



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

**THURSDAY 14 NOVEMBER 2024  
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON  
& HYBRID MEETING FACILITY**

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**Committee Members Present:**

Councillor C McGinn  
Councillor C Cassini  
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 Leader – Licensing and Landlord Registration  
Ms A O'Reilly, Licensing Officer  
Ms E Barclay, Democratic Services Assistant

**Others Present:**

PC I Anderson, Police Scotland

**Clerk:**

Ms B Crichton, Committees Officer

**Apologies:**

Councillor J McMillan

**Declarations of Interest:**

None

The clerk advised that the meeting was being held as a hybrid meeting, as provided for in legislation; that the meeting would be recorded and live streamed; and that it would be made available via the Council's website as a webcast, in order to allow public access to the democratic process in East Lothian. She noted that the Council was the data controller under the Data Protection Act 2018; that data collected as part of the recording would be retained in accordance with the Council's policy on record retention; and that the webcast of the meeting would be publicly available for six months from the date of the meeting.

The clerk recorded the attendance of Members by roll call.

**1. MINUTES FOR APPROVAL**  
**a. Licensing Sub-Committee, 10 October 2024**

The minutes were approved as an accurate record of the meeting.

**2. APPLICATION FOR GRANT OF A LICENCE TO OPERATE A SHORT-TERM LET**  
**7 Edenhall Road, Musselburgh**

An application had been received from Helen Cormack for a licence to operate 7 Edenhall Road, Musselburgh, 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.

Ian Forrest, Senior Solicitor, highlighted the terms of the public objection. He also confirmed that no objections had been received from any of the statutory consultees. He advised of the impact of a 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 the Planning Authority had confirmed that planning consent had been granted. He also highlighted the written response to the objection from the applicant, and the inclusion of character references.

James and Helen Cormack spoke to their application. Mr Cormack felt that the submitted objection had been very personal. He advised that his wife had run the small flat as an Airbnb for eight years, accommodating guests from all over the world, and had received no complaints in this time. He had felt that the submitted objection had raised matters which were not relevant, other than noting a conversation which had occurred at 8am with guests who had been leaving the property.

Mrs Cormack pointed out that the Cormack's house was not connected to the objector's house, and also pointed out that no other properties had use of her path. She reported that conversations with guests had been conducted at a reasonable volume, and there had been no shouting, parties, or guests acting in a drunken manner. She noted that it was not mandatory for the hosts to be present, and they could contact guests on the phone and over the CCTV system when they were away. She advised that the small flat was only 20ft from her back door. She reported that there was very little household waste because guests usually ate out. She advised that there was room in the driveway for a car, although guests usually arrived by bus. She said there was ample on-street parking other than at the start and end of the school day, which she advised guests to avoid. She apologised if guests had accidentally gone into her neighbour's garden; she said she posted clear details of how to access the flat online, and also welcomed guests when she was home. She added that there was a 6ft fence between her property and the neighbour's property.

Responding to questions from Councillor Trotter, Mr Cormack advised that the building had been erected 30 years ago for storage, and had been extended in 2012 for Mrs Cormack's mother to live in. He had always known that retrospective planning permission would have to be sought. It was established that the Cormacks had been correct in describing themselves as new operators from a licensing perspective on the application form.

The Convener asked questions about the timeline for applying for planning permission and the STL licence. Mr Cormack advised that he had sought planning permission in the first instance because they had considered moving house. He explained that other matters had taken over, but they had not intended to avoid seeking planning permission for the building. He advised that the planning permission application had asked several questions relevant to the Airbnb, such as parking and waste; he had thought that this planning permission was the licence to operate the STL. He advised that, following the grant of planning permission, nine bookings had been made in quick succession after opening the Airbnb back up for bookings. The Cormacks had explained to Police Scotland that although they now understood they should not have opened the property up for bookings, there had been a number of bookings made; Police Scotland had allowed the Cormacks to host the remaining bookings, but had stipulated they could not take further bookings before securing the relevant licence.

The Convener asked further questions on the basis of a comment from Mr Cormack that he had not wanted to pay for a licence until planning permission was in place; the Convener was concerned that this appeared to contradict Mr and Mrs Cormack's earlier statements that they had previously thought that the planning permission was the licence they required to operate.

Fraser McLeod spoke against the application. He highlighted that the Cormacks had continued to trade, despite not having complied with the cut off requiring existing operators to apply for a licence prior to 1 October 2023 to be allowed to continue taking bookings. He highlighted that future bookings had been visible online, and drew attention to guest reviews from when the STL should not have been in operation. He expressed that these rules must be adhered to and there should be no exceptions. He also noted that the Cormacks had only applied for retrospective planning permission. He reported that Police Constable (PC) Wilson had served Mr and Mrs Cormack with an order to cease trading illegally. He also reported that the site notice had not been displayed in an appropriate place, and had been later moved by PC Wilson. Mr McLeod also raised concerns about fire risks associated with the building, due to materials on the roof, and reported that there was no access route to maintain the fabric of the building. Mr McLeod felt that the Cormacks had misrepresented the parking situation; he described the street as a congested hotspot, and explained that the Cormacks used their driveway to park vans and a motorhome. He also objected to business waste being placed in domestic bins, even in small quantities. He pointed out that his property had been empty for up to three years while renovations were underway, and suggested that this was why no complaints had been made about the business. He felt that the applicants had not shown themselves to be trustworthy, and expressed that the breaking of rules should not be rewarded with a licence. He also requested that Members undertake a site visit to appreciate his fire safety concerns.

Having looked at the area online, Councillor McGinn had concerns about the proximity of the flat to other properties, and felt the area looked congested. He would have considered a planning application for a home in this garden to constitute an overdevelopment. He acknowledged that statutory consultees had not objected to the application, but he still held concerns over whether the building was environmentally sound; he currently felt unable to make a decision on the application.

Councillor Findlay thought that the fact that planning permission had been granted meant that the Planning Authority had considered the building to be safe; he was unhappy with the suggestion that the structure was not environmentally sound.

Councillor Trotter also felt unable to make a decision, and would second a proposal to undertake a site visit.

Sheila Fitzpatrick, Team Leader – Licensing and Landlord Registration, advised that the Planning Authority had indicated that the building had been granted a part change of use to form a short-term let, however, Ms Fitzpatrick was not sure whether this had been granted because the building had been in use for over ten years; she could not say whether a Certificate of Lawfulness of Use or Development (CLUD) was subject to the same scrutiny as a new application for planning permission.

The Convener felt that a site visit with an Environmental Health Officer should be organised to clarify that the structure was safe. He formally proposed that a decision on the application be deferred to enable a site visit to take place. This proposal was seconded by Councillor Trotter.

Councillor Findlay enquired about timescales, and Ms Fitzpatrick said she would contact Environmental Health right away to arrange dates within the following weeks.

The Convener then moved to a roll call vote on his proposal to continue the application to enable a site visit to take place, and votes were cast as follows:

Support:	4	(Councillors McGinn, Cassini, McFarlane, and Trotter)
Against:	1	(Councillor Findlay)
Abstentions:	0	

### **Decision**

The Licensing Sub-Committee agreed to continue the application to enable a site visit to take place.

### **3. CARAVAN SITES AND CONTROL OF DEVELOPMENT ACT 1960, SETON SANDS HOLIDAY VILLAGE, SITE LICENCE NO. 14B**

A report had been submitted by the Executive Director for Council Resources to ask the Licensing Sub-Committee to review existing licence conditions for Site Licence No. 14B, Seton Sands Holiday Village, and agree an alteration to remove permission to site residential caravans. It also asked Sub-Committee members to agree that the holders of the licence had allowed the land to be used as a relevant permanent site without applying for the required licence.

Mr Forrest presented the report, and provided background information to the request. He advised that the current licence, issued in 2000, had no expiry date, so had been granted until such time as it was changed or ended. This licence covered 686 static holiday caravans, 60 touring caravans, and 20 residential caravans, reducing to 13 residential caravans as the site had been developed. He advised that planning permissions had changed in the interim, and the current request was for 853 static caravans, but the application to vary the current licence had not progressed to completion. In the interim, new legislation had come in relating to residential caravans, which covered holiday-type caravans; the site therefore required a new and different licence. He highlighted correspondence within the papers and the ongoing attempts to compel the licence holders to provide a new licence application for the residential units; this had not been received. He highlighted other relevant sections of the correspondence with Haven, the operator, and Lichfields, Haven's agent, and reiterated that the new licence must be applied for because residential units were now covered under new legislation.

Ms Fitzpatrick advised that Lichfields had been in touch immediately following receipt of the meeting invitation. At this time, Lichfields had indicated that an application would be submitted, but Ms Fitzpatrick reported that an application for the permanent site, or to vary the existing licence, had not been forthcoming in the intervening ten days.

Councillor Trotter asked why the process had taken so long. Helen Ashby-Ridgway, of Lichfields, advised that Haven had wanted to satisfy itself that planning permission was in place for residential use; she noted that planning history could be complicated in caravan parks. She advised that Haven had received advice that planning permission was in place for the residential unit, of which there was only one left at Seton Sands; Lichfields would be able to respond to the Council quickly on this matter.

Ms Fitzpatrick highlighted a response from the Planning Authority from 29 August 2024, which indicated that there was no permission for Seton Sands Holiday Village to site residential caravans; permissions previously granted had been to ensure that the holiday caravans were not used as permanent residential accommodation. Ms Ashby-Ridgway responded that Lichfields were keen to continue the conversation with the Licensing Authority on this matter. She advised that the correspondence and advice had progressed quickly since receiving the invitation to this meeting. She indicated that Lichfields would welcome a discussion as to why the Council and Haven's planning consultants held differing views on the matter of residential planning permission.

Councillor Trotter commented that Haven would have been aggrieved had the Council taken as long to process an application as they had taken to get their site licence in order; he felt uncomfortable making decisions until paperwork was fully in place. The Convener agreed that this licensing issue must be progressed, and was keen to establish a timeframe for Haven's response.

Mr Forrest responded that the recommendation asked Members to alter the current licence. He pointed out that if Committee members wanted to defer making a decision until other paperwork was in order, they would have no control over how quickly Haven would respond.

Ms Fitzpatrick added that discussions had been ongoing since the original application to vary the licence had been made. She advised that Haven and Lichfields had known since July 2023 that the Licensing Authority required them to apply to site residential caravans. She suggested that Lichfields forwarded their planning information to the Council as soon as possible.

The Convener asked about repercussions if Haven should fail to resolve this licensing matter. Ms Fitzpatrick would check the legislation for this information, as enforcement may fall to other agencies, such as Police Scotland.

Responding to a point made by Mr Forrest, Councillor Findlay commented that he would trust the Planning Authority to know whether planning permission was in place to site residential caravans; he felt that the report recommendations should be dealt with now.

The Convener acknowledged that it was not possible for the Licensing Sub-Committee to put a timeframe on the resolution of this matter, but wanted to emphasise the need for swift action and communication; he expected this to have been actioned by Haven within two weeks of the meeting. Mr Forrest advised that if

the matter was not resolved, it would fall to the enforcement side rather than to the Licensing Sub-Committee.

Simon Combs, of Haven, suggested that applications for both holiday and residential licences would be made within a few weeks. He advised that it had taken a long time to bring the relevant information together, but he had confirmation that planning permission was in place for the residential caravan; he would share this information with the Licensing and Planning Authorities.

Responding to an earlier comment about residential consent never having been granted, Ms Ashby-Ridgway pointed out that the whole of the Seton Sands site used to be residential caravans, but gradually the holiday use had taken over. She would seek to arrange a meeting urgently with the Planning Authority.

Ms Fitzpatrick added that the information on planning permission should be forwarded to the Council right away. She noted that the site had over 800 static caravans, but the licence currently stood at around 600 caravans; this requirement for a variation, along with the residential licence, meant there were two licence applications outstanding.

The Convener said he expected Haven to submit competent applications to site 853 caravans, and to site the residential caravan, within two weeks of this meeting. He then moved a roll call vote on the report recommendations, which were unanimously supported.

**Decision**

The Licensing Sub-Committee:

Reviewed the existing licence conditions 1.1 and 1.2 and agreed the following alteration:

- The permission to site residential caravans to be removed from the licence; and

Agreed that the holders of the licence had allowed the land to be used as a relevant permanent site without applying for the required licence.

Signed

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Councillor C McGinn  
Convener of the Licensing Sub-Committee