internal light was ceased, which Mr Coyle considered to be a step too far. He said that issues where a neighbour had taken down a fence at the end of the garden had been resolved amicably. Responding to the late objection from Dr Bennett, he noted that some guests did bring dogs, and Dr Bennett also had a dog. He advised that some messages had been received about noise, and commented that noisy people could live anywhere. He said that little could be done about issues with cars as the property was on a public road. He said that the rear garden was treated communally but was technically split, and he undertook mowing the lawn. He said that an issue with a teenager smoking cannabis had been dealt with immediately, and expressed that there would be no tolerance for such behaviour when the cottage was geared up for use by parents and children. He highlighted that the property had a large number of very positive reviews. He acknowledged that some people did not wish to have a letting property next door, but said that he presented a good property which was well looked after, and said there were good relationships with neighbours.

Councillor Findlay asked whether Mr Coyle would be content to accept a 'no dogs' condition. Mr Coyle highlighted conditions of use which stated that only one small dog was allowed, and that dogs could not be off their lead. He highlighted that dog ownership meant a lot to people, particularly since the pandemic, and he would prefer that current conditions of use relating to dogs be allowed to remain.

Responding to a question from Councillor McFarlane, Mr Coyle advised that he emptied bins after every let so that guests would arrive to an empty bin. He highlighted the positions of his and his neighbours' bins and recycling boxes; he commented that he found it odd that anyone would be depositing rubbish in his neighbour's bin when the bin in question sat inside his own property.

Responding to questions from the Convener, Mr Coyle advised that there was no agent, but he ran a property management company in Edinburgh and was confident in the running of the STL. He lived 25 minutes away from the property by car, and checked the property after every let. He advised that he was the point of contact with neighbours, and they were regularly in touch about arranging maintenance of properties, etc. Mr Coyle commented that they all got along well.

The Convener moved to a roll call vote, and Members unanimously supported the application.

**Decision**

The Sub-Committee agreed to grant the short-term let licence.

**c. 5 Eskview Terrace, Musselburgh**

Transport colleagues had confirmed prior to the meeting that they did not object to the application, and therefore the application was not required to be heard by the Sub-Committee.

**d. 1 Seton Place, Port Seton**

Transport colleagues had withdrawn their objection following submission of further information by the applicant, and the Sub-Committee was therefore no longer required to hear the application.

Signed

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Councillor C McGinn  
Convener of the Licensing Sub-Committee