

**MINUTES of MEETING of PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE
held BY MICROSOFT TEAMS on WEDNESDAY, 28 JUNE 2023**

Present: Councillor Kieron Green (Chair)

Councillor John Armour	Councillor Fiona Howard
Councillor Gordon Blair	Councillor Andrew Kain
Councillor Jan Brown	Councillor Paul Donald Kennedy
Councillor Audrey Forrest	Councillor Luna Martin
Councillor Amanda Hampsey	Councillor Peter Wallace
Councillor Graham Hardie	

Attending: Shona Barton, Governance Manager
Alan Morrison, Regulatory Services and Building Standards Manager
Fiona Macdonald, Solicitor
James Crawford, Licensing Standards Officer
Ailsa Griffiths, Applicant
Dawne Cervante, Objector
Mark Gunston, Objector
Kate Clayton, Objector

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Daniel Hampsey, Mark Irvine 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 (A GRIFFITHS, KILCHATTAN BAY, ISLE OF BUTE)

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, Ailsa Griffiths, opted to proceed by way of audio call and she joined the meeting by telephone.

The 3 Objectors, Dawne Cervantes, Mark Gunston and Kate Clayton opted to proceed by way of video call and joined the meeting by Microsoft Teams

The Chair invited the Licensing Standards Officer to speak to the terms of the report. Thereafter he outlined the procedure that would be followed and invited the Objectors to speak in support of their Objections.

OBJECTORS

Dawne Cervantes

Ms Cervantes advised that the property in question was a Victorian building with no sound proofing and her objection was based on her lived experience. She said that the property below her was used as an Airbnb and her lived experience had been a nightmare at times. She said she taught at the local primary school and was part of the island's Emergency Response Team which involved shift work at times. Her lived experience was that most people that turned up to Airbnbs were in party mode and had no consideration for local people going about their everyday lives. She commented on hearing that there would only be 4 people in this property, but she knew that regularly additional people would turn up along with dogs and children. They would turn up in party mode and with no sound proofing this was incredibly distressing to her. She advised that there was a very small, shared garden for 4 flats and there were incidences of dogs running around.

She advised that despite information packs about recycling, she had lost count the number of times she had to empty glass out of the bins. Glass had to be taken to the nearby recycling depot on the island. She acknowledged that some people that came were peaceful and fine but as a single women, when people arrived in fully party mode at 11 pm, she was not inclined to knock on their doors. She said that was why she had objected to this application. She said her preference would be for a long term lease but the Applicant did not want to do that. She said she would have no objection to a long term lease and commented that there was a huge need for long term lets on the island. She said that anyone you spoke to about Airbnbs had their own lived nightmare.

There were no questions for Ms Cervantes.

Mark Gunston

Mr Gunston said he would reinforce what Ms Cervantes had said. He referred to the objections made in respect of the previous application considered by the Committee, and said that pretty much everything that had been said at that hearing related to this application. The main difference was that related to a residential street and not neighbours in the same building. He advised that he lived in the village and that he was objecting on behalf of his brother who had a flat within the building. He advised that the building was totally unsuitable for Airbnb and should not be a consideration as the walls were paper thin.

He said that Kilchattan Bay was a small community and that he loved living here. He knew all his neighbours and he did not have any Airbnbs in the building he lived in. He said that if anyone ever wanted to do anything like put up a shed up or re-tile, they always contacted their neighbours to run it by them. He advised that as far as he was aware the person that lodged the application did not at any time inform the other people in the building of her intentions. He said that, to him, was not community minded. He said that he ran a small business renting out kayaks and that he welcomed visitors. He said he welcomed residents, and welcomed Airbnbs as long as the building was appropriate and did not negatively impact others that lived there.

He said his knowledge of people who did live in buildings where there was an Airbnb was that they had a negative experience due to noise. He advised that unless you lived there you could not monitor how many would stay or how they would behave. He said there could be lots of partying, lots of noise, and lots of overcrowding. He advised that a much

better alternative would be to do a long term let. He said there was a shortage of long term lets and that the Applicant would be doing the island a service if she did that.

Members Questions to Mr Gunston

Councillor Armour referred to long terms lets as opposed to Airbnbs and asked how Mr Gunston would feel if this was a long term let and the person that moved in was undesirable in his opinion. Councillor Armour pointed out that the person would be there permanently rather than on a temporary basis. Mr Gunston said this was a valid point but not really a good argument for allowing an Airbnb. He acknowledged that he would not want a disruptive neighbour to be there but the short term let would lead to a continuing stream of people you could not build a relationship with and could not complain to the Council about.

Councillor Blair sought and received confirmation from Mr Gunston that Ms Cervantes currently stayed in his brother's house and that his brother planned to retire there in the future. Councillor Blair referred to Mr Gunston listening into the previous hearing, and asked how Mr Gunston went about vetting before Ms Cervantes moved in. Mr Gunston explained that he had never been in that position as he had never been a landlord. He said that Ms Cervantes was a family friend that it was just an agreement with her. He said he did not know what the procedure would be for vetting a prospective tenant. He commented that he would probably look at having a probation period.

Kate Clayton

Ms Clayton said she would reinforce everything said by the other objectors. She said she lived in the same building as the Applicant and that she had bought her flat at the same time as Ms Griffiths. She said she knew of the issues with the Airbnb next door to her and underneath Ms Cervantes. She advised that even though Ms Griffiths would not be doing Airbnb, but would be using a local agency on the island, they did not vet anyone renting their properties. She advised that whether Ms Griffiths wanted just couples did not matter as people would just book online and the agency would take its profit and Ms Griffiths would get her money. She said it was the same as an Airbnb in essence. She said there would be a succession of people arriving. She said that of course people would come to party.

She advised that she was an artist and that she had converted a building in the garden for her studio. She said she would be taking part in a local community event which would involve people visiting her studio over a weekend. She said that would be completely different than having hundreds of dogs and children. She said that at the moment Ms Cervantes had an Airbnb underneath her and the person was giving that up and would live there permanently in October. She said that if Ms Griffiths stayed there too this would be 4 single women together. She said that this would not mean they would not have a good time. She referred to the issue being about the succession of people arriving at an Airbnb. She commented that she had done this herself in other places and that you could not guarantee who would come unless you lived in the property. She advised that a van came by 2 weeks ago to set up the property for guests and that she had to tell them that the property had not received a short term let licence yet. She said that the property had been advertised on the website and had to be taken down.

She advised that she would have no objection to a long term let for 6 months or a year. She said that for a short term let anyone could turn up no matter what Ms Griffiths would prefer. She said it was a no brainer and not fair on so many levels. She advised that she

had her own entrance on the ground floor and that Ms Griffiths flat was above hers. She said that access to it was round the back, up a shared staircase, with Ms Cervantes on one side and Ms Griffiths' flat on the other. She said that the disruption would be out of order for all of them and commented that she would be very surprised if the Committee granted this and would be very upset if they did.

Members' Questions to Ms Clayton

Councillor Hampsey referred to all 3 objectors referring to noise and asked if any of the noise complaints had been reported to authorities such as the Council or Police. Ms Clayton said no and commented that it would be pointless to do that because the people would be gone the next day. She said that Kilchattan Bay was a really popular place to visit and that the property could have new people 2 or 3 times per week. She said it was the principle of the matter that they did not want a constant change of people living where they chose to live.

Councillor Kain asked if there had been any issues in the past with the other flat that was let out as an Airbnb. Ms Clayton said she was aware of serious issues experienced by Ms Cervantes in terms of dogs and children being a nuisance and disturbing the peace. She said it was more difficult for Ms Cervantes as she worked shifts and had to sleep.

Councillor Kain referred to the thickness of the walls and the transmission of noise between the walls. Ms Clayton said they could not do anything about that.

Councillor Blair noted that Ms Clayton had used Airbnbs herself and said he hoped that she was a good customer. He commented that it would be a management issue in terms of noise. Whether it was an Airbnb or a full time residence the noise, he said it would be the same due to the insulation of the properties. He asked if the concerns were about people being on holiday and perhaps extra noise above the normal level. Ms Clayton said her concern was about the extra noise. She said they would have no idea who the people were and if they were just there for a weekend having a party there would be no consideration for other people living there. She advised that if the property was let out permanently Ms Griffiths would be able to interview candidates. She said the property would be suitable for one person or maybe a couple. She said it would not be suitable for young children due to all the stairs. She said the noise question was important but it was also the constant disruption of strangers. She said she was an artist that this was her work place in their shared garden. She suggested that maybe if someone had photos the Committee could see how small the shared garden was.

APPLICANT

Ms Griffiths referred to noise levels from the other property and said that this needed to be taken up with the owner. She said she had not let her property out yet. She felt that there was a lot of talk about the potential for noise. She advised that she had details in her welcome pack asking guests to be courteous to the neighbours. She referred to the bins and advised that she had purchased a new bin from the Council for recycling purposes and put a notice on the bin to say no glass. The welcome pack also included details of where to take the glass to be recycled.

She advised that she bought the flat for her own use and for family and friends to use, with a view to doing some short term lets, but not to the extreme suggested by the objectors. She referred to the stairs and advised that you needed to use the stairs to access the flat. She said that lots of flats had outside stairs that were shared. She said there would not be

a succession of people coming and going and that it would only be 2 or 3 times per year and probably not at all during the winter. She said that Kilchattan Bay was a popular holiday destination. She said that she had been visiting there since she was a child and that she had cousins that lived nearby and that was one of the reasons for buying this property so that she could be near her family. She said the issue of sound proofing came up during the inspection of the flat. She said that she had laid carpets throughout to help with that. She commented that other flats had wooden floors. She referred to the request to let the flat on a longer term basis and advised that she did not want to do that as she wanted to use it for herself and her family. She suggested that Mr Gunston's kayak business would be affected if he did not want tourists to visit Kilchattan Bay. She said that the flat only slept 4 and she had requested no dogs. She said there was no extra sleeping facilities for extra guests. She said that she was using a letting agency on the island and was sure that if there were any issues they would be able to sort them out.

Questions to Applicant from Objectors

Ms Clayton noted that Ms Griffiths would only rent the flat out 2 or 3 times per year and asked why bother if it was going to upset the neighbours. Ms Griffiths commented that this was all very negative.

Members' Questions to Applicant

Councillor Forrest sought and received confirmation from Ms Griffiths that no pets would be allowed in the flat.

Councillor Hampsey sought and received confirmation from Ms Griffiths that she would be letting her property through Howat's Housekeeping and Property Services on the island.

Councillor Hampsey asked if the company carried out viewings of the property to ensure all was in order if there were complaints. Ms Griffiths said if they were aware of any issues they would communicate with her.

SUMMING UP

Objectors

Ms Cervante said she could accept an Airbnb in a detached property but in an old Victorian block like this it was what she described earlier as her lived experience despite a welcome pack.

Mr Gunston reiterated that he himself and other people in the village were not against Airbnbs as long as they were in the right location. He said that this building was not suitable for lots of visitors due to the noise.

Ms Clayton acknowledged this would not be an Airbnb management operation. She said it would be operated by a small staff that would come round to change the beds. She said she could not add anything further other than to say this was a totally unsuitable house. She said that Ms Griffiths would not be able to guarantee who came to the property. She thought that Ms Griffiths should reconsider and she commented that neighbourliness was important. She said this was not about not wanting visitors to the island. She said this would not be her family and friends, it would be strangers and their behaviour could not be guaranteed.

Applicant

Ms Griffiths questioned what the difference was between family and friends coming and having a party and short term lets or long term lets with a family of 4 with children running up and down the stairs.

All parties were asked if they were satisfied that they had said all they wished to say.

Mr Gunston responded to the last comment by Ms Griffiths. He said that was not really a good argument to have the property let out in the short term. He said the difference would be if it was family and friends you could talk to them.

Ms Cervantes said that if they were ever having parties they let their neighbours know.

Ms Clayton said there was no comparison to make. She advised that it was about developing relationships and you could not do that with someone that just came for 2 days.

At this point the Committee agreed to retire and deliberate in private.

DEBATE

The Committee debated the merits of the application and objections submitted.

Thereafter the Applicant and Objectors were invited back into the meeting.

DECISION

The Committee agreed to grant a short term let licence to Ms Griffiths subject to the addition of conditions in respect of Anti-Social Behaviour, Littering and Disposal and Noise Control in Flatted Premises.

(Reference: Report by Regulatory Services and Building Standards Manager, submitted)