

AGENDA ITEM NO 6

REPORT NO 154/24

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 16 MAY 2024

NEW SHORT TERM LETS APPLICATION

REPORT BY DIRECTOR OF LEGAL, GOVERNANCE AND CHANGE

1. ABSTRACT

The purpose of this report is to present a new application for a licence under the Civic Government (Scotland) Act 1982 which requires to be determined by the Committee.

2. ALIGNMENT TO COUNCIL PLAN AND COUNCIL POLICIES

Not applicable

3. RECOMMENDATIONS

It is recommended that the Committee consider and determine the application for grant of the Short Term Lets licence as detailed in the attached Appendix, in terms of one of the following options: -

- (i) to consider the reasons for the late objection and decide whether to accept it late in terms of paragraph 3(2) to Schedule 1 of the Civic Government (Sc) Act 1982; and thereafter,
- (ii) to grant the application; or
- (iii) to grant the application subject to standard and/or any additional conditions; or
- (iv) to defer the application for a period not exceeding 6 months from the date of the application; or
- (v) to refuse the application on one or more of the grounds referred to in Paragraph 5.

4. BACKGROUND

The Council has received an application for grant of a Short term Lets licence under the Civic Government (Scotland) Act 1982 ("the 1982 Act") which requires to be determined by the Committee because one or more of the following apply: -

- (i) there has been an objection, or a representation received in respect of the application; or
- (ii) the application does not comply with the policy adopted by Angus Council; or
- (iii) the function is not delegated to Officers; or
- (iv) the applicant has a conviction(s), a spent conviction(s) or a pending case.

5. LEGAL IMPLICATIONS

- 5.1 Schedule 1 of the 1982 Act contains provisions in respect of the processing and determining of applications for licences under the 1982 Act.

5.2 In particular, Paragraph 5 of Schedule 1 to the 1982 Act provides that where an application for the grant or renewal of a licence has been made to a licensing authority they shall, in accordance with that paragraph: -

- (a) grant or renew the licence; or
- (b) refuse to grant or renew the licence.

5.3 In granting or renewing a licence a licensing authority may (either or both):-

- (a) disapply or vary any standard conditions so far as applicable to the licence,
- (b) impose conditions in addition to any mandatory or standard conditions to which the licence is subject.

Other than the mandatory conditions, the licence conditions shall be such reasonable conditions as the licensing authority think fit and, without prejudice to that generality, may include conditions restricting the validity of a licence to an area or areas specified in the licence, with limited exception.

In the case of secondary letting no condition applied may impose any limit on the numbers of nights for which premises may be used for secondary letting.

5.4 A licensing authority shall refuse an application to grant or renew a short term lets licence if, in their opinion-

- (a) the applicant or, where the applicant is not a natural person, any director of it or partner in it or any other person responsible for its management, is either-
 - (i) for the time being disqualified by a Court from holding a licence under the 1982 Act; or
 - (ii) not a fit and proper person to be the holder of the licence;
- (b) the activity to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself;
- (c) where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to:-
 - (i) the location, character or condition of the premises or the character or condition of the vehicle or vessel;
 - (ii) the nature and extent of the proposed activity;
 - (iii) the kind of persons likely to be in the premises, vehicle or vessel;
 - (iv) the possibility of undue public nuisance; or
 - (v) public order or public safety; or
 - (vi) the applicant would not be able to secure compliance with –
 - (a) the mandatory licence conditions, and
 - (b) the standard conditions and any further conditions under 4.3 (b) above to which the licence is subject; (**see Appendix 2 for the mandatory licence conditions**)

(d) the application does not contain the information required in terms of Schedule 1 paragraphs 1(2)(da), or (db) of the Act as amended by the Civic Government (Scotland) Act 1982 (Licensing of Short Term Lets) Order 2022, regarding consent of the owners of the premises, or

(e) there is other good reason for refusing the application;

and otherwise shall grant the application.

6. FINANCIAL IMPLICATIONS

There are no financial implications arising out of this report.

7. RISK MANAGEMENT

There are no risks to the Council arising from the terms of this Report.

8. ENVIRONMENTAL IMPLICATIONS

There are no direct environmental implications arising from the recommendations of the Report.

9. EQUALITY IMPACT ASSESSMENT, HUMAN RIGHTS AND FAIRER SCOTLAND DUTY

In dealing with the applications, the Committee will have regard to any human rights and/or equalities issues in relation to the applicant and any objectors.

10. NOTIFICATION

The applicant has been notified of the terms of this Report. They have also been advised of their entitlement to attend the meeting should they wish.

NOTE: No background papers as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extend in preparing this report.

REPORT AUTHOR: Stuart McQueen, Solicitor, Team Leader – Licensing & Regulation

EMAIL DETAILS: LEGDEM@angus.gov.uk

CIVIC LICENSING COMMITTEE – 16 MAY 2024

Short Term Lets Application – Scotts House, 5 St Mary's Road, Montrose, DD10 8EU

Name of Applicant	Type of Licence	Application received
Clark Adam	Short Term Lets	30/01/2024

A new grant application for a Short Term Let licence was lodged on 30 January 2024 by Clark Adam in respect of Scotts House, 5 St Mary's Road, Montrose, DD10 8EU.

The application is for secondary letting i.e., letting of a property where the applicant does not normally live. The property is a two storey, detached house with 3 double bedrooms. The application proposes a capacity of up to 6 residents.

Business Support consulted on the application and Police Scotland, Environmental Health and Scottish Fire and Rescue Service have confirmed no objections. Planning have advised that no such Planning Permission is required.

One notification of objection has been received which was out with the relevant consultation period and the objector has been invited to attend. **Members will firstly be required to make a decision on whether to consider the late objection. Paragraph 3(2) to Schedule 1 of the Civic Government (Sc) Act 1982 quoted below allows such late objections to be received.**

“Notwithstanding sub-paragraph (1)(e) above, it shall be competent for a licensing authority to entertain an objection or representation received by them before they take a final decision upon the application to which it relates if they are satisfied that there is sufficient reason why it was not made in the time required under that sub-paragraph.”

If Members decide to consider the late objection, this will be submitted to them at the meeting.

As part of the application procedure the applicant is required to display a Notice at the premises advising that an application has been lodged for a Short Term Let. The notice is required to be displayed at or near the property in a position where it can be easily read by the public. The notice must be displayed for a minimum period of 21 days from the date the application was lodged with the Licensing Authority and thereafter an on-line Certificate of Compliance completed confirming the dates said notice was displayed at the premises.

Members are advised that Appendix 2 shows images of a Notice being displayed at the premises and a copy of the email exchange between Mr Adam and Business Support. Mr Adam advises the Notice was put up at the premises on 5 February 2024 and a screenshot obtained from the on-line system confirming these dates is also provided at appendix 2.

Members are further advised that in terms of Paragraph 2(6) to Schedule 1 of the Civic Government (Sc) Act 1982, the Licensing Authority has the power to require an applicant to display the notice again for a period of 21 days beginning with such date as they specify, where, in respect of this case:

- (a) the applicant has not, in the opinion of the licensing authority, taken reasonable steps to protect or replace the notice, where the notice was without any fault or intention of his, removed, obscured or defaced, before the 21 days have elapsed; or
- (b) the licensing authority is satisfied that the notice was not displayed in accordance with the statutory requirements (display a notice at or near the premises for a period of 21 days).

APPENDIX 2 TO REPORT NO 154/24
CIVIC LICENSING COMMITTEE – 16 MAY 2024



Short Term Lets certificate of compliance

The site notice was displayed on my premises from

Day	Month	Year
05	02	2024

To *

Day	Month	Year
26	02	2024

I Clark Adam

Certify that the notice of application has been displayed as prescribed above for a period of not less than 21 days from 05/02/2024 ending on 26/02/2024

Clark Adam

Sent: 28 March 2024 16:06
To: LAWLicensing
Subject: Re: Short Term Let Licence Application STL548647799
Brogan,

I completed your on-line system (which I do not have an email trail) and on the date I acknowledge on your system, I took down the upper notice either on that day or the day after. The lower sign was stolen/removed by School kids walk-in past, but the upper one inside the window was there all the time.

Sorry but the precise date was on your system, you kept chasing me and I mentioned the sign was not (printed out) and displayed until the 5th Feb 24.

Clark

Clark Adam
Director
Adam Property Rentals Limited
[REDACTED]

From: LAWLicensing <LAWLicensing@angus.gov.uk>
Sent: Thursday, March 28, 2024 3:26 pm
To: Clark Adam [REDACTED]
Subject: RE: Short Term Let Licence Application STL548647799

Good afternoon Clark,
Thank you for confirming – the confirmation has not been received on the application system. Can I confirm the date you stop displaying the notice so I can input this on our system? Kind regards,
Brogan

From: Clark Adam [REDACTED]
Sent: Thursday, March 28, 2024 3:16 PM
To: LAWLicensing <LAWLicensing@angus.gov.uk>
Subject: Re: Short Term Let Licence Application
STL548647799 Brogan,

I took photographs on the 6th February 2024 of the two signs that I displayed (copies attached) and completed the on-line application after the 21 or was it 28 days.
Displayed from the: 5th
February 2024 Clark

From: LAWLicensing <LAWLicensing@angus.gov.uk>
Sent: Thursday, March 28, 2024 3:09 pm
To: Clark Adam [REDACTED]
Subject: Short Term Let Licence Application STL548647799

Good afternoon,
Can you please confirm the date in which your site notice was displayed at 5 St Mary's Road
Montrose DD10 8EU?
Kind regards,
Brogan