

# 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**



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19 January 2021

## Public Application

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**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 2<sup>nd</sup> 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**

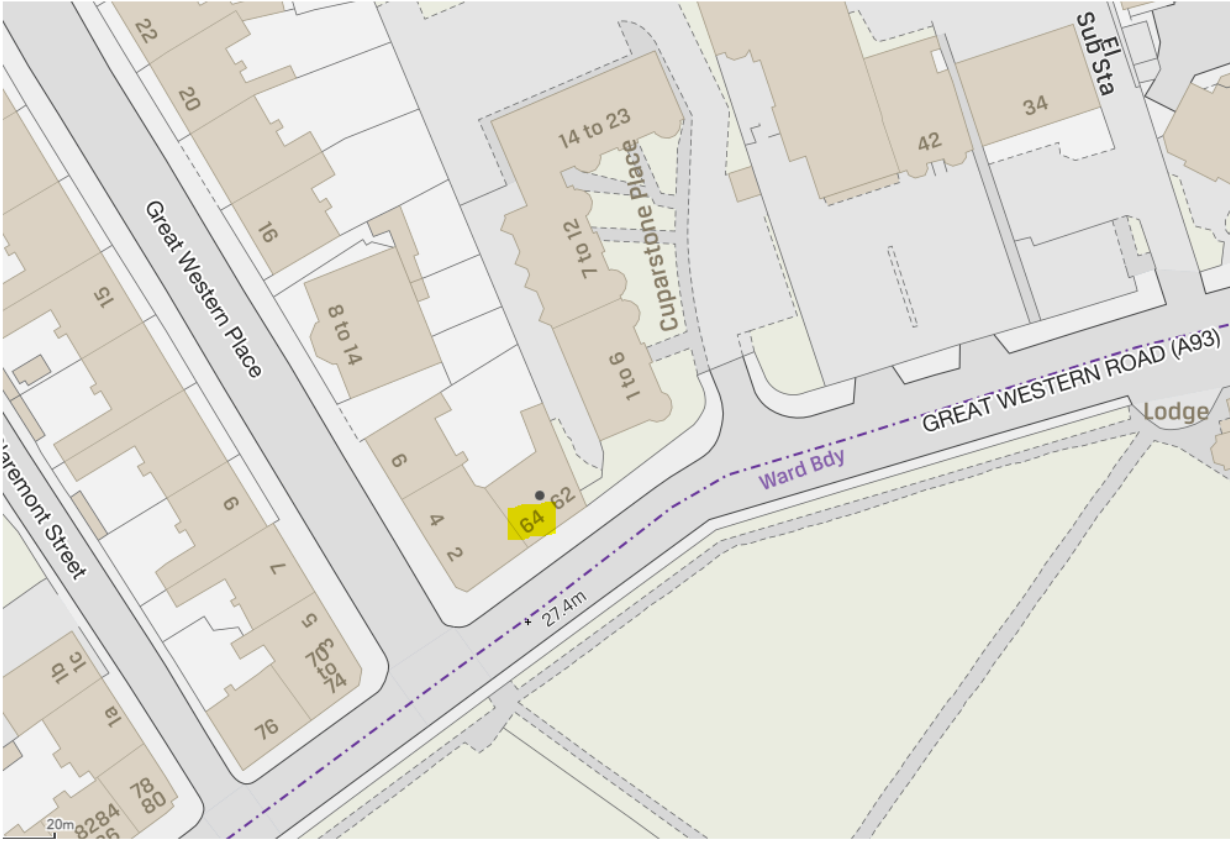
The objector states that the Notice of HMO Application:

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

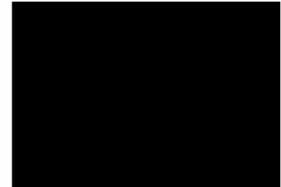
The HMO application was submitted to the Council on 9 November 2020, and the agent subsequently submitted a Certificate of Compliance declaring that the public Notice was on display between 9 November 2020 – 30 November 2020. The letter of representation/objection is dated 27 November 2020 and date-stamped 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]

22<sup>nd</sup> 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 3<sup>rd</sup> 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 23<sup>rd</sup> 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.

[REDACTED]



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]