

AGENDA ITEM NO 7

REPORT NO 336/24

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 14 NOVEMBER 2024

NEW SHORT TERM LETS APPLICATION

REPORT BY DIRECTOR OF LEGAL, GOVERNANCE AND CHANGE

1. ABSTRACT

The purpose of this Report is to present a new application for a 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 application for grant of the Short Term Let licence as detailed in the attached Appendix, in terms of one of the following options: -

- (i) being satisfied that the notice was not displayed in accordance with the statutory requirements, to require the applicant to display the notice again for a period of 21 days beginning with such date as they may specify; or
- (ii) to grant the application; or
- (iii) to grant the application subject to standard and/or any additional conditions; or
- (iv) to defer the application for a period not exceeding 6 months from the date of the application; or
- (v) to refuse the application on one or more of the grounds referred to in Paragraph 5.

4. BACKGROUND

The Council has received an application for the grant of a Short term Lets licence 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.

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 2(2) of Schedule 1 to the 1982 Act requires an applicant, for a period of 21 days beginning with the date on which the application was submitted, display a notice detailing the following information at or near the premises so that it can conveniently be read by the public:
- a) that application has been made for a licence;
 - b) the kind of licence in respect of which the application is made;
 - c) the address of the premises;
 - d) that objections and representations in relation to the application can be made to the licensing authority within 28 days of the notice being displayed;

- 5.3 Paragraph 2(6) of Schedule 1 to the 1982 Act allows the licensing authority to require an applicant to display the notice again for a period of 21 days beginning with such date as they may specify where an application contains a declaration that the applicant has complied with the display requirements and the licensing authority is satisfied that the notice was not displayed in accordance with those requirements.

- 5.4 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.

- 5.5 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.

- 5.6 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(iii) 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.

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CIVIC LICENSING COMMITTEE – 14 NOVEMBER 2024

Short Term Lets Application – Hideaway Cottage, 46 Kinloch Street, Carnoustie, DD7 7EN

Name of Applicant	Type of Licence	Valid Application
George Charles	Short Term Lets	19/08/2024

A new grant application for a Short Term Lets licence was received on 13 August 2024 from George Charles in respect of premises at Hideaway Cottage, 46 Kinloch Street, Carnoustie, DD7 7EN.

The application is for secondary letting i.e. letting of a property where the applicant does not normally live. The property is a semi-detached house with 2 double bedrooms. The application proposes a capacity of up to 4 residents.

Business Support consulted on the application. Environmental Health, Police and Fire Scotland have confirmed no objections, and the applicant provided a copy email from Planning confirming that given the information provided to them by the applicant the use of the property for short-term let purposes as described, would not appear to constitute a material change of use that would require submission of an application for planning permission.

Licensing received an objection email on 26 August 2024 from Carmen Scallan and a copy of said email is attached to this report.

Carmen Scallan

Sent: 26 August 2024 17:43
To: LAWlicensing
Subject: Hideaway Cottage, 46 Kinloch Street, Carnoustie, DD7 7EN - objection to short term let license

To whom it may concern,

I am writing to you to object to a recent notice in regard to a short term let license for the premises of Hideaway Cottage, 46 Kinloch Street, Carnoustie, DD7 7EN.

Firstly, I would like to note that the notice on the lamppost outside 44 Kinloch Street has been attached at such a low level that it is extremely unreasonable to expect people to be able to read this given it is not within eye height for awareness, but also easy reading thus going against what is noted on your notice that it has been displayed "in a position where it can be easily read by the public" (this has not been abided by). I do not believe this has fallen to within one foot of the ground due to external factors (e.g. weather etc) given it is tied extremely tightly with cable ties. My husband has been out to move this to a more reasonable height of display although this could still be rectified by yourselves/George - this seems quite deceitful by the way the notice was originally displayed.

As per the notice, my name is Carmen Scallan and my address is 44 Kinloch Street, Carnoustie, DD7 7EN. I am making this objection on behalf of myself and my young family.

Further to what I have noted above regarding this notice being placed slyly approximately one foot from the ground, I would like to note the further following objections to a short term let being granted at the aforementioned address:-

1. There is the Kinloch Care Centre situated within a couple of meters of the property whose primary care is within the categories of 'dementia' and 'older person care'. They also have a supported housing provision and I'm sure you will agree these are a vulnerable group of individuals whose needs (physical and mental) must be protected against the possibility of increased anti-social behaviour and the intrusion by frequent turnover of strangers in an extremely close-by vicinity.
2. Within the area, there is pathway that is used by various households to reach the main street, for example to put our bins out on the street. However, for two of those houses the pathway is for sole access to their property (one of these being 46 Kinloch Street). With strangers continually walking this path, there is a sense of intrusion and a loss of security for all of us who use this pathway/live right beside it. Strangers are also much more likely to litter in this area as well as cause damage given it's not their property. Given those who reside here all take care of this area, would the homeowner of 46 Kinloch Street pick up charges for any damages / be there to tidy etc given it is his short term let, I do very much doubt this.
3. The area where we reside on Kinloch Street is a quiet, friendly area where neighbours converse regularly - you feel safe. A short term let will have a huge detrimental impact on living conditions for close neighbours (ourselves included) - as noted above, an

increase in anti-social behaviour, noise and a high turnover of strangers heightening feeling unsafe which undermines what we value as a society (going against what is explicitly detailed within the National Planning Framework). I, and others in the area, have young families and the noise and disturbance this would cause is incomprehensible. I do not want to live in an area where I feel unsafe and vulnerable not knowing who is living within such a close vicinity, especially given my personal circumstances as my husband works away (and I know others in the area have similar thoughts to their situations). Regular residents value the safety and stability of the neighbourhood which will be compromised by such frequent changes in occupancy.

4. The majority of Kinloch Street is on-street parking as few houses have a driveway. Approving a short term let license will have a huge impact of the adequacy of parking for residents within the area which will strain existing infrastructure.
5. I appreciate this will be a good quality home with the recent renovations but I do not believe in approving a short term license as this will go against the National Framework for the local area; it will be continually unable to meet the housing needs, not only across Scotland but in Carnoustie specifically with the increase in these types of properties. Short term lets create a massive pressure on rent levels and house prices - local families and young people are being 'shut out' of the housing market and denied the opportunity to buy or rent in their own community. Short term lets affect the ability of the local area to function as a socially sustainable place taking away the sense of "community". Research shows that areas with short term lets have a huge detrimental impact on living conditions for close neighbours. DPEA research has also shown that main door properties have been found to be unacceptable for short term lets when they are close to other residential properties (which is true in this case given it is also joined on to another property (it's not stand alone), as well as being close to a sheltered housing and care centre provision) and when they share a communal space (which is again true in this case - the pathway leading to various houses). By approving this as a short term let, this would be contrary to the Scottish Planning Policy on "supporting delivery of accessible housing".
6. At this current moment, there are currently 50 rentals registered with Air B and B as "short lets" within the Carnoustie area which I believe is a complete over provision given the population of Carnoustie is 11,359 (2022 census data) and goes back to my previous point on local individuals being shut out of buying and renting in the local area.

With all due respect, as George Charles actually resides in the Laurencekirk area (Aberdeenshire), outwith Angus, I don't think he fully appreciates or understands the negative impact granting a short term let will have on the immediate neighbourhood. I hope he understands the points I have raised - we have a great sense of community in this area and this will be deeply affected by a short term let in terms of noise, safety, parking as well as opposing what is outlined in local and national planning frameworks.

I hope the above points will be taken into account when reviewing this application and the appropriate course of action be taken by the Licensing Team at Angus Council in refusing this particular application - our community's wellbeing, safety and long term sustainability should take precedence over short term let commercial interests, especially in this case.

Kind regards,
Carmen Scallan