

Agenda item	<b>6.1</b>
Report no	<b>HLC/070/18</b>

**THE HIGHLAND COUNCIL**

**Committee:** THE HIGHLAND LICENSING COMMITTEE

**Date:** 6 November 2018

**Report title:** Application for the grant of a licence for a House in Multiple Occupation – Ivy Cottage, Insh, Kingussie (Ward 20 – Badenoch and Strathspey)

**Report by:** The Principal Solicitor – Regulatory Services

**1. Purpose/Executive summary**

**1.1** This report relates to an application for the grant of a licence for a house in multiple occupation.

**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 22 November 2017 an application for the grant of a licence for a house in multiple occupation was received from the Royal Society for the Protection of Birds.

**4.2** In terms of the abovementioned Act the Licensing Authority have 12 months from receipt of the application to determine the same, therefore this application must be determined by 21 November 2018. Failure to determine the application by this time would result in the application being subject of a 'deemed grant' which means that a licence would require to be issued for a period of 1 year. The application is before this Committee as this is the last meeting before the determination date expires.

### **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** There have been no objections received from, Police Scotland, Fire Service, Environmental Health, Planning and Housing Services.

**5.3** The Building Standards Service has submitted observations in respect of the combustion air requirements for the solid fuel stove and oil boiler.

**5.4** At the time of writing the Council's Building Standards have advised that they cannot sign off the application as they are awaiting documentation from the applicant in relation to the oil boiler.

### **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 Principal Solicitor will offer particular advice on the criteria relating to this particular application.

**6.4** In the absence of confirmation from Building Standards as detailed above that they have no objection, the Principal Solicitor is not currently in a position to issue the licence under delegated powers. As detailed in paragraph 4.2 the application requires to be determined by 21 November 2018.

## **7.0 Options**

**7.1** If Members are minded they could grant the application with an additional condition attached to the same that the premises cannot be operated as an HMO until Building Standards have received the required certification and have confirmed that they have no further objections.

**7.2** Alternatively the Committee could grant delegated powers to the Principal Solicitor to refuse the application if Building Standards do not sign off by 21 November 2018.

## **8.0 Policies**

**8.1** 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](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.

## **9.0 Implications**

**9.1** Not applicable.

Date: 1 October 2018

Author: Michael Elsey

Background Papers: Housing (Scotland) Act 2006 – Part 5