



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

**THURSDAY 20 AUGUST 2024
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID ONLINE MEETING FACILITY**

Committee Members Present:

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

Other Councillors Present:

None

Council Officials Present:

Mr I Forrest, Senior Solicitor
Ms S Fitzpatrick, Team Leader – Licensing and Landlord Registration
Ms A O'Reilly, Licensing Officer

Others Present:

None

Clerk:

Ms B Crichton, Committees Officer

Apologies:

Councillor C Cassini
Councillor T Trotter
Councillor J McMillan

Declarations of Interest:

None

1. APPLICATION FOR GRANT OF A LICENCE TO OPERATE A SHORT-TERM LET
a. St. Aidan's, Abbotsford Road, North Berwick

An application had been received from James Westwood for a licence to operate St. Aidan's, Abbotsford Road, North Berwick 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 terms of the public objection. He confirmed that no objections had been received from any of the statutory consultees, but that the Planning Authority had indicated they would require additional information.

Members agreed to accept the late objection after the objector, Laura Cram, explained the reasons it had been submitted late.

Ross Armstrong, Mr Westwood's agent, spoke to the application. He acknowledged that the objection related to impact on residential amenity from short-term letting. He explained that the property was let for approximately 80 days per calendar year, and said the applicant made effort to avoid causing undue disturbance to neighbours. Mr Armstrong highlighted that other neighbours did not recognise the issues described within the objection. He explained that there were house rules in place, and that the property did not operate a key box system because guests were all met in person. He explained that the applicant was committed to continuing open lines of communication with neighbours, but also did not recognise the disruption described, and suggested that there may be a subjective element to some of the concerns raised. Mr Armstrong stated that there had been a site notice, and refuted that the property had ever been put to unlawful or inappropriate use during the period of lockdown. Regarding the planning status of the property, Mr Armstrong advised that the applicant had never been served with a Paragraph 2(a) 'refusal to consider' notice, nor an Article 7(4) Notice, asking that the planning status be formalised; as such, it was felt that the planning status was not material to the licensing deliberations.

Mr Armstrong and Mr Westwood responded to questions from Councillors Findlay and McGinn. Mr Armstrong explained that although the short-term let licensing scheme could not be used to limit the number of nights a property could be let, Mr Westwood had no plans to put the property into year-round STL use or to materially increase the number of nights when compared to current use. Mr Westwood continued to use the property for his family's accommodation because he lived and worked abroad for part of the year. Mr Westwood advised that he was in the process of finding another full-time house manager. There was also involvement from Lettings of Distinction and Reserve Apartments.

Responding to a question from Councillor Findlay, Sheila Fitzpatrick, Team Leader – Licensing and Landlord Registration, confirmed that the application had been changed to secondary letting.

Ms Cram spoke against the application. She addressed there being no other objections from neighbours as being due to the situation of her property when compared to other neighbours, and gave examples of disturbances she had experienced. She reported having seen a group as large as 14 persons at the property, and felt that having multiple families coming together on holiday was quite different to living next door to an average family home. She explained that large

games of football had been played in the front garden, people often drank into the early morning, there was a lot of loud swearing, and that people were celebrating whenever they came to stay. She reported that people had stood looking in her window, and people had come onto her property. She said her family had concerns over privacy, security, and noise. She advised that she had not contacted the owner since submitting her formal complaint, and said he was unable to answer right away because he lived abroad.

The Convener pointed out that the Sub-Committee had to make decisions based on evidence, and highlighted that there were no objections from the Antisocial Behaviour Team or from Police Scotland. Ms Cram responded that she had emailed the Council about her concerns, and officers had stated that she would have to make reports to Police Scotland. Ms Cram said she had not wanted to go to the police about her neighbours, but felt she could have done in the circumstances. She said she had raised concerns with the owners over WhatsApp. She also advised that the house had originally been advertised as being a perfect place to hold celebrations. She summarised that people in large groups were very loud, and reiterated that living next to an STL was nothing like living next to a family.

The Convener then moved to a roll call vote. Votes were cast as follows:

Grant:	2	(Councillors McGinn and McFarlane)
Refuse:	1	(Councillor Findlay)
Abstain:	0	

Decision

The Licensing Sub-Committee agreed to grant the licence.

b. 2E East Road, North Berwick

An application had been received from Lucy Deely for a licence to operate 2E East Road, North Berwick as a short-term let. 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 advised that planning consent had been refused, and that short-term letting would not be permissible unless that decision was appealed and reversed; however, he also reminded Members that this was a matter for the Planning Authority. He also reminded Members that objections relating to title deeds were a civil matter between neighbours.

Lucy Deely and David Rodger, co-owners of the property along with their brother Paul Rodger, spoke to the application. Ms Deely explained the owners' reasons for letting the property since 2021, and advised that the property was also used by family. She felt the property provided a high standard of accommodation and said that positive feedback had been received from guests. She addressed some of the objections received, and suggested that: the garage could be restricted only to family use; check-in and -out could be kept to agreed times; door closing mechanisms could be installed; and a waste management company could be employed. She stressed that neighbours

could contact her at any time, and said she was grateful for her neighbours' positive interactions with guests.

Ms Deely answered questions from Councillors Findlay and McGinn. She suggested that guests could be prevented from using the turning circle if this was stated in the welcome pack, and guests could carry their belongings from a local car park; she acknowledged that since the gates were in common use, this could not be enforced, but reiterated that use of this area would not be offered to guests. She advised that there was a small garage up the lane, or guests could instead park at the local parking facilities. She strongly refuted that the family previously residing at the property had been made homeless so that the property could operate as an STL. She suggested that check-in times could be restricted to 4pm-9pm in the evening, and check-out times could be 10am-12pm.

Frank Bigwood spoke against the application. He began by noting typographical errors in his objection and noted their corrections, including the date of the title deeds as being 1972, and an address error. He stated that his was one of eight flats which all had the same title deeds; he felt that running a business and taking payment for use of the STL was contrary to a condition in the title deeds common to all the flats. He felt the building was unsuitable for STL use, as parts of it were 500 years old and would suffer from the constant comings and goings of guests. He explained that all outside doors had to be kept locked against unauthorised visitors and against rats. He felt the house's proximity to the park also meant it was vulnerable if doors were kept unlocked. He was of the view that the owners had not used the property for many days. He also raised concerns about waste disposal, which caused significant upset amongst the residents.

Responding to a question from Councillor Findlay, Mr Bigwood agreed that having a local agent in North Berwick would ease some concerns, but not all. He advised that the land around the house belonged to East Lothian Council; it was not possible to park in front of the building, or on the land in front of the garage, which belonged to another flat.

Jane Thomas spoke against the application. She noted that the planning permission appeal was due to be heard in the following month. She stated that the 'turning circle' was not to be used as such, and was, in fact, a public area. She referred to a photograph of the area; she reported on many near misses and was extremely concerned that someone could be hurt. She advised that the gates could not be locked. As well as expressing safety concerns, she also felt that the economic impact of STLs had been significantly overstated. She referred to a report commissioned by the North Berwick Environment and Heritage Trust, where it was considered that 50% of the properties in North Berwick town centre were STLs. She highlighted various businesses that STL guests would not use, and reiterated that the economic benefit had been overstated. She felt that having an STL property in a shared access stair was not appropriate, and was not a good way to build community. She stated that the arrival of STL guests had been the first time she had experienced problems in her years living in the house.

Responding to questions from Councillors Findlay and McGinn, Ms Thomas stated that other residents did not use the area outside of the house unless there were special circumstances, such as a tradesperson carrying out work. She explained that the area was considered sacrosanct because it was a public park.

The Convener, Councillor Findlay, and Mr Forrest discussed potential conditions that could be added to the licence. Councillor Findlay suggested that the Sub-Committee

require a local agent to be appointed, and that the licence be granted only for a period of one year so that the conditions could be put in place. Various conditions, noted below, were formally proposed and seconded by Councillors Findlay and McFarlane, respectively.

Decision

The Licensing Sub-Committee agreed to grant the licence for a period of one year, subject to the following conditions:

- Door closing mechanisms to be installed on exterior doors;
- Guests' conditions to include no vehicle access to the shared space at the front of the building;
- A local management agent to be appointed; and
- A waste management contractor to be employed.

c. 2B Brighton Terrace, Gullane

An application had been received from Caddyshacks Ltd. for a licence to operate 2B Brighton Terrace as a short-term let. 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. 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 also highlighted the secondary pack of information submitted by the applicant's representative.

Niall Hassard, agent, spoke to the application on behalf of the owners, and was accompanied by his client, Stuart Haddow. Mr Hassard provided background information on the property's operation as an STL, which was aimed at golf tourism in Gullane. He highlighted the property's excellent feedback from guests, and advised that occupancy was at only 31% because the owners also wanted to be able to use the property themselves. He advised that the property could accommodate eight guests, but an average of five or six guests generally stayed. He referenced a complicated planning situation, but noted that there had been no objections from the statutory consultees. He reported that the owners had a good relationship with the objector, Mr Hopley, and had responded in a timely manner to concerns over minor damage in the shared area. Mr Hassard suggested the assertion that a flatted dwelling was unsuitable for short-term letting was contradictory to the objector's own business portfolio.

Mr Hassard responded to questions from Councillors Findlay and McGinn. He explained that the brother of one of the owners lived 30 minutes away, and another brother lived in Gullane. He explained that neighbours and guests also had the contact details of one of the owners, Stuart Haddow.

Councillor Findlay suggested that the submitted photograph showing a low parking demand at the height of season was disingenuous, and Mr Hassard responded that demand varied, but was nevertheless outwith the control of the applicants when there was no enforced permit or pay and display system. On noise levels, Mr Hassard advised that expectations were set out at the point of booking and in follow-up information sent to guests. He said that complaints were rare, but that one of the owners' brothers could respond very quickly if required. Mr Haddow advised that a noise monitoring system was in place to proactively manage issues, and the owners could get in touch with guests should noise become excessive. Mr Haddow reported that the app showed that spikes in noise were rare.

Martin Hopley spoke against the application. He responded to remarks made about his own business portfolio, and stated that his STL licence was on a student flat for use in summer, in an area surrounded by properties in similar use. Mr Hopley felt that reports that the Gullane property had been granted a Certificate of Lawfulness should be regarded as disingenuous due to the complicated planning history. He described the central stairwell, which acted like an echo chamber, and described the movements of guests which caused noise disturbance. He stated that the company was not registered in East Lothian, that there was no local management of the building, and that guests were not met face-to-face. He reported that workers staying in the property had originally smoked in the building, and then in a neighbours' shed. He thought it was not appropriate that neighbours would have to contact the police to report issues and manage the property on behalf of Caddyshacks. He also raised issue with damage to the stairwell and waste being left by guests.

Mr Hopley responded to questions from the Convener. He reported that people had knocked on his door late at night when unable to gain access to the flat, and said he was not comfortable with so many strangers being in the flat regularly. He also noted safety concerns because the stairwell was so far off the street, and he advised that he had reported some of his concerns to the owners.

Councillor Findlay asked whether the owners had considered employing a local management company. Mr Haddow responded that the owners wanted to provide a more personal service; although they would consider hiring a management company, he said the owners had exacting standards. Mr Hopley responded that the owners were not coming out to fix issues late at night, such as when guests used tumble driers at unsociable hours. Mr Hassard highlighted the letters of support from other neighbours.

Councillor Findlay acknowledged the need for STL accommodation, but felt that the lack of a local management company meant that Mr Hopley could not call anyone when issues arose late at night. He formally proposed that the licence be granted for a period of one year to give the applicants a chance to hire a local property management company. This was formally seconded by Councillor McFarlane.

The Convener then moved to a roll call vote, and Members unanimously agreed to grant the licence for a period of one year.

Decision

The Licensing Sub-Committee agreed to grant the licence for a period of one year.

Signed

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Councillor C McGinn
Convener of the Licensing Sub-Committee