

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY MICROSOFT TEAMS on TUESDAY, 6 AUGUST 2024**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Fiona Howard
Councillor Gordon Blair	Councillor Mark Irvine
Councillor Jan Brown	Councillor Andrew Kain
Councillor Audrey Forrest	Councillor Dougie Philand
Councillor Graham Hardie	Councillor Peter Wallace

Attending: Shona Barton, Governance Manager
Alison MacLeod, Licensing Standards Officer
Katie Clanahan, Solicitor
Alisdair Johnston, Applicant

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Daniel Hampsey, Paul Kennedy and Liz McCabe.

2. DECLARATIONS OF INTEREST

Councillor Peter Wallace declared a non-financial interest in this application as he knew and had worked with the Applicant. He left the meeting and took no part in the hearing.

3. CIVIC GOVERNMENT (SCOTLAND) ACT 1982, THE CIVIC GOVERNMENT (SCOTLAND) ACT 1982 (LICENSING OF SHORT-TERM LETS) ORDER 2022: APPLICATION FOR GRANT OF A SHORT-TERM LET LICENCE (A JOHNSTON, GHILLIES CROFT CABIN, ROTHESAY)

The Chair welcomed everyone to the meeting. In line with recent legislation for Civic Government Hearings, the parties (and any representatives) were given the options for participating in the meeting today. The options available were by video call, by audio call or by written submission. For this hearing the Applicant opted to proceed by way of video call and Mr Johnston joined the meeting by MS Teams.

It was noted that none of the Objectors were in attendance.

The Chair invited the Licensing Standards Officer to speak to the terms of the report.

Thereafter the procedure set out in Appendix 8 of the report was followed and the Chair invited the Applicant to speak in support of his application.

APPLICANT

Mr Johnston referred to the detailed report given by the Licensing Standards Officer and advised that he would like to explain why he thought the issues raised by objectors were either not valid or could be suitably mitigated.

He advised that he and his wife lived next to the cabin and that they had owned the land since 2022. He commented that he and his wife would not be absentee landlords and that

they would be hands on hosts. He also referred to a shortage of good quality tourist accommodation on the island and said he knew this from his time volunteering for Visit Bute. He confirmed that he has submitted a planning application for change of use of the Cabin for use as a short-term let.

With the aid of a power point presentation, Mr Johnston pointed out the Academy Apartments, the Cabin and a dedicated parking area. He also showed pictures taken from CCTV footage showing views towards the Cabin from his own property.

Mr Johnston referred to concerns about privacy raised by the Objectors in respect of guests' ability to look into their homes and strangers entering/frequenting the apartments. He pointed out there was a communal door entry system into the Academy Apartments and that there was an AirBnB within that apartment block and said he assumed that these guests would be using the same access door as the Objectors. He advised that the AirBnB was operated by the grandson of two of the Objectors and suggested that they may have a vested interest in terms of their objection.

He then showed on the slides the location of the separate access to the Cabin and grounds. He also showed a picture of the gable end window where the apartments could be viewed, and pointed out that this window now had curtains and a trellis for plants positioned outside, which would block this view in time.

Mr Johnston also showed a picture of the views of the sea from the decking area and suggested that guests would rather look at that view than the one out of the gable end window.

Mr Johnston referred to concerns about guests using neighbours bins and he pointed out on the slides the dedicated bins to be used by guests and the location of the neighbours' bins which were further away. He confirmed that the guest handbook stated which bins were to be used.

Mr Johnston referred to concerns about barbeque smoke and he confirmed that no barbeque was provided to guests and that they were also not permitted to bring or use portable barbeques at the property. In terms of concerns about noise, Mr Johnston advised that as they lived next door they would be able to monitor the situation and that the guest manual prohibited parties, loud music and specified quiet times.

Mr Johnston confirmed that occupancy was for families and not for hen or stag parties.

Mr Johnston said he understood the concerns raised and advised that he believed that these could be mitigated as he had a vested interest in making this work. He asked the Committee to approve the application.

MEMBERS' QUESTIONS

Councillor Forrest sought and received confirmation from Mr Johnston that his preference would be for a family of 2 adults and 2 children to stay at the Cabin.

Councillor Kain noted that the Cabin had planning permission to be used as an office and workshop. He asked Mr Johnston if it had ever been used as an office or workshop. He also asked why guest pamphlets were being prepared before planning permission for change of use had been granted.

Councillor Green pointed out that as was explained in the presentation given by the Licensing Standards Officer, the planning application was not a material consideration in terms of the granting of this short-term let licence. He sought comment from the Council's Solicitor on what would happen if this short-term let licence was approved and then the planning application was refused.

Ms Clanahan explained that the planning regime and short-term let licensing regime were separate and that it was a requirement of planning for the appropriate planning permission to be in place. She advised that if a short-term let licence was operated without this permission this would be a breach of planning and enforcement action could be taken. She further advised that if this short-term let licence was granted today it could not be used without the planning permission in place. She pointed out that as the property was not in an area where there was a planning control zone (where there was a requirement for planning permission to be in place first) planning issues were not relevant and could not be taken into account today.

Councillor Green commented that he had noted that this was a new build and that even if the Applicant had not applied for a change of use, he could still go ahead with applying for a short-term let licence but that licence, if approved, would not be able to be used until planning permission was applied for and obtained.

Councillor Kain referred to a degree of confusion with the two regimes.

Mr Johnston confirmed that he was clear in his mind that until he had his planning application for change of use approved, he would not be able to operate the property as a short-term let. He said he had no intention of breaching that rule. With regard to the guest manual, he advised that this was a draft manual that had been prepared in order to address the concerns of the objectors.

Mr Johnston further advised that the Cabin had never been used as an office or workshop. He explained his plans for its use had changed while it was being built following his diagnosis of a serious illness.

Ms Clanahan referred again to the separate planning and short-term let licencing regimes. She pointed out that this was an intention of the Scottish Government and not a decision made by Argyll and Bute Council. She said that the planning process can take some time and that if it was a requirement for planning to be in place first, an applicant would have to go through that process before being able to go through the short-term let licensing process, which could then take up to 9 months to process. She advised that the Committee should not need to worry about granting a short-term let licence because if a breach were to happen the Committee could reconvene and make a decision on whether or not the licence holder was a fit and proper person to hold the licence.

Councillor Brown said she was also confused and commented that if this licence was granted and then planning permission was refused this would be a redundant process. Ms Clanahan advised that there were prescribed timelines to work to and that it was not possible to know when a planning application would be approved or refused. She advised that if the short-term let application was held back until the planning process was concluded it could become a deemed grant. She advised again that the short-term let licence could not be operated without planning permission in place.

SUMMING UP

Applicant

Mr Johnston commented that he understood why the process looked convoluted. He advised that he had been advised what to do by both the planning and the short-term let licensing teams and that he had no intention of operating until planning permission was granted.

Mr Johnston confirmed that he had received a fair hearing.

DEBATE

Councillor Hardie said that this appeared to be a clear-cut case and that the Applicant had applied due diligence to try and address the concerns of the Objectors. He noted that the Applicant lived nearby and he confirmed that he would be happy to grant the licence.

Councillor Forrest said she was more or less of the same view as Councillor Hardie. She commented that quite a number of the objections did not require mitigation but that the Applicant had gone ahead and mitigated where he could. She said she would have no hesitation in granting the licence.

Councillor Brown also advised she would have no hesitation in granting the licence and noted that the Applicant had said he would adhere to the rules and wait until planning permission was granted.

Councillor Irvine also agreed with colleagues and said he would be happy to grant the licence. He said the Applicant had done what he needed to do and had probably gone the extra mile.

Councillor Philand was also minded to support the application.

Councillor Green agreed with the points of view put forward and confirmed that he would be happy to support the application. He said he was pleased to have confirmation from the Applicant that he would be abiding by the rules.

DECISION

The Committee agreed to grant a short-term let licence to Mr Johnston subject to the inclusion of the additional conditions in respect Antisocial Behaviour; Privacy and Security; and Littering and Waste Disposal, and noted that Mr Johnston would receive written confirmation of this within 7 days.

(Reference: Report by Head of Legal and Regulatory Support, submitted)