

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on TUESDAY, 28 MAY 2024**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Graham Hardie
Councillor Gordon Blair	Councillor Fiona Howard
Councillor Jan Brown	Councillor Liz McCabe
Councillor Audrey Forrest	Councillor Dougie Philand
Councillor Amanda Hampsey	Councillor Peter Wallace
Councillor Daniel Hampsey	

Attending: Stuart McLean, Committee Manager
Katie Clanahan, Solicitor
David Walker, Solicitor
Alison MacLeod, Licensing Standards Officer
Matthew Toberman, Applicant
Iona Campbell, Applicant's Partner
Keith Shanks, Applicant's Agent
Frances Lowsley, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Mark Irvine, Andrew Kain and Paul Donald Kennedy.

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 (M TOBERMAN, GARELOCHHEAD)

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 Toberman joined the meeting by MS Teams.

Mrs Lowsley, Objector, also opted to proceed by way of video call and joined the meeting by MS Teams. It was noted that Mr Lowsley and Mr Russell, Objectors, were also invited to attend the meeting but were unable to do so.

The Chair outlined the procedure that would be followed and invited the Licensing Standards Officer to speak to the terms of the report.

The Chair then invited the Applicant to speak in support of the application.

APPLICANT'S AGENT

Mr Shanks advised that he managed the property on behalf of the management company, BnBHost, and that the property had been a pleasure to manage. He advised that the property was marketed for families, and it had been lovely to see people being able to book and enjoy a property in a spectacular part of Scotland. He noted that the property had also housed staff from Faslane who were working in the area for extended periods of time. Mr Shanks advised that the Applicants were a pleasure to deal with, and were very responsive and readily available to correspond with.

Mr Shanks outlined the process followed to ensure that only quality guests were allowed to stay at the property. He advised that procedures had been put in place to ensure that the importance of being respectful to neighbours and their privacy was highlighted to guests, and that he was open to corresponding with neighbours about anything further which could be done to assist. He noted that he had introduced himself to the neighbours and provided his contact details when he had started to manage the property, and they had been very gracious and provided recommendations for local restaurants in the area for inclusion in the property guestbook.

QUESTIONS FROM OBJECTOR

Mrs Lowsley advised that she had tried to contact the Applicant, Mr Toberman, and his partner, Ms Campbell, directly on a number of occasions to discuss matters, but had received no response. She noted that she felt that she had not received sufficient information about the context of the Applicants long-term intentions with regard to letting out the property, and would have preferred to have discussed this with them directly. She asked Mr Toberman and Ms Campbell why they had avoided discussing these matters in advance of the meeting, and noted that this may have avoided the need for the meeting to take place. Mrs Lowsley also highlighted concerns about the excess noise levels caused by guests.

Mr Toberman advised that, prior to the start of the application process, where any concerns arose around the property he had attempted to reply as quickly and as helpfully as he could, and passed on concerns to the management company as quickly as possible. He noted that recently he had received legal advice indicating that it would better to avoid corresponding with Mr and Mrs Lowsley directly about specific issues.

Mrs Lowsley asked why Mr Toberman would have received legal advice not to correspond with them. Mr Toberman indicated that he did not wish to discuss the legal advice that he had received in this forum.

Mrs Lowsley advised that she understood that efforts had been made to address the disturbance issues raised, but that they had been unsuccessful. She asked what could be done in addition to the existing mechanisms in place.

Mr Shanks advised that there are often additional measures which can be put in place, and many of these involve additional communication with guests. He advised that he would be happy to discuss what could be put in place to make Mrs Lowsley feel more comfortable, such as increasing the quiet hours at the property. He advised that the importance of being respectful to neighbours was already very clearly outlined in the guidebook for the property.

Mrs Lowsley suggested that the property being in a rural area may allow guests to feel that they can make excessive noise. She advised that regardless of the good intentions of

Mr Shanks, people staying at the property were taking advantage of the situation, and that the occupants of the neighbouring properties were having to spend time monitoring a property that they should have no involvement with. She also noted that at weekends, often additional guests appeared at the property, which increased the risk of excessive noise. She expressed frustration with this, and asked Mr Shanks how this could be resolved.

Mr Shanks advised that he would be happy to explore possible solutions to people staying at the property having additional guests, such as implementing a Ring doorbell camera to monitor the situation. Mrs Lowsley advised that she would be strongly opposed to having cameras implemented around the property. Mr Shanks advised that he would not impose any measures which the occupants of the neighbouring properties did not feel comfortable with.

OBJECTOR

Mrs Lowsley advised that her concerns had been outlined clearly in her written submissions. She advised that she was grateful for the efforts that had been made to address the issues outlined with regard to anti-social behaviour and waste disposal, however they remained a very serious concern.

Mrs Lowsley advised that in the past the bins at the property had been overflowing, which had led to guests using her bins. She advised that the waste disposal company hired to address the issue had brought a very large vehicle onto the shared private driveway, and caused damage.

Mrs Lowsley noted that pictures of damage caused to her car had been provided for Members. She also outlined damage done to the wall of her property by someone reversing down the shared driveway. She advised that Mr Toberman had originally said he would pay for these damages, but this had not happened.

Mrs Lowsley advised that she had previously had a good relationship with Mr Toberman and Ms Campbell, but the lack of communication around their long term plans had felt disrespectful and underhand.

Mrs Lowsley expressed frustration around the lack of responses relating to damage caused to her car and wall. She noted that the repairs to the car had now been carried out, but the invoice had not been paid by Mr Toberman despite assurances to the contrary.

Mrs Lowsley advised that what was done with the property was not her concern, but the damage in shared areas and disturbance caused was. She noted that there was lots of noise, and often a large number of vehicles using the shared driveway. She noted that the vehicles attending the property could often be very large, and some occupants had multiple large vehicles. Mrs Lowsley advised that there had also been damage caused to the fence at the side of the driveway, and this had had to be repaired.

Mrs Lowsley advised that there had been issues with backflow from the shared septic tank, which had never occurred previously, and suggested that this may have been caused by guests at the property flushing wet wipes. She noted that this was a serious concern for her household.

Mrs Lowsley advised that she would have been more open to the property being used for long term lets. She expressed her frustration about the lack of communication prior to the property being used for short term lets, and the lack of responses from Mr Toberman and Ms Campbell.

Mrs Lowsley advised that the property was also now listed for sale, and she did not understand why the application was continuing if the property was being sold.

QUESTIONS FROM APPLICANT

Mr Shanks thanked Mrs Lowsley for bringing to his attention that there had been issues with the septic tank. He advised that he would be happy to put in place a sign in the property outlining what materials are able to be flushed safely to prevent future issues. Mrs Lowsley responded that someone had attended the property to fix an issue with the toilet not flushing, consequently the company had been aware of the issue previously.

MEMBERS' QUESTIONS

Councillor Blair thanked Mrs Lowsley for her comprehensive report of her concerns. He requested clarification from Mr Shanks as to why Mr Toberman had been asked not to correspond directly with Mrs Lowsley, as this appeared to be poor customer service and counterproductive to reaching a resolution. Mr Toberman clarified that this did not relate to the management company and was specifically with regard to an issue with damage to a car, for which he had obtained separate legal advice.

Councillor Blair clarified the involvement of Mr Shanks with insurance companies, where any damage was caused by guests. Councillor Blair advised that, as the management company, he felt that their communications with neighbours were very important, and there appeared to be serious communication issues. Mr Shanks confirmed that he had provided contact details to neighbours and met with them personally, and would be happy to continue communicating with them.

Councillor Blair requested clarification as to which parties were involved in relation to the insurance claim. The Council's Solicitor, Ms Clanahan, advised that this meeting would not be an appropriate forum to discuss any issues surrounding ongoing insurance claims. She highlighted that Mr Toberman had previously clarified that he did not wish to discuss the matter or legal advice that he had obtained in this forum. She noted that a management company for a short term let would not usually be involved in any ongoing insurance disputes between parties.

Councillor Green requested clarification around whether Mr Shanks would ordinarily provide details of occupants to authorised agencies if any damage was caused to the property or by guests. Mr Shanks confirmed that he would be able to do this.

Members requested clarification around whether the Licence, if granted, would transfer with the property when sold. Ms Clanahan confirmed that the Licence would be specific to the Applicant, and no one else could run the property as a short term let under that Licence. She highlighted that it was not clear whether anyone purchasing the property would seek to utilise the property as a short term let and although there were prospective changes to the law, there was not enough information at this time to confirm what these would be.

Councillor Brown sought and received clarification from Mr Shanks that staff from the management company were available at all times to deal with any issues. Mr Shanks confirmed that there was support available at all times, and the company had a local base in Alexandria.

Councillor Hardie sought clarification from the Applicant around when they would be hoping to sell the property and move. Mr Toberman advised that they could not be sure of this, as it would depend on the property market.

Councillor Armour sought clarification from Mrs Lowsley around whether there was currently CCTV in operation on the property. Mrs Lowsley advised that there was a sign on the perimeter wall which stated that CCTV was in operation, but no CCTV cameras were in place.

Councillor Armour requested clarification from Mrs Lowsley as to whether she had put in place a sign indicating that CCTV was operating on the property, and if so, did she have an objection to CCTV being used on the property. Mrs Lowsley confirmed that she had installed the sign, and advised that she did not want cameras to be pointed at her or her guests as a result of other people causing disturbances.

Councillor Hampsey sought and received confirmation from Mr Shanks that a doorbell camera could be implemented prior to the Licence's start date, if requested.

Councillor Green sought and received confirmation from Mr Shanks that a doorbell camera could be implemented to avoid any view of neighbouring properties or shared access areas.

Councillor Green asked Mrs Lowsley if she would be happy for a doorbell camera to be fitted to alleviate concerns about additional guests, on the condition that it did not have any view of the neighbouring properties or shared areas. Mrs Lowsley advised that she would not be happy with this, as the issues were with the shared areas which she did not wish to have cameras to have sight of. She advised that she would also be unhappy at having to alert the management company to any possible issues on the cameras. She noted that a small number of guests could still cause a lot of noise, and she wasn't concerned about the guests at the property unless they were causing a disturbance.

Councillor Philand sought and received clarification that, since Mr Shanks provided his contact details to Mrs Lowsley in June 2023, there had been no communication from Mrs Lowsley to Mr Shanks. Councillor Philand asked Mrs Lowsley why she had not contacted Mr Shanks. Mrs Lowsley advised that she wished to speak to Mr Toberman and Ms Campbell directly, and did not think it was her responsibility to liaise with their management company.

Councillor Armour sought clarification that concerns about large waste vehicles using the shared driveway had been alleviated by arrangements that the bins would be uplifted from the main road. Mrs Lowsley advised that this did not alleviate her concerns, as she was worried that this may happen again in future.

SUMMING UP

Objector

Mrs Lowsley advised that she believed that the management company's base in Alexandria was a storage facility, rather than an office space.

Mrs Lowsley expressed her frustration with the issues around damage to her car, and the additional costs and stress involved with this. She advised that they had been left to deal with the aftermath of damage caused by other people, despite assurances from Mr Toberman that payment would be made for repairs. Ms Clanahan highlighted that this would not be the appropriate forum to discuss matters relating to any insurance claims, and Mrs Lowsley should seek her own legal advice in this regard.

Mrs Lowsley advised that damage had also been caused to the garden wall, and the responsible party had driven off without stopping.

Mrs Lowsley advised that she did not understand why this process had to continue when the property was being sold.

Applicant's Agent

Mr Shanks advised that he did not wish to add anything further, and thanked Mrs Lowsley for highlighting her concerns.

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

DEBATE

Councillor Green advised that, following in depth discussion and opportunities for clarification, he felt that it would be reasonable to grant the application. He advised that assurances had been received in relation to procedures which could be implemented to alleviate a number of the concerns raised. He highlighted that there was a degree of tension between the Applicants and Objectors, and he would encourage improved communication going forward, however this was not for the Committee to consider.

Councillor Forrest advised that it was an unfortunate situation when there are difficulties in communication between two parties. She noted that the recommended conditions in relation to antisocial behaviour, privacy and security, and littering and waste disposal were quite stringent and she would therefore be minded to approve the application with these conditions attached.

Councillor Daniel Hampsey noted that he would be minded to approve the application with the recommended conditions attached.

Councillor Brown noted her agreement with her fellow Councillors. She advised that the recommended conditions were quite extensive, and as long as they were abided by, she would be minded to grant the application. She highlighted that there were avenues available for the Objectors to complain, and the management company would be available to deal with any issues at all times. She advised that better communication between the parties may have assisted prior to this point.

Councillor Hardie advised that he felt that the management company could do more to communicate with neighbours, however he would be happy to grant the application with the additional recommended conditions.

Councillor Philand noted that he felt that the management company had dealt with the situation well, and had provided contact details to neighbours for communications at the time of taking responsibility for managing the property. He advised that he would be minded to grant the application with the additional recommended conditions attached.

Councillor Armour advised that he was also minded to approve the application, with the additional recommended conditions attached. He noted that reasonable efforts had been made to address the concerns raised, and it was reasonable to expect that Mrs Lowsley should communicate with the management company directly.

Councillor Green moved that the application be approved with the conditions, as outlined within the report relating to antisocial behaviour, privacy and security, and littering and waste disposal. With no one being otherwise minded this became the decision of the Committee.

DECISION

The Planning, Protective Services and Licensing Committee unanimously agreed to grant a Short-Term Let Licence to the Applicant, subject to the inclusion of the antisocial behaviour, privacy and security, and littering and waste disposal conditions set out at paragraph 6 of the report.

(Reference: Report by Regulatory Services and Building Standards Manager dated 28 May 2024, submitted)