

The Highland Licensing Committee

Meeting – 5 January 2016

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| Agenda Item | 8.1 |
| Report No | HLC/006/16 |

Application for the grant of a licence for a house in multiple occupation – 2 Boswell Road, Inverness (Ward 20 – Inverness South)

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 1 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 6 November 2015 an application for the grant of a licence in respect of a house in multiple occupation was received from Diana Nicoll.

2.2 The property to which the application relates is 2 Boswell Road. The maximum number of persons applied for to reside at the property is 5, which includes the applicant and her spouse.

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.

4.0 Objections

4.1 Six letters of objection have been received in relation to the application from:

- Mr W Beveridge
- Mr and Mrs K Clarkson
- Mr Alexander Kidd
- Mrs and Mrs S Lawrence
- Mr and Mrs S MacKay
- Mr and Mrs D Truslove

These letters are attached as appendix 2.

5.0 Hearing

5.1 In accordance with the Act both the applicant and persons submitting the objections 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 requirements 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 principle 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: 10 December 2016

Attachments: Appendix 1 – Location plan of premises
Appendix 2 – Letters of objection

APPENDIX 1



STEVENS ROAD

ALLEN STREET

STEVENS ROAD

STEVENS ROAD

TELCUM CRESCENT

STEVENS ROAD

BOSWELL ROAD

BOSWELL PARK

Glendurich Lodge

Glendurich House Hotel

The Beaches

Ard House

Sheep Tor

Playground

Track

75.7m

54.6m

66.2m

70.5m

6 Boswell Road

Castle Park

Inverness

IV23EJ

12 November 2015

Email: rhonabeveridge@hotmail.co.uk

Mr Michael Elsey

Licensing Officer

Town Hall

Inverness

RECEIVED
13 NOV 2015

Dear Mr Elsey

Application for HMO at 2 Boswell Road, Inverness

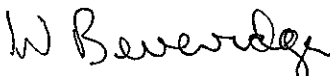
I refer to the application for an HMO at 2 Boswell Road, Inverness and I am writing to raise an objection to the said application.

The property concerned is a 3 bedroom bungalow which is occupied by the owner and her husband. The said couple intend to have at least 3 further tenants in the property, they presently have 2 tenants. The owners have 2 cars. If they are to make this an HMO there will be little area left to park cars if tenants have one. Also 2 Boswell Road is in a small cul-de-sac and if an HMO is granted there would be a greater amount of traffic coming and going giving rise to concern regarding vehicles going in and out of the cul-de-sac.

Can I also point out that in the title deeds of Tullochs it was stated that no business should be run from home.

Also the granting of an HMO at 2 Boswell Road would greatly de-value the value of the properties in the surrounding area.

Yours faithfully



W Beveridge

22 Boswell Rd,
Inverness.
IV2 3EJ.
16.11.2015.

Mr. M. Elsey,
Highland Council,
Inverness.

Dear Mr Elsey,

**Reference: Application for Home Multiple Occupation Licence
at 2 Boswell Road, Inverness.**

As home owners in the street, there several reasons why we wish
to submit an objection to this.

Sizes of their home, parking availability, drive access, and
narrowed street entrance would make this an inconvenient, noisy
and possibly dangerous status for all others, including pedestrians,
delivery, council and emergency service vehicles.

The applicants already have tenants and wish to make it a bigger
business, which does not appear legal.

There is a clear view that this extension and additional occupation
will cause devaluation of the other properties in the area.

Yours Faithfully,

Mrs. C. & Mr. K.R. Clarkson.
Tel: 01463 233920.
Email: clarkson78@btinternet.com

K. R. Clarkson

Alexander Kidd
16 Boswell road
Inverness
IV2 3EJ
20/11/15

Michael Elsey
Senior Licensing Officer
Highland Council
Town House
Inverness
IV1 1JJ

RECEIVED
23 NOV 2015

Objection to HMO Licence for 2 Boswell Road Inverness

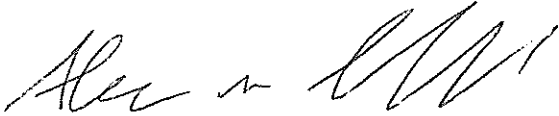
Dear Sir,

I wish to object to the HMO License application for 2 Boswell Road Inverness under Section 131 of the Act in relation to the following;

1. Location of the Premises - The premises are located in a quiet residential area, with limited parking and no on street parking adjacent to the property due to a traffic calming island opposite the property. The HMO Licence would introduce a commercial premises into a completely residential area. I believe the Title Deeds for the property will state that no business can be operated from within these premises, as is on all the neighbouring houses. The occupiers have two cars and the licence is for five persons which could very likely lead to five cars or vans over spilling onto the road causing a child safety and traffic nuisance issue.
2. The Condition of the Property - The property is Timber Frame Construction with timber stud and plasterboard walls, there is no deafening insulation in any interior wall other than the bathrooms. The bedroom and public room doors will be egg box type doors which offer no security or fire resistance between the occupiers.
3. The Amenities the Accommodation Contains - The property has Three Bedrooms, one Bathroom and one on suite shower room, there is also one Kitchen meaning the three non family residents will have to share these facilities with the two occupiers.
4. The Type and Number of Persons Likely to Occupy the Accommodation - The property has a single small lounge which would be overcrowded with five adults permanently living there. The property has no disabled access and the doors are not suitable for disabled movement.
5. The Possibility of Undue Nuisance - The property is being used as an unofficial HMO as there has been a stream of different residents staying there, the recent experience relating to this is a constant noise outside the house with groups of people smoking outside the front and

back doors at all hours of the night. There has also been a lot of comings and goings through the night with the related transport and people talking noise. This can occur every night of the week and not just weekends. Cars are regularly parked illegally half on the pavement opposite to the traffic calming island, blocking the road for other road users and causing a pedestrian and child safety issue. The existing illegal use is causing undue nuisance, therefore I would recommend this application be refused.

Regards

A handwritten signature in black ink, appearing to read 'Alex Kidd', written in a cursive style.

Alexander Kidd

Michael Elsey
Senior Licensing Officer
Highland Council,
Town House,
Inverness IV1 1JJ

Mr & Mrs Samuel Lawrence
12 Boswell Road
Inverness IV2 3EJ
23/11/15

OBJECTIONS TO THE APPLICATION FOR HMO LICENCE FOR 2 BOSWELL ROAD INVERNESS

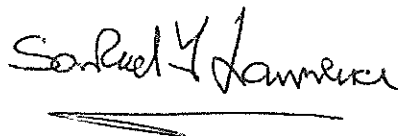
Dear Sir

We wish to object to the application for the HMO Licence at 2 Boswell Road under Section 131 of the Act in relation to the following points.

1. This house is located at the very entrance to the quiet 12 house cul-de-sac where there is a traffic calming island directly opposite. Which leads to parking issues. There are a mixture of occupants in the cul-de-sac retired, young families and middle aged which we all enjoy a very quiet life.
2. The house is a small bungalow with poor parking, small drive which is on a very steep slope. There is 3 bedrooms which one has it window looking into a conservatory which has been recently constructed.
3. The title Deeds I presume is the same as everyone's, which did stipulate that a business could not be run from these premises.
4. The official notice which should have been displayed in appropriate position, was located on the garage door which was more than 7m from the pavement total unsuitable for anyone to see or read without going into their property. This was changed but put on a 300mm high fence post with a stone keeping it on, (at least next to the pavement), again total unacceptable. Considering there is a perfectly good lamppost outside their house. It does give you the impression that they were deliberately trying to hide the fact that they were applying for the licence. Which I feel that should give good reason not to approve their application.
5. The house has a lot of toing and froing at all times of the day, and there has been lodgers in the premises for more than a year. This has resulted in parking issues with visitors to the house, and with workers parking inappropriate locations.
6. We both believe that this would be to the detriment of a quite small cul-de-sac and would affect everyone in our daily lives.

Regards

Mr & Mrs S.F. Lawrence



Samuel Lawrence

Dear Mr Elsey,

I would like to submit our objections for the HMO application for 2 Boswell Road, Inverness, IV2 3EJ on the grounds of the following :-

Insufficient parking for extra cars.

Cars have on occasion caused problems, making it awkward in getting into the street.

Police have visited the property on a few occasions. So not sure the kind of people will then occupy the rooms. Very concerned as we have 3 children,

Just feel that this street is a nice quiet place to live and feel that if the HMO application is approved I also feel that our property prices would be affected.

I hope you take my objections into consideration and await your response.

Yours sincerely



Teresa & Steven Mackay

20 Boswell Road

Inverness

IV2 3EJ

24 Boswell Road
Inverness
IV2 3EJ
12 Nov 2015

RECEIVED
16 NOV 2015

Mr Michael Elsey
The Highland Council
Town House
Inverness
IV1 1JJ

Dear Mr Elsey

Re: Application for HMO Licence at 2 Boswell Road, Inverness

We live directly opposite 2 Boswell Road and wish to submit an objection in relation to the application for an HMO Licence for the following reasons.

House: this is a small 3 bedroom bungalow located in a cul-de-sac of 12 houses with no rear access.

Location: this is a residential area with access via a narrowed entrance to the cul-de-sac directly between numbers 2 and 24.

Parking: owners have 2 cars and relatively small driveway so additional cars would have to be 'stacked', and because of narrowed entrance to cul-de-sac there is no provision for on street parking. Therefore squeezing additional cars in and out of the driveway at No.2 would be noisy, dangerous for pedestrians and children resident in the cul-de-sac, and inconvenient for other vehicles attempting to enter the cul-de-sac. In the past, visitors to No.2 have parked on the street, half on the road, completely covering the pavement, and blocking the entrance to the cul-de-sac.

Health and safety: additional vehicles parked in or around No.2 may impede access to emergency vehicles, i.e. Fire, Police, Ambulance.

Anti-social behaviour: issues with anti-social behaviour from tenants in town centre HMOs may also occur in this area causing concern for all the neighbouring residents.

Precedent: granting an HMO licence would set a precedent for this area, resulting in the devaluing of both the properties, and the area.

Furthermore, we believe this to be purely a money making venture and understand there is a possibility of the owner intending to erect an extension to accommodate more tenants in addition to the ones she already has.

Please also note that our title deeds stipulate that no business should be conducted from the home.

Yours sincerely



Derek and Margaret Truslove
Derek.truslove@btopenworld.com
Margaret.truslove@btopenworld.com
Tel: 01463 243516