

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 14 NOVEMBER 2024

DEFERRED SHORT TERM LETS APPLICATIONS

REPORT BY DIRECTOR OF LEGAL, GOVERNANCE AND CHANGE

1. ABSTRACT

The purpose of this report is to present deferred applications for a Short Term Lets Licence under the Civic Government (Scotland) Act 1982 which require to be determined by the Committee.

2. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICIES

Not applicable

3. RECOMMENDATIONS

It is recommended that the Committee consider and determine the applications for grant of the Short Term Lets Licences as detailed in Appendix 1 to the Report, in terms of one of the following options: -

- (i) to grant the application; or
- (ii) to grant the application subject to standard and/or any additional conditions; or
- (iii) to refuse the application on one or more of the grounds referred to in Paragraph 5.

4. BACKGROUND

The Council has received applications for the grant of Short term Lets Licences under the Civic Government (Scotland) Act 1982 ("the 1982 Act") which require to be determined by the Committee because one or more of the following apply: -

- (i) there has been an objection, or a representation received in respect of the application; or
- (ii) the application does not comply with the policy adopted by Angus Council; or
- (iii) the function is not delegated to Officers; or
- (iv) the applicant has a conviction(s), a spent conviction(s) or a pending case.

At its meetings on 15 August 2024, 19 September 2024, and the Special Committee meeting on 30 September 2024, the Committee determined to defer consideration of the applications in **Appendix 1** to this Committee date to allow the applicant time to address the matters outstanding in respect of the information required to process the application.

5. LEGAL IMPLICATIONS

- 5.1 Schedule 1 of the 1982 Act contains provisions in respect of the processing and determining of applications for licences under the 1982 Act.

5.2 In particular, Paragraph 5 of Schedule 1 to the 1982 Act provides that where an application for the grant or renewal of a licence has been made to a licensing authority they shall, in accordance with that paragraph: -

- (a) grant or renew the licence; or
- (b) refuse to grant or renew the licence.

5.3 In granting or renewing a licence a licensing authority may (either or both): -

- (a) disapply or vary any standard conditions so far as applicable to the licence,
- (b) impose conditions in addition to any mandatory or standard conditions to which the licence is subject.

Other than the mandatory conditions, the licence conditions shall be such reasonable conditions as the licensing authority think fit and, without prejudice to that generality, may include conditions restricting the validity of a licence to an area or areas specified in the licence, with limited exception.

In the case of secondary letting no condition applied may impose any limit on the numbers of nights for which premises may be used for secondary letting.

5.4 A licensing authority shall refuse an application to grant or renew a short term lets licence if, in their opinion-

- (a) the applicant or, where the applicant is not a natural person, any director of it or partner in it or any other person responsible for its management, is either-
 - (i) for the time being disqualified by a Court from holding a licence under the 1982 Act; or
 - (ii) not a fit and proper person to be the holder of the licence;
- (b) the activity to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself;
- (c) where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to:-
 - (i) the location, character or condition of the premises or the character or condition of the vehicle or vessel;
 - (ii) the nature and extent of the proposed activity;
 - (iii) the kind of persons likely to be in the premises, vehicle or vessel;
 - (iv) the possibility of undue public nuisance; or
 - (v) public order or public safety; or
 - (vi) the applicant would not be able to secure compliance with –
 - (a) the mandatory licence conditions, and
 - (b) the standard conditions and any further conditions under 3(ii) above to which the licence is subject; (**see Appendix 2 for the mandatory licence conditions**)

- (d) the application does not contain the information required in terms of Schedule 1 paragraphs 1(2)(da), or (db) of the Act as amended by the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022, regarding consent of the owners of the premises, or
 - (e) there is other good reason for refusing the application;
- and otherwise shall grant the application.

6. FINANCIAL IMPLICATIONS

There are no financial implications arising out of this report.

7. RISK MANAGEMENT

There are no risks to the Council arising from the terms of this Report.

8. ENVIRONMENTAL IMPLICATIONS

There are no direct environmental implications arising from the recommendations of the Report.

9. EQUALITY IMPACT ASSESSMENT, HUMAN RIGHTS AND FAIRER SCOTLAND DUTY

In dealing with the applications, the Committee will have regard to any human rights and/or equalities issues in relation to the applicant and any objectors.

10. CHILDRENS RIGHTS AND WELLBEING IMPACT ASSESSMENT

A Children's Rights and Wellbeing Impact Assessment has been undertaken and a full assessment is not required as the "General Principles" do not apply to this proposal.

11. NOTIFICATION

The applicant has been notified of the terms of this Report. They have also been advised of their entitlement to attend the meeting should they wish.

NOTE: No background papers as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extend in preparing this report.

REPORT AUTHOR: Stuart McQueen, Solicitor, Team Leader – Licensing & Regulation

EMAIL DETAILS: LEGDEM@angus.gov.uk

CIVIC LICENSING COMMITTEE – 14 NOVEMBER 2024

(a) Woodside House, By Arbroath

Name of Applicant	Type of Licence	Application received
Nandor Marczin	Short Term Lets (New Grants Licence)	23/05/2024

Members are advised that this application initially called at the Civic Licensing Committee meeting on 15 August 2024 whereby members deferred to 14 November 2024 to provide the applicant time for completion of the works requested by Scottish Fire and Rescue.

A new grant application for a Short Term Lets licence was lodged on 23 May 2024 by Nandor Marczin in respect of Woodside House, By Arbroath, DD11 3RB.

The application is for secondary letting i.e. letting of a property where the applicant does not normally live. The property is a 1 storey, semi-detached house with 3 double occupancy bedrooms. The application proposes a capacity of up to 6 residents.

Business Support consulted on the application, Police Scotland have confirmed no objections and Environmental Health have now confirmed they have no comments or observations to make. Planning have advised that no Planning Permission is required.

Scottish Fire and Rescue Service submitted a letter dated 18 June 2024 advising that they were unable to support the granting of a Short Term Lets Licence at that time. **A copy of the letter is attached.**

Licensing received an email from the applicant dated 5 November 2024 advising –

We have made a very significant progress and completed nearly all aspects of our proposed remedial work and I am hoping that these will be approved by the Fire Safety Enforcement Officer.

However, one element the emergency lighting especially due to the listed nature of the property and the unique historical value of the internal fixtures proves more complicated. Following the last council meeting and my presentation I have had a series of very helpful discussion with Mr Ben Freeman, your planning officer regarding these issues and we have agreed to make a formal application for Listed Building Consent seeking the input of and final guidance from Historic Environments Scotland. He is directly copied in the application for transparency and input. I have also discussed this with Debbie Feeney and informed of these developments.

As we are waiting for these approvals, I would like to ask the Committee to defer this agenda item to the next meeting until we hear from HES and the outcome of our application. I am confident we will have full approval and compliance with all aspects of Fire Safety recommendations.



Scottish Fire and Rescue Service
Perth, Kinross, Angus and Dundee
Blackness Road, Dundee
DD1 5PA
firescotland.gov.uk

FAO Licensing Standards Officer
Angus House
Orchardbank Business Park
Forfar
DD8 1AN

Direct Line	01382 322222
Fax	
E-mail	Jed.smith@firescotland.gov.uk
Our Ref	JS/STL4
Your Ref	
If phoning or calling ask for	Jed Smith, Fire Safety Enforcement Officer
Date	18 June 2024

Dear Sir/Madam,

FIRE (SCOTLAND) ACT 2005: PART 3
THE FIRE SAFETY (SCOTLAND) REGULATIONS 2006
SHORT TERM LET (STL) LICENCE APPLICATION

ADDRESS OF PREMISES: WOODSIDE HOUSE, BY ARBROATH, DD11 3RB (STL550987797)

DUTYHOLDER/LICENCEE: NANDOR MARZCIN

Following a fire safety audit of the above mentioned premises carried out on **17 June 2024** by **Jed Smith**, the existing fire safety arrangements, as audited on that date, **were not considered appropriate for the risk**. An action plan has been sought from the duty holder to address the deficiencies found.

Based on the outcome of the fire safety audit, the Scottish Fire and Rescue Service are **unable to support the granting of an STL licence** at this time. This will remain the case until actions are taken to reduce the risk to an acceptable level.

The Scottish Fire and Rescue Service acknowledge that the granting/renewal of a licence under Civic Government (Scotland) Act 1982 (Licensing of Short Term lets) Order 2022 is a matter for the relevant Local Authority STL Licensing Department.

Should you require further information or clarification in relation to this letter, please do not hesitate to contact the above named officer at the following address **Scottish Fire and Rescue Service, Service Delivery Area North, Macalpine Road DD3 8SA**.

Yours faithfully

pp
Derek Heaton
Local Senior Officer

CIVIC LICENSING COMMITTEE – 14 NOVEMBER 2024

(b) North Lodge and Gardens Cottage, Deuchars, Forfar (STL5)

Name of Applicant	Type of Licence	Application received
J Farquharson & Son	Short Term Lets (New Grant Licence)	09/10/2023

Members are advised that this application initially called at the Special Civic Licensing Committee meeting on 19 September 2024 whereby members deferred to 14 November 2024 to provide the applicant sufficient time to submit relevant documentation to Environmental Health and for them to conduct a re-test on the water supply.

An application for a New Grant Short Term Lets Licence was lodged on 9 October 2023 by J Farquharson & Son in respect of North Lodge and Gardens Cottage, Deuchar, Forfar, DD8 3QZ.

The application is for home letting i.e. using all or part of the applicant's home for short term lets while the applicant is absent. The property, North Lodge is a 1 storey detached house with a total number of 3 double occupancy bedrooms and a maximum occupant capacity of 6. Gardens Cottage is a 1 storey detached house with 1 double occupancy bedroom and a maximum occupant capacity of 2.

Business Support consulted on the application on 9 October 2023 and received no objection emails from Police, Scottish Fire and Rescue Service and Environmental Health. Planning confirmed in a letter provided by the applicant that planning permission is unlikely to be required to use the property as a Short Term Let.

Members are advised Environmental Health emailed Licensing on 26 August 2024 to raise a holding objection to the application. This was due to an ongoing lead failure at the supply to the premises. As a result of the supply failure, the premises would be unable to comply with the Short Term Let standard condition or Repairing Standards regarding the private water supply.

To assist Members these conditions state: -

Water safety: private water supplies

8. *Where the premises are served by a private water supply, the licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017.*

And;

Safety & repair standards

10. *(1) The holder of the licence must take all reasonable steps to ensure the premises are safe for residential use.*
- (2) Where the premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the holder of the licence must ensure that the premises meet the repairing standard.*

Alex Skelligan, Environmental Health Technician, emailed Licensing on 22 October 2024 advising a water supply test had been carried out on both properties and he was waiting on the results to be returned.

CIVIC LICENSING COMMITTEE – 14 NOVEMBER 2024

(c) The Glen Apartment & Macduff Tower & Lauderdale Apartment, Kinnaird Castle, Brechin DD9 6TZ

Name of Applicant	Type of Licence	Application received
Claire Penman/Jonathan Dymock	Short Term Lets (New Grant Licence)	30/09/2023

An application for a New Grant Short Term Lets Licence was lodged on 30 September 2023 by Claire Penman on behalf of Southesk Estates in respect of the three properties: The Glen Apartment & Macduff Tower & Lauderdale Apartment, Kinnaird Castle, Brechin DD9 6TZ.

The applications are all for secondary letting i.e. using all or part of the applicant's home for short term lets while the applicant is absent. The property, The Glen Apartment is a flat with a total number of 1 double occupancy bedrooms and a maximum occupant capacity of 4 (sofa bed in the livingroom); Macduff Tower is a flat with 2 double occupancy bedroom and a maximum occupant capacity of 4; Lauderdale Apartment is a flat with 3 double occupancy bedroom and a maximum occupant capacity of 6.

Business Support consulted on the application and received no objection emails from Police and Scottish Fire and Rescue Service (following an audit by Fire). Planning permission or a Certificate of Lawful Use is in place for each property to be used as a Short Term Let.

Members are advised that the Estate has its own private water supply, and a satisfactory report was provided in respect of the that supply, however on 3 September 2024 ECP requested individual samples were taken from each property. Until such time as ECP are satisfied with the individual samples, the premises would be unable to comply with the Short Term Let standard condition or Repairing Standards regarding the private water supply and Safety & Repair Standards.

At the Special Civic Licensing Committee on 30 September 2024 the applicant indicated that the required testing was due to take place on 2 October 2024. Subsequent test results were supplied and thereafter Licensing received an email from Environmental Health on 29 October 2024 with no comments or observations to make.

To assist Members these conditions state: -

Water safety: private water supplies

8. *Where the premises are served by a private water supply, the licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017.*

And;

Safety & repair standards

10. (1) *The holder of the licence must take all reasonable steps to ensure the premises are safe for residential use.*
- (2) *Where the premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the holder of the licence must ensure that the premises meet the repairing standard.*

CIVIC LICENSING COMMITTEE – 14 NOVEMBER 2024

(d) Croftend Cottage & Claypotts Cottage & Clover Cottage, Glen Isla, PH11 8PL

Name of Applicant	Type of Licence	Application received
Lady Oona Ivory	Short Term Lets (New Grant Licence)	30/09/2023

Applications for New Grant Short Term Lets Licences were lodged on 30 September 2023 by Lady Oona Ivory in respect of the three properties: **Croftend Cottage & Claypotts Cottage & Clover Cottage, Glen Isla, PH11 8PL**.

The applications are all for secondary letting i.e. using all or part of the applicant's home for short term lets while the applicant is absent. The property, Croftend Cottage is a 1-storey detached house a total number of 2 double occupancy bedrooms and a maximum occupant capacity of 4; Claypotts Cottage is a 2-storey detached house with 3 double occupancy bedroom and a maximum occupant capacity of 6; Clover Cottage is a 2-storey detached house with 1 double occupancy bedroom and a maximum occupant capacity of 2.

Business Support consulted on the application and received no objection emails from Police and Scottish Fire and Rescue Service. Planning confirmed in a letter provided by the applicant that planning permission is unlikely to be required to use the property as a Short Term Let.

Members are advised that the Estate has own private water supply, and no current private water supply report has been received from the applicant for any of the properties, despite repeated requests. The latest request to the applicant for this updated report was made on 6 September 2024. ECP analysis has therefore not been possible. Until such time as ECP are satisfied with the individual samples, the premises would be unable to comply with the Short Term Let standard condition or Repairing Standards regarding the private water supply and Safety & Repair Standards.

At the Special Civic Licensing Committee on 30 September 2024 the applicant was not present, however information was presented indicating that the required testing was due to take place on 30 September 2024. However, Business Support received a telephone call from the applicant on 4 November 2024 advising that the water supply had not yet been tested and that no date had been arranged for testing.

To assist Members these conditions state: -

Water safety: private water supplies

8. *Where the premises are served by a private water supply, the licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017.*

And;

Safety & repair standards

10. (1) *The holder of the licence must take all reasonable steps to ensure the premises are safe for residential use.*
- (2) *Where the premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the holder of the licence must ensure that the premises meet the repairing standard.*

CIVIC LICENSING COMMITTEE – 14 NOVEMBER 2024

(e) Bog Cottage, Wester Lednathie, Glen Prosen, DD8 4RR

Name of Applicant	Type of Licence	Application received
Pamela Dougal	Short Term Lets (New Grant Licence)	30/09/2023

An application for New Grant Short Term Lets Licence was lodged on 30 September 2023 by Pamela Dougal in respect of Bog Cottage, Wester Lednathie, Glen Prosen, DD8 4RR.

The application is for secondary letting i.e. using all or part of the applicant's home for short term lets while the applicant is absent. The property, Bog Cottage is a 1-storey detached house a total number of 2 double occupancy bedrooms and a maximum occupant capacity of 4.

Business Support consulted on the application and received no objection emails from Police and Scottish Fire and Rescue Service. Planning confirmed in a letter provided by the applicant that planning permission is unlikely to be required to use the property as a Short Term Let.

Members are advised that the Estate has own private water supply, and the annual private water supply report is awaited. ECP analysis has therefore not been possible. Until such time as ECP are satisfied with the individual samples, the premises would be unable to comply with the Short Term Let standard condition or Repairing Standards regarding the private water supply and Safety & Repair Standards.

At a Special Civic Licensing Committee on 30 September 2024 the applicant indicated that the required testing was due to take place on 1 October 2024. The applicant emailed Licensing on 4 November 2024 advising she was hoping that the water testing results would be completed by the time of Committee, and she would advise.

To assist Members these conditions state: -

Water safety: private water supplies

8. *Where the premises are served by a private water supply, the licence holder must comply with the requirements on the owners of private dwellings set out in the Water Intended for Human Consumption (Private Supplies) (Scotland) Regulations 2017.*

And;

Safety & repair standards

10. (1) *The holder of the licence must take all reasonable steps to ensure the premises are safe for residential use.*
- (2) *Where the premises are subject to the requirements of Chapter 4 of Part 1 of the Housing (Scotland) Act 2006, the holder of the licence must ensure that the premises meet the repairing standard.*

CIVIC LICENSING COMMITTEE – 14 NOVEMBER 2024

(f) Glasslet Cottage, Glen Clova DD8 4QU

Name of Applicant	Type of Licence	Application received
David Fairlie	Short Term Lets (New Grant Licence)	30/09/2023

An application for a New Grant Short Term Lets Licence was lodged on 30 September 2023 by David Fairlie in respect of Glasslet Cottage, Glen Clova DD8 4QU.

The application is for secondary letting i.e. letting a property where the applicant does not normally live. The property is a 1 storey detached house with a total number of 3 double occupancy bedrooms and a maximum occupant capacity of 6.

Business Support consulted on the application and received no objection emails from Police and Scottish Fire and Rescue Service. Planning confirmed in a letter provided by the applicant that planning permission is unlikely to be required to use the property as a Short Term Let.

Members are advised Environmental Health emailed Licensing on 16 September 2024 to indicate that there was a C2 item (potentially dangerous) noted on the Electrical Installation Condition Report that required to be rectified. The applicant subsequently submitted invoices from an electrician dated 30 March 2023 which appears to show the appropriate works had been completed. Contact was made with the applicant on 16 September 2024 requesting confirmation of this having taken place. No electrical completion certificate has been produced as yet. As a consequence, the premises would be unable to comply with the Short Term Let standard condition 6 which relates to Electrical Safety.

At a Special Civic Licensing Committee on 30 September 2024 the applicant indicated that the required testing would be undertaken as soon as possible. Licensing have since received an EICR Certificate which was forwarded on to Environmental Health.

Environmental Health confirmed in an email dated 5 November 2024 that they now had no comments or observations to make.

To assist Members these conditions state: -

Electrical safety

6. Where there are electrical fittings or items within the parts of the premises which are for guest use, or to which the guests are permitted to have access, the holder of the licence must –

(a) ensure that any electrical fittings and items are in –

(i) a reasonable state of repair, and

(ii) proper and safe working order.

(b) arrange for an electrical safety inspection to be carried out by a competent person at least every five years or more frequently if directed by the competent person.

(c) ensure that, following an electrical safety inspection, the competent person produces an Electrical Installation Condition Report on any fixed installations.

(d) arrange for a competent person to –

(i) produce a Portable Appliance Testing Report on moveable appliances to which a guest has access, and

(ii) date label and sign all moveable appliances which have been inspected.