

Agenda item	10.1
Report no	HLC/032/18

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 15 May 2018

Report title: Application for the grant of two licences for houses in multiple occupation – Dunedin, 10 Ballifeary Lane, Inverness (Ward 13 – Inverness West)

Report by: The Principal Solicitor – Regulatory Services

1. Purpose/Executive summary

- 1.1** This report relates to an objection received in relation to two applications for houses in multiple occupation.
- 1.2** This item is subject to a formal hearing procedure.

2. Recommendation

- 2.1** Members are asked to determine the application in accordance with the Council's Hearings Procedure.

3. Background

- 3.1** The licensing of houses in multiple occupation (HMO) 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.
- 3.2** 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.

4. Application

- 4.1** On 3 April 2018 two applications for the grant of licences in respect of houses in multiple occupation were received from Key Holdings 2 Ltd. The directors of this company are listed on the application as Ms Laura Main and Mr Richard Keeves and the day to day manager is detailed as Ms Lynne Jack, Munro & Noble Solicitors.
- 4.2** The property to which the applications relate is Dunedin, 10 Ballifeary Lane, Inverness. The property is split into two distinct housing units (the house and the annex) hence the reason why two HMO applications were required.
- 4.3** The maximum number of persons applied for to reside in the house is 6 and the maximum number of persons applied for to reside in the annex is 5 persons.
- 4.4** Planning permission for change of use of the property from house to HMO was granted by the Council's South Planning Applications Committee on 12 December 2017. All material planning considerations such as compliance with planning policy, traffic and pedestrian safety, impact on residential amenity, noise, impact on the character of the area and infrastructure were taken into account by that Committee and the use of the property as an HMO was considered acceptable in terms of those material planning considerations.
- 4.5** A location plan is appended for Members information (Appendix 1).

5.0 Process

- 5.1** 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
- 5.2** Police Scotland and the Planning Service have responded to confirm that they have no objections to the application.

5.3 The Council's Building Services have advised that they have a pending building warrant application, ref 18/00353/DOM4, to sub-divide/convert the property and have requested that the HMO licence is not issued until the warrant and completion certificate for the completed works have been granted.

5.4 The Council's Environmental Health Service have advised that as no works have commenced they are unable, at this time, to assess it against the Council's HMO standards.

6.0 Objection

6.1 A letter of objection has been received in relation to the application from Ms Denise MacKinnon. In terms of the Act objections for applications for HMO licence require to be submitted within 21 days of the application being lodged, in this case by 24 April 2018. Ms MacKinnon's letter was received on 26 April 2018

6.2 However the Act provides for a Licensing Authority to consider a late representation/objection if it is satisfied that it was reasonable for the respondent to make representation after the deadline for doing so.

6.3 Ms MacKinnon has been invited to attend the meeting and will be provided with an opportunity to provide the reasons for the late submission, thereafter the Committee will require to either accept the reasons, in which case the objection will be circulated, or to refuse the reasons in which case the application would be determined in its absence.

7.0 Hearing

7.1 Should the Committee decide to hear the objection both the applicants and Ms MacKinnon will be provided with an opportunity to address the Committee through the hearing procedure.

8.0 Determining Issues

8.1 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.

8.2 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.

8.3

If required the Principal Solicitor will offer particular advice on the criteria relating to this particular application.

9.0 Policies

9.1 The following policies are relevant to this application:

Highland Council HMO Conditions and Standards. A copy of these can accessed at: https://www.highland.gov.uk/directory_record/738757/houses_in_multiple_occupation_hmo/category/497/housing or a hard copy can be supplied where requested.

10.0 Other Requirements

10.1 If members are minded to grant the application delegated powers should be given to the Principal Solicitor – Regulatory Services to issue the licence once any requirements required by the Services details in Paragraph 5.1 of the report have been completed and any relevant documents and certification submitted.

11.0 Implications

11.1 Not applicable.

Date: 27 April 2018

Author: Michael Elsey

Background Papers: Civic Government (Scotland) Act 1982

Appendix 1: Site plan of premises