



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

**THURSDAY 12 DECEMBER 2024
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID MEETING FACILITY**

1

Committee Members Present:

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

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 G Herkes, Licensing Officer
Ms A Rafferty, Licensing Officer
Ms L Slight, Senior Environmental Health Officer
Ms L Crothers, Service Manager – Protective Services
Ms E Barclay, Democratic Services Assistant

Others Present:

PC I Anderson, Police Scotland

Clerk:

Ms B Crichton, Committees Officer

Apologies:

Councillor C Cassini
Councillor T Trotter

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
Licensing Sub-Committee, 14 November 2024**

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

2. CIVIC GOVERNMENT (SCOTLAND) ACT 1982, REVIEW OF SHORT-TERM LET POLICY

A report had been submitted by the Executive Director for Council Resources to ask the Licensing Sub-Committee to approve proposed amendments to the short-term let policy.

Ian Forrest, Senior Solicitor, presented the report. He explained that the changes had been prompted by the Short-Term Let Amendment Order 2024, which had come into effect in August. The changes also took account of the City of Edinburgh Council's reaction to various challenges, such as refusal to consider short-term let licence applications pending planning consent. Mr Forrest highlighted the appendices to the report, which contained the proposed updated versions of the various documents. He highlighted several of the changes, and pointed out additional documents which highlighted all changes between the current and proposed versions.

Officers responded to questions from Committee members. Responding to questions from the Convener, Sheila Fitzpatrick, Team Leader – Licensing and Landlord Registration, advised that it was anticipated that a transfer of a short-term let licence would only be used if the ownership of a property was transferred. Thus, any conditions would remain in place, and consultation would only include Police Scotland; licence transfers would not have to come back to the Licensing Sub-Committee unless Police Scotland raised objection regarding the new licence holder. Ms Fitzpatrick was not aware of any forthcoming publication by the Scottish Government to provide a definition of an 'only or principal home', but confirmed that a Scottish Government definition, if provided, would supersede the Council's policy.

Councillor McMillan commented on the challenges experienced following the introduction of short-term let legislation, both for applicants and licensing authorities, and thanked officers for the way in which they had dealt with this. He welcomed the opportunity to review legislation further, and how the updates would contribute to an effective and efficient Council policy. He commented that the whole effect of the legislation, including the benefits and unintended consequences to officers, short-term let proprietors, and society, should be considered in a systemic review.

The Convener also commented on the ever-changing nature of the landscape around short-term lets, and said the Council was making real efforts to work within guidance.

The Convener then moved to a roll call vote, and Committee members unanimously voted in support of the report recommendations.

Decision

The Licensing Sub-Committee agreed:

- To approve and implement the updated policy with immediate effect; and
- To approve and implement amended Appendices 3 and 4 of the report with immediate effect.

Sederunt: Councillor McMillan left the meeting.

3. CONTINUED APPLICATION FOR THE 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 had been heard by the Licensing Sub-Committee on 14 November, and Committee members had agreed to continue the application to allow a site visit to be undertaken by Committee members and an Environmental Health Officer.

Mr Forrest introduced the item, and confirmed that the matter had been recalled before the Licensing Sub-Committee today following the site visit.

The Convener invited comments following the site visit, which he said had been requested to allow Committee members to satisfy themselves of the situation at the property following the submissions by the applicants and objector.

Lynn Slight, Senior Environmental Health Officer (EHO), confirmed that she had no comment to add to the EHO's statement submitted to Committee members.

Councillor Findlay commented that the setup at the property was well presented. He had not seen any sign or evidence of excess material on the roof or side of the property which would cause concern, and he had no concerns about granting a short-term let licence. The Convener concurred with these comments, and felt it had been helpful to view the neighbourhood.

The Convener then moved to a roll call vote and Members unanimously agreed to grant the licence. Councillor McMillan did not vote, having left the meeting for this item because he had not been present when the application had originally been heard.

Decision

The Licensing Sub-Committee agreed to grant the licence.

Sederunt: *Councillor McMillan rejoined the meeting.*

4. APPLICATION FOR THE GRANT OF A LICENCE TO KEEP A BOARDING ESTABLISHMENT

Harry's Hounding Around, Thornfield, Dunbar

An application had been received from Ian Troke for a licence to keep a boarding establishment for this business, Harry's Hounding Around, at Thornfield, Dunbar. The application had come before the Licensing Sub-Committee on the basis of representation from Environmental Health. The Licensing Standards Officer (LSO) had also submitted a report, and there had been a number of emails received in support of the business by its customers.

Mr Troke spoke to his application. He stated emphatically that his business was neither a daycare nor boarding business, but had been told to apply for a licence as part of a separate and ongoing change of use planning application. He explained that the boarding and daycare licences were not applicable to his business, but he had nevertheless been told to apply for a daycare licence because Environmental Health required his business to hold a licence. Mr Troke asserted that he was a dog walker, and his business provided 3.5 hours of off-lead play rather than a daycare service; thus, he felt that he did not require a daycare or boarding licence. Mr Troke stated that he was in favour of licensing the industry in which he worked, but that the licences had to fit business operations. He said that his business made a real difference to its customers, and pointed out that his land was a safe place to walk up to 50 or 55 dogs at a time. He also reported that he had never lost a dog in six years of operation. He considered his offer to be far superior to a one-hour toilet walk, which would be the alternative for the dogs he worked with. He asked the Sub-Committee to decide that he did not require the licence on offer. He was happy to be licensed as a dog walker, or to hold a 'playcare' licence.

Responding to questions from the Convener, Mr Troke conformed that he had not wanted to pursue one of the licences currently on offer because they were not relevant to his business offer; he had only applied for a licence because he had been told to do so. The Convener responded that the Sub-Committee wanted to give Mr Troke's customers comfort, and said it was not Committee members' job to close businesses down. He had used businesses such as Mr Troke's, and understood what these services meant to their customers. He also acknowledged the numerous commendations from the business' customers.

Responding to a question from Councillor Findlay, Mr Troke explained that he had tried to offer dog boarding when he had first started his business, but no longer offered this service. He confirmed that his new vans only advertised 'playcare'.

Responding to further questions, Ms Fitzpatrick explained that there was no definition as to how many hours in a day constituted a daycare business. She reported that EHOs had advised the Licensing Team in the first instance, and EHOs had responded to the consultation following the licence application. Ms Fitzpatrick also referred to the LSO's report, which recommended that the facility be licensed. She highlighted that it was the opinion of the LSO that the business was not only a dog walking facility and that it offered a licensable activity, which would include daycare.

The Convener highlighted that the planning application stated that the operation was a daycare business. Mr Troke responded that the application had been submitted by colleagues, but his business had never offered daycare; he had wanted to apply for a 'playcare' change of use.

Lynn Crothers, Service Manager – Protective Services, reported that she had been a member of the professional working group which had considered the emerging activity of the accommodation of dogs. The group had spent time considering the meaning of providing accommodation and had received a legal opinion that accommodation should be interpreted at its widest sense. She explained that it was generally accepted that daycare was a commercial facility providing care and accommodation for other people's dogs in the absence of the owner, and receiving a monetary fee for the provision of care and accommodation. She advised that the aim of licensing these types of establishments was to ensure a good standard of animal welfare, and to ensure there was a level playing field in this business area. Ms Crothers considered that the Council could not accept an application in relation to 'playcare', but emphasised the use of 'care' within this terminology, as the person looking after someone else's dogs must be determined a fit and proper person and had to work to minimum standards. She said that EHOs would be willing to work with the establishment to fulfil the daycare licensing requirements.

Responding to a question from the Convener, Ms Crothers said she had not come across the term 'playcare' when working with the professional working group.

Mr Troke described the buildings at the facility, which included a stable block which the dogs could go in, providing a weather sanctuary and facility for making hot drinks.

Councillor McMillan commented that the business, in accommodating the dogs, was caring for them. He felt that they clearly did care, had high standards, and it was obvious that people were attracted to the business. He understood the accommodation aspect to be that of bringing the dogs to a specific field, and Ms Crothers agreed with this assessment.

The Convener commented that customers clearly respected the business. He acknowledged that there was still some question as to whether the business was licensable because of the daycare or 'playcare' matter. He noted that officers felt that the business could meet the standards of the daycare licence with support and guidance, and asked whether Mr Troke would accept this. Mr Troke responded that he wished to continue his business, so he would change aspects of the facility if this was required for the licence. He pointed out that the Council's Head Dog Walker considered Mr Troke's business to be a dog walking business. Mr Troke also noted that the Council's own departments disagreed on the definition of his service. He wanted clarity on this matter and the security to continue, as the idea of being non-compliant and threatened with closure caused great stress.

Councillor Findlay expressed that he had always believed dog walkers ought to be licensed, but currently they were not. He felt that the service provided was dog walking, but it just happened to be in the same place each time. He could not see a difference between this business and others that collected dogs to take them for a walk. He did not consider the business to be a licensable activity.

Councillor McMillan and Mr Troke discussed the application to the Planning Authority. Mr Troke pointed out that he had not wanted to use the word 'daycare' in the planning application, but had been told it had to be used. He felt that it was an issue of semantics; he had been required to apply for a daycare licence, but did not want to use the word daycare to describe his business.

Mr Forrest directed Committee members to the first question of whether they accepted the view that the business offer was a licensable activity. He noted that if it

was considered to be a licensable activity, Committee members would then have to determine the next course of action because the operation did not currently meet the standards for a daycare licence from an environmental health perspective.

Councillor McMillan proposed that the Licensing Sub-Committee vote on whether the business offered a licensable activity, and this was seconded by Councillor Findlay.

The Convener then moved to a roll call vote to seek the opinion of Committee members as to whether the business offered a licensable activity. Votes were cast as follows:

Licensable:	3	(Councillors McGinn, McFarlane, and McMillan)
Not licensable:	1	(Councillor Findlay)
Abstentions:	0	

As the Licensing Sub-Committee agreed that the business did offer a licensable activity, Members then voted on the grant of a daycare licence by roll call vote. Members unanimously voted to grant the daycare licence.

Following comments made by Councillor McMillan, it was established that the grant of the licence would be subject to achievement of the mandatory conditions attached to a daycare licence. Ms Fitzpatrick pointed out that ensuring these conditions were met was not an issue for the Licensing Team, and Mr Forrest commented that this would be a bilateral process with EHOs.

Councillor McMillan proposed that a six-month period be allowed for the business to achieve the mandatory conditions of a daycare licence, and this was seconded by the Convener. Members supported this proposal unanimously by roll call vote.

Decision

The Licensing Sub-Committee agreed to grant a daycare licence, subject to the mandatory conditions being met within six months.

5. SHORT-TERM LET LICENCE REVIEW 32 Douglas Marches, North Berwick

A short term-let licence for 32 Douglas Marches, North Berwick, had been granted in November 2023 for a period of two years. Following a series of complaints from neighbours, and an investigation by the Licensing Standards Officer, a review hearing was now being heard by the Licensing Sub-Committee.

Mr Forrest introduced the item. He highlighted the minutes from the hearing at which the licence was granted, and also highlighted the complaints made by the neighbours and the applicant's response to them, which were all contained within the papers. He advised that actions from the review hearing could include changes to conditions or revoking the licence.

Ms Fitzpatrick highlighted the LSO's report, also contained within the papers, which discussed the LSO's communication with the complainants and licence holder. The LSO had also offered to arrange mediation, but this offer had been refused by the complainants.

Klaus Frommel, licence holder, provided information about his short-term let. He discussed the habits of guests visiting the area, and reported that he had only received five-star ratings. He said that he and his son, Kristian, were serious about looking after their neighbours, and gave instructions on where they could park and what the quiet times were. He highlighted the strong perception against short-term lets in the area, and his desire to communicate with neighbours. He highlighted that there had been around 17 initial objections to his short-term let application, but only complaints from two neighbours in 13 months of operations. He reported that none of his neighbours had ever called him to complain, and he had dealt with the complaint received by SMS message within 20 minutes. He explained that he had originally intended for himself or his son to live within the converted garage while guests stayed, but this had not worked because there was very poor sound insulation between the garage and house. A host now stayed within 20 minutes of the property when guests stayed. He also advised that cameras recorded sound and visuals to help monitor the behaviour of guests. He also advised that he now allowed dogs because most guests asked to bring a dog.

Craig Wright spoke to his submitted complaint. He noted that the estate had been built as family homes. He advised that concerns about traffic and parking had been raised by objectors to the application, and continually raised after the business had been in operation. He noted that although Mr Frommel had insisted the property would only be let to families or golfers, there had been instances where five or six commercial vehicles had been parked in the area surrounding his house. These vehicles had broken the speed limit and driven irresponsibly, despite young children living on the estate. He also complained that Mr Frommel had not stayed at the property when hosting guests, as he had promised to do when he had applied for his licence. Mr Wright also reported that he had been subjected to verbal abuse when he had asked a guest to move their vehicle to move off the pavement; he did not want to confront guests again, so he wanted to direct his complaints through the Council. He complained that guests came back at various times of night, sometimes making a ridiculous noise as they passed the Wright's door. He said that he had to move his child's bedroom because a medical condition meant that they required a good night's sleep, and commercial vans leaving early in the morning had caused disturbance. Mr Wright was now concerned to hear that there were cameras at the property. He felt there was no need for this short-term let when the street sat adjacent to a caravan park, and reiterated his concerns about traffic caused by the short-term let.

Another complainant spoke to their submitted complaints. She said that breaches of the short-term let licence had impacted the life of her family. She highlighted the main issues relating to repeated excessive noise disturbances from loud music, shouting, talking, and clapping. She described the short-term let as being within a safe and quiet family environment, and the burdens of the properties reflected this; she said her family valued their peaceful environment. She complained that the disturbances of guests made it hard to maintain a healthy and comfortable home life. She found the uncertainty of guests' behaviour and frequency of noise violations to be stressful and intimidating. She said they maintained cordial relations with neighbours, but had a strong view that the responsibility to ensure guests obeyed house rules lay solely with the licence holder, and not with neighbours who were unwillingly involved in the situation. She explained that they had not reported their concerns to Police Scotland because licensing was a Council matter. She pointed out that Mr Frommel had threatened legal action against her family, and felt that he sought to paint himself as a victim, despite being the sole cause of distress. She also raised issue with a drone which had flown over their home, and about the licence holder's CCTV and noise monitoring. She said that Mr Frommel had made false assurances when the licence was originally granted, and felt he would make similarly false assurances in response to their complaints.

The Convener asked the two complainants why they had not directed their complaints to Police Scotland. One complainant reiterated that her family felt this was a licensing matter, and that Police Scotland had other matters to concentrate on. Mr Wright felt that there had been no point in making the reports because the guests would just leave soon after; he felt it was not worth the hassle.

Councillor McMillan asked Mr Frommel what he had learned about taking bookings, and how the type of guest would be managed in future. Mr Frommel explained that three vehicles had been brought by contractors in June; he had thought contractors would cause no issue to neighbours because they would be away all day. He advised that his property now allowed only two vehicles. Kristian Frommel added that when they learned that public parking in laybys was becoming a concern for neighbours, they stopped allowing guests to park in the laybys. He had also asked neighbours if there was anything they could do better, at which time the Wrights had raised this parking concern with him; he had given them his contact details at this time. Kristian Frommel also advised that only families were booked for 2025, other than a golfer during The Open.

Responding to a question from Councillor Findlay, Mr Frommel assured Committee members that he was not taking legal action against his neighbours; he had only been wanting to defend himself in light of the accusation of privacy violations with the drone. He explained that Kristian Frommel was a professional house photographer and had been using the drone to photograph of the house from above.

The Convener asked why mediation had not been accepted. Mr Wright said he felt that mediation would involve neighbours being given false assurances. He acknowledged that Kristian Frommel had visited him, but felt he had been told what they needed to hear at the time. The other complainant pointed out that mediation required an element of truth and acceptance of wrongdoing, and felt this would not happen. Regarding privacy concerns, she pointed out that the drone had flown over the front of their house. She was also concerned about having been accused of lying, manipulating, and leading; thus, she felt that mediation would not be a successful tool. She also felt that assurances made during licensing meetings were not acted upon.

Councillor McMillan was concerned about the effect the short-term let licence was having on neighbouring families and their wellbeing. He questioned whether there was any more the Council could do to tackle noise issues; if nothing more could be done, he would be in favour of revoking the licence.

The Convener expressed that he would not be in favour of revoking the licence; he felt there were routes to resolving neighbour disputes, and pointed out that any verbal abuse needed to be reported to Police Scotland.

Mr Wright asked that the issues were no longer referred to as a neighbourly dispute; he pointed out that the property was being run as a business, and his neighbours did not live in the house when there were guests. Mr Frommel responded that he did not wish to upset his neighbours, and wanted to be reasonable. He pointed out that there had only been allegations made by two parties, and questioned why no other neighbours had raised issue. Mr Wright responded that there were three other households who wished to be represented as complainants.

Councillor Findlay was still keen to explore the idea of mediation, but understood that this could not be forced. Ms Fitzpatrick responded that mediation had to be at the agreement of all parties, and no one could be required to participate. She highlighted that although the Council issued and could revoke licences, they did not hold enforcement powers. It would be for Police Scotland to take action relating to breaches of licence conditions; the

Licensing Team could not act on this, and would need to have evidence from Police Scotland. She noted that the Licensing Team also did not have powers to investigate allegations. The Convener agreed that discussions at Licensing Sub-Committee made frequent references to the need to involve Police Scotland when there were concerns or complaints.

The Convener then moved to a roll call vote, and Committee members unanimously voted to allow the licence to remain in place for the remainder of its duration.

Councillor Findlay encouraged the complainants to direct future complaints to Police Scotland to provide evidence, and Councillor McMillan encouraged Mr Frommel to do all he could to ensure there were preventative measures to avoid disturbance, and to ensure neighbours were respected.

Decision

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

6. APPLICATION FOR THE RENEWAL OF A LICENCE FOR A BUSINESS UNDERTAKING TATTOOING OR SKIN AND BODY PIERCING

The application had been withdrawn.

Signed

.....

Councillor C McGinn
Convener of the Licensing Sub-Committee

REPORT TO: Licensing Sub-Committee

MEETING DATE: 13 February 2025

BY: Executive Director for Council Resources

SUBJECT: Caravan Sites and Control of Development Act 1960
("the Act"), Licensing of Relevant Permanent Sites
(Scotland) Regulations 2016, Seton Sands Holiday Village –
Request for Extension of Application Determination Deadline

2

1 PURPOSE

To seek a decision by the Licensing Sub-Committee on the recommendations detailed below.

2 RECOMMENDATIONS

2.1 That the Sub-Committee –

- Extend the application determination deadline by eight weeks (from 28 February 2025 to 25 April 2025).

3 BACKGROUND

3.1 Decision of Licensing Sub-Committee of 14 November 2024 required Haven Leisure Limited to lodge an application for a Relevant Permanent Site licence by 29 November 2024. This was received on 28 November 2024.

3.2 Lichfields (the applicant's planning consultant) were advised of the East Lothian Council planning position on 18 December 2024 (Appendix 1).

3.3 Lichfields were advised of the period of determination for the licence application on 21 January 2025 (Appendix 2).

3.4 Submission to extend the period of application determination was received from Lichfields on 30 January 2025 (Appendix 3).

3.5 Clarification of the date the Certificate of Lawful Use or Development (CLUD) application will be lodged was received from Lichfields on 31 January 2025 (Appendix 4).

4 POLICY IMPLICATIONS

None.

5 INTEGRATED IMPACT ASSESSMENT

5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

6.1 Financial – none.

6.2 Personnel – none.

6.3 Other – none.

7 BACKGROUND PAPERS

7.1 None.

Appendix 1: Email to Lichfields regarding planning permission requirement, 18 December 2024

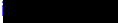
Appendix 2: Email to Lichfields regarding licence determination period, 21 January 2025

Appendix 3: Application to extend licence determination period received from Lichfields, 30 January 2025

Appendix 4: Confirmation of future CLUD application date from Lichfields, 31 January 2025

Appendix 5: Minutes extract from meeting of the Licensing Sub-Committee, 14 November 2024

AUTHOR'S NAME	Sheila Fitzpatrick
DESIGNATION	Team Leader – Licensing and Landlord Registration
CONTACT INFO	01620 820623
DATE	4 February 2025

From: [Fitzpatrick, Sheila](#)
To: ["Rhiannon Harrop-Griffiths"](#)
Cc: ["Helen Ashby-Ridgway"](#)
Subject: RE: East Lothian Council - Licensing Sub-committee 14 November 2024 [LICH-DMS.FID211063]
Date: 18 December 2024 11:34:00
Attachments: 

Good morning Rhiannon,

Thank you for your email. Our consultees were provided with details of your applications on 2 December 24 and have 21 days to respond.

Planning colleagues have however, already responded and advised the following in connection with the application for a Residential licence:

...planning history for the caravan park and the whole site is in holiday use including the area where the caravan in question is sited.

The planning statement submitted argues that as the caravan has been in residential use for 40 years then the residential use of the caravan is lawful. However, the applicant/agent would have to apply for a certificate of lawfulness with evidence of the caravan being in a continual residential use for 10 years or more to allow us to class the caravan as residential.

Until a certificate of lawfulness was granted and the residential use deemed lawful, we would maintain that the current use of the caravan is for holiday purposed rather than residential.

Regards,

Sheila Fitzpatrick
Team Leader – Licensing and Landlord Registration
East Lothian Council
Democratic & Licensing Services
John Muir House
HADDINGTON, EH41 3HA

01620 820623

sfitzpatrick1@eastlothian.gov.uk

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From: Rhiannon Harrop-Griffiths <rhiannon.harrop-griffiths@lichfields.uk>
Sent: Tuesday, December 10, 2024 3:21 PM
To: Fitzpatrick, Sheila <sfitzpatrick1@eastlothian.gov.uk>
Cc: Helen Ashby-Ridgway <helen.ashby-ridgway@lichfields.uk>
Subject: RE: East Lothian Council - Licensing Sub-committee 14 November 2024 [LICH-DMS.FID211063]

From: [Fitzpatrick, Sheila](#)
To: ["Rhiannon Harrop-Griffiths"](#)
Cc: ["Helen Ashby-Ridgway"](#)
Subject: RE: Seton Sands Holiday Park [LICH-DMS.FID211063]
Date: 21 January 2025 12:47:00
Attachments: [image001.jpg](#)

Good morning,

Please find attached licence and conditions.

With regard to the Residential Site licence, I can advise that the licensing authority must make a determination on an application within three months of it's receipt. The Residential Site licence application was received 29 November 2024 and therefore must be determined by 28 February 2025. Planning permission (or CLUD) is a requisite requirement of approving this type of licence. Should the CLUD application not be determined by this date, we will have no option other than to refuse the licence application.

Regards,

Sheila Fitzpatrick
Team Leader – Licensing and Landlord Registration
East Lothian Council
Democratic & Licensing Services
John Muir House
HADDINGTON, EH41 3HA

01620 820623

sfitzpatrick1@eastlothian.gov.uk

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From: Rhiannon Harrop-Griffiths <rhiannon.harrop-griffiths@lichfields.uk>
Sent: Tuesday, January 21, 2025 11:36 AM
To: Fitzpatrick, Sheila <sfitzpatrick1@eastlothian.gov.uk>
Cc: Helen Ashby-Ridgway <helen.ashby-ridgway@lichfields.uk>
Subject: RE: Seton Sands Holiday Park [LICH-DMS.FID211063]

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Sheila,

Happy new year and hope are you well too.

Thank you for confirming on the holiday/touring site licence. Please can you email a

Licensing Department
 East Lothian Council
 John Muir House
 Brewery Park
 Haddington
 East Lothian
 EH41 3HA

Date: 30 January 2025

Our ref: 04051/96/NT/RHG/33419480v5

Dear Sheila Fitzpatrick

Haven Seton Sands Holiday Village: Request for extension of deadline of determination for Relevant Permanent Site Licence Application

On behalf of our client, Haven Leisure Limited (“Haven”), we write to request an extension to the timescale for determining the Relevant Permanent (Residential) Site Licence application at Seton Sands Holiday Village (“Seton Sands”) to allow time for a Certificate of Lawfulness of Existing Use or Development (“CLEUD”) to be secured.

Background

Further to the Licensing Sub-Committee held on 14 November 2024 regarding the site licence(s) for Seton Sands, the sub-committee determined that applications must be submitted no later than two weeks from the date of this decision for:

- A variation to the existing holiday caravans licence; and,
- A new application for a residential site licence for a single unit at the park.

Applications for both licences were submitted to East Lothian Council on 27 November 2024, within the required timeframe.

The Site Licence for holiday caravan use was issued to Haven directly and then to Lichfields on 21 January 2025 to reflect:

- Recent planning permissions which have increased the number of caravans at the Park; and,
- Change of licence holder from Bourne Leisure Group Limited to Haven Leisure Limited.

The residential site licence application has not yet been determined.

The site licence application was accompanied with a full analysis of the planning history of the specified caravan. However, during the consultation process for the residential site licence, the planning authority responded to you by saying “...*The planning statement submitted argues that as the caravan*

has been in residential use for 40 years then the residential use of the caravan is lawful. However, the applicant/agent would have to apply for a certificate of lawfulness [CLEUD] with evidence of the caravan being in a continual residential use for 10 years or more to allow us to class the caravan as residential.

Until a certificate of lawfulness was granted and the residential use deemed lawful, we would maintain that the current use of the caravan is for holiday purposed rather than residential.”

We understand that this is the only outstanding matter raised during the consultation and that once this is resolved, a Relevant Permanent Site Licence for the single residential unit at Seton Sands can be issued by the Site Licence Authority.

The CLEUD application

The CLEUD application will seek confirmation that a single specified caravan at Seton Sands “Residential 1” has been sited and in residential use without interruption for a period of at least 10 years, dating back from now. This process is not a planning judgment but rather the reaching of a view that ‘on the balance of probability’, the evidence confirms the position of the development set out in the application.

The onus is on the applicant (Haven) to collate sufficient information to inform the Council’s decision making. To this end, Haven has been gathering a range of sources to confirm the position. The CLEUD application is due to be submitted imminently.

The following evidence has been collated:

- 1 Statement of Account for resident of [REDACTED] 7 January 2025, dating back to 2011.
- 2 Signed statement from the son, a resident of residential caravan at Seton Sands Holiday Village, 26 January 2025 confirming that he and his family have resided at [REDACTED] since 1979.
- 3 Birth Certificate of Resident showing [REDACTED] Seton Sands Caravan Park (now [REDACTED] as Mother’s usual residence.
- 4 Signed statement (7 January 2025) from Grounds and Sitings Manager who has been employed at Seton Sands Holiday Village since 2010 of the residential use over the period of employment.
- 5 Signed statement (7 January 2025) from Head of Activities who has been employed at Seton Sands Holiday Village since 2012 of the residential use over the period of employment.
- 6 Google Earth Extracts from 2009 confirming the continual stationing of the caravan in this location.

Timescales for determination

Once submitted, the determination of the CLEUD application is outside Haven’s control.

In respect of the timescales for determining a site licence application, Section 5 of the Licensing of Relevant Permanent Sites (Scotland) Regulations 2016 states that the time limit specified for the

purpose of an application of this nature is 3 months from the date the relevant authority is in receipt of the application and fee as fixed by the local authority.

As the application was submitted on 29 November 2024, the period for determination ends 28 February 2025.

From liaising with you, we understand there are two options to extend the determination period:

- 1 To lodge a representation to the Site Licencing Authority which will then be considered at the Licensing Sub-Committee. Papers must be lodged with the committee clerk two weeks prior to this date, i.e. by 30 January in advance of the 13 February meeting; an/or
- 2 Local authority to apply to the Sheriff for an extension.

We therefore submit this letter, on behalf of Haven, to seek an extension of time for the determination of the residential site licence under option 1 above to allow the time needed by the planning authority to reach a decision on the CLEUD application once it has been submitted.

Conclusion

We trust this letter sufficiently and reasonably sets out the reason we consider that the timescales for determining the residential site licence application at Seton Sands Holiday Village should be extended.

As demonstrated, Haven has followed the required actions following the Licensing Sub-Committee by submitting the two applications within the set timeframe. Haven is now pursuing a CLEUD at the request of the planning authority. Once the application is submitted, timescales will be in the hands of the Council.

As a result, we consider it appropriate for the timescales for determining the residential site licence application to be extended and based upon the Council's own timescales for determining the CLEUD application.

If you do have any questions, please do not hesitate to contact me or my colleague Rhiannon Harrop-Griffiths.

Yours sincerely


Helen Ashby-Ridgway

Planning Director

BSc (Hons) MSc MRTPI

From: [Rhiannon Harrop-Griffiths](#)
To: [Fitzpatrick, Sheila](#)
Cc: [Helen Ashby-Ridgway](#)
Subject: RE: Seton Sands Holiday Park [LICH-DMS.FID211063]
Date: 31 January 2025 15:53:56
Attachments: [REDACTED]

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Hi Sheila,

Further to our call this morning, we intend to submit the CLEUD application by next Friday (7th February). We will be in touch once the application is submitted and should there be a reason outside of our control that the application is not submitted by this date, we'll let you know in advance.

Kind regards,
Rhiannon

Rhiannon Harrop-Griffiths

Senior Planner

BA (Hons) MSc

Lichfields, Helmont House, Churchill Way, Cardiff CF10 2HE

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From: Rhiannon Harrop-Griffiths
Sent: 30 January 2025 12:19
To: Fitzpatrick, Sheila <sfitzpatrick1@eastlothian.gov.uk>
Cc: Helen Ashby-Ridgway <helen.ashby-ridgway@lichfields.uk>
Subject: RE: Seton Sands Holiday Park [LICH-DMS.FID211063]

Hi Sheila,

Please see attached a letter requesting an extension to the determination period for the Relevant Permanent Site Licence – we would be grateful if you could forward this to the committee clerk for consideration.

If you have any queries on the letter, please do not hesitate to call.

Kind regards,
Rhiannon

Rhiannon Harrop-Griffiths

Planner

BA (Hons) MSc

Lichfields, Helmont House, Churchill Way, Cardiff CF10 2HE

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.