

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING
COMMITTEE held BY MICROSOFT TEAMS on THURSDAY, 29 AUGUST 2024**

Present: Councillor Kieron Green (Chair)

Councillor Gordon Blair	Councillor Fiona Howard
Councillor Jan Brown	Councillor Mark Irvine
Councillor Audrey Forrest	Councillor Andrew Kain
Councillor Amanda Hampsey	Councillor Peter Wallace
Councillor Graham Hardie	

Attending: Shona Barton, Governance Manager
Alison MacLeod, Licensing Standards Officer
David Walker, Solicitor
Lynn Holland, Applicant
Richard Holland, Applicant's husband
Chris Needham, Applicant's son-in-law
Marion MacNeill, Objector
John MacKinnon, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors John Armour, Daniel Hampsey, Paul Kennedy and Dougie Philand.

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 (L. HOLLAND, DEVANA CROFT, TARBERT)

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 Lynn Holland joined the meeting by MS Teams along with her husband, Richard Holland, and son-in-law Chris Needham, who was joint owner of the premises.

Marion MacNeil and John MacKinnon, Objectors, also opted to proceed by video call and joined the meeting by MS Teams.

Abbie MacIver, Objector, opted to proceed by way of written submission. A copy of this was contained within the agenda pack issued on 22 August 2024 and was considered by Members as part of their deliberations.

Alan and Rita MacDonald, Objectors, opted to proceed by way of written submission. A copy of this was contained within supplementary agenda pack 1 issued on 23 August 2024 and was considered by Members as part of their deliberations.

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

Thereafter the procedure set out in Appendix 11 of the report was followed and the Chair invited the Applicant to speak in support of their application.

APPLICANT

Mr Holland spoke on behalf of his wife. He said that the property was a family investment and not purely commercial. He said the family came to Tarbert in 2015 and collectively fell in love with the area. They made a decision to invest in the area and bought Devana Croft in 2015, which had previously been a holiday home for 20 years.

He advised that they advertised with cottages.com and primarily the let was for 7 days. He said it was not an Airbnb. It was used by multi-generational families, mature guests, and family and friends. Many of the guests were walkers and enjoyed outdoor activities. He advised that many had family with historical links to the area and many were returning guests. He said that when the property was not occupied by guests it was used by family and friends.

He advised that they had set clear ground rules and conditions with cottages.com in terms of who they would accept bookings from. They have resisted adding additional features that would extend the season and potentially impact neighbours. He said that they had received great feedback from guests and advised that they have won the Customer Choice Award for 5 consecutive years. He said that they focussed on good customer service, guest safety and the local community. He said that they consistently received 5 star reviews with many being very positive about the quality of the accommodation, the location, and nearby tourist activities. He pointed out that his wife had always worked in customer care and hospitality sectors. He referred to the recent sale of the Frigate Hotel in Tarbert and advised that his wife was asked to run this and train the management team which was now complete with the hotel now open again.

He advised that Devana Croft was a unique property as it was the only one in the area able to accommodate 8 or 9 guests.

He said that he acknowledged the points made by his neighbours in their objections. He expressed surprise that these objections had gone back years. He said he was aware of the objections despite not being provided with detailed information. He said he did not recognise nor have any evidence of the issues raised.

With reference to bin collections, he advised that when they were made aware of the issue with commercial collections they arranged for their bins to be emptied by the same vehicle that emptied the bins of the neighbouring properties.

He acknowledged that the ownership and upkeep of the private road was shared by all the residents and he confirmed he had recently paid his contribution to repair the road.

He referred to dog fouling and advised that they allowed guests to bring a maximum of 2 well behaved dogs. He advised that there had been no issues he was aware of other than the one raised by Mrs MacNeill which the Licensing Standards Officer had referred to in her presentation as happening last weekend. He said that there had been no other reports of incidents over the last 6 years. He advised that as a result of the recent incident, they have reviewed access and were currently investigating a solution. He said that dogs were a common occurrence on the road. He referred to neighbours' dogs and

also dog walkers using the road to gain access to walks and footpaths. He advised that of the 29 bookings taken this year, 20 of these have brought dogs.

He also referred to an issue raised by his neighbour, Mr MacDonald, about contractors parking on his grass. He said that he had visited that same day and agreed to put up no parking signs. He advised that he also spoke to the contractor in question to ensure this did not happen again. He also advised that he contacted cottages.com to update a list of contractors they would not accept bookings from.

He advised that they always received positive comments in their visitors' book. He said this was not an Airbnb and that the minimum stay was 7 nights between April – October. He pointed out that they did not have a constant turnover of guests.

He advised that tourism was the mainstay of Tarbert's economy, with many businesses relying on tourism. He said they would not survive without visitors coming to stay. He advised that the Scottish Tourist Board have calculated that the average spend per day, per visitor, was £42. He said that he estimated that their guests helped to generate £300,000 towards the local economy and if Devana Croft was not available to book this income would be lost to the local community.

He advised that he thought they had a good relationship with their neighbours and said they were committed to working with their neighbours and if the licence was approved, they would continue to put reasonable lines of communication in place and work with their neighbours.

He advised that when he retired they wanted to concentrate on Davena Croft. He said that the holiday let was their livelihood and family home. He advised that he and his wife had been part of village life since 2015 and have had a home there since 2019. He said they played an active part in the community through volunteering. He advised that he had recently taken on the role of Treasurer with the local bowling club and that they were actively seeking to bring a tennis centre to the village.

He said that they were not faceless owners and communicated frequently with guests before, during and after their visits.

He advised that they offered high quality, safe accommodation that, he said, benefited the local community.

He said that he thought they had an open relationship with neighbours and that they were surprised by the objections. He said that he hoped that any future concerns would be raised with them so that solutions could be found.

He said this holiday let was an investment for his children.

QUESTIONS FROM OBJECTOR

Marion MacNeill

Mrs MacNeill asked if the short-term let application was for rental of the property between April and October. Mr Holland advised that the licence applied for was for 52 weeks. He said that the property was usually occupied for 20 – 30 weeks per year. He said that they had 29 bookings this year, which would be well within the parameters.

OBJECTORS

Marion MacNeill

Mrs MacNeill said that she lived directly opposite the property and that her privacy had gone. She referred to the steep road leading down to the drive and explained that people reversed down it. She said their daytime running lights would shine right into her living room. She advised that sometimes people would sit for up to 10 minutes in their cars and look into her home. She said she did not experience this problem before the property was a holiday let.

She referred to a recent incident involving visiting divers. She said that she could hear horns blasting from her house. She said she had photographic evidence of parking that week which involved 2 cars and 4 vans. She said that she had a private driveway and people had to use it to get past.

She referred to Police Scotland being consulted and advising that they had no record of any incidents relating to the premises over the last 3 years. She advised that she had photographic evidence of Mr and Mrs Holland breaking Covid rules. She said the family came from down south and used Devana Croft in April 2021. She said that this was more than 3 years ago. She said that the family had broken the Covid rules on a few occasions and that they had been using the Croft when people were not meant to.

She referred to Mr Holland advising a recent Residents Association meeting that the property would be rented out for 28 weeks. She said that it has already been rented out for 16 weeks and that Mrs Holland had posted on Facebook that if anyone wanted to make use of the place to come now as they were fully booked until November. She said this would take bookings to more than 28 weeks.

She referred to waste collection and advised that the property's bins were not emptied last week.

She referred to Mr Holland advising that he had taken up the post of Treasurer of the bowling club and was looking to bring a tennis centre to the village. She advised that this project has been in the pipeline for many years and not something set up by Mr Holland.

She referred to Mr and Mrs Holland advising that this was a retirement investment. She commented on Mrs Holland working at The Frigate and said she believed she had a part time job in the village. She said this was not retirement if she was still working part time in the village.

She said her own privacy was being impacted by the people using that house. She referred to visitors coming to the house with a van and boat trailer and reversing down the drive with their lights shining into her property. She said you could not turn daylight running lights off on a car.

John MacKinnon

Mr MacKinnon advised that, contrary to the solicitor's letter regarding the title deeds, a building should not be used for any purpose that might contribute to nuisance to the neighbourhood. He said that it was obvious that the owners of this property were contributing to nuisance to the neighbourhood and so were going against the terms of the property's deeds.

He referred to it being recommended in the Committee report that the application be granted and said this was a commercial business taking precedence over the objections from 7 objectors. He said the objections were being set aside in the interests of this commercial project.

He referred to it being stated that some of the complaints were not valid and not relevant to the application as they had not been reported to the relevant authorities, for example, Police Scotland and Environmental Health. He said that if they were to phone up Police Scotland to complain about dog fouling or headlights shining into their homes their complaints would be dismissed out of hand. He said that whether these events were notified or not, they were still doing damage to the quality of life the neighbours had.

He referred to responses given by the Applicant in respect of some of his objections. He said that his objections had not been resolved. He said that if this licence was granted, the resale value of their homes would go down.

He advised that he had submitted a Freedom of Information request to find out how many letting applications which had objections, had been granted. He said that to date none of the objections had been upheld and the applications had always been granted. He said this led him to believe the licensing process was a farce. He asked the Committee to prove him wrong.

He referred to Mr Holland claiming he had good relationships with the neighbours. He said that they did not have a good relationship with him. He referred to a dispute involving a fence he had put up for privacy. He said that Mr Holland had complained about it and had threatened him with legal action.

The Chair thanked Mr MacKinnon for his representation and confirmed that there would be no opportunity within the procedure for him to ask questions of the Committee directly.

QUESTIONS FROM APPLICANT

Mr Holland referred to there being a lot of general comments. He asked Mr MacKinnon to confirm that the reason they had sent a letter regarding legal action about the fence was because Mr MacKinnon had placed the fence partly on their land and beyond his boundary. Mr MacKinnon confirmed that the fence was over the boundary by 25 mm. He explained this was because they had placed the front facing side towards Mr Holland's house.

Mr Holland commented that he could provide Mrs MacNeill with information from Argyll and Bute Council about the waste collection. He said that every bin collection had happened since they changed the collection to be the same vehicle as the rest of the residents.

MEMBERS' QUESTIONS

Councillor Irvine asked the Applicant to clarify their management process in terms of who lived nearby to do the changeovers and laundry etc. Mrs Holland advised that she mostly did it. She said that her husband was fully retired. She advised that the changeover happened on each Saturday and that she did the laundry. She said that they maintained contact with all their guests during their stay. She said they were not present at the property when they arrived but they did phone them once they arrived to check everything

was okay. She said that they communicated with the guests from the moment of booking through to them arriving, during their stay, and then leaving. She said they did not randomly turn up to the property while the guests were there as she thought that would be an invasion of their privacy. She said that they lived in the village and had moved there permanently 2 years ago. She said they were on hand and readily available to their guests at any time.

Councillor Irvine sought and received confirmation from Mrs Holland that if there were any incidents or issues, they were only a few minutes away.

Councillor Brown asked the Applicant if it would be possible for them to put up no dog fouling notices so residents were more aware and focussed on the dog issue. Mrs Holland said that they would be open to any ideas or suggestions. She said that this was referred to in the visitors' handbook and that there was also a notice up on the inside of the door leading out of the property. She said she would be open to putting up more notices.

Councillor Brown referred to the handbook asking visitors to be mindful of people at night and not to have loud music. She asked Mrs Holland if they had a cut off time limit put on that. Mrs Holland said there was not a specific time. She said that the majority of guests were multi-generational from grandmas down to grandchildren. She said she would be happy to put a time limit on playing loud music.

Councillor Green sought and received confirmation from Mrs Holland that she would accept a time limit of 9 or 10 pm.

Councillor Green sought and received confirmation from the Council's Solicitor that it would be appropriate to put a condition on the use of the areas outside.

Councillor Green referred to Mrs MacNeill's complaint about vehicles coming and going and asked if she would accept that this could occur regardless of whether the property was occupied permanently or as a short-term let. He referred to people going down into the village to socialise at night. Mrs MacNeill said it was not just a problem at nighttime and that people were coming and going all the time. She referred to LED lights being brighter and people regularly coming down the road. She referred to foreign visitors putting stones behind their wheels while parked on the slope.

Councillor Green asked Mrs MacNeill if she would accept that this issue was caused by the design of the estate and the conditions of the road rather than who was occupying the property. He said that a permanent resident may also come and go for whatever reason. Mrs MacNeill said that permanent residents like herself did not use their car all the time. She said that her car was not used for 2 or 3 days at a time. She said guests would come and go out and about all the time. She said it never seemed to be a problem with local residents.

Councillor Blair asked the Objectors what type of engagement they'd had with guests. Mrs MacNeill said she stayed opposite the property and had the most dealings with those coming and going. She said she could be sitting outside in the summer and most would be friendly and come over and speak and others were not. She said that on one occasion she was asked by a guest how long she was staying for. When she advised that she lived there they were surprised.

Councillor Blair asked the Applicant if they had received any complaints from guests in respect of any engagement with neighbours. Mrs Holland said there had been no complaints. She advised of one neighbour lending guests a hosepipe for their children. Any comments received from guests were always that the neighbours were nice to them.

Councillor Kain sought and received confirmation from Mr Holland that the property was at the end of a cul-de-sac, with 2 complainants at the far end of it, Mrs MacNeill facing the property and Mr MacKinnon and Mr MacDonald either side of it. He said that some neighbours were 20 to 30 metres away and others were 120 to 130 metres away from the property.

Councillor Green sought and received clarification from Mrs MacNeill that she had never contacted the Applicant about any issues. Mr MacKinnon advised that the only issue he had was in relation to the fence and he said that they had been very legalised and evasive in their dealings with him.

SUMMING UP

Objectors

Mrs MacNeill

Mrs MacNeill referred to Covid rules being broken. She referred to Mrs Holland advising there were only 7 day lets and she pointed out that people came just for the weekend or from Monday to Friday. She said it was not always for 7 days and that she had witnessed that.

She questioned how many people in the meeting today had difficulty with neighbours changing every week of their life. She referred to not knowing who her neighbours would be each week.

Councillor Green acknowledged Mrs MacNeill's question which, he advised, may be responded to during the Members' debate but could not be responded to at this point.

Mr MacKinnon

Mr MacKinnon advised that he thought he had covered everything. He said that he could put further points in writing and send them to the Committee if he was not too late.

Councillor Green advised that there was no opportunity for Mr MacKinnon to put any further points in writing as the decision would be taken today.

Mr MacKinnon advised that Mr Holland had painted a picture of neighbours being welcoming, with cosy relationships and he said this was not the case. He said that all the Objectors found the family difficult to deal with. He said he could not see why they had to be subjected to this nuisance and why the Applicant's interests were being put before the Objectors.

Applicant

Mr Holland

Mr Holland said there had been quite a number of sweeping statements. He referred to the Covid issue and confirmed that this happened on one occasion when the Scottish hospitality, including second home owners, were given permission by the Scottish Government to visit their properties to ensure everything was adequate for renting, given the time they had lain empty. He said that it was their son-in-law, Chris Needham who was joint owner of the property, that had visited and that the Police had arrived on one occasion. He said it was confirmed that no rules were broken. He said that they were upset that Mrs MacNeill continued to bring this up. He said it was one visit and it had been clarified on that occasion at the time.

He referred to Mrs MacNeill advising of 3 vehicles being outside the property. He advised that they encouraged visitors to use the double garage and that many did. He acknowledged that when cars went down the drive their headlights would shine back up the hill. He said they have asked guests to be mindful of neighbours and pointed out that if they drove on the right hand side of the road the lights would not shine on the neighbouring property but if they drove on the left hand side, they would. He said that they were open to suggestions and thought that they had been proactive over the 6 years to any issues. He noted that it had been confirmed by the Objectors that they had not communicated any specific issues to them.

He said they were disappointed that the Objectors had not found the time to raise any concerns over the years as they would have been dealt with.

Chris Needham

Mr Needham said he was disappointed to hear the remarks made about relationships with the neighbours. He advised that they had visited 3 or 4 weeks ago and had a very friendly chat with Mrs MacNeill and that they had been invited for drinks with Mr MacKinnon and Ms Moss on regular occasions. He said he would like to draw to the Committee's attention that it was their view that they had a reasonable relationship with the neighbours and that if their perception was different then they would accept that.

He referred to the submission from Mr MacDonald regarding the technical issue of the road. He advised that as part of this submission he had stated that he did not claim to have experienced any disturbance from guests.

He referred to complaints by Mrs MacNeill about car lights shining into her property. He said that Mrs MacNeill and her husband had several vehicles and there have been occasions when their car lights have shone into their kitchen. He said they have never had an issue with that. He said that he accepted this as part and parcel of being located in a cul-de-sac where there was continuous and one way driving in operation.

The Chair sought confirmation from all parties that they had received a fair hearing.

Mrs MacNeill advised that she had not received a fair hearing and this was noted.

Mr MacKinnon, Mr and Mrs Holland, and Mr Needham confirmed that they had received a fair hearing.

DEBATE

Councillor Irvine referred to all the objections. He said he personally found it was not applicable in respect of the number of weeks the property was let. He did not think the issue around Covid was relevant. He advised that there appeared to be a lot of neighbour related tension as opposed to specific issues regarding the letting of the property. He said he was reassured that the owners lived nearby. He referred to the recommended conditions to address the concerns from the objectors around anti-social behaviour, privacy, littering and waste, and management of dogs. He said that there were a number of objections that needed to be disregarded, as they were not relevant for the Committee.

Councillor Kain said he disagreed with Councillor Irvine. He advised that while not directly relevant in procedural issues; the issues were relevant from a community perspective. He referred to the title deeds and suggested any new title deeds being drawn up now would now refer to this type of use being objected to. He referred to 6 neighbours objecting and noted that they all lived within the cul-de-sac. He said the Committee needed to take into account the relationships with the neighbours. He said he was not sure if the Committee could apply anything to this in that respect. He said he did not think the Committee were in a good place with these applications.

Councillor Green commented on the questions raised by the Objectors. He referred to none of the applications being refused that have come before the Committee to date. He pointed out that each application was considered in detail and debated on and in some cases additional conditions were applied to licences. He referred to discussion had today about including a condition in respect of the use of outside areas.

Councillor Green also referred to the question asked about the Committee having experience of living with neighbours that frequently changed. He advised that he lived in a flat in Oban, which had an Airbnb in the same close so he did have the experience of changeovers right next to him. He advised that as a Committee they understood the impact of short-term lets on neighbours, which were both positive and negative.

Councillor Brown referred to this being a single lane from a main road into a cul-de-sac. She commented on the fact that the Applicant has been running this let for 6 years and understood that during those 6 years anything that has come up in respect of issues with neighbours has been dealt with. She said it was striking that the Applicant was shocked about the amount of ill feeling and complaints that have come up since applying for the licence. She said she found it disconcerting that people did not feel they could approach their neighbours. She noted that the Applicant had been running the business for 6 years and as far as they were concerned, everything was fine. She said it was important to take account of everyone's point of view. She advised that she thought the Objectors should have been raising these issues long before now so things could be done and attended to.

Councillor Blair said that he felt as a Committee they gave due diligence to each application they determined. He said they took their regulatory role seriously. He advised that he lived at the end of a Terrace in Dunoon and had an Airbnb next door to him for a time. He said that visitors from Japan, China and Aberdeen came to stay with no issues. He acknowledged that he might have been lucky. He said he understood the concerns and angst of the neighbours. He said it was reassuring to hear that guests and visitors had good relations with the neighbours. He said it was important for bridges to be built between the neighbours and the Applicant.

Councillor Green sought comment from Members on how they felt about adding a condition with a time limit on use of the outdoor space. He suggested 9 or 10 pm.

Councillor Brown advised that she stayed in a small village and that the house across the road was a short-term let with no issues. She said there was also another short-term let in the village that people did have issues with. She said she would agree with the Chair about putting a time limit on use of the outdoor space. She suggested 9.30 or 10 pm at the very latest.

Councillor Forrest agreed that a 10 pm limit would be reasonable. Having heard everyone, she confirmed that she weighed these things up carefully. She advised that she thought the Applicant had made every attempt to try to resolve problems. She commented that they had shown due diligence in getting the changes made to the uplift of the bins.

Councillor Green suggested 10 pm would be a good time. He referred to this part of the world being fortunate to experience late sunsets during the summer months.

Councillor Blair said he would be happy to go with the recommendations in the report with the additional condition.

Further discussion took place on the wording of an additional condition putting a time limit on the use of the outdoor space. It was agreed there was a need to be more specific in terms of what the outdoor space could be used for up to a certain time. It was agreed to put a time limit on the playing of music.

Having sought advice from Officers the Chair moved that the short-term licence be granted subject to the additional conditions set out in report in respect of privacy and security; littering and waste disposal; and anti-social behaviour, with condition 3 under anti-social behaviour amended to read "the licence holder must take reasonable steps to ensure that guests do not play amplified music within the garden or external areas between the hours of 9 pm and 7 am".

No one was otherwise minded.

DECISION

The Committee agreed to grant a short-term let licence to Mrs Holland subject to the additional conditions set out in the report in respect of privacy and security; littering and waste disposal; and anti-social behaviour, with condition 3 under anti-social behaviour amended to read -

"The licence holder must take reasonable steps to ensure that guests do not play amplified music within the garden or external areas between the hours of 9 pm and 7 am".

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