

Agenda item	7.1
Report no	HLC/004/19

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 18 January 2019

Report title: Application for the renewal of a licence for a house in multiple occupation – Staff Quarters, Nethybridge Hotel, Nethybridge (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 renewal 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 26 January 2018 an application for the renewal of a licence for a house in multiple occupation was received from Strathmore Hotels Ltd.

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 25 January 2019. 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, Building Standards and Housing Services.

5.3 The new fixed electrical installation certificate dated 17 June 2018 for the hotel and staff accommodation that was submitted was unsatisfactory as it has C1 and C2 faults on it which require rectifying before any licence can be granted.

5.4 At the time of writing the Council's Environmental Health Service have advised that due to the installation being unsatisfactory, the licence cannot be issued until the electrical installation is satisfactory. A minor works certificate confirming this is awaited.

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 that the electrical works have been undertaken, 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 25 January 2019.

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 confirmation has been received that the electrical works have been satisfactorily carried out.

7.2 Alternatively the Committee could grant delegated powers to the Principal Solicitor to refuse the application if confirmation of the above is not received by 25 January 2019.

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 or a hard copy can be supplied where requested.

9.0 Implications

9.1 Not applicable.

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