



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

**WEDNESDAY 28 AUGUST 2024
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID ONLINE MEETING FACILITY**

Committee Members Present:

Councillor J McMillan (Depute Convener)
Councillor C Cassini
Councillor C McFarlane
Councillor L Bruce (sub. Councillor J Findlay)

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 J Findlay
Councillor T Trotter
Councillor J McMillan

Declarations of Interest:

None

1. APPLICATION FOR GRANT OF A LICENCE TO OPERATE A SHORT-TERM LET
a. 8 Maule Terrace, Gullane

An application from Ben Taylor-Robinson for a licence to operate 8 Maule Terrace, Gullane as a short-term let had previously been granted as a home letting licence. Following review of the documents, and specifically the address which had been provided on the application as Mr Robinson's home address, a secondary letting licence had instead been granted. Following further correspondence, a home letting licence had once again been granted, and the matter had been called before the Licensing Sub-Committee to make a final determination on the type of STL licence.

Ian Forrest, Senior Solicitor, highlighted email correspondence from Mr Robinson, the licensing team, and the planning service. He pointed out that the licensing team were of the view that secondary letting was the most appropriate type of licence in the circumstances, and advised that the hearing had been called to seek clarification from Mr Robinson.

Mr Robinson outlined the history of the STL licence types granted, of which a home letting licence was currently in place. He stated that the Gullane property was his only home; another home previously owned in Glasgow had been sold in the previous year. He advised that the couple had purchased the Gullane property, which was their only home in the UK, and moved in in December 2023. They had made an STL application in early 2024 to cover the running expenses of their home while they travelled and worked abroad. He stated that he had not paid second home stamp duty when purchasing the property, and that HMRC considered the Gullane property to be his main residence. He also informed Members that he had no right to reside anywhere else in the world.

Mr Robinson responded to questions from Members. He advised that he filed taxes in the UK and in other jurisdictions; he spent much of his time travelling, but only had the ability to live in Gullane. He had recently spent a long time residing in Gullane and did not know whether he might repeat this again soon. He explained that the addresses in Singapore had been given on the application only as a convenient correspondence address and so that guests in the Gullane property would not have access to his personal mail. He explained that the headquarters of his employer were based in Singapore, but he could also have letters directed to other locations in Asia dependant on his work location. He reiterated that he was not domiciled anywhere else other than the UK. He expected that the property would be let on average for two bookings per month for around three-to-four nights at a time.

Councillor McMillan commented that the Council was dealing with new legislation, and felt it was right for the Licensing Sub-Committee to discuss this case. On the balance of evidence, he was content to consider the Gullane property as Mr Robinson's main home, and would therefore be content for the home letting licence to remain in place.

Mr Forrest clarified that the three licences granted had been that of a home letting licence, a step to amend to a secondary letting licence, and then a reversal of that step to amend back to a home letting licence. If Members were minded to accept the current position of a home letting licence, then this licence would remain in place.

Councillors Bruce and McFarlane agreed with Councillor McMillan's conclusions on the matter.

Councillor McMillan then moved to a roll call vote, and Members unanimously agreed that the current home letting short-term let licence would remain in place.

Decision

The Licensing Sub-Committee agreed that no action would be taken and the current home letting short-term let licence would remain in place.

b. Coach House, Strathearn Road, North Berwick

An application had been received from Rebecca MacLellan for a licence to operate Coach House, Strathearn Road, North Berwick as a short-term let (STL). The application would be heard by the Licensing Sub-Committee on the basis that a public objection had been received. Members were 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 terms of the public objection. He confirmed that no objections had been received from any of the statutory consultees. He advised that the planning service had indicated that planning permission was not required for the proposed use of the property, providing that a maximum of two bedrooms were let.

Rebecca and Andrew MacLellan spoke to the application. Responding to the submitted objection, Mrs MacLellan pointed out that traffic associated with the application would be infrequent because they did not plan to let the rooms out throughout the whole year. She advised that sewing classes she had previously run had now stopped, so there were no longer vehicle movements associated with this use of the property. She also highlighted other nearby properties which were advertised for letting purposes.

Responding to questions from Councillors Bruce and McMillan, Mr and Mrs MacLellan explained that up to four guests could be present if both rooms were let at the same time, and Mr MacLellan described the operation as being extremely small in scale. He also expressed concern about noise, and said he would communicate with the next door neighbour regarding the shared drive. Appropriate times for coming and going to the property would be agreed, and Mr MacLellan advised that it was intended only to let the rooms only in the summer months. He noted that living next door to a full-time STL property affected his family, but conceded that North Berwick was a popular place for visitors. He advised that his family would manage the property most of the time, and they would plan to employ an agent to manage the property when they were away.

Andy Blair spoke against the application. He pointed out that the application was unclear as to whether there would be home letting or home sharing. He also noted that the full-time STL on the street had a shared driveway with multiple other properties, whereas the Coach House had a shared drive with only his property; thus, any commercial impact on footfall would have a direct implication on his ability to enjoy some of the spaces within his home. He said it was not possible to put a fence line in the driveway, and the application would have a direct impact on his privacy. He summarised that the application was for the wrong property in the wrong place.

Sheila Fitzpatrick, Team Leader – Licensing and Landlord Registration, agreed that the application had failed to indicate either home letting or home sharing. The applicant and officers discussed various options; although the matter did not have to

be deferred to another meeting, the licensing team would request written confirmation of the type of licence being sought. Mr and Mrs McLellan agreed to proceed on the basis of a home sharing STL licence.

Responding to a question from Councillor Bruce, Mr Blair advised that the reasonable right of access granted over the shared driveway was only for residential use. Mr Forrest pointed out that title deeds were a civil matter for individual residents to deal with, and could not be considered under licensing.

Councillor McMillan acknowledged the applicants' concern for their neighbours, traffic, and access, and expected them to manage access with consideration towards their neighbours. He was minded to grant the application on licensing grounds.

Responding to a suggested condition from Councillor Cassini, Mr Forrest felt that discussions had included aspirational personal arrangements rather than enforceable conditions. He noted that a licence could be called in for review should there be problems going forward. Councillor McMillan responded that Mr Blair should report any future concerns through licensing or environmental health. He hoped that the applicants would make good on their aspirations to maintain good neighbourly relations.

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

It was noted that the applicants would also be required to confirm with the licensing team in writing that their application was for home sharing.

Decision

The Licensing Sub-Committee agreed to grant a home sharing short-term let licence.

c. Scott's View, 90C High Street, North Berwick

An application had been received from Jeremy Sparks for a licence to operate Scott's View, 90C High Street, North Berwick as a short-term let (STL). The application would be heard by the Licensing Sub-Committee on the basis that a public objection 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 advised that there had been no objections from the statutory consultees. He highlighted a response from the Planning Authority indicating that an application for a Certificate of Lawfulness had been refused in July 2024. Mr Forrest noted that the applicant risked planning enforcement action should they operate a short-term let prior to resolution of this planning issue. He also highlighted the terms of the public objection, as well as a submission from Police Scotland to advise that no thefts from the stairwell had been reported. He also highlighted a report from the applicant's agent refuting the terms of the objections and advising that dogs were no longer allowed at the property.

Ross Armstrong, applicant's agent, spoke to the application, and was accompanied by Alison Sparks. He advised that the applicant would be likely to appeal the refusal of planning permission. Regarding the objector's allegation that items had been stolen from the stairwell, Mr Armstrong highlighted the Police Scotland submission to advise that there had been no reports made of thefts, and he also reported that his own

enquiries had uncovered no other neighbours complaining of items going missing. He felt that STL guests would be unlikely to pay and submit to ID checks to gain access to a building which may or may not have deliveries sitting in common areas, and further that any opportunistic thefts would be extremely unlikely to reach 50 items without Police Scotland involvement. He advised that that the applicant was unaware that any reports had been made to Police Scotland with regards to amenity impact, and highlighted that a letter of support had been signed by the majority of other co-proprietors. He detailed the proactive steps taken to limit noise, including installation of a noise monitor. He refuted that a dangerous or scary animal was ever present at the property. An incident involving noise from small dogs had been investigated promptly; the owners had provided a hamper to those affected by the noise, and dogs were no longer allowed at the property.

Responding to questions from Councillor Cassini, Mr Armstrong highlighted that most neighbours were comfortable with the application, evidenced by the submitted signed letter of support. He said the applicants were keen to be good neighbours, and had strict check-in times and provided a welcome pack for guests. He pointed out that the noise monitoring device allowed for real-time monitoring of antisocial behaviour.

Councillor McFarlane asked about contributions to the maintenance of the communal areas, and Mr Armstrong responded that there had been no suggestion that his clients were deficient in their responsibilities to their co-proprietors. The applicants had open lines of communication with neighbours and would work to repair any damage if necessary.

Responding to a question from Councillor McMillan, Mr Armstrong reported that the noise monitor had never gone off yet. He advised that the applicants had hired management agents at Coast Properties; he reported that their representative had attended the property on the same day as a report had been made about the 'yappy' dogs. Should the noise monitor be activated, the applicant or the management agent would contact guests to ask why this had happened, and could attend the property immediately if necessary.

Councillor Bruce had heard evidence that the applicant had taken complaints and noise monitoring seriously, such as actions following the 'yappy dogs' incident. He said such action was expected of licence holders, and would support the application.

Councillor McMillan wanted the objector to know that Members had taken on board their submission, and encouraged them to report matters to Police Scotland or the Council in future. Following a strong presentation, he would support the application.

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

Decision

The Licensing Sub-Committee agreed to grant the licence.

Signed

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Councillor J McMillan
Depute Convener of the Licensing Sub-Committee