

Agenda item	9.1
Report no	HLC/007/23

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 10 January 2023

Report title: Application for the grant of a licence for a House in Multiple Occupation – Staff House, Abernethy, Nethy Bridge (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 a licence for a house in multiple occupation.

2. Recommendation

2.1 Members are asked to determine the application.

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 25 January 2022 an application for the grant of a licence in respect of a house in multiple occupation was received from Abernethy Trust Ltd.

4.2 The property to which the application relates is staff residential accommodation for Staff House, Abernethy, Nethy Bridge.

4.3 The maximum number of persons applied for to reside in the premises is 8.

4.4 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 24 January 2023. 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. 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 the abovementioned Agencies/Services in relation to the application however Environmental Health still have to sign off the application following works identified to bring it up to the Councils adopted standards as detailed in **Appendix A**.

6. Certification

6.1 As part of the application process the following up to date certification has been requested, and is awaited, from the applicant:

- Electrical Installation Condition Report (EICR) remedial report to confirm the C2 faults have been rectified
- PAT certificate

6.2 The Principal Solicitor is unable to issue the licence at this time using delegated powers until the above works and submission of the required certification and documentation has been undertaken and thereafter checked by Environmental Health as being satisfactory.

7. Determining Issues

7.1 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.

7.2 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.

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

7.4 A copy of this report has been sent to the applicant's day to day manager who has been invited to attend and will be provided with an opportunity to be heard by the Committee. They have also been advised of the procedure which will be followed at the meeting.

8. 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. Implications

9.1 Not applicable.

Date: 12 December 2022

Author: Michael Elsey

Background Papers: Housing (Scotland) Act 2006

Memorandum

To: Principal Solicitor – Regulatory Services
From: **Senior Environmental Health Manager**
Subject: **Housing (Scotland) Act 2006**
Part 5 - Licensing of Houses in Multiple Occupation
Date: 09/02/2022 **Your ref:**
Our ref: AAN00362
Please ask
for: **Angus Anderson**
Phone: (01463) 644618 **Email:** angus.anderson@highland.gov.uk

CASE REFERENCE: Requests 169153
SUBJECT: Staff House, Nethy Bridge, Highland, PH25 3ED

I refer to the recent inspection of the above property in order to assess compliance with the Council's Adopted Standards Houses in Multiple Occupation (HMO).

The applicant specified that the **maximum number** of persons to be accommodated on the premises at any one time would be **8 persons**.

Based on this occupancy figure, I would confirm that the premises fail to meet the Council's Adopted Standards for HMO's and as detailed in the attached schedule.

In view of our inspection findings, I would therefore confirm that the property would not be considered satisfactory for occupancy of this nature **unless appropriate remedial action** was undertaken by the applicant to address the problems identified on the attached schedule.

I trust this information is of assistance to you and that you will notify the applicant accordingly.

ANGUS ANDERSON
Technical Officer
Environmental Health

**Community Services Environmental Health
SCHEDULE OF NON-COMPLIANCE**

Premises	Staff House, Nethy Bridge, Highland, PH25 3ED	Visit Date	9/2/2022
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No.	Adopted Standard	Licence Condition	Standard paragraph
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38	8.3	1.1	<p>There was an insufficient number of 13 amp electrical sockets in the bedrooms</p> <p>The applicant requires to provide a minimum of 6 sockets in each bedroom</p>
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