

**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 Mark Irvine
Councillor Jan Brown	Councillor Andrew Kain
Councillor Audrey Forrest	Councillor Dougie Philand
Councillor Graham Hardie	Councillor Peter Wallace
Councillor Fiona Howard	

Attending: Shona Barton, Governance Manager
Alison MacLeod, Licensing Standards Officer
Katie Clanahan, Solicitor
Penny Graham-Weall, Applicant's Representative
Rod McLean, Objector
Bruce Godsmark, Objector

1. APOLOGIES FOR ABSENCE

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

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

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 (B BEADLE, WATERSIDE, TIGHNABRUIACH)

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.

The Applicant, who was unable to attend, was represented by his sister, Penny Graham-Weall, joint owner of the property. Ms Graham-Weall opted to proceed by way of video call and joined the meeting by MS Teams.

Rod McLean, Objector, also opted to proceed by way of video call and joined the meeting by MS Teams.

Bruce Godsmark, Objector opted to proceed by way of audio call. It was noted that Officers had been unable to contact Mr Godsmark by telephone to enable him to join the meeting. The Chair agreed that the hearing should proceed with those present and he asked Officers to continue to try to contact Mr Godsmark.

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

Thereafter the procedure set out in Appendix 6 of the report was followed and the Chair invited the Applicant's representative to speak on behalf of the Applicant.

APPLICANT'S REPRESENTATIVE

Ms Penny Graham-Weall spoke on behalf of the Applicant. She advised that she and her brother, Mr Beadle inherited the property from their father in 2013 and that they had let it out as a holiday home since then. It regularly had bookings for 30 weeks and was used by the family in the winter. She advised that 3 local people looked after the property and assisted with the change overs to as high a standard as possible. She confirmed that it slept 8 people and although they advertised through booking agencies a lot of people booked direct with them and that they had a lot of returning customers. She said that she was not aware of there ever being more than 8 people staying at the property and that she recognised the importance of being respectful to neighbours. She said that they had agreed to park on the road and that they have advised their guests to do the same. She advised that their guests only needed to use the courtyard to access the property and that they did not use it for rest and recreation as there was a separate decking area with the property.

She advised that the week before a booking, guests were contacted and it was pointed out to them that the courtyard had a shared access and was used by neighbours. She confirmed that their bins were clearly labelled, and guests were advised to leave excess rubbish in refuse bags in the utility room. They were also advised where to dispose of bottles. They were advised not to put rubbish in neighbours' bins.

She referred to concerns raised about dog owners and she advised that guests were told not to have any dogs unaccompanied in the courtyard and to clean up dog mess if there were accidents. She advised that of the 35 bookings taken last year, 7 had dogs and of the 38 bookings this year, 8 have dogs. She said she would like to apologise to the neighbours for any events regarding the bins and dogs. She said that the guests' manual had been updated and a copy had been sent to the Licensing Standards Officer.

She advised that it would be helpful to them if the neighbours contacted them at the time of any problems occurring so they could have a chance to contact guests immediately. She advised that to date this has not happened. She said that they would be happy to install a video doorbell to monitor the number of people entering the property.

She then read out an email she had received from a guest that had stayed at the property last week. They advised of having a wonderful time and that the neighbours had been very friendly and had let them borrow a kayak. Ms Graham-Weall said she would like to thank the neighbour for that.

QUESTIONS FROM OBJECTORS

Mr McLean sought and received confirmation from Ms Graham-Weall that she jointly owned the property with her brother. She also confirmed that the title deeds allowed the property to be used as a short-term let.

Councillor Green commented that he understood that the title deeds of a property were not a relevant factor when considering short-term let applications. He sought comment from the Council's Solicitor.

Ms Clanahan advised that title deeds were only ever relevant if they stipulated something that was prohibited. It was her understanding that was not the case here so they were irrelevant.

OBJECTORS

Mr McLean advised that it was his view that none of the issues have been resolved properly. He referred to the courtyard being shared with the neighbours and the holiday home, which created a lack of privacy and insecurity. He said that oversight was a big issue for him. He referred to Ms Graham-Weall living in Gloucestershire and commented that she would not be aware of the overlooking or how many people were coming and going or how they behaved. He said that people largely ignored the guidelines. He said that 2 or 3 families were coming every week and by the time the problems were sorted with one family there was a need to start again with the next family. He said this created a feeling of unease all the time. He said it was not possible to know who would be coming or what they would be like. He advised that some people were friends of the owners and came with an abrasive attitude. He said changing the manual had not changed the behaviour. Changes to use of the courtyard would be minimal and any mitigation would not stop that being an issue.

He said that he felt he had to hide away and not be seen by the owners and visitors. He referred to things being taken from the courtyard by the owners and guests. He said that the cleaners did not see the guests as they came after guests left and left again before the next guests arrived.

He advised that policing of the area was being left to the residents. He said that was why they did not contact the owners to advise what was happening. He objected to it being left to the residents to monitor and report issues.

He also advised that the property was for sale at the moment and suggested the Applicant wanted this licence to improve the premises' marketing ability.

It was noted that contact with Mr Godsmark had still not been made. The Chair confirmed that if and when Mr Godsmark was able to join he would be given the opportunity of presenting his case.

QUESTIONS FROM APPLICANT'S REPRESENTATIVE

Ms Graham-Weall sought and received confirmation from Mr McLean that a yard brush, 2 chairs, 2 body boards and a surfboard had been removed in April 2022. Ms Graham-Weall said she did not have any recollection of that but would check with her brother. She also commented that the property has been on the market but may not continue to be so.

MEMBERS' QUESTIONS

Councillor Forrest referred to comments made about thefts and asked Mr McLean if this was reported to the Police. Mr McLean said he had not reported this to the Police as he was aware of who had taken the items and he did not want to raise friction with the owners of the property.

Councillor Forrest asked Ms Graham-Weall what the check in procedure was. Ms Graham-Weall advised that guests were asked not to arrive before 4 pm on a Saturday. She advised that her cleaner was very willing and able to explain further to guests what

had already been included in the letter issued before they arrived. She also referred to another lady that she had worked with for 11 years and could be called upon. She advised that she and her brother would be perfectly happy to take calls and contact guests at any time if there were any problems.

Councillor Brown sought and received confirmation from Ms Graham-Weall that the business had been running since 2013 when their father died but did not properly get going until 2014.

Councillor Brown asked Ms Graham-Weall if there had been a lot of complaints since 2014. Ms Graham-Weall advised that it has been since lockdown there have been complaints. She said they did not use it during lockdown.

Councillor Brown referred to it being mentioned in the paperwork that hanging baskets that had been put up and been taken down and moved to various parts of the village. She asked Ms Graham-Weall if this had been reported to the Police. Ms Graham-Weall advised that in May 2022 she took about 12 hanging baskets to the property and when she returned in July they had all been taken down and distributed throughout the village. She said she did not want to make a fuss but was distressed by what had happened.

Councillor Brown sought comment from Mr McLean on this and asked if he knew anything about what had happened. Mr McLean confirmed that he was aware that the hanging baskets had appeared on the main street but did not know when. He said he remembered them being in the courtyard but had no idea how they were moved.

Councillor Philand referred to Ms Graham-Weall having a friend who could be called upon and asked how often she could be contacted. Ms Graham-Weall said she would only rather have her called in an emergency, for example, to replace lost keys. She advised that she would prefer if she or her brother were contacted in the first instance and for her friend not to be involved with disputes.

Councillor Philand asked how Ms Graham-Weall could resolve issues. Ms Graham-Weall referred to a residents association that had been set up in 2000 as they had required to do work on the roof. She said that Mr McLean had been very helpful at that time and suggested that this group would be reinstated so that discussions could be had going forward.

Councillor Philand sought comment from Mr McLean on this suggestion and asked if there was anything else that could be done. Mr McLean said the issue he had was with the people that used the property. He referred to Ms Graham-Weall advising that the property was not used during lock down and said this was not true as some of their family members were living in it. He advised that had created a lot of issues and since then relationships had been tense.

Councillor Philand asked Mr McLean if he thought re-establishing the residents association would be a positive way forward. Mr McLean said he was trying to live his life and have use of the courtyard without a feeling of insecurity. He commented on people just wandering around. He said there were people there all the time and that his issue was with the people hiring and not the owners.

Councillor Brown asked Mr McLean how he dealt with issues with guests. He advised that he would approach them. He said he did not contact the owners as he did not want to be in a position of policing the courtyard for them.

Councillor Brown referred to other people hiring management companies to look after properties on behalf of owners and that they would make themselves available and contactable if there were any problems. She asked Ms Graham-Weall if this was something she and her brother had ever considered. Ms Graham-Weall advised of always having her friend to talk to and take advice from. She said the problem was they were not being told about issues when they occurred.

Councillor Brown commented that Ms Graham-Weall had already mentioned that she would not be keen to involve her friends in dealing with problems and asked if a management company could take this on. Ms Graham-Weall said she may be able to find someone locally that could do that.

Councillor Brown asked Mr McLean if he would contact a local person to deal with any issues as they happened. Mr McLean advised that any issues would only be apparent to residents of the building, which would mean they would have to monitor and have to be in the courtyard the whole time to police it. Councillor Brown commented that it would only be when issues arose. Mr McLean replied that the issues were constant.

Councillor Green commented that the Applicant was prepared to have a video system of some kind and sought comment from Mr McLean on that. Mr McLean advised that following lockdown the owner had installed a camera facing out into the courtyard, which was filming and recording our private property. That created a lot of friction and attention and a confrontation, which involved the Police. The video camera was taken down. He said that his daughters wanted to sun bathe in the courtyard and did not want to be recorded doing that. He confirmed that he would not be happy for a video system of any kind to be installed.

Councillor Howard said her main concern was that there could be 8 adults staying at the property at any time and using the courtyard. She said she would find it hard if she had to share a courtyard and would find it quite intimidating. Referring to CCTV, she asked if it would be possible for the Applicant to provide a camera that could be used by neighbours and pointed towards the holiday let. Ms Graham-Weall confirmed that 8 adults could stay there at any given time. She advised that due to the nature of the house the courtyard was only used to gain access to the house. She said it was a very special house with sea views. She said she did not think any of the guests used the courtyard for rest and relaxation, which was possible for those that lived there all the time. She said she agreed that a camera pointing into the courtyard may not be a good idea. She referred to the video doorbell which would enable her and her brother to monitor who was going into the house so they would know how any people were there at any given time and how many had dogs. She said they would be happy with that.

Mr McLean advised that there has been up to 16 people in the house as people staying there also invited locals to come and visit. Regarding the video doorbell, he said that any activity would be in the courtyard so he would object to that. He said his privacy was being invaded by the owners' business and he just wanted to have privacy in his home and to be able to enjoy his garden and outdoor space.

Councillor Wallace sought clarification on which properties had shared access to the courtyard. Mr McLean said it was a mixture of residents and commercial buildings. He advised that within the tenement building there were 2 commercial units on the ground floor, which he said he believed were still owned by the Applicant of the holiday home. Above the commercial units there were 2 flats, one owned by himself, and the other

owned by Mr Godsmark. He said one of the commercial units has been used as a holiday let since 2005. Mr McLean further advised that he believed the commercial units had access to the courtyard only and it was not for use.

Ms Graham-Weall advised that according to the title deeds the courtyard was shared by 4 buildings, one of which was an art gallery, the second was Waterside, the third Mr McLean's flat and the fourth Mr Godsmark's flat. So 4 people were responsible for the maintenance of the courtyard and had the right to park a car there. She said there has been a gentlemen's agreement not to park there as the courtyard was small. She also said the gallery had a right to use it.

Councillor Kain sought and received clarification from Ms Graham-Weall that the rental property had been used since 2014 and that over the 10 years there had been no complaints until now. Mr McLean pointed out that there was no avenue to complain prior to this meeting. He said that anytime they have contacted the Council before they were passed between planning and environmental health and were told they would need to wait until the short-term let licensing scheme came into place.

Councillor Kain sought and received confirmation from Mr McLean that he had moved into his home in 2019 and that he was aware of this property being let next to his home.

Councillor Howard asked Ms Graham-Weall how feasible it would be to preclude her guests from having any social gathering in the courtyard. Ms Graham-Weall said it would be very easy to advise her guests not to do that.

Councillor Armour referred to noting within the paperwork that there have been occasions when guests have arrived and the access to the courtyard has been blocked by the Objectors' cars. He sought comment from Mr McLean. Mr McLean said that parking within the courtyard became an issue. He said when the holiday let was built about 60% of the courtyard disappeared and the deeds were not changed to reflect that. He said it was a very small courtyard. He said the holiday home could park up to 3 cars and he could not get access to his drying area or flowers. He said the main issue was the courtyard was not appropriate as car park. Councillor Armour asked again why Mr McLean prevented guests from gaining access due to where his car was parked. Mr McLean said he did not think that had happened. Councillor Armour read out the letter within the paperwork which referred to this incident and Mr McLean said that information was a total fabrication.

Councillor Hardie asked Ms Graham-Weall what kind of market they were looking for when advertising the property. He asked if it was for families or stag dos. Ms Graham-Weall advised that they advertised with Cottages for You and Argyll Self Catering Lodges and that they were looking for middle of the road families that were multi-generational or 2 families wanting to holiday together. She said they tended to be mild mannered. She said they would not entertain stag or hen parties.

Councillor Forrest referred to noting within the paperwork that there was reference to verbal abuse, which the Police deemed to be antisocial behaviour in relation to the camera. She asked Mr McLean if he accepted that the Police found there to be antisocial behaviour. Mr McLean said there were many libellous comments in that statement which he did not want to get into. He said the Police did not speak to him after the incident and there was nothing to say he had abused anyone. He said he took umbrage to that statement which, he said, had a lot of inaccuracies and lies.

Councillor Green sought and received confirmation from Ms Clanahan that a short-term let licence was person specific so if the licence was granted and then the property was sold the new owner would have to apply for their own short-term let licence if they wished to use the property as a holiday let. Ms Clanahan said that there was a new order before the Scottish Parliament at the moment which could allow for licences to be transferred but this might not happen.

Councillor Green referred to previous short-term let licence applications, which had similar conflicts with neighbours. He said that arrangements were put in place to have a management company look after the property and have someone on hand within a set distance. He sought and received confirmation from Ms Clanahan that it would be competent to add such a condition to a licence.

Councillor Green sought and received confirmation from Ms Graham-Weall that she would be happy to put this type of formal arrangement in place.

Councillor Green asked Mr McLean if he thought it would be helpful to have someone to act immediately and have the power to resolve a situation when required. Mr McLean said this would still leave him and his neighbour in the position of policing the courtyard. He said it should not be passed on to them to do this. Councillor Green sought and received confirmation from Mr McLean that it would be a positive step to have named person with a contact number that could deal with any issues.

Councillor Armour asked Mr McLean if there was anything else that could be added as a condition to allow the holiday let to continue. Mr McLean advised that the Applicant owned 2 commercial properties below the flats. He said that the property could be accessed directly through the shops, bypassing the courtyard altogether.

Councillor Armour sought and received confirmation from Mr McLean that before the self-catering property was built there was another smaller building.

At this point at 12.10 pm, Mr Godsmark, Objector, joined the meeting. The Chair invited Mr Godsmark to speak in support of his Objection as part of the summing up.

SUMMING UP

Objectors

Mr McLean

Mr McLean said there were a lot of holiday lets in the village that had separate entrances, which he could see no problem with. He said it was unsuitable to have a commercial let at this location and that the people in the tenement building wanted to have peace and quiet to live. He asked the Committee to reject the licence.

Mr Godsmark

Mr Godsmark thanked the Committee for continuing to try to contact him to join the meeting.

He agreed that this was a totally private area that he had the right to use. He said he was entitled to his privacy but there was no privacy at all due to the annoyance of other people using it. He said he was at his wits end every Saturday and that he felt bullied and

anxious all the time with people coming and going. He commented that Mr Beadle has applied for this licence but he was going to sell the property. He said he thought that having the licence would make the property more attractive to a buyer who could walk in and do the same thing. He said he was worried about his cat and the number of people that used the courtyard. He said that quite often they were looking at what he was doing and they thought that they could do what they liked. He said he and his had to police the area all the time. He said the bin issue went on for a long time and that it took Mr Beadle 12 years to do anything about that. He said that complaints have fallen on deaf ears. He said that he hoped the Committee would not grant the licence. He said that it did not feel like his home anymore and that he had considered selling up but did not think anyone would buy it.

He referred to parking being an issue and advised that he has witnessed people bringing 3 cars into the courtyard and blocking his wood shed. He said gates were left open and there was dog fouling and urinating. He said there were some people you could approach to tell them not to do it, but others, he felt, he would not like to approach. He referred to constantly having to police the area. He advised that much of what Mr Beadle had said was hearsay and the only truth was the camera in the courtyard, which the Police had told him to remove.

He advised that another major concern was that the people that came to the house did not support the village. They brought their own shopping and alcohol and that no businesses gained from them. He said that one of the reasons for shops closing was the number of holiday homes. He said the village was dying because of this type of business and that the only people that benefited were the owners. He said they were not interested in their welfare. He said he sent Mr Beadle a video last year of the dog excrement in the courtyard and Mr Beadle advised that he had never received it. He said this was what they were up against all the time. He said they did not care about anyone but their own finances and welfare.

The Chair sought and received confirmation from the Committee that they had no questions for Mr Godsmark.

Applicant's Representative

Ms Graham-Weall said that she loved Waterside, and that she was deeply attached to it emotionally and that she was finding this very distressing as for the majority of the time the guests were perfectly reasonable and decent people. She said that before lockdown, for 6 years, the property was managed perfectly without any complaints like this. She referred to sharing of the courtyard and apologised for any inconvenience, which, she said she thought had been massively exaggerated. She said that resurrecting the owners association would be a good idea, and that a video doorbell would be helpful to her and her brother. She agreed that the appointment of a management agency within 10 miles might be an excellent idea going forward.

When asked, all parties confirmed that they had received a fair hearing.

DEBATE

Councillor Brown said that she found this difficult. She said that there were valid issues on both sides and that she would be happy to hear what other Members had to say.

Councillor Kain agreed there were many conflicting issues. He noted that the holiday let had been running since 2014 and that this was about moving into a more formal situation. He said he would be happy to approve the licence with the additional conditions.

Councillor Howard agreed that this had been going on for some time and that there were issues that needed sorting. She said the appointment of a local agent to work with the residents and visitors and perhaps restricting the use of the courtyard for visitors would go a long way to solving the problems, which, she said, seemed to be interpersonal rather than problems with the let itself.

Councillor Hardie said this was a complex case. He said he felt that Councillor Kain had hit the mark and that he would be happy to grant the licence on condition that there be a local agent to manage the place.

Councillor Forrest said it was obvious that there were contentious issues and a lot of interpersonal stuff that needed to be worked on which was beyond what the Committee could do. She said the mitigations offered were reasonable. She commented that a video doorbell would not record all over the courtyard but would let the owners know who was coming and going. She noted that the visitors pack had been updated making it clear what the visitors could and could not do. She said that if there were any further complaints about non-compliance this could be looked at again by the Committee. She said she thought a local agent would be a good idea and noted that this was welcomed by the Applicant. She said she understood the position of the Objectors not wanting to continue to police the area. She said that with a bit of working together and all the mitigations in place she would be okay with granting this licence.

Councillor Irvine said he echoed many of the comments already made. He said it was imperative that a condition was added that management of the property was paramount, having someone local, on the ground to call on. He said he had sympathy for the Objectors in policing this and agreed that the onus of policing should fall on the operator first. He said the onus should be on the licensing holder to have someone local that was properly briefed and given a proper remit on how they were expected to manage it. He said he would support the application.

Councillor Philand agreed with the comments made by Councillor Irvine. He also said reinstating the residents' association would encourage communication so that issues could be discussed openly. He said he was minded to accept the recommendations.

Councillor Brown said that she believed going forward the residents and owners needed to work on communication with each other on how they could manage this together. She said she would welcome the management company and other people running it locally and that she would also support the application.

Councillor Wallace said he pretty much agreed with his colleagues. He said he would like to see the welcome pack updated in respect of parking and use of the courtyard, but generally agreed with what had been said.

Councillor Armour said he was in agreement with his colleagues. He said he did believe there were issues that needed to be resolved between the Applicant and the neighbours. He commented that there was access to the property through the courtyard and that was not going to change. He said that he thought everyone was going to have to try and work together to ensure it worked as best as it could.

Councillor Hardie referred to the dog fouling and suggested putting up “bag it and bin it” signs and for the owner to have dog bags available for visitors to use.

Councillor Howard said that perhaps it should be stated in the pack that dogs must not be allowed in the courtyard unattended. Councillor Green asked Ms Clanahan if that would be a competent condition to attach. Ms Clanahan said it could be incorporated into the handbook and she understood that it was already there. In terms of making it a condition, as it related to people rather than the property, she did not think the Committee could do it and that it could be ultra vires.

The Chair ruled and the Committee agreed to take a short adjournment at 12.30 pm to allow Ms Clanahan to clarify this issue.

Councillor John Armour had to make his apologies, as he had to leave the meeting at this point and withdraw from the hearing.

The Committee reconvened at 12.40 pm with all those present as per the sederunt with the exception of Councillor Armour.

The Committee received confirmation from Ms Clanahan that it would be ultra vires to attach a condition in respect of dog fouling. She pointed out that there were a number of other pieces of legislation that dealt with dog fouling. She said it would not be competent to include a condition but it may be useful to include in the handbook.

Councillor Kieron Green advised that he would move that the application for a short-term let licence be granted subject to the additional conditions as per the report and subject to an additional condition that the Licence Holder must provide a contact name and number that could be used to report any issues or complaints and which would be accessible on a 24/7 basis with the assurance that someone living within 10 miles of the property would be able to attend at the property or respond appropriately when required.

A discussion took place on whether 10 miles would be appropriate for this rural area and consideration was given to whether or not this should be extended to as far as Dunoon, which would be up to 25 miles away. The views of the Applicant and Objectors were also taken into consideration.

Motion

To agree to grant a short-term let licence to Mr Beadle subject to the additional conditions detailed in the report in respect of Maximum Occupancy; Antisocial Behaviour; Privacy and Security; Littering and Waste Disposal; and Damage to Property, and subject to the following additional condition:

The Licence Holder must provide a contact name and number that could be used to report any issues or complaints and which would be accessible on a 24/7 basis with the assurance that someone living within 10 miles of the property would be able to attend at the property or respond appropriately when required.

Moved by Councillor Keiron Green, seconded by Councillor Graham Hardie.

Amendment

To agree to grant a short-term let licence to Mr Beadle subject to the additional conditions detailed in the report in respect of Maximum Occupancy; Antisocial Behaviour; Privacy and Security; Littering and Waste Disposal; and Damage to Property, and subject to the following additional condition:

The Licence Holder must provide a contact name and number that could be used to report any issues or complaints and which would be accessible on a 24/7 basis with the assurance that someone living within 25 miles of the property would be able to attend at the property or respond appropriately when required.

Moved by Councillor Peter Wallace, seconded by Councillor Jan Brown.

A vote was taken by calling the roll.

Motion

Councillor Forrest
Councillor Green
Councillor Hardie
Councillor Howard
Councillor Philand

Amendment

Councillor Brown
Councillor Irvine
Councillor Kain
Councillor Wallace

The Motion was carried by 5 votes to 4 and the Committee resolved accordingly.

DECISION

The Committee agreed to grant a short-term let licence to Mr Beadle subject to the additional conditions detailed in the report in respect of Maximum Occupancy; Antisocial Behaviour; Privacy and Security; Littering and Waste Disposal; and Damage to Property, and subject to the following additional condition:

The Licence Holder must provide a contact name and number that could be used to report any issues or complaints and which would be accessible on a 24/7 basis with the assurance that someone living within 10 miles of the property would be able to attend at the property or respond appropriately when required.

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