



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

**THURSDAY 12 SEPTEMBER 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 J Findlay

Other Councillors Present:

None

Council Officials Present:

Mr I Forrest, Senior Solicitor
Ms A O'Reilly, Licensing Officer
Ms C Aitken, Licensing Officer

Others Present:

None

Clerk:

Ms B Crichton, Committees Officer

Apologies:

Councillor C McGinn
Councillor T Trotter

Declarations of Interest:

None

1. MINUTES FOR APPROVAL
Licensing Sub-Committee, 13 June 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. 25 Station Hill, North Berwick

An application had been received from Gavin Caves for a licence to operate 25 Station Hill, 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 highlighted that a response from the parking team had arrived.

Gavin Caves spoke to the application, and responded to the submitted objection from Clare Blatherwick's jewellery business. He felt that his property was entirely suitable for the grant of a short-term let licence and that there was no evidence to the contrary. He noted various features of the layout of shared areas, including doors which would remain locked. He felt that having tenants in the property would act as a neighbourhood watch and would provide an overall security benefit. He also pointed out that the STL would bring a potential stream of clients to the jewellery business. He summarised that the objection was ill-founded and discriminatory against STL tenants.

Mr Caves responded to questions from Members. He detailed the uses of the shared areas; as this did not include a fire exit, the door could remain locked. He asserted that the parking burden from the STL would be no greater than had he been living at the property himself. He also noted that it was not possible to park outside the property unless for loading and unloading purposes.

Clare Blatherwick spoke against the application. She highlighted that personal security was paramount in the jewellery business, and knew people in the industry who had had bad experiences. She had been under the impression that the neighbouring property would be owner-occupied when she had bought the business premises, and said she had turned down another premises to avoid trading next to an STL. She felt it was more comfortable for a jewellery business to know its neighbours.

Ms Blatherwick responded to questions from Members. She felt reassured that particular doors could not be accessed by STL residents. She cited an example of jewellery theft suffered by colleagues to illustrate why it was better for the business to know its neighbours. She thought that having a managing agent and relationships with the proprietors would be beneficial. She stated that all necessary steps were in place to ensure security of her building.

Mr Caves responded to questions. He said that North Berwick Holiday Homes had a good reputation, operated from the High Street, and that he and the neighbours would get to know them in time. He felt that risks had to be balanced, but it was unlikely that

risks would come from tourists staying in his property. He would pass the management company's contact details onto neighbours.

Councillor McFarlane had looked at the property and knew the area of North Berwick well. She could see no reason a licence should not be granted. Councillor McMillan agreed, and thanked the applicant and objector for their presentations.

Councillor McMillan then moved to a roll call vote, and Members unanimously agreed to grant the short-term let licence.

Decision

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

b. 14 Harbour View, 204 New Street, Musselburgh

An application had been received from Calum McCann for a licence to operate 14 Harbour View, 204 New Street, Musselburgh, 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 confirmed that no objections had been received from any of the statutory consultees, other than representation from the planning service to indicate that planning permission was not in place. A Certificate of Lawfulness had been refused on 15 July, and would have to be appealed prior to 15 October, but he also reminded Members of their remit to consider licensing issues rather than planning issues. Mr Forrest further highlighted the number and terms of the public objections. He pointed out that Members' grounds for refusing an STL licence application were contained in the Civic Government (Scotland) Act; these did not include reasons relating to title deeds, which would be a civil court issue. He advised that the property had been used for short-term letting purposes prior to the new legislation coming in, so objectors' comments relating to the application not having been received before the deadline of 1 October did not apply in this case. Mr Forrest advised that the owner resided in Norway, but noted that local management was in place. He also highlighted the applicant's submitted response to the objections.

Mr McCann spoke to his application. He travelled from Norway to visit family in Musselburgh four or five times each year, and had plans to semi-retire to Musselburgh. He advised that the only way to keep the flat for family use was also to use it for short-term letting purposes. He highlighted positive relationships with neighbours, and said that a handful of minor issues raised in the six years had been dealt with promptly. He reported that family lived very close by and represented him at residents' committee meetings; the property had only once appeared on an agenda, and only an issue with guests' dirty boots had been raised at this time. He suggested that, if there were issues, he could consider reducing occupancy of the property. He addressed the planning contravention order; he said the timeline had been very complicated, and there had been much confusion over the requirements around the STL and Certificate of Lawfulness.

Responding to questions from Members, Mr McCann said that reducing occupancy would be financially manageable, and felt this was the right course of action out of consideration to neighbours. He would discuss this with the management company.

He advised that he paid a factoring fee to contribute to the maintenance of common areas. He could arrange for his brother to attend each of the residents' committee's AGM meetings. Mr McCann also confirmed that an appeal would be submitted to the Planning Authority.

Eoin McDunphy spoke against the application. He felt it was not appropriate to have a short-term let in a property with a communal entrance, as neighbours regularly had contact with people they did not recognise. He reported that the door was left unlocked quite regularly. There had also been instances where guests had rung other doorbells because they had been unable to access the flat. He advised that paintwork on the staircase had been damaged by suitcases, and there had been instances of refuse being left beside bins because of guests' mismanagement of bin store keys. Laundry supplies would also regularly be left behind. He also raised issue with contractors' boots dragging mud into communal areas, and that an operative bringing in an industrial dehumidifier would not tell neighbours why it was required. Mr McDunphy advised that he had never had contact with Mr McCann or the management company. He found service vehicles caused some nuisance, and pointed out that no additional contribution to factoring fees was made, despite the STL causing a significant amount of additional work for cleaners.

Ian Dowson spoke against the application. He gave an account of his ties to Musselburgh, and said he lived there 40% of the year. He pointed out that two flats in the block had also appealed decisions of the Planning Authority relating to short-term letting, and both had been dismissed. He raised issue with the high occupancy of the flat, and the high number of vehicle movements and guests this brought, as well as the associated security risks. He agreed that workers staying in the flat caused a good deal of mess. He also felt there was risk in the large number of guests using new kitchens and heating systems, and pointed out that the flats did not have communal fire alarms. He was concerned that Harbour View could become a prime spot for STL properties, and noted that it was adjacent to a site of special scientific interest. He asserted that continued STL use would severely degrade his enjoyment of his flat.

Members asked questions following the objectors' submissions. Mr McDunphy expressed that the AGM meeting at which the STL was discussed did not seek to cause confrontation or controversy, so it had been felt that matters should be left in the hands of the licensing and planning authorities. He advised that the owners had not had any presence at the AGM until this year, and had not made attempts to engage with other residents. He felt that access and security were ongoing problems, but he was open to discussion with the owners.

Responding to further questions, Mr McCann suggested that he could decrease occupancy from the current rate of 70% down to 50-60%. He said he did not want any conflict with neighbours. He explained that he had not heard about the damage that may have occurred until very recently.

Councillor Cassini commented that, despite evidence of Mr McCann being a good landlord, there were still security risks and potential for noise nuisance in the sole-entry building. She was concerned that residents' enjoyment of their own homes was being compromised.

Councillor Findlay proposed that a licence be granted for a period of one year to cover the period in which the planning appeal would be heard, and also to encourage engagement with other residents.

Councillor McMillan would support a one-year licence. He hoped that the issues could be managed with improved communication, input by the management agent, and attendance at residents' committee meetings. He reminded objectors that they could alert Police Scotland or environmental health to noise complaints. He also supported limiting occupancy. He formally seconded Councillor's Findlay's proposal for a short-term let licence with a duration of one year.

Mr Forrest responded that occupancy could not be limited as a condition, but the applicant could make a voluntary decision to limit occupancy. Councillor McMillan therefore asked Mr McCann to confirm his previous statement in writing to the licensing authority and voluntarily limit occupancy to 55%.

Councillor McMillan then moved to a roll call vote on a licence for a period of one year, and votes were cast as follows:

Grant:	3	(Councillors McMillan, McFarlane, and Findlay)
Refuse:	1	(Councillor Cassini)
Abstain:	0	

Decision

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

c. Grieves Cottage, Snawdon, Gifford

An application had been received from Amy Flora Goring Squair for a licence to operate Grieves Cottage, Snawdon, Gifford, as a short-term let. 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 highlighted the terms of the public objection. He confirmed that no objections had been received from any of the statutory consultees, and that planning permission was not required for short-term letting of the property. He also highlighted Ms Squair's detailed submitted response to the objection.

Ms Squair and Neil McDonald spoke to the application. Ms Squair said she had been surprised by the letter of objection, as the Jacks had not made any complaints about her tenants. Ms Squair outlined her detailed submitted response to the Jacks' objection, including the actions she had taken to gain a greater understanding of biosecurity concerns for farmers, and asking guests not to go near, or in, farm buildings; she had also produced a map to this effect. Ms Squair also detailed actions to try to ensure guests could find property, and reported having turned down some guests who would have to arrive in the dark. She recounted her booking procedure, including only taking tenants with positive reviews, and having a no pets policy. She suggested that she could ask for car registrations prior to guests' arrival if this would alleviate security concerns. She had been surprised about the biosecurity concerns when there had been a large event hosted at the farm. Ms Squair also provided information about her employment history within the hospitality industry. She continued by further summarising her written response letter, and said she was open to suggestions for any further actions that could be taken to minimise potential disruption to neighbours.

Ms Squair answered questions from Members. She advised that the property was let out in its entirety, and Arlene O'Reilly, Licensing Officer, also confirmed that the licence would be classed as both home letting and home sharing because the property was Ms Squair's and Mr McDonald's home address. Ms Squair gave further detail of her employment history within the industry. She advised that she now had only one property, and stayed nearby with her mother when the property was let. She was happy for the Jacks to contact her at any time; the family would be staying close by and could make contact with their guests at any time. She agreed that guests could take a wrong turn on the farm track, but would drive back right away. She and Mr McDonald expressed that they felt able to manage the property themselves, and did not see what would be added by hiring a management company. They would offer everyone's contact details to the Jacks, and expressed that they would have worked to resolve any issues had they been made aware of them.

Jane Jack spoke against the application. She and her husband ran their family farm at Snawdon. She said their objection had been out of concern for their business and the STL's effect on the farm's operations. She said that guests had no knowledge of daily farming operations, and although health and safety plans were in place, working with cattle could be unpredictable. Guests had stood at the gate on several occasions while staff worked with cattle, causing the cattle to be nervous of strangers and increasing the potential for accidents. There could also be children wandering around, and the farm's grain and cattle sheds were open throughout the day; she highlighted that although the short-term let had rules, guests may not follow them. She was also concerned that guests would not be aware of other issues, such as the movements of grain lorries and tractors. She said her family were always polite in giving directions, but had also recently had to ask STL guests to refrain from playing in their yard, which was a workplace; she noted that the right of access in Scotland did not extend to farmyards. She expressed concern that it was not possible to know whether a vehicle coming into the area belonged to an opportunist thief or a holiday guest. She said that unauthorised people should not be in the grain shed, and raised concerns with biosecurity. She reported that her family had had to tow a holiday guest out of a ploughed field, and had since installed a gate with signage. She felt that supervising another property's holiday guests should not be the responsibility of her farm.

Councillor McMillan commented that management of the cottage seemed to be strong, and he acknowledged the applicant's commitment to work with neighbours. He had also heard evidence of breaches of rules, as well as health and safety concerns. He was concerned to hear that someone had to be rescued after driving in the dark, but also noted that the applicants would be staying close by when the property was let. He felt that short-term lets should be encouraged, and guests of this property would be able to enjoy the Lammermuir Hills. He suggested that a licence could be granted for a period of one year to ensure biosecurity and the health and safety of farm employees could be maintained.

Councillor Findlay indicated that he would support a licence for a period of one year on the basis that the applicants could do more work to ensure guests knew where they could and could not be.

Responding to questions from Councillor McFarlane, Mrs Jack said that the applicants had never informed them of their STL business, but guests had been seeing arriving and incidents had occurred. She reported that they had not wanted to confront their neighbours, and felt that the licensing process had been the best way to air the issues.

Councillor McMillan formally proposed that the licence be granted for a period of one year so that the applicants could look at communication, make their management arrangements clear, and improve their guidance notes to ensure guests would respect the health and safety, privacy, and security of their nearest neighbours. He thought a licence of one year would allow the issues to be tried and tested, and to see whether changes assisted the functioning of the STL. Councillor Findlay seconded this proposal.

Councillor McMillan then moved to a roll call vote, and Members unanimously agreed to grant the short-term let licence for a period of one year.

Decision

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

3. SHORT-TERM LET LICENCE REVIEW

This item was no longer required to be heard by the Licensing Sub-Committee.

Signed

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Councillor J McMillan
Depute Convener of the Licensing Sub-Committee