

The Highland Licensing Committee

Meeting – 12 May 2015

Agenda Item	8.1
Report No	HLC/35 /15

Application for the grant of a licence for a House in Multiple Occupation – 114 Lawers Way, Inverness (Ward 14 – Inverness West)

Report by the Legal Manager

Summary

This Report relates to an application for a licence for a house in multiple occupation.

This application is subject to a formal hearing procedure.

1.0 Background

1.1 The licensing of houses in multiple occupation is an activity covered under Part 5 of the Housing (Scotland) Act 2006. The licensing of this activity became mandatory on 1st October 2000 and from this date all houses in multiple occupation which had six or more persons residing at the premises required to be licensed. This limit or threshold has been reduced and now applies to properties with three or more unrelated persons.

1.2 An HMO is defined as living accommodation in which 3 or more unrelated adults live and share one or more of the basic amenities which are a toilet, personal washing facilities and facilities for the preparation or provision of cooked food. It must be their only or main residence.

2.0 Application

2.1 On 9th March 2015 an application for the grant of a licence in respect of a House in Multiple Occupation was received from Martin Bruce.

2.2 The property to which the application relates is 114 Lawers Way, Inverness. The maximum number of persons applied for to reside at the property is 5.

2.3 A location plan is appended for Members information (Appendix 1).

3.0 Process

3.1 Following receipt of this application a copy of the same was circulated to the following Agencies/Services for consultation:

- Police Scotland
- Scottish Fire and Rescue Service
- Highland Council Environmental Health Service

- Highland Council Building Standards Service
- Highland Council Planning Service
- Highland Council Housing Service

3.2 At the time of writing confirmation has been received from Police Scotland, the Council's Planning Service and Building Standards Service that they have no objections to the application.

3.3 The Council's Environmental Health Service have advised that the applicant be required to submit the electrical and PAT certificates and also provide a minimum of six 13amp socket outlets in each of the bedrooms. Any outstanding responses and documents or certificates required by the remaining Services will be requested from the applicant should the Committee be minded to grant the application.

4.0 Representation

4.1 A letter of representation has been received from Mr Alan MacDonald in relation to the application, a copy of which is attached in Appendix 2.

5.0 Hearing

5.1 In accordance with the Act both the applicant and person submitting the representation have been invited to attend the meeting and will be provided with an opportunity to address the Committee through the hearing procedure.

6.0 Determining Issues

6.1 Section 130 of Part 5 of Housing (Scotland) Act 2006 states that a Licensing Authority may refuse to grant a licence where the applicant or anyone else detailed on the application is not a fit and proper person.

6.2 Section 131 of the same Act also states that a Licensing Authority may grant a licence only if it considers that the living accommodation concerned:

- (a) is suitable for occupation as an HMO, or
- (b) can be made so suitable by including conditions in the HMO licence.

and In determining whether any living accommodation is, or can be made to be, suitable for occupation as an HMO the local authority must consider—

- (a) its location,
- (b) its condition,
- (c) any amenities it contains,
- (d) the type and number of persons likely to occupy it,
- (da) whether any rooms within it have been subdivided,
- (db) whether any rooms within it have been adapted and that has resulted in an alteration to the situation of the water and drainage pipes within it,
- (e) the safety and security of persons likely to occupy it, and
- (f) the possibility of undue public nuisance.

6.3 If required the Legal Manager will offer particular advice on the criteria relating to this particular application.

7.0 Policies

7.1 The following policies are relevant to this application:

Highland Council HMO Conditions and Standards. A copy of these can be accessed at:

http://www.highland.gov.uk/info/1125/licences_permits_and_permissions/303/miscellaneous_licences/2

or a hard copy can be supplied where requested.

8.0 Other Requirements

8.1 If members are minded to grant the application delegated powers should be given to the Legal Manager to issue the licence once any requirement required by the Services details in Paragraph 3.1 of the report have been completed and any relevant documents and certification submitted.

9.0 Recommendation

Members are **invited** to give consideration to the above application.

If Members are minded to grant the licence, agreement in principal could be given that the licence be issued by the Legal Manager using delegated powers once any works, documents and certification has been received.

Alternatively the Committee may wish to refuse the application on one of the grounds detailed in paragraphs 6.1 and 6.2 of the report.

Designation: Legal Manager

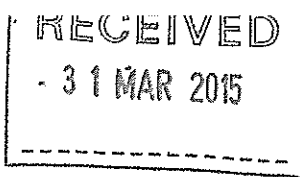
Officer Reference: Michael Elsey

Date: 9th April 2015

Attachments: Appendix 1 – Location plan of premises
Appendix 2 – Letter of representation



264458 844802 Meters



Private and Confidential

Mr. M Elsey
Highland Council
Town House
Inverness
IV1 1JJ

30th March 2015

Dear Mr M Elsey

Reference - 114 Lawers way, Inverness, IV3 8NX

I am writing this letter in relation to the above, I recently noticed that a Public Notice has been displayed on the front door of the premises in relation to a House in Multiple Occupation License.

I would like to raise the below concerns in relation to this application.

1. The premises has been used as House of Multiple Occupancy for over 12 months, several neighbours and myself had contacted the Highland Council on separate occasions to enquire if there was a HMO License, but were informed that it was not on the Highland Council register. They were given Angus Anderson of Highland Council Contact details as this was the relevant person to contact in relation to this enquiry. I am aware some neighbours including myself left messages on Angus Anderson's answer phone. As was confirmed by Highland Council that there was no HMO License in place, the most concerning issue for the neighbours and myself was the Regulations required to operate a House of Multiple Occupation, for example Insurance for the property, Fire Requirements (Fire doors, Fire Extinguishers and Fire Alarm System), Electrical Requirements (PAT testing of electrical items and Electrical certification) and Gas requirements (Gas boiler maintenance).
2. Over the last 12 months there has been a large turnover in occupants apart from two occupants who have been there throughout. The turn over in occupants also concerns the neighbours and myself in relation to safety and can make you feel uneasy and on edge as there has been a lot of different occupants and strangers within the area. About 9 months ago there were young occupants who on regular occasions could be heard outside late at night and into the early hours of the morning. It was usually at weekends and there was usually a minimum of 6 of them outside, some of whom were not occupants. This usually involved Alcohol and raised concerns with the residents including myself and could be intimidating.

3. The occupants over the last 12 months have also caused parking issues, there has been on some occasions 4-5 vehicles at the premises from cars to large Commercial vehicles. This has caused access issues to the carpark and in some instances it was not possible to get access to the carpark due to the way the vehicles had been parked. For example the Highland Council Bin collection Lorries were unable to get access and put notices on some of the vehicles on several occasions, but more concerning would be in the event an emergency a vehicle would not get access i.e. Fire Brigade or Ambulance. Some of the current property owners have required to park in other locations due to the amount of vehicles being parked within the carpark or unable to get access. My understanding is that it is one allocated parking space per property.

The owner of the premises came to my property as he was made aware by the occupants of his premises I had been reading the notice, he asked what my concerns were and I explained the above.

He said to me if I had concerns I should have approached him but as he does not live in the property this was not possible, but I did inform him the neighbours and myself had spoken with some of the occupants over the last twelve months. During this conversation he made a comment that "If he did not get his license he would have to move himself and his brothers back in and they all had cars". The comment left me concerned, as this could be construed in different ways, one of which was to influence myself not to put in any letter, due to what would happen if he was unsuccessful.

Yours sincerely

Alan MacDonald
[REDACTED]
[REDACTED]
[REDACTED]