

Public Document Pack



To: Councillor Reynolds, Convener; Councillor Malik, Vice Convener; and Councillors Allan, Bell, Delaney, Henrickson, Radley, Sellar and Townson.

Town House,
ABERDEEN 08 March 2021

LICENSING COMMITTEE

The Members of the **LICENSING COMMITTEE** are requested to meet remotely on **TUESDAY, 16 MARCH 2021 at 10.00 am.**

FRASER BELL
CHIEF OFFICER - GOVERNANCE

In accordance with UK and Scottish Government guidance, meetings of this Committee will be held remotely as required. In these circumstances the meetings will be recorded and available on the Committee page on the website.

B U S I N E S S

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- 7.3 Renewal of a Licence for a House in Multiple Occupation - 386D King Street (Pages 35 - 40)
- 7.4 Renewal of a Licence for a House in Multiple Occupation - 15 Spital (Pages 41 - 52)
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- 7.6 Grant of a Street Trader Licence - Douglas Durno, Canal Street (Woodside) South Side, 25m East of Bank Street (outside No 26) (Pages 65 - 68)

CONFIDENTIAL INFORMATION - APPLICATIONS, INCLUDING LIST OF APPLICATIONS, TO BE HEARD IN PRIVATE

Applications to be heard in private and treated as confidential information in terms of Section 50(A)(3)(b) of the Local Government (Scotland) Act 1973.

- 8.1 Grant of a Late Hours Catering Licence (Pages 71 - 74)
- 8.2 Renewal of a Taxi Driver Licence (Pages 75 - 78)
- 8.3 Renewal of a Taxi Driver Licence (Pages 79 - 80)

- 8.4 Taxi Exemption from Wheelchair Accessible Vehicle Policy (Pages 81 - 84)
- 8.5 Renewal of a Taxi Driver Licence (Pages 85 - 86)

EHRIAs related to reports on this agenda can be viewed [here](#)
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DECLARATIONS OF INTEREST

You must consider at the earliest stage possible whether you have an interest to declare in relation to any matter which is to be considered. You should consider whether reports for meetings raise any issue of declaration of interest. Your declaration of interest must be made under the standing item on the agenda, however if you do identify the need for a declaration of interest only when a particular matter is being discussed then you must declare the interest as soon as you realise it is necessary. The following wording may be helpful for you in making your declaration.

I declare an interest in item (x) for the following reasons

For example, I know the applicant / I am a member of the Board of X / I am employed by... and I will therefore withdraw from the meeting room during any discussion and voting on that item.

OR

I have considered whether I require to declare an interest in item (x) for the following reasons however, having applied the objective test, I consider that my interest is so remote / insignificant that it does not require me to remove myself from consideration of the item.

OR

I declare an interest in item (x) for the following reasons however I consider that a specific exclusion applies as my interest is as a member of xxxx, which is

- (a) a devolved public body as defined in Schedule 3 to the Act;
- (b) a public body established by enactment or in pursuance of statutory powers or by the authority of statute or a statutory scheme;
- (c) a body with whom there is in force an agreement which has been made in pursuance of Section 19 of the Enterprise and New Towns (Scotland) Act 1990 by Scottish Enterprise or Highlands and Islands Enterprise for the discharge by that body of any of the functions of Scottish Enterprise or, as the case may be, Highlands and Islands Enterprise; or
- (d) a body being a company:-
 - i. established wholly or mainly for the purpose of providing services to the Councillor's local authority; and
 - ii. which has entered into a contractual arrangement with that local authority for the supply of goods and/or services to that local authority.

OR

I declare an interest in item (x) for the following reasons.....and although the body is covered by a specific exclusion, the matter before the Committee is one that is quasi-judicial / regulatory in nature where the body I am a member of:

- is applying for a licence, a consent or an approval
- is making an objection or representation
- has a material interest concerning a licence consent or approval
- is the subject of a statutory order of a regulatory nature made or proposed to be made by the local authority.... and I will therefore withdraw from the meeting room during any discussion and voting on that item.

Licensing Committee

ABERDEEN, 19 January 2021. Minute of Meeting of the LICENSING COMMITTEE. Present:- Councillor Reynolds, Convener; Councillor Malik, Vice-Convener; and Councillors Allan, Bell, Greig (as substitute for Councillor Delaney), Henrickson, Radley, Sellar and Townson.

The agenda and reports associated with this minute can be found [here](#).

Please note that if any changes are made to this minute at the point of approval, these will be outlined in the subsequent minute and this document will not be retrospectively altered.

DECLARATIONS OF INTEREST

1 Members were requested to intimate any declarations of interest in respect of the items on today's agenda, thereafter the following were intimated:-

- (1) Councillor Malik declared an interest in item 9.5 (request for the Suspension of a Late Hours Catering Licence), by virtue of him knowing the applicant. He considered that the nature of his interest required him to leave the meeting and he therefore took no part in the consideration of this item; and
- (2) Councillor Henrickson declared an interest in item 8.2 (Safety of Sports Grounds Act 1975 as amended – General Safety Certificate Pittodrie Certificate), by virtue of him being a small shareholder in the football club. He considered that the nature of his interest did not require him to leave the meeting and therefore chose to remain in the meeting for consideration of the item.

MINUTE OF PREVIOUS MEETING OF 10 NOVEMBER 2020

2 The Committee had before it the minute of its previous meeting of 10 November 2020.

The Committee resolved:-
to approve the minute.

MINUTE OF MEETING OF THE TAXI AND PRIVATE HIRE CAR CONSULTATION GROUP OF 2 DECEMBER 2020

3 The Committee had before it the minute of meeting of the Taxi and Private Hire Car Consultation Group of 2 December 2020.

The Committee resolved:-
to note the minute.

LICENSING COMMITTEE

19 January 2021

COMMITTEE BUSINESS PLANNER

4 The Committee had before it the committee business planner as prepared by the Chief Officer – Governance.

The Committee resolved:-

- (i) to remove item 19 (Age Policy for Private Hire and Taxi Vehicles) and item 20 (Mixed Fleet Policy Options) for the reasons outlined in the Planner; and
- (ii) to otherwise note the content of the Committee Business Planner.

NEW LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION - 25 UNIVERSITY ROAD

5 The Committee were advised that the licence had been granted under delegated powers.

RENEWAL OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION - FIRST FLOOR FLAT, 64 GREAT WESTERN ROAD

6 The Committee had before it a report by the Private Sector Housing Manager, which advised that the application was before the Committee for the reason that one letter of representation had been submitted.

The applicant's agent, Ms Anna Munro, was in attendance and spoke in support of the application and responded to questions from members of the Committee.

The respondent was not in attendance.

The Committee resolved:-

- (i) to defer consideration of the application to allow officers to undertake an inspection of the property when Government restrictions are lifted and it is safe to do so, specifically to determine whether the laminate flooring has been laid upon an acoustic underlay; and
- (ii) to report their findings to a future meeting of the Committee, no later than the meeting on 26 October 2021.

GRANT OF SKIN PIERCING AND TATTOOING LICENCE - DORATA ALINA MICHALSKA

7 The Committee had before it an information sheet prepared by the Chief Officer – Governance, which advised that the application had to be determined by 27 February 2021.

The applicant was not in attendance, nor represented.

LICENSING COMMITTEE

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Sandy Munro, Legal Adviser indicated that due to the current restrictions as a result of the pandemic, the Environmental Health Team were unable to undertake an inspection.

The Committee resolved:-

- (i) to refuse the application; and
- (ii) should the applicant submit a new application, to agree to waive the fee for that single application.

GRANT OF A STREET TRADER LICENCE - NICOLA SWINBURN, KIRKHILL DRIVE, DYCE

8 The Committee were advised that the application had been withdrawn.

APPLICATION FOR CHANGES TO THE CITY CENTRE TAXI RANKS - COM/21/004

9 The Committee had before it a report by the Chief Officer – Governance which sought approval to Taxi ranks following discussions with the taxi trade due to current access restrictions on city centre streets through the Spaces for People programme.

The report recommended:-

that the Committee –

- (a) approve the proposal from ACC Spaces for People Project for the suspension (a) and appointment (b) of taxi ranks as detailed below and as illustrated in Appendices A to G in terms of Section 19 of the Civic Government (Scotland) Act 1982:-

(1) Full Time ranks – Suspension

- **Hadden Street:**
Westbound feeder rank 7 No. stances – as shown in Appendix A;
- **Back Wynd:**
Southbound rank 15 No. stances – as shown in Appendix B;

(2) Full Time ranks - Appointment

- **Exchange Street:**
Northbound 7 No. stances - as shown in Appendix C;
- **Rosemount Viaduct:**
Eastbound 12 No. stances – as shown in Appendix D;
- **Exchequer Row/Shiprow:**
Northbound 10 No. stances – as shown in Appendix E;
- **Union Row**
Southbound 4 No. stances – as shown in Appendix F;
- **Justice Mill Lane**
Westbound 3 No. stances – as shown in Appendix G;

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- (b) instruct the Chief Officer - Governance to undertake the formal consultation on the proposal to suspend and appoint taxi ranks as detailed in (a), in terms of Section 19 of the Civic Government (Scotland) Act 1982 with:-
- Persons or organisations appearing to be representative of taxi operators in the area, i.e. the Taxi and Private Hire Consultation Group;
 - The Chief Constable, Police Scotland;
 - The Public, by way of notice of the proposal in an advertisement in at least one newspaper circulating in the area giving 28 days for any objections or representations; and
 - Aberdeen City Council as the Roads Authority;
- (c) instruct the Chief Officer - Governance, if no objections received through the statutory process, to implement the suspension and appointment of these taxi ranks with the associated number of spaces at the locations detailed in (a) allowing the appointments to operate 24 hours a day, 7 days a week; and
- (d) instruct the Chief Officer - Governance to report back to a future meeting of the Licensing Committee on the outcome of formal consultation if objections are received through the statutory process.

The Committee resolved:-

to approve the recommendations.

SAFETY OF SPORTS GROUNDS ACT 1975 AS AMENDED - GENERAL SAFETY CERTIFICATE PITTODRIE CERTIFICATE - COM/21/012

10 The Committee had before it a report by the Chief Officer – Governance which sought approval for the adoption of the General Safety Certificate issued to Aberdeen Football Club Plc, annexed as Appendix 1 to the report.

The report recommended:-

that the Committee –

- (a) approve the General Safety Certificate Version 2.0 as amended December 2020;
- (b) instruct the Chief Officer - Governance to issue the amended certificate to Aberdeen Football Club Plc; and
- (c) delegate authority to the Chief Officer - Governance to approve any variation to or deletion of Appendix 6 in respect of COVID 19 measures and to issue an amended certificate, as necessary.

The Committee resolved:-

- (i) to approve the recommendations; and
- (ii) that officers contact Aberdeen Football Club to determine where records of maintenance, inspections and tests were being kept for a minimum period of five years or longer if required by British Standards or manufacturer's instruction and to circulate their response to Councillor Bell.

LICENSING COMMITTEE

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CONFIDENTIAL INFORMATION

The press and public were excluded from the meeting for consideration of the following items which contained confidential information in terms of Section 50A 3(b) of the Local Government (Scotland) Act 1973.

RENEWAL OF A LANDLORD REGISTRATION

11. The Committee were advised that the licence had been granted under delegated powers.

RENEWAL OF A STREET TRADER LICENCE

12 The Committee had before it (1) an information note prepared by the Chief Officer – Governance in respect of the application which advised that the application had to be determined by 15 August 2021; (2) a letter from the applicant dated 18 January 2021, circulated following the publication of the agenda; and (3) a letter of representation from the Chief Superintendent, Police Scotland, c/o North East Division dated 9 December 2020.

The licence holder was in attendance and spoke in support of her application.

Sergeant Flett was in attendance and spoke in support of Police Scotland's letter of representation.

Sergeant Flett and the applicant both summed up.

The Committee resolved:-

to grant the renewal of the licence.

RENEWAL OF A TAXI DRIVER LICENCE

13 The Committee had before it (1) an information note prepared by the Chief Officer – Governance in respect of the application which advised that the application had to be determined by 17 July 2021; and (2) a letter of representation from the Chief Superintendent, Police Scotland, c/o North East Division dated 6 November 2020.

The licence holder was in attendance and spoke in support of his application.

Sergeant Flett was in attendance and spoke in support of Police Scotland's letter of representation.

LICENSING COMMITTEE

19 January 2021

Sergeant Flett and the applicant both summed up.

The Committee resolved:-

to grant the renewal of the licence.

RENEWAL OF A TAXI DRIVER LICENCE

14 The Committee had before it (1) an information note prepared by the Chief Officer – Governance in respect of the application which advised that the application had to be determined by 8 September 2021; (2) a letter submitted by the applicant's employer dated 15 January 2021, circulated following publication of the agenda; and (3) a letter of representation from the Chief Superintendent, Police Scotland, c/o North East Division dated 16 December 2020.

The Licence holder was represented by Mr Tony Dawson, both were in attendance and spoke in support of the application.

Sergeant Flett was in attendance and spoke in support of Police Scotland's letter of representation.

Sergeant Flett and the applicant's agent both summed up.

The Committee resolved:-

to grant the renewal of the licence.

DECLARATION OF INTEREST

In accordance with article 1 of this minute, Councillor Malik withdrew from the meeting prior to consideration of the following item of business.

REQUEST FOR THE SUSPENSION OF A LATE HOURS CATERING LICENCE

15 The Committee had before it (1) an information note prepared by the Chief Officer – Governance which advised that a request had been received by Police Scotland for the suspension of a Late Hours Catering licence held by the licence holder in terms of paragraphs 11 of Schedule 1 to the Civic Government (Scotland) Act 1982 ("the Schedule"); and (2) a letter from the Chief Superintendent, Police Scotland, North East Division dated 18 December 2020.

The licence holder was not in attendance, nor represented.

Sergeant Flett was in attendance and spoke in support of Police Scotland's letter.

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19 January 2021

The Committee resolved:-

to revoke the licence.

REQUEST FOR THE SUSPENSION OF A TAXI DRIVER LICENCE

16 The Committee had before it (1) an information note prepared by the Chief Officer – Governance which advised that a request had been received by Police Scotland for the suspension of a taxi driver’s licence held by the licence holder in terms of paragraphs 11 of Schedule 1 to the Civic Government (Scotland) Act 1982 (“the Schedule”); and (2) a letter from the Chief Superintendent, Police Scotland, North East Division dated 17 November 2020.

Sergeant Flett was in attendance on behalf of Police Scotland and spoke in support of the letter.

The licence holder was in attendance and spoke in response to the request for suspension of the licence.

The Committee asked questions of Sergeant Flett and the licence holder.

The licence holder and Sergeant Flett summed up.

The Committee resolved:-

to take no action.

REQUEST FOR THE SUSPENSION OF A TAXI DRIVER LICENCE

17 The Committee had before it (1) an information note prepared by the Chief Officer – Governance which advised that a request had been received by Police Scotland for the suspension of a taxi driver’s licence held by the licence holder in terms of paragraphs 11 of Schedule 1 to the Civic Government (Scotland) Act 1982 (“the Schedule”); (2) a letter from the Chief Superintendent, Police Scotland, North East Division dated 9 December 2020; (3) a letter from the applicant’s employer dated 14 January 2021, circulated after the publication of the agenda.

Sergeant Flett was in attendance on behalf of Police Scotland and spoke in support of the letter.

The licence holder and his representative Mr Tony Dawson were in attendance, and his representative spoke in response to the request for suspension of the licence and in support of the licence holder.

The Committee asked questions of Sergeant Flett and the licence holder’s representative.

LICENSING COMMITTEE
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The licence holder's representative and Sergeant Flett summed up.

The Committee resolved:-

to suspend the licence holder for the unexpired portion of their licence (Licence Expiry Date - 28 February 2021).

- **COUNCILLOR JOHN REYNOLDS, Convener**

	A	B	C	D	E	F	G	H	I
1	LICENSING COMMITTEE BUSINESS PLANNER The Business Planner details the reports which have been instructed by the Committee as well as reports which the Functions expect to be submitting.								
2	Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference Number	Delayed or Recommended for removal or transfer, enter either D, R, or T	Explanation if delayed, removed or transferred
3			16 March 2021						
4	Taxi & Private Hire Policy Review	The Licensing Committee on 10/11/20 agreed to (1) instruct the Chief Officer – Governance to consult with the Trade and all relevant stakeholders on the proposed policy changes; and (2) report back to Committee on 16 March 2021 with the results of the consultation exercise.		Sandy Munro	Governance	Commissioning	17	D	Officers require sufficient time to collate the consultation results, obtain additional information where necessary and fully comply with the committee reporting procedures. This will now be reported to the meeting in May and officers have written to members of the Taxi and Private Hire Consultation Group in this regard.
5			18 May 2021						
6	Application for Changes to the City Centre Taxi Ranks	To alter some taxi rank locations through the Spaces for People project		Ruth Milne	Governance	Commissioning	3		
7			29 June 2021						
8	No reports scheduled at this time.								
9			31 August 2021						
10	No reports scheduled at this time.								
11			26 October 2021						
12	No reports scheduled at this time.								
13			14 December 2021						

	A	B	C	D	E	F	G	H	I
	Report Title	Minute Reference/Committee Decision or Purpose of Report	Update	Report Author	Chief Officer	Directorate	Terms of Reference Number	Delayed or Recommended for removal or transfer, enter either D, R, or T	Explanation if delayed, removed or transferred
2									
14	Annual Committee Effectiveness Report	To present the Annual Effectiveness report for the Committee.		Mark Masson	Governance	Commissioning	GD 8.5		
15			TBC						
16	Age Policy For Private Hire And Taxi Vehicles	Licensing Committee 08.03.16 (article 3 appendix A) - Council on 11 May 2016 resolved, amongst other things, to instruct the Head of Legal and Democratic Services to review the policy on Age of Vehicles following the implementation of the accessible vehicle policy on 6 June 2018 and report back to the Licensing Committee with recommendations as appropriate twelve months after the accessible vehicle policy had been implemented.	Report to be submitted 12 months after the implementation of the accessible vehicle policy.	Sandy Munro	Governance	Governance	7	R	This is to be consumed within the overarching report on Taxi and Private Hire Policy Review report due at the May 2021 meeting
17	Mixed Fleet Policy Options	Licensing Committee 5.03.18 (article 12). The Committee resolved to recognise that in compliance with The Equality Act 2010 that all taxi user requirements should be considered and instructs the Chief Officer Governance: (1) to prepare a report with suitable mixed fleet policy options for the split which would address all customer needs whether they are a wheelchair user, visually impaired or have other mobility requirements or other relevant disability; (2) to submit the aforementioned options to the Licensing Committee meeting by June 2022 for consideration, noting that subject to the approval in principle of the options a full consultation as outlined in section 4.2 of the report would be undertaken and the outcome reported back to the Committee; and (iv) to further recognise that in 1994 when new applications for taxi licences were required to be wheelchair accessible vehicles an exemption was allowed for existing licence holders, at that time, to retain a non-accessible vehicle and even licence a further non-accessible vehicle on renewal of the licence or replacement of such vehicle and to agree that this exemption should remain meantime and instructs the Chief Officer Governance to incorporate this exemption as an option within the proposed mixed fleet policy options to be submitted to Committee by June 2022.		Sandy Munro	Governance	Governance	7	R	This is to be consumed within the overarching report on Taxi and Private Hire Policy Review report due at the May 2021 meeting
18	Taxi Driver Training	Licensing Committee 19/2/19 agreed to instruct the Chief Officer – Governance to continue to investigate training programmes for taxi and private hire drivers and report back to the Committee in this regard as and when appropriate.		Sandy Munro	Governance	Governance	3		

Application	Name of Applicant & Agent	Premises of which application refers	Representations received	Date by which application to be determined (date order)	Proposed Meeting to Determine Application	Page Number
HMO Application (Renewal)	Liam Findlay	48A Fountainhall Road	HMO Team, Private Sector Housing Unit	26 April 2021	16 March 2021	19 - 20
HMO Application (Renewal)	Sandra Douglas + Stewart Property Services	First Floor Flat, 64 Great Western Road	One Objection	08 November 2021	16 March 2021	21 - 34
HMO Application (Renewal)	Ka Wai Cheng	386D King Street, Aberdeen	One objection	3 December 2021	16 March 2021	35 - 40
HMO Application (Renewal)	Comper & Company Ltd	15 Spital, Aberdeen	One objection	14 January 2022	16 March 2021	41 - 52
HMO Application (Renewal)	Comper & Company Ltd	17 Spital, Aberdeen	One objection	14 January 2022	16 March 2021	53 - 64
Street Trader (Grant)	Douglas Durno	Canal Street (Woodside) South Side, 25m East of Bank Street (outside No 26)	Objections x 6	29/11/2021	16 March 2021	65 - 68

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LICENSING COMMITTEE INFORMATION SHEET

16 March 2021

Public Application

TYPE OF APPLICATION: HMO LICENCE APPLICATION (RENEWAL)

APPLICANT: LIAM FINDLAY

ADDRESS: 48A FOUNTAINHALL ROAD, ABERDEEN

INFORMATION NOTE

At the date of drafting this Information Note, a new HMO licence cannot be granted for the reason that the applicant has not completed the work & certification requirements to bring the property up to the current HMO standard. The meeting of the Licensing Committee on 16 March 2021, is the last meeting before the one-year statutory deadline for determining this HMO licence application therefore if the property is still unsuitable by the day of the Committee, and the Committee are minded to refuse the application, they must do so at the meeting on 16 March 2021. I will advise the Committee whether the applicant has satisfactorily completed the necessary work & certification requirements.

DESCRIPTION

The premises at No.48A Fountainhall Road, Aberdeen, is an upper floor maisonette flat on the 1st & 2nd floor of a tenement building. The accommodation provides 4 letting bedrooms, one lounge, one kitchen/diner & two bathrooms. The applicant has requested an occupancy of 4 tenants, which is acceptable in terms of space and layout. The application under consideration is a renewal application.

CONSULTEES

- Police Scotland
- Scottish Fire & Rescue Service
- A public Notice of HMO Application was displayed outside the building for the 21-day statutory period, alerting the general public to the HMO licence application.

OBJECTIONS/REPRESENTATIONS

- Police Scotland – no objections
- Scottish Fire & Rescue Service – no objections
- General public – no objections

COMMITTEE GUIDELINES/POLICY

All applications for HMO licences are dealt with in accordance with the Scottish Government's document:
'Licensing of Houses in Multiple Occupation: Statutory Guidance for Scottish Local Authorities'

GROUNDS FOR REFUSAL

This application is being dealt with under the provisions of Part 5 of the Housing (Scotland) Act 2006, as amended. Available grounds of refusal are as follows:

- 1) The applicant and/or agent is not considered to be a 'fit & proper' person to hold an HMO licence, and
- 2) The property is unsuitable for occupation as an HMO for one, some or all of the following reasons:
 - i) Its location
 - ii) Its condition
 - iii) Any amenities it contains
 - iv) The type & number of persons likely to occupy it
 - v) Whether any rooms within it have been subdivided
 - vi) Whether any rooms within it have been adapted, resulting in an alteration to the water & drainage pipes within it
 - vii) The safety & security of persons likely to occupy it
 - viii) The possibility of undue public nuisance

OTHER CONSIDERATIONS

- The applicant is registered as a landlord with this Council and his registration includes No.48A Fountainhall Road.
- The Council's Anti-Social Behaviour Investigation Team (ASBIT) has no record of any complaints of anti-social behaviour involving the tenants of No.48A Fountainhall Road.
- The extent of the above-mentioned work & certification requirements is as follows:
 - 1) All portable heaters to be permanently removed from the property.
 - 2) All room and final exit door locks must be capable of being opened from the inside, without the use of a key. Any door lock not normally in use must be permanently disabled. In this regard the rear door lock requires to be repaired or renewed.
 - 3) All self-closing doors must be inspected and adjusted to ensure that they are capable of closing fully against their stops from all angles of swing. Particular attention to be paid to the lounge door and the door to bedroom No.4
 - 4) The following certificates to be submitted to the HMO Unit for scrutiny:
 - Gas Safe certificate
 - Portable Appliance Teste (PAT) certificate
 - Notice of HMO Application – Certificate of Compliance

LICENSING COMMITTEE INFORMATION SHEET

16 March 2021

Public Application

TYPE OF APPLICATION: HMO LICENCE APPLICATION (RENEWAL)

APPLICANT: SANDRA DOUGLAS

AGENT: STEWART PROPERTY SERVICES

ADDRESS: 64 GREAT WESTERN ROAD, ABERDEEN (FIRST FLOOR FLAT)

INFORMATION NOTE

The Licensing Committee at its meeting on 19 January 2021 considered the attached report concerning the HMO licence renewal application for the first floor flat at No.64 Great Western Road, and resolved:

- (i) *to defer consideration of the application to allow officers to undertake an inspection of the property when Government restrictions are lifted and it is safe to do so, specifically to determine whether the laminate flooring has been laid upon an acoustic underlay; and*
- (ii) *to report their findings to a future meeting of the Committee, no later than the meeting on 26 October 2021.*

INVESTIGATION

Following the Committee meeting, the applicant's agent was formally notified of the Committee's decision whereupon she e-mailed the HMO Unit on 22 January 2021 and attached 4 photographs showing the laminate floor construction. Her e-mail advised:

"The property at 64 Great Western Road is vacant at present, tenants due back next week so had maintenance round today to lift part of floor and there is underlay under floor. Hard to see on photos attached but there is underlay there."

The agent was then asked whether the underlay extended throughout the flat and she replied stating:

"I can confirm our maintenance team lifted 3 thresholds (hall cupboard, middle bedroom/hallway and lounge/hallway), and photographs previously provided demonstrated what we believe to be carpet underlay present in all locations inspected."

The photographs are shown below and are explained as follows:

Photograph No.1

Appears to show the hallway of the flat and a workman exposing the floor construction.

Photograph Nos.2, 3 & 4

Shows a close-up view of the laminate flooring laid upon carpet underlay in 3 different areas of the flat.

CONCLUSION

The agent confirmed that the laminate flooring in 3 different areas of the flat has been laid upon carpet underlay. Whilst such underlay is not usually laid below laminate flooring, a possible explanation is that the property was originally carpeted throughout and when the owners decided to lay laminate flooring, they retained the carpet underlay and laid the laminate flooring onto it. The carpet underlay meets the criteria of "acoustic underlay" and is acceptable to the HMO Unit.

Whilst the Committee resolution requires HMO Officers to inspect the flat to determine the flooring construction, it is impossible to determine whether the carpet underlay extends throughout the whole flat without exposing the floor construction in every room. It is perhaps unreasonable to expect or instruct the agent/landlord to expose the floor construction in every room of the property therefore in the absence of a physical inspection, the Committee might take comfort from the information supplied by the agent.

Photograph No.1



Photograph No.2



Photograph No.3



Photograph No.4



LICENSING COMMITTEE INFORMATION SHEET

19 January 2021

Public Application

TYPE OF APPLICATION: HMO LICENCE APPLICATION (RENEWAL)

APPLICANT: SANDRA DOUGLAS

AGENT: STEWART PROPERTY SERVICES

ADDRESS: 64 GREAT WESTERN ROAD, ABERDEEN (FIRST FLOOR FLAT)

INFORMATION NOTE

This HMO licence application is on the agenda of the Licensing Committee for the reason that one letter of representation/objection was submitted to the HMO Unit.

If, after consideration of the representation/objection, the Committee is minded to grant the HMO licence, it may do so under delegated powers for the reason that the necessary upgrading works & certification have not yet been completed. That position may have changed by the day of the Committee, in which case I will advise the Committee accordingly.

DESCRIPTION

The premises at No.64 Great Western Road, Aberdeen, is a first-floor flat with accommodation comprising 4 letting bedrooms, one public room, one kitchen & one bathroom. The applicant wishes to accommodate a maximum of 4 tenants, which is acceptable to the HMO Unit in terms of space & layout. The location of the premises is shown on the plan attached as Appendix A.

CONSULTEES

- Police Scotland
- Scottish Fire & Rescue Service
- A public Notice of HMO Application was displayed outside the building, alerting the general public to the HMO licence application.

REPRESENTATIONS/OBJECTIONS

- Police Scotland – no objections
- Scottish Fire & Rescue Service – no objections
- General public – one letter of representation/objection (Attached as Appendix B).
- Licence-applicant – one letter from the applicant's agent in response to the letter of representation/objection (Attached as Appendix C)

COMMITTEE GUIDELINES/POLICY

All applications for HMO licences are dealt with in accordance with the Scottish Government's document:
'Licensing of Houses in Multiple Occupation: Statutory Guidance for Scottish Local Authorities'

GROUNDS FOR REFUSAL

This application is being dealt with under the provisions of Part 5 of the Housing (Scotland) Act 2006, as amended. Available grounds of refusal are as follows:

- 1) The applicant and/or agent is not considered to be a 'fit & proper' person to hold an HMO licence, and
- 2) The property is unsuitable for occupation as an HMO for one, some or all of the following reasons:
 - i) Its location
 - ii) Its condition
 - iii) Any amenities it contains
 - iv) The type & number of persons likely to occupy it
 - v) Whether any rooms within it have been subdivided
 - vi) Whether any rooms within it have been adapted, resulting in an alteration to the water & drainage pipes within it
 - vii) The safety & security of persons likely to occupy it
 - viii) The possibility of undue public nuisance
 - ix) There is, or would be, an overprovision of HMOs in the locality

OTHER CONSIDERATIONS

- The applicant is registered as a landlord with this Council and the registration includes the first-floor flat at No.64 Great Western Road.
- The Council's Anti-Social Behaviour Investigation Team (ASBIT) has no record of any complaints of anti-social behaviour involving the tenants of the first-floor flat at No.64 Great Western Road.
- The application under consideration is a renewal application.
- The applicant's first-floor flat is located within a 3-storey tenement in Great Western Road. A self-contained ground-floor flat is numbered 62 Great Western Road, and a separate communal staircase leads from the street and serves the applicant's first-floor flat and a top-floor flat, both numbered 64 Great Western Road. The top-floor is also HMO-licensed.

- The letter of objection includes points about noise and the display of the Notice of HMO Application. Members may wish to note the following comments:

Noise

The objector refers to section 4.11 of the Scottish Government's HMO Statutory Guidance which concerns 'Noise Reduction' and states:

"Noise is a significant source of complaints about HMOs from neighbours, and some physical aspects of the property can add to the problems. Local Authorities should therefore be satisfied that appropriate measures have been taken to minimise noise nuisance, such as the installation of items such as door-closers and extractor fans, and 'deafening' under the floors. For flats with downstairs neighbours the Local Authority should consider requiring that exposed wooden floorboards, laminate, hardwood floorings or tiled floor finishes be provided, in living areas, with a fitted carpet with good-quality underlay and, in kitchen or bathroom areas, with good-quality cushioned flooring such as vinyl."

During the HMO Officer's recent inspection of the first-floor flat, he noted that laminate flooring was fitted throughout the flat and there were no rugs. Laminate floor should always be laid upon 'quilting' material so as to reduce the transmission of sound but it is impossible to determine whether such quilting material and its thickness has been laid without removing the laminate. That said, whilst the laying of carpet & underlay would certainly reduce the noise transmission between the first-floor flat and the ground-floor flat, it is difficult to independently determine the actual level of the noise being experienced by the objector. Noise from neighbouring flats is inevitable in tenement living although in recent years, the Council has been able to tackle 'anti-social' noise via its Antisocial Behaviour Investigation Team. As mentioned in the 2nd bullet-point above, the ASBIT team has no record of any complaint of anti-social behaviour involving the tenants of the first-floor flat therefore the alleged noise nuisance seems confined to 'footfall' and slamming doors. All room doors in HMOs must be fitted with self-closing devices to comply with fire-safety and during his inspection, the HMO Officer identified some door-closers that require adjustment to ensure that the doors close 'softly'.

Members will be aware that the Council does not have a policy in relation to flooring in HMO flats where there are downstairs neighbours. Most HMO licence applications do not attract objections which would suggest that such a policy is not required.

Finally, with regard to the alleged noise from the stairwell adjacent to the ground-floor flat, the HMO Officer examined the operation of the external door and was of the opinion that it was not unduly noisy. That said, the door is immediately adjacent to the ground floor flat therefore it is inevitable that the occupants will hear the door closing. The stairwell and external door is common to the 2 flats at No.64 Great Western Road, and the HMO Officer cannot instruct any works to a common area.

Notice of HMO Application

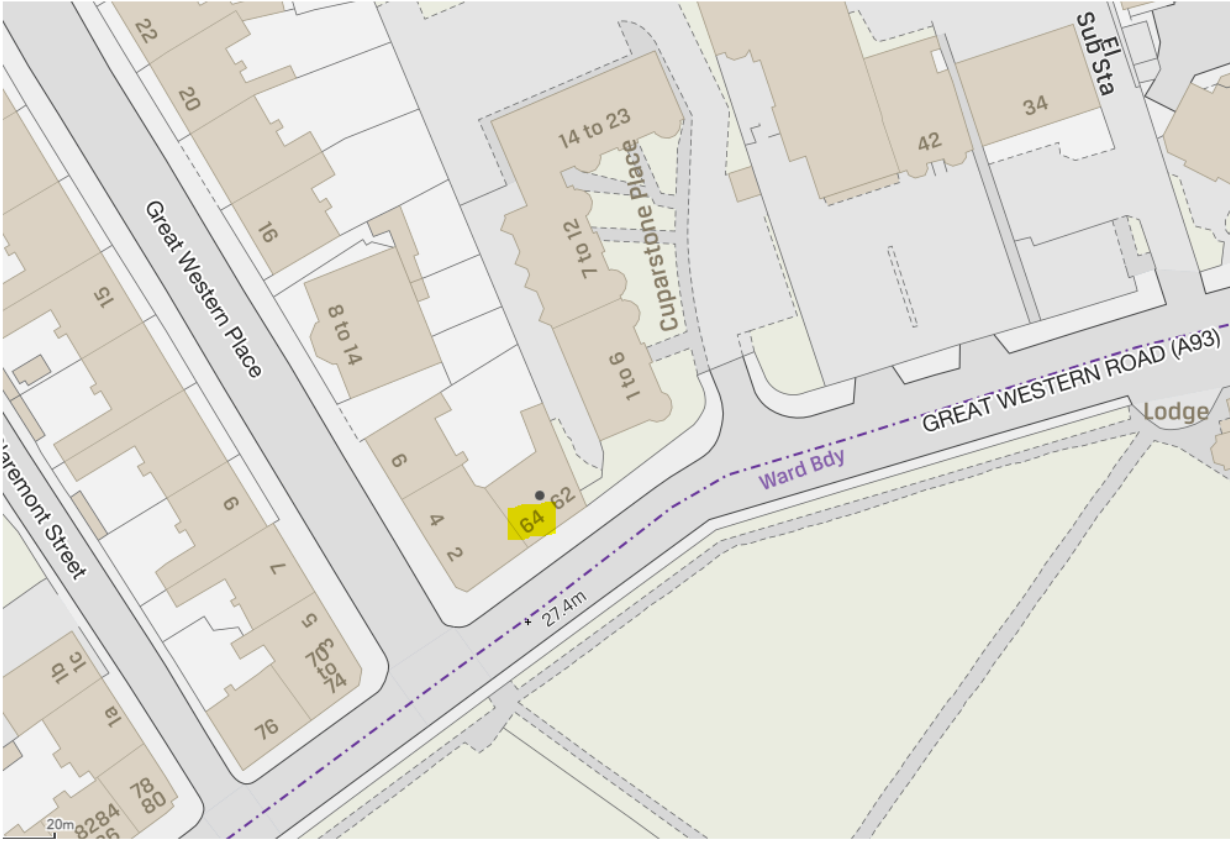
The objector states that the Notice of HMO Application:

“was displayed around 9 November 2020 for maybe two days but has not been there since”.

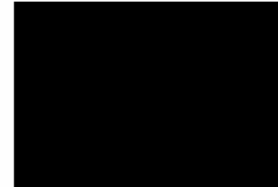
The HMO application was submitted to the Council on 9 November 2020, and the agent subsequently submitted a Certificate of Compliance declaring that the public Notice was on display between 9 November 2020 – 30 November 2020. The letter of representation/objection is dated 27 November 2020 and date-stamped on 1 December 2020 by the Private Sector Housing Unit. Most staff are working from home and only visit Marischal College occasionally therefore the letter might have arrived in Marischal College on 30 November 2020. The letter should therefore be treated as if it was received within the 21-day statutory period.

Finally, with regard to the complaint about the Notice being displayed for 2 days, the Agent refers to same in her letter.

‘A’



‘B’



27/11/2020

HMO Unit
Operations and Protective Services
Aberdeen City Council

Dear Sir/Madam,

I am writing to object to the application for an HMO Licence for: Flat 1 64 Great Western Road Aberdeen Aberdeen City AB10 6PY, which was applied for on 09/11/2020.

Firstly, my objection is primarily regarding undue public nuisance. Having lived below the property for the last four years, and had to regularly speak to various groups of tenants about the noise that they made, along with contacting the agent for the property, and the fact that my wife is shortly due our first baby, I feel the need to make my objection formally. Part 4.11 of Licencing of Houses in Multiple Occupation: Statutory Guidance for Scottish Local Authorities directs authorities to consider unacceptable levels of noise, which I believe there has been and will continue to be if the HMO is renewed as it stands.

The guidance suggests a standard of floor coverings, door closers, etc. to minimise noise nuisance – I do not believe this has been done. Living underneath the property, we are regularly disturbed by noise particularly related to doors slamming, heavy footfall, etc. which may not even be realised by the tenants. As the property is also part of a tenement and has communal stairs with another property, I would highlight that the noise from this stairwell and the main entrance door needs addressing. One of our bedrooms is adjacent to these stairs, and it can be quite loud especially during unsociable hours. Noise from the property is sometimes amplified with windows from the property being open onto the communal garden, as it's like a courtyard so noise reverberates around the area. Although I think we are most affected being directly below, there are other properties that all face this garden. I am not objecting to anyone opening their windows; however, I believe this to be a pertinent point regarding undue nuisance to neighbours, again particularly at nighttime.

Secondly, I'd like to note that the Notice of HMO Application was displayed around 09/11/2020 for maybe two days, but has not been there since, and certainly not the statutory 21-day period, as I had to search for the application on the Council's website.

If any further information is required, please do not hesitate in contacting me,

Yours faithfully,

Ross Millar

Aberdeen City Council
Housing & Environment
DATE RECEIVED
01 DEC 2020
Private Sector Housing Unit

‘C’

OUR REF: [REDACTED]

22nd December 2020

Aberdeen City Council | Private Sector Housing Unit | Business Hub 6
Early Intervention & Community Empowerment | Customer
Marischal College | First Floor South | Broad Street | Aberdeen | AB10 1AB



To whom it may concern,

REF: HMO LICENCE RENEWAL APPLICATION - 64 GREAT WESTERN ROAD, ABERDEEN (FIRST FLOOR FLAT)

We write to you as the leasing agent of the above property on behalf of our landlord Sandra Douglas. In reference to your email dated 3rd December 2020 in relation to renewal of HMO licence for the above property and the letter of Objection from Ross Miller who resides at [REDACTED] flat below our property.

Stewart Property Services (I am the sole director) have managed property at 64 Great Western Road since 2011 and until this issue, we had never received any complaint regarding this property. The only complaint received was from Mr. Miller who emailed our offices on 23rd November 2020 when we acknowledged his complaint and informed the tenants.

Neither neighbours above our property or the adjoining neighbouring building have ever complained. There are two properties in the building of 64 Great Western Road (one each floor), first floor and second floor. The ground floor flat Mr. Miller flat [REDACTED] which is self-contained with his own front door to property from the street. Our tenants access the property by entering the front door on Great Western Road which is located on left hand side of one of Mr Millers windows and the communal hallway of the tenement lies to the adjoining wall to his property.

In regard to Mr. Miller's objection letter he states the following "grounds of **public** nuisance". We fully believe the grounds of **public** nuisance has not been proven as no criminal act has occurred, no criminal wrongdoing, act or emission that obstructs damages, or inconvenience the rights of the community.

Regarding the issue of noise: we believe this complaint is unjustified, as our tenants have a right to enter the building to access their property which we believe is classed as domestic noise from day to day living. The HMO property legally requires self-door closers, to ensure they close fully to the stops which already have a setting to reduce them "slamming shut". The property has laminate flooring throughout the flat and we believe this is insulated and again, no unreasonable noise has been caused at any time. Furthermore, as far as I understand, there has been no engagement with Environmental Health or the Anti-Social Behaviour team.

The complaint has not at any time claimed that the noise from the stairwell was caused by the tenants from the first floor flat.

Opening of Windows: Again, this does not warrant any concerns as every homeowner or tenant has the right to open their windows without causing any issues to the public.



I would also like to raise the matter of the public notices for the HMO licence which have been repeatedly removed by someone after they have been displayed at the property. I am not able to evidence who had removed the mandatory notices however I have replaced these on four occasions since the application was submitted to ensure compliance to the application requirements are maintained.

Please note we have informed the tenants of the noise complaint and they have been fully engaging with myself to negate any issues raised.

Kind regards

[Redacted signature]

Anna Munro

[Redacted footer]

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LICENSING COMMITTEE INFORMATION SHEET

16 March 2021

Public Application

TYPE OF APPLICATION: HMO LICENCE APPLICATION (RENEWAL)

APPLICANT: KA WAI CHENG

AGENT: NONE STATED

ADDRESS: 386D KING STREET, ABERDEEN

INFORMATION NOTE

This HMO licence application is on the agenda of the Licensing Committee for the reason that one letter of representation/objection was submitted to the HMO Unit.

If, after consideration of the representation/objection, the Committee is minded to grant the HMO licence, it may do so under delegated powers for the reason that the necessary upgrading works & certification have not yet been completed. That position may have changed by the day of the Committee meeting, in which case I will advise the Committee accordingly.

DESCRIPTION

The premises at No.386D King Street, Aberdeen, is an upper-floor flat contained within an ex-Council 4-flatted block. The flat provides accommodation comprising 3 letting bedrooms, one public room, one kitchen & one bathroom. The applicant wishes to accommodate a maximum of 3 tenants, which is acceptable to the HMO Unit in terms of space & layout. The location of the premises is shown on the plan attached as Appendix A.

CONSULTEES

- Police Scotland
- Scottish Fire & Rescue Service
- A public Notice of HMO Application was displayed outside the building, alerting the general public to the HMO licence application.

REPRESENTATIONS/OBJECTIONS

- Police Scotland – no objections
- Scottish Fire & Rescue Service – no objections
- General public – one letter of representation/objection which was received within the statutory 21-day period and must be considered (Attached as Appendix B).
- Licence-applicant – one e-mail from the applicant in response to the letter of representation/objection (Attached as Appendix C)

COMMITTEE GUIDELINES/POLICY

All applications for HMO licences are dealt with in accordance with the Scottish Government's document:
'Licensing of Houses in Multiple Occupation: Statutory Guidance for Scottish Local Authorities'

GROUNDS FOR REFUSAL

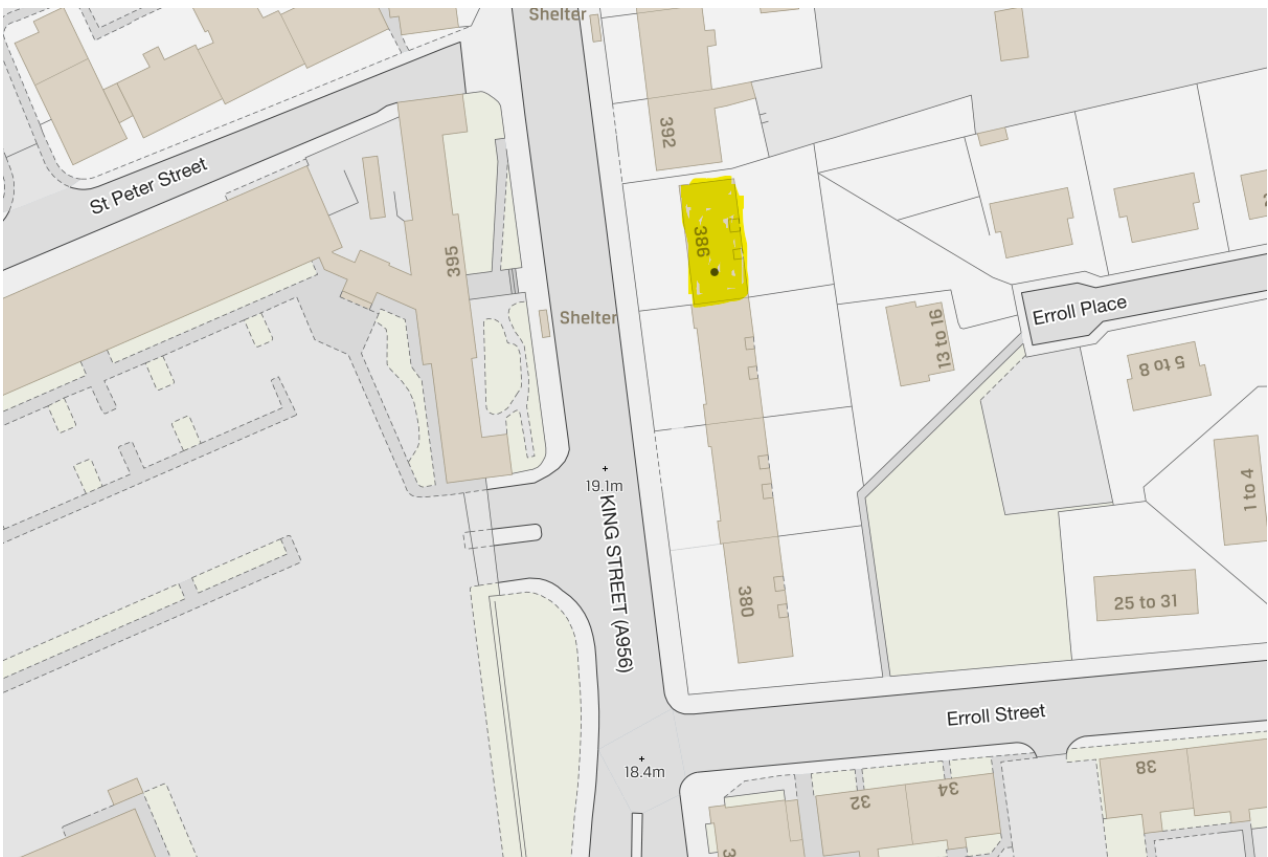
This application is being dealt with under the provisions of Part 5 of the Housing (Scotland) Act 2006, as amended. Available grounds of refusal are as follows:

- 1) The applicant and/or agent is not considered to be a 'fit & proper' person to hold an HMO licence, and
- 2) The property is unsuitable for occupation as an HMO for one, some or all of the following reasons:
 - i) Its location
 - ii) Its condition
 - iii) Any amenities it contains
 - iv) The type & number of persons likely to occupy it
 - v) Whether any rooms within it have been subdivided
 - vi) Whether any rooms within it have been adapted, resulting in an alteration to the water & drainage pipes within it
 - vii) The safety & security of persons likely to occupy it
 - viii) The possibility of undue public nuisance
 - ix) There is, or would be, an overprovision of HMOs in the locality

OTHER CONSIDERATIONS

- The applicant is registered as a landlord with this Council and his registration includes No.386D King Street, and another 6 rental properties.
- The Council's Anti-Social Behaviour Investigation Team (ASBIT) has no record of any complaints of anti-social behaviour involving the tenants of No.386D King Street.
- The application under consideration is a 'renewal' application. The applicant first licensed the property in April 2014.
- There are no other HMO-licensed flats in No.386 King Street.

'A'



'B'

MR E ROBINSON

HMO UNIT
EARLY INTERVENTION & COMMUNITY EMP
BUSINESS HUB 6

FIRST FLOOR SOUTH.

10 Jan 2021

MARISCHAR COLLEGE.

BROAD ST

ABERDEEN. AB10 1AB.

Dear Sir or Madam. Ref Hous 280061007
I writing to you reference
to the HMO ADDRESS FLAT D 386 KINK ST.
ABERDEEN AB24 3BQ.

I have been in [redacted] since 2008 &
when flat D was sold to Ka Vai Cheng
Richy give me his [redacted]
at first students up above was not
bad then I found out its constant
noise 24/7 when its the water down
my bathroom walls & ceiling in the
hall way spare room, I had the
council out 24/7 its No its Not
a good idea at all.

I'm sorry to say this but a family
in flat D who care about people round
about them. may be better.

Yours faithfully

Aberd [redacted]
Housing & Environment
DATE RECEIVED
20 JAN 2021

‘C’

I should add to the neighbour's objection, I always get the leak fixed immediately. As far as I remember, there were two "real" leaks over the last six years I own the flat, one time was from the newly installed shower and the other time was from the waste pipe connecting to the bath. The reason I say "real" is because there were several other occasions where the neighbours accused there's a leak from my flat, but in fact there's none, the bathroom (including the bottom of the bath) is completely dry. I remember I once got called from the neighbour at 5am in the morning and spent over £100 for emergency plumber to turn up at 6am to find out there's no leak in my flat at all !! That was the time where the flat was copped by a family, the woman of the family was too scared to open the door for the neighbour as he kept banging on the door, according to the woman.

I am more than happy to repair the flat and keep it in a high standard, it is of my interest to do so. I just don't see how having a family as resident would make any changes if he kept accusing there's a leak from my flat when there's none.

Regards

Ka Wai Cheng

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LICENSING COMMITTEE INFORMATION SHEET

16 March 2021

Public Application

TYPE OF APPLICATION: HMO LICENCE APPLICATION (RENEWAL)

APPLICANT: COMPER & COMPANY LTD

AGENT: BREIDGE MCKEEVER

ADDRESS: 15 SPITAL, ABERDEEN

INFORMATION NOTE

This HMO licence application is on the agenda of the Licensing Committee for the reason that one letter of representation/objection was submitted to the HMO Unit.

If, after consideration of the representation/objection, the Committee is minded to grant the HMO licence, it may do so under delegated powers for the reason that a final inspection cannot be undertaken by the HMO Officer until Covid restrictions have been lifted. That position may have changed by the day of the Committee meeting, in which case I will advise the Committee accordingly.

DESCRIPTION

The premises at No.15 Spital, Aberdeen, is a converted convent with accommodation comprising: 8 letting bedrooms, one public room, one kitchen, one dining room, 2 bathrooms, one study, one Locker/Storage room and one Utility / Laundry room. The applicant wishes to accommodate a maximum of 8 tenants, which is acceptable to the HMO Unit in terms of space & layout. The location of the premises is shown on the plan attached as Appendix A.

CONSULTEES

- Police Scotland
- Scottish Fire & Rescue Service
- A public Notice of HMO Application was displayed outside the building, alerting the general public to the HMO licence application.

REPRESENTATIONS/OBJECTIONS

- Police Scotland – no objections
- Scottish Fire & Rescue Service – no objections
- General public – one letter of representation/objection (Attached as Appendix B).
- Licence-applicant – one letter from the applicant in response to the letter of representation/objection (Attached as Appendix C)

COMMITTEE GUIDELINES/POLICY

All applications for HMO licences are dealt with in accordance with the Scottish Government's document:
'Licensing of Houses in Multiple Occupation: Statutory Guidance for Scottish Local Authorities'

GROUNDS FOR REFUSAL

This application is being dealt with under the provisions of Part 5 of the Housing (Scotland) Act 2006, as amended. Available grounds of refusal are as follows:

- 1) The applicant and/or agent is not considered to be a 'fit & proper' person to hold an HMO licence, and
- 2) The property is unsuitable for occupation as an HMO for one, some or all of the following reasons:
 - i) Its location
 - ii) Its condition
 - iii) Any amenities it contains
 - iv) The type & number of persons likely to occupy it
 - v) Whether any rooms within it have been subdivided
 - vi) Whether any rooms within it have been adapted, resulting in an alteration to the water & drainage pipes within it
 - vii) The safety & security of persons likely to occupy it
 - viii) The possibility of undue public nuisance
 - ix) There is, or would be, an overprovision of HMOs in the locality

OTHER CONSIDERATIONS

- The applicant is registered as a landlord with this Council and the registration includes No.15 Spital.
- The property was first HMO-licensed in February 2010 and remained licensed until November 2017 when it changed hands. The applicant has held an HMO licence since February 2018 and their current application under consideration is a 'renewal'.
- The letter of objection refers to the involvement of the Council's Anti-Social Behaviour Investigation Team (ASBIT) and Police Scotland, both of whom were contacted and asked for their comments. The responses are as follows:

ASBIT

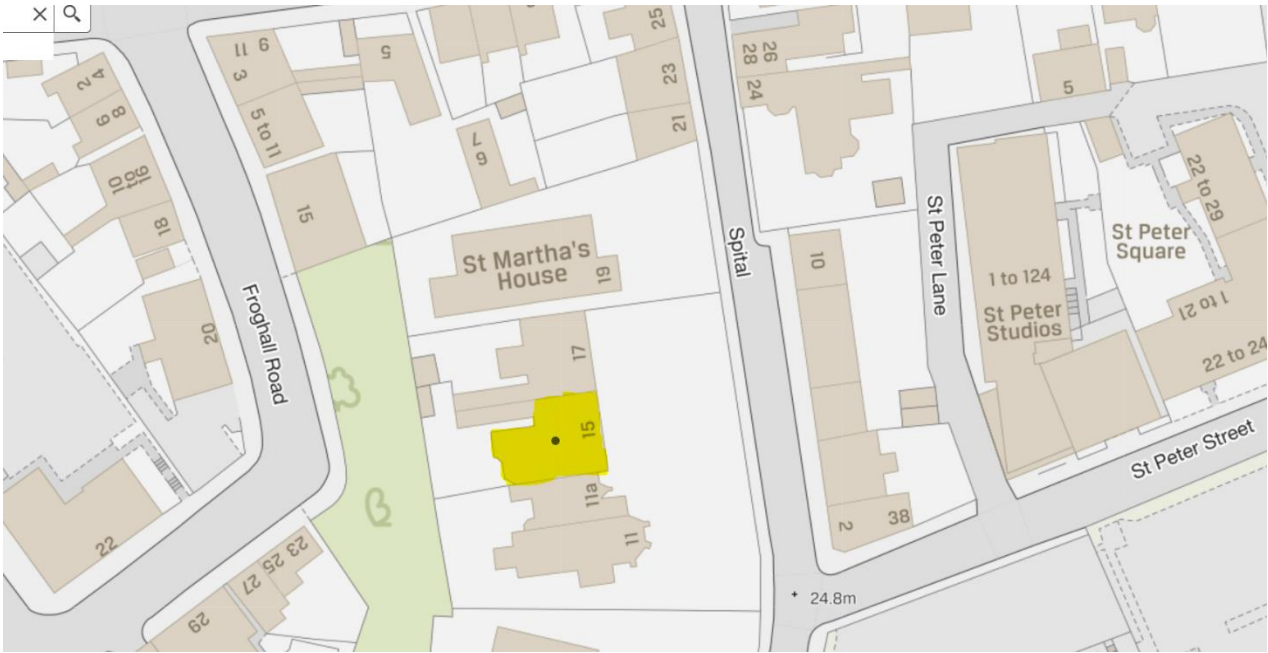
• 10 October 2020 – A complainer phoned the ASBIT team to report an ongoing loud party at No.15 Spital. ASBIT staff explained that they could not attend and instead advised the complainer to contact Police Scotland.

- 27 October 2020 – A complainer e-mailed the HMO Unit to retrospectively report a party at No.15 Spital on 24 October 2020. The HMO Unit passed the e-mail to the ASBIT team.
- 11 November 2020 – The landlord contacted the ASBIT team to discuss the recent noise complaints and was given appropriate advice including a suggestion that mediation should be considered.

Police Scotland

- On 16 December 2020, Police were contacted by a male reporting he had been robbed just outside the property by 3-4 unknown males who stole his phone and house/car keys.

'A'



'B'

BY EMAIL



20 January 2021

HMO Unit
Operations and Protective Services
Business Hub 1
Lower ground floor
Marischal College
Aberdeen
AB10 1AB

Dear HMO Unit

HMO Licence application, 15 and 17 Spital, Aberdeen.

We wish to object to the renewal of the HMO licence at 15 and 17 Spital, Aberdeen by Breidge Sall/McKeever of Comper Properties.

We have been disturbed since September this year by the tenants at the above properties and concerned by the lack of responsibility taken by the absentee landlord to address the situation. Below are the dates we have been disturbed by the loud noise from music let alone the blatant disregard of Covid rules by having parties with many attendees. I have put the date the disturbances started but they all went on to the early hours of the next day.

Thursday 10th September

Tuesday 15th September

Saturday 10th October

Tuesday 20th October

Saturday 28th November


It has been difficult due to Covid restrictions to get assistance from the HMO unit and Anti-Social Behavioural Investigation Team (ASBIT) although they have been notified of many of the disturbances. They suggested we call Police Scotland. Calling them has proved challenging as they are a bit overwhelmed at the moment and also, doing this causes further stress and disturbance for us in the middle of the night.

I let the landlord know about the first party and she thanked me for letting her know and said she would pass it on to the tenants. There was no reply to the notification of the 15th of September party. Since then the communication has been ad hoc as no actions, which remedied the situation, were taken and we did not know what more to do.

It took me by surprise to receive a letter from SACRO (Scottish Association for the Care and Resettlement of Offenders) in November saying a neighbour/landlord had referred me for community mediation. I found this referral stressful, inappropriate and vexatious. The landlady assured me “it would sort out the problem”. I did not agree. She has now asked that I let her know as soon as there is a disturbance by mobile, but fail to see what that can achieve when she lives in London. Currently the properties are not fully occupied as they were previously.

We consider the lack of appropriate responses and actions from the landlady not to be of a good enough standard for her licence to be renewed and would ask the committee to endorse this view.

Yours sincerely



Dr Jacinta and Mr Patrick Birchley

‘C’

BY EMAIL



26th February 2021

HMO Unit Operations and Protective Services
Business Hub 1 Lower ground floor
Marischal College
Aberdeen
AB10 1AB

Dear Ally,

RE: HMO license renewal for 15 & 17 Spital

With regard to the letter of objection received from Mr & Mrs Birchley [REDACTED] this came as a surprise as I took every possible action promptly in order to resolve the noise complaints that I was made aware of.

Please refer to the flow attached which shows the events and the actions I took which were always timely and of the appropriate level.

Please note that in the 11-year period of ownership (i.e. since 2009), 160 students have occupied 15 & 17 Spital and we have had **NO** noise complaints and so the complaints that Mrs Birchley reported on the 10th and 16th September were particularly bamboozling.

Additionally, as Mrs Birchley referred to 19 Spital and ‘your property’ in her text messages, I was not sure that it was in fact 15 and or 17 Spital that she was referring to.

The two complaints against 17 Spital, that I was made aware of, on the 11th and 16th September were dealt with immediately. And the tenants of 17 Spital also followed up by contacting the ASBIT for advice.

I was not aware of either of the complaints that were logged against 15 Spital, on the 10th and 24th October, as Mrs Birchley did not contact me nor did the ASBIT nor HMO team.

On the 30th October when Mrs Birchley spoke to me on the Spital, I was surprised to hear that there had apparently been more noise complaints as I was not aware of this as stated above. Mrs Birchley did not mention 15 Spital, she only mentioned 17 Spital and so I immediately spoke to the tenants of 17 Spital.

On consideration of the situation, I contacted ASBIT team on the 11th November and was advised that mediation could be helpful and was given the contact details of Sacro. After discussion with Sacro and the tenants of 17 Spital, the mediation process was initiated on the 13th November.

It was a great disappointment to receive a message from Mrs Birchley on the 29th November regarding 'a not as loud party' from 17 Spital. When I discussed with the tenants they advised that they had been noise aware and were both surprised and disappointed to have disturbed Mr & Mrs Birchley.

I concluded my correspondence with Mrs Birchley on the 4th December requesting that she inform me during a noise occurrence so that I can contact my tenants, she did not respond and in her letter of objection seems to mock this request.

Alicja Rachowska from 17 Spital visited [REDACTED] on the 6th December and gave the tenants' mobile numbers to Mr Birchley, however Mrs Birchley was not available to talk with Alicja.

On the 8th December the Sacro case was closed as Mrs Birchley was unwilling to take part in mediation. Mr & Mrs Birchley have suggested in their letter of objection that the involvement of Sacro was a deliberate act of annoyance / harassment. I can assure you that it was not, it was with every best intention that Sacro were contacted and for the avoidance of any doubt at no time did I state 'it would sort out the problem'.

I contacted the Scottish Association of Landlords (SAL) on the 9th December to check my actions and to seek advice about any additional actions I could take. SAL confirmed that I had taken all the required actions.

I had thought that the messages and emails I exchanged with Mrs Birchley had resulted in resolution of the problem and so I did not expect a letter of objection from Mr & Mrs Birchley making false claims and also including 15 Spital. I only became aware of the noise complaints that Mrs Birchley had logged against 15 Spital when I contacted the HMO unit after receiving Mr & Mrs Birchley's letter of objection on the 5th February.

I trust the committee can see that the landlord has acted thoroughly and responsibly, taking all possible actions and that there is no justifiable reason to not grant the renewal of the HMO licenses for 15 and 17 Spital.

Finally, we take great pride in the day-to-day running and continual improvement of our properties and as such we remain open for any constructive discussion and recommendations on where we can improve the standards for both our tenants and neighboring properties going forward.

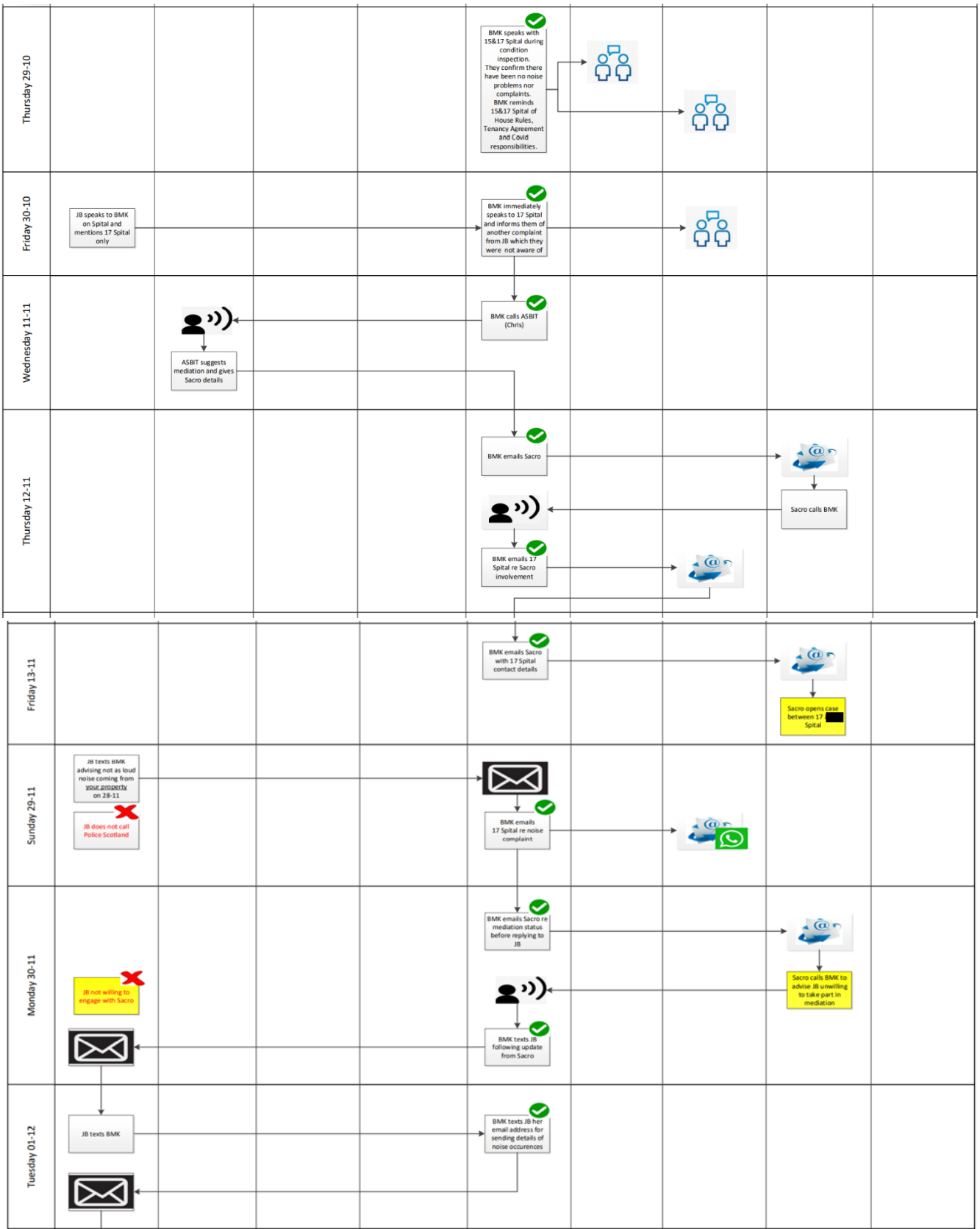
Yours sincerely,

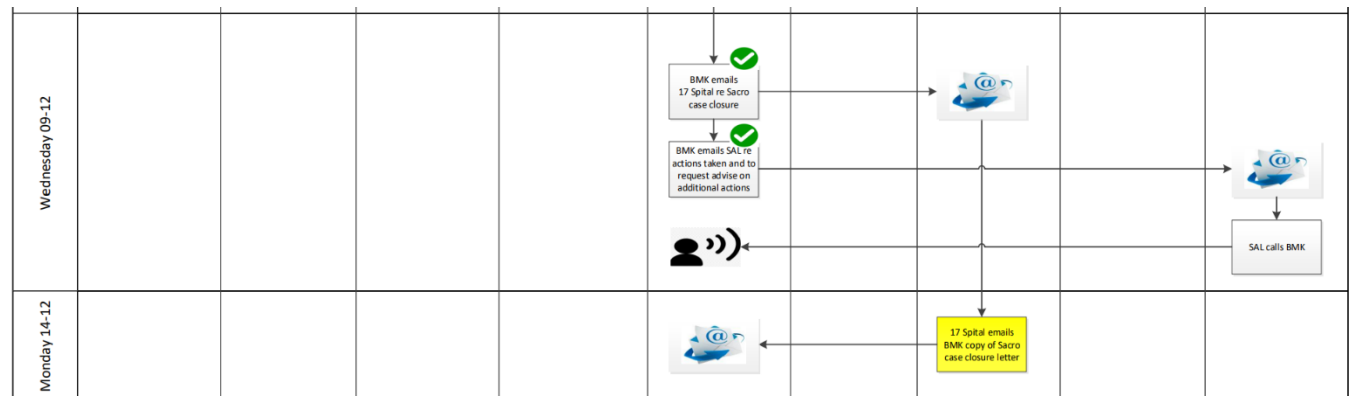
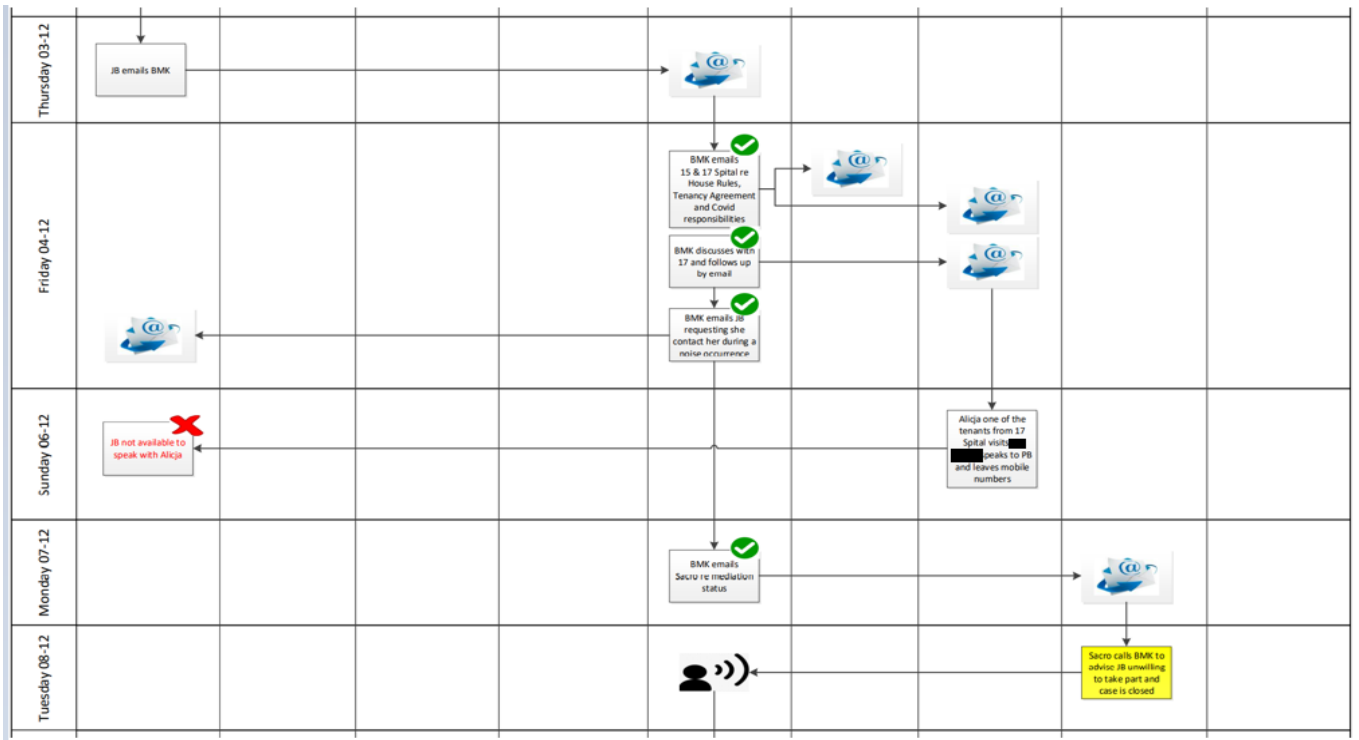
Breidge McKeever

15&17 Spital Noise Complaints 2020 – Events and Landlord Actions Taken by Date

	ASBIT	HMO	OACC	LANDLORD	15 Spital	17 Spital	SACRO	SAL
Friday 11-09				<p>JB texts BMK advising loud noise at 19 Spital on 10-09</p> <p>On receipt of JB's text, BMK emails 15&17 to check as JB said 19 Spital. 15 confirm no noise from their house</p> <p>BMK follows up with 17 by message. 17 respond that they were listening to music but did not think it was loud, they apologise and assure that it will not happen again. BMK reminds no loud music after 11pm, and ASB is not acceptable</p>			<p>JB Jacinta Birchley PB Patrick Birchley BMK Breidge McKeever (landlord)</p>	
Wednesday 16-09	<p>JB phones ASBIT</p> <p>Chris from ASBIT team calls BMK</p>		<p>JB contacts OACC</p> <p>Devil from OACC emails BMK</p>	<p>JB texts BMK advising loud noise coming from your property on 15-09</p> <p>On receipt of JB's text BMK messages 15&17 to check as JB said your property. 15 confirm no noise from their house.</p> <p>BMK speaks with 17 Spital. 17 were listening to music however again did not think it was loud.</p> <p>BMK follows up with email to 17 Spital</p>				

Thursday 17-09						<p>17 Spital contact ASBIT</p> <p>17 Spital messages BMK to update following call with ASBIT</p>		
Saturday 10-10	<p>ASBIT gives advise on noise management</p>							
Saturday 10-10	<p>JB phones ASBIT re ongoing loud party at 15 Spital</p> <p>JB does not call Police Scotland</p> <p>JB does not inform BMK</p>							
Tuesday 27-10	<p>ASBIT records email</p>		<p>HMO pass email on to ASBIT</p>					
Tuesday 27-10	<p>JB emails HMO Unit re party at 15 Spital 24-10</p> <p>JB does not call Police Scotland</p> <p>JB does not inform BMK</p>							





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LICENSING COMMITTEE INFORMATION SHEET

16 March 2021

Public Application

TYPE OF APPLICATION: HMO LICENCE APPLICATION (RENEWAL)

APPLICANT: COMPER & COMPANY LTD

AGENT: BREIDGE MCKEEVER

ADDRESS: 17 SPITAL, ABERDEEN

INFORMATION NOTE

This HMO licence application is on the agenda of the Licensing Committee for the reason that one letter of representation/objection was submitted to the HMO Unit.

If, after consideration of the representation/objection, the Committee is minded to grant the HMO licence, it may do so under delegated powers for the reason that a final inspection cannot be undertaken by the HMO Officer until Covid restrictions have been lifted. That position may have changed by the day of the Committee meeting, in which case I will advise the Committee accordingly.

DESCRIPTION

The premises at No.17 Spital, Aberdeen, is a converted convent with accommodation comprising: 8 letting bedrooms, one public room, one kitchen, 2 bathrooms, one study, one Locker/Storage room and one Utility / Laundry room. The applicant wishes to accommodate a maximum of 8 tenants, which is acceptable to the HMO Unit in terms of space & layout. The location of the premises is shown on the plan attached as Appendix A.

CONSULTEES

- Police Scotland
- Scottish Fire & Rescue Service
- A public Notice of HMO Application was displayed outside the building, alerting the general public to the HMO licence application.

REPRESENTATIONS/OBJECTIONS

- Police Scotland – no objections
- Scottish Fire & Rescue Service – no objections
- General public – one letter of representation/objection (Attached as Appendix B).
- Licence-applicant – one letter from the applicant in response to the letter of representation/objection (Attached as Appendix C)

COMMITTEE GUIDELINES/POLICY

All applications for HMO licences are dealt with in accordance with the Scottish Government's document:
'Licensing of Houses in Multiple Occupation: Statutory Guidance for Scottish Local Authorities'

GROUNDINGS FOR REFUSAL

This application is being dealt with under the provisions of Part 5 of the Housing (Scotland) Act 2006, as amended. Available grounds of refusal are as follows:

- 1) The applicant and/or agent is not considered to be a 'fit & proper' person to hold an HMO licence, and
- 2) The property is unsuitable for occupation as an HMO for one, some or all of the following reasons:
 - i) Its location
 - ii) Its condition
 - iii) Any amenities it contains
 - iv) The type & number of persons likely to occupy it
 - v) Whether any rooms within it have been subdivided
 - vi) Whether any rooms within it have been adapted, resulting in an alteration to the water & drainage pipes within it
 - vii) The safety & security of persons likely to occupy it
 - viii) The possibility of undue public nuisance
 - ix) There is, or would be, an overprovision of HMOs in the locality

OTHER CONSIDERATIONS

- The applicant is registered as a landlord with this Council and the registration includes No.17 Spital.
- The property was first HMO-licensed in February 2010 and remained licensed until November 2017 when it changed hands. The applicant has held an HMO licence since February 2018 and the current application under consideration is a 'renewal'.
- The letter of objection refers to the involvement of the Council's Anti-Social Behaviour Investigation Team (ASBIT) and Police Scotland, both of whom were contacted and asked for their comments. The responses are as follows:

ASBIT

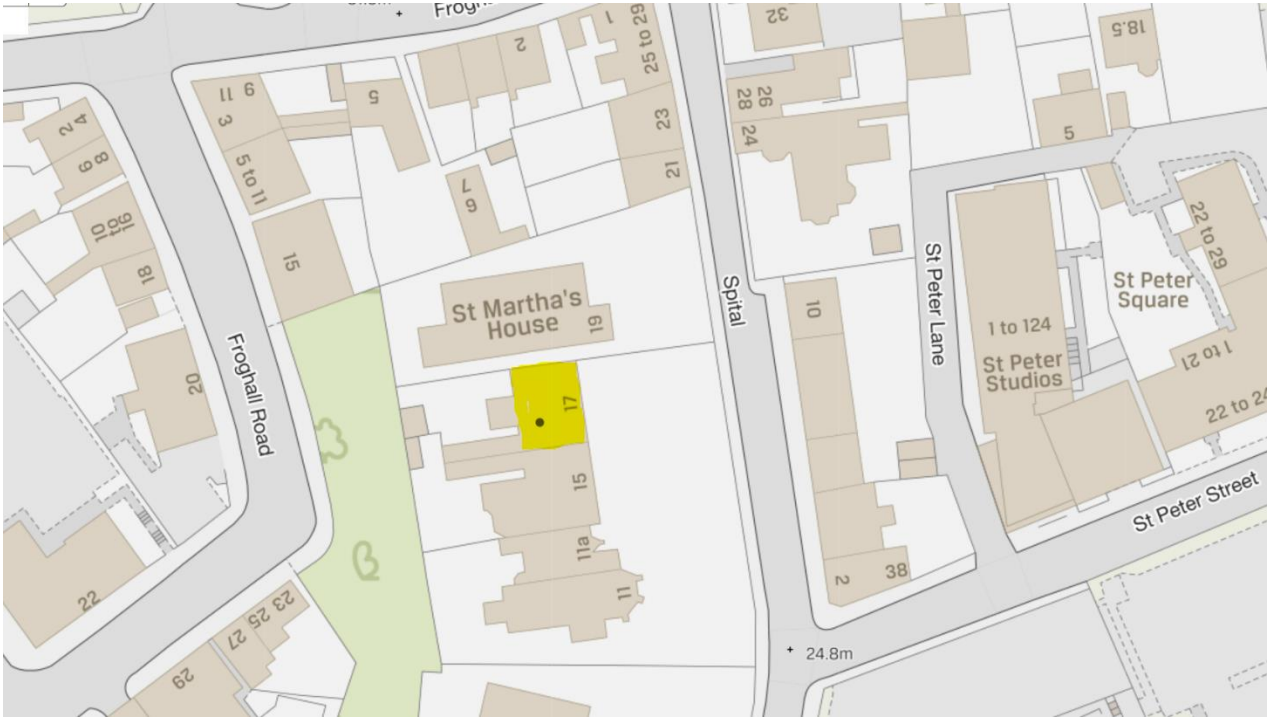
- 16 September 2020 – A complainer phoned the ASBIT team to retrospectively report parties at No.17 Spital on 10 September 2020 & 15 September 2020. The ASBIT team contacted the landlord who advised that she would speak to her tenants.

- 11 November 2020 – The landlord contacted the ASBIT team to discuss the recent noise complaints and was given appropriate advice including a suggestion that mediation should be considered.

Police Scotland

- On 29 March 2020, Police received a complaint that someone had stolen a garden bench.
- On 19 August 2020, Police received a complaint that numerous persons were seen coming and going from an abandoned Victorian orphanage. The complainer stated that sometimes it is groups of youths other times it is older males who engage in drinking.

‘A’



'B'

BY EMAIL



20 January 2021

HMO Unit
Operations and Protective Services
Business Hub 1
Lower ground floor
Marischal College
Aberdeen
AB10 1AB

Dear HMO Unit

HMO Licence application, 15 and 17 Spital, Aberdeen.

We wish to object to the renewal of the HMO licence at 15 and 17 Spital, Aberdeen by Breidge Sall/McKeever of Comper Properties.

We have been disturbed since September this year by the tenants at the above properties and concerned by the lack of responsibility taken by the absentee landlord to address the situation. Below are the dates we have been disturbed by the loud noise from music let alone the blatant disregard of Covid rules by having parties with many attendees. I have put the date the disturbances started but they all went on to the early hours of the next day.

Thursday 10th September

Tuesday 15th September

Saturday 10th October

Tuesday 20th October

Saturday 28th November

It has been difficult due to Covid restrictions to get assistance from the HMO unit and Anti-Social Behavioural Investigation Team (ASBIT) although they have been notified of many of the disturbances. They suggested we call Police Scotland. Calling them has proved challenging as they are a bit overwhelmed at the moment and also, doing this causes further stress and disturbance for us in the middle of the night.

I let the landlord know about the first party and she thanked me for letting her know and said she would pass it on to the tenants. There was no reply to the notification of the 15th of September party. Since then the communication has been ad hoc as no actions, which remedied the situation, were taken and we did not know what more to do.

It took me by surprise to receive a letter from SACRO (Scottish Association for the Care and Resettlement of Offenders) in November saying a neighbour/landlord had referred me for community mediation. I found this referral stressful, inappropriate and vexatious. The landlady assured me “it would sort out the problem”. I did not agree. She has now asked that I let her know as soon as there is a disturbance by mobile, but fail to see what that can achieve when she lives in London. Currently the properties are not fully occupied as they were previously.

We consider the lack of appropriate responses and actions from the landlady not to be of a good enough standard for her licence to be renewed and would ask the committee to endorse this view.

Yours sincerely



Dr Jacinta and Mr Patrick Birchley

‘C’

BY EMAIL



26th February 2021

HMO Unit Operations and Protective Services
Business Hub 1 Lower ground floor
Marischal College
Aberdeen
AB10 1AB

Dear Ally,

RE: HMO license renewal for 15 & 17 Spital

With regard to the letter of objection received from Mr & Mrs Birchley [REDACTED] this came as a surprise as I took every possible action promptly in order to resolve the noise complaints that I was made aware of.

Please refer to the flow attached which shows the events and the actions I took which were always timely and of the appropriate level.

Please note that in the 11-year period of ownership (i.e. since 2009), 160 students have occupied 15 & 17 Spital and we have had **NO** noise complaints and so the complaints that Mrs Birchley reported on the 10th and 16th September were particularly bamboozling.

Additionally, as Mrs Birchley referred to 19 Spital and ‘your property’ in her text messages, I was not sure that it was in fact 15 and or 17 Spital that she was referring to.

The two complaints against 17 Spital, that I was made aware of, on the 11th and 16th September were dealt with immediately. And the tenants of 17 Spital also followed up by contacting the ASBIT for advice.

I was not aware of either of the complaints that were logged against 15 Spital, on the 10th and 24th October, as Mrs Birchley did not contact me nor did the ASBIT nor HMO team.

On the 30th October when Mrs Birchley spoke to me on the Spital, I was surprised to hear that there had apparently been more noise complaints as I was not aware of this as stated above. Mrs Birchley did not mention 15 Spital, she only mentioned 17 Spital and so I immediately spoke to the tenants of 17 Spital.

On consideration of the situation, I contacted ASBIT team on the 11th November and was advised that mediation could be helpful and was given the contact details of Sacro. After discussion with Sacro and the tenants of 17 Spital, the mediation process was initiated on the 13th November.

It was a great disappointment to receive a message from Mrs Birchley on the 29th November regarding 'a not as loud party' from 17 Spital. When I discussed with the tenants they advised that they had been noise aware and were both surprised and disappointed to have disturbed Mr & Mrs Birchley.

I concluded my correspondence with Mrs Birchley on the 4th December requesting that she inform me during a noise occurrence so that I can contact my tenants, she did not respond and in her letter of objection seems to mock this request.

Alicja Rachowska from 17 Spital visited [REDACTED] on the 6th December and gave the tenants' mobile numbers to Mr Birchley, however Mrs Birchley was not available to talk with Alicja.

On the 8th December the Sacro case was closed as Mrs Birchley was unwilling to take part in mediation. Mr & Mrs Birchley have suggested in their letter of objection that the involvement of Sacro was a deliberate act of annoyance / harassment. I can assure you that it was not, it was with every best intention that Sacro were contacted and for the avoidance of any doubt at no time did I state 'it would sort out the problem'.

I contacted the Scottish Association of Landlords (SAL) on the 9th December to check my actions and to seek advice about any additional actions I could take. SAL confirmed that I had taken all the required actions.

I had thought that the messages and emails I exchanged with Mrs Birchley had resulted in resolution of the problem and so I did not expect a letter of objection from Mr & Mrs Birchley making false claims and also including 15 Spital. I only became aware of the noise complaints that Mrs Birchley had logged against 15 Spital when I contacted the HMO unit after receiving Mr & Mrs Birchley's letter of objection on the 5th February.

I trust the committee can see that the landlord has acted thoroughly and responsibly, taking all possible actions and that there is no justifiable reason to not grant the renewal of the HMO licenses for 15 and 17 Spital.

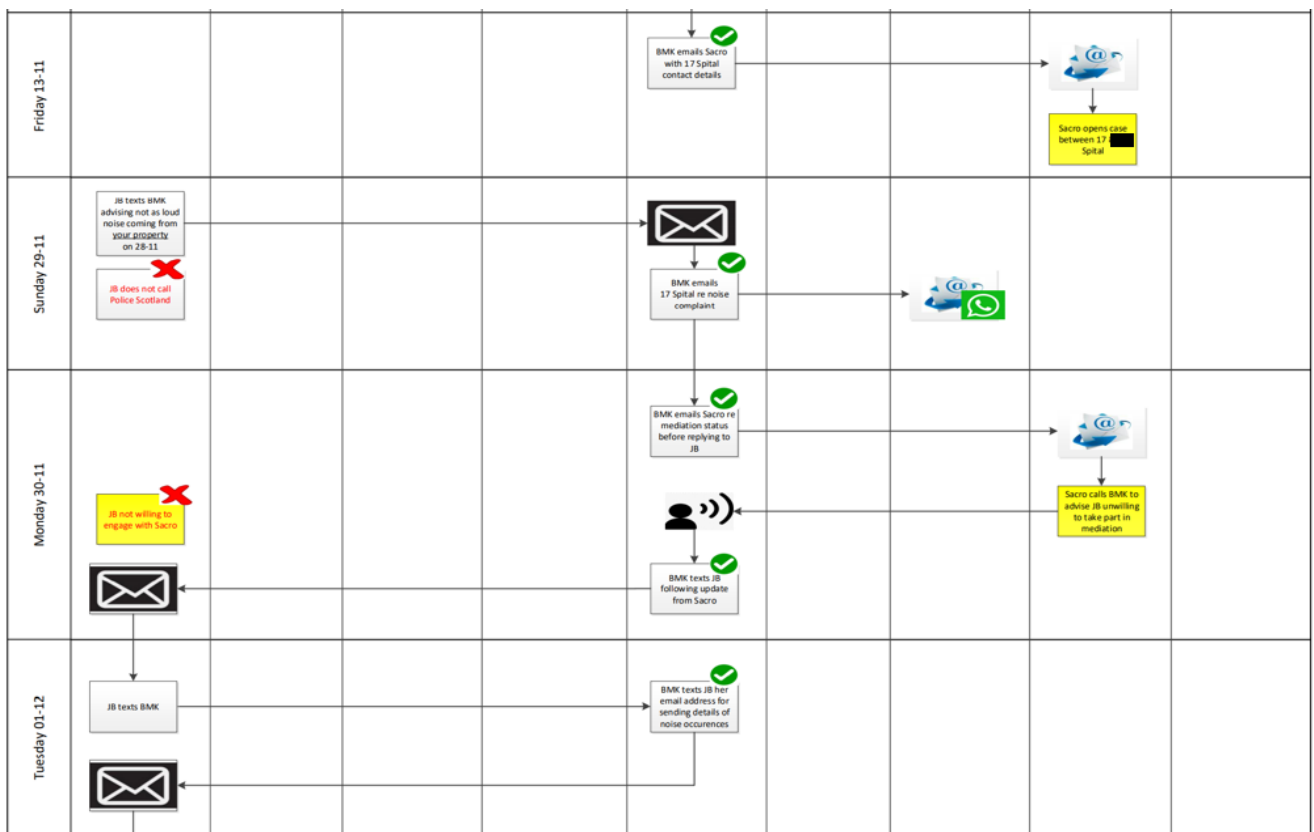
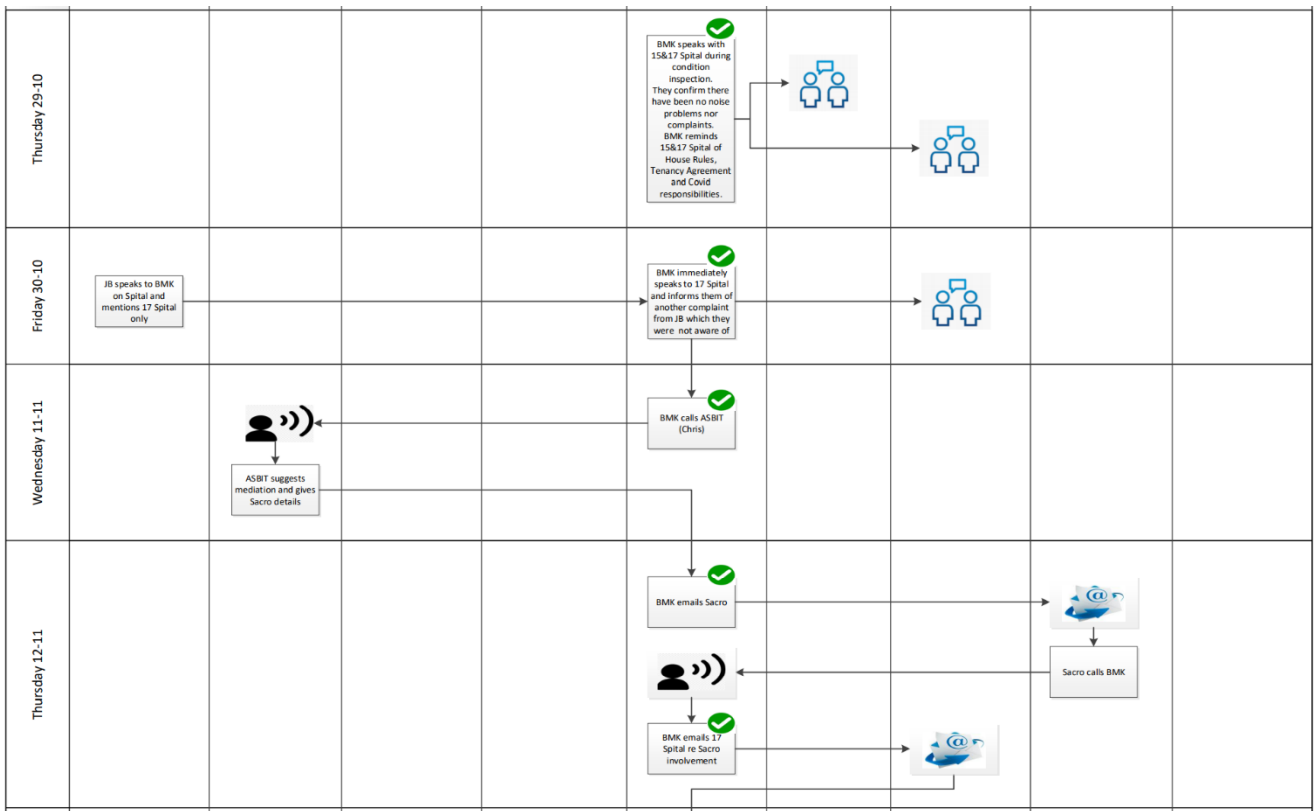
Finally, we take great pride in the day-to-day running and continual improvement of our properties and as such we remain open for any constructive discussion and recommendations on where we can improve the standards for both our tenants and neighboring properties going forward.

Yours sincerely,

Breidge McKeever

15&17 Spital Noise Complaints 2020 – Events and Landlord Actions Taken by Date

	ASBIT	HMO	OACC	LANDLORD	15 Spital	17 Spital	SACRO	SAL
Friday 11-09				<p>JB texts BMK advising loud noise at 19 Spital on 10-09</p> <p>On receipt of JB's text, BMK emails 15&17 to check as JB said 19 Spital. 15 confirm no noise from their house.</p> <p>BMK follows up with 17 by message. 17 respond that they were listening to music but did not think it was loud, they apologise and assure that it will not happen again. BMK reminds no loud music after 11pm, and ASBIT is not acceptable.</p>			<p>JB Jacinta Birchley PB Patrick Birchley BMK Breidge McKeever (landlord)</p>	
Wednesday 16-09	<p>JB phones ASBIT</p> <p>Chris from ASBIT team calls BMK</p>		<p>JB contacts OACC</p> <p>Dewi from OACC emails BMK</p>	<p>JB texts BMK advising loud noise coming from your property on 15-09</p> <p>On receipt of JB's text BMK messages 15&17 to check as JB said your property. 15 confirm no noise from their house.</p> <p>BMK speaks with 17. 17 were listening to music however again did not think it was loud.</p> <p>BMK follows up with email to 17 Spital.</p>				
Thursday 17-09	<p>ASBIT gives advise on noise management</p>					<p>17 Spital contact ASBIT</p> <p>17 Spital messages BMK to update following call with ASBIT</p>		
Saturday 10-10	<p>JB phones ASBIT re ongoing loud party at 15 Spital</p> <p>ASBIT advises JB to contact Police Scotland</p> <p>JB does not call Police Scotland</p> <p>JB does not inform BMK</p>			<p>BMK not informed</p>				
Tuesday 27-10	<p>JB emails HMO Unit re party at 15 Spital 24-10</p> <p>ASBIT records email</p> <p>JB does not call Police Scotland</p> <p>JB does not inform BMK</p>		<p>HMO pass email on to ASBIT</p>	<p>BMK not informed</p>				



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LICENSING COMMITTEE INFORMATION SHEET

16 March 2021

APPLICATION FOR THE GRANT OF STREET TRADER LICENCE

LICENCE HOLDER: Douglas Durno

Location: Canal Street (Woodside) South Side, 25m East of Bank Street (outside No 26)

DESCRIPTION

- Application submitted: 30/11/2020
- Determination Date: 29/11/2021

We are yet to receive evidence of landowner consent to occupy the site.

CONSULTEES

- Police Scotland
- Environmental Health
- Ward Councillors

OBJECTIONS/REPRESENTATIONS

- Ward Councillors x 2
- Members of the Public x 4

COMMITTEE GUIDELINES/POLICY

N/A

GROUNDS FOR REFUSAL

A licensing authority shall refuse an application to grant or renew a licence if, in their opinion—

(a) the applicant or, where the applicant is not a natural person, any director of it or partner in it or any other person responsible for its management, is either—

(i) for the time being disqualified from holding a licence, or

(ii) not a fit and proper person to be the holder of the licence;

(b)the activity to which it relates would be managed by or carried on for the benefit of a person, other than the applicant, who would be refused the grant or renewal of such a licence if he made the application himself;

(c)where the licence applied for relates to an activity consisting of or including the use of premises or a vehicle or vessel, those premises are not or, as the case may be, that vehicle or vessel is not suitable or convenient for the conduct of the activity having regard to—

(i)the location, character or condition of the premises or the character or condition of the vehicle or vessel;

(ii)the nature and extent of the proposed activity;

(iii)the kind of persons likely to be in the premises, vehicle or vessel;

(iv)the possibility of undue public nuisance; or

(v)public order or public safety; or

(d)there is other good reason for refusing the application;

and otherwise shall grant the application.

Ward Councillor 1

I am contacting you regarding my concerns with the application for a Street Traders Licence for Douglas Durno. My concerns and questions are regarding the location of the van on Canal Street. I know this road to be one way and very narrow with limited parking on one side and two small carparking areas, one of which is for residents only. My concerns are that this van may reduce parking in what is very much a residential area. I do appreciate that parking concerns may not be a reason for refusal. However I would be interested in hearing the advice of the roads department.

Ward Councillor 2

My understanding is that this road is not adopted and is privately maintained. It also receives complaints about indiscriminate parking. My view is that I would object to this being a location for a street trader van.

Public Objection 1

I have become aware the burger van which was found to operating illegally in Canal Street off Bank Street, Woodside has applied for a licence.

This operation was referred to our local councillor by our neighbourhood group who instructed enforcement officers would visit.

Surely it is wholly unacceptable for a food van to position itself on a private lane without permission of fove holders. There have also been multiple sightings of vermin behind the small supermarket within few minutes from this van.

This type of business will add to even more litter and foot fall/traffic in an area where road surface is already crumbling from the excessive traffic from the garage and supermarket. It is already near impossible to get a car down Bank Street with the cars parked on both pavements and impossible for an emergency vehicle to get down there.

As for lane van is parked I cannot see how an emergency vehicle would be able to pass to get to the homes there either. As there is no pavement on Canal Street surely not safe for customers especially school children who have been seen in groups there.

Please record my strong objection on above grounds and also already excessive number of take away outlets in this area.

Public Objection 2

We have been advised that a license has been requested for a fast food van at the above address. We are extremely unhappy at this application and would like the opportunity to object. There are ongoing issues with traffic congestion in Bank street and Gladstone place Woodside. This van has already been trading and traffic congestion has caused difficulty to neighbours in the area.

Public Objection 3

We live in Gladstone Place, Woodside , and have done for 59 years but we are having difficulty getting out on to the main road (Great Northern Road) for the cars, vans parked on Bank Street on both sides sometimes double parked and parked on the pavement.

There is now even more congestion as there are two garages opened in Canal Street and a hot food van in a very congested and unhygienic place. Cars are also being parked in in Canal Street, Bank Street and Gladstone Place.

There is also a Supermarket on Great Northern Road and because they can't use their back door they use their front door where large lorries have to park their vehicle half way across the top of Bank Street near the crossing and blocking the entry and exit to Bank Street.

Public Objection 4

would like to object to a license being given to this van. At present the parking situation on bank street and Gladstone place is appalling. Cars parked everywhere and access limited due to the current shops/ fast food outlets/ garages parking their cars everywhere. If emergency access was need to bank street, it would have no hope. There seems to be no current respect to residents and thus would only make it worse. Accessing Bank street at present is currently a liability. Personally due to vehicles stopping everywhere on the street sometimes you turn in off great northern road and fear for your life as there is nowhere to go and you are stuck half in and out of the junction. A food van several metres down the road will only impact negatively on this danger. I hope my objection will be taken seriously

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