

# 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**

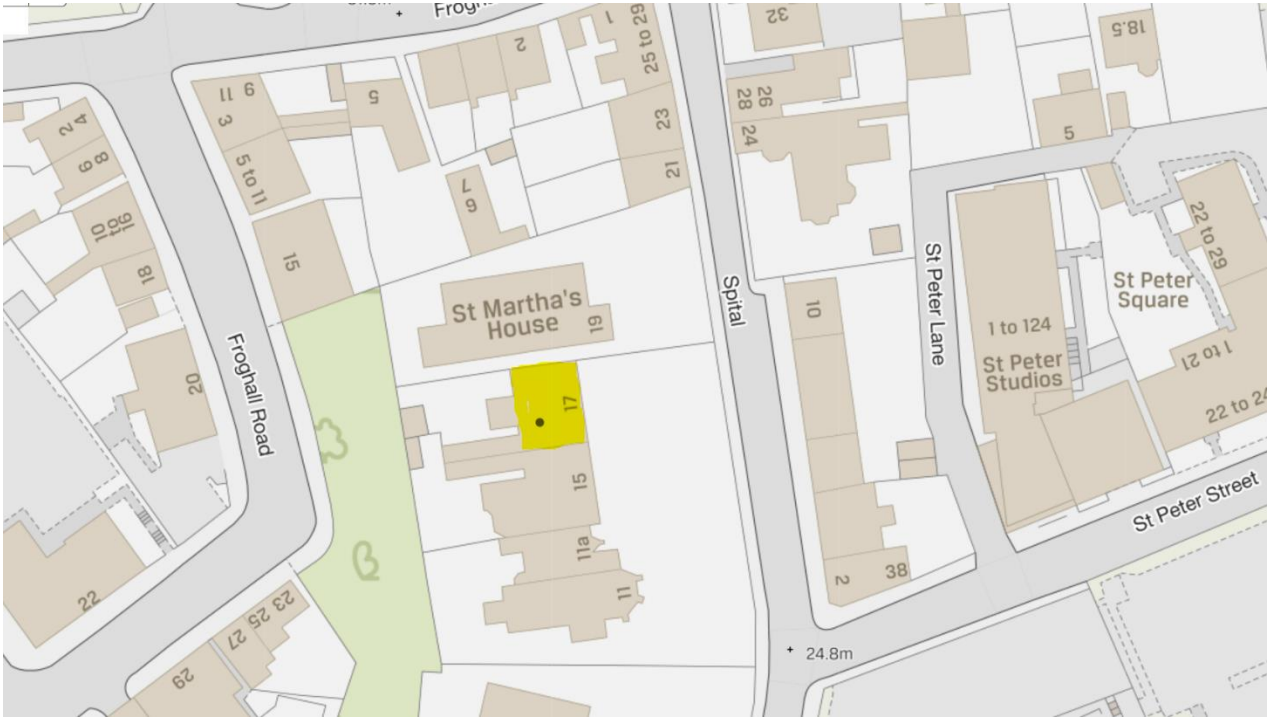
- 16 September 2020 – A complainer phoned the ASBIT team to retrospectively report parties at No.17 Spital on 10 September 2020 & 15 September 2020. The ASBIT team contacted the landlord who advised that she would speak to her tenants.

- 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 10<sup>th</sup> September

Tuesday 15<sup>th</sup> September

Saturday 10<sup>th</sup> October

Tuesday 20<sup>th</sup> October

Saturday 28<sup>th</sup> 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 15<sup>th</sup> 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



26<sup>th</sup> 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 10<sup>th</sup> and 16<sup>th</sup> 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 11<sup>th</sup> and 16<sup>th</sup> 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 10<sup>th</sup> and 24<sup>th</sup> October, as Mrs Birchley did not contact me nor did the ASBIT nor HMO team.



On the 30<sup>th</sup> 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 11<sup>th</sup> 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 13<sup>th</sup> November.

It was a great disappointment to receive a message from Mrs Birchley on the 29<sup>th</sup> 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 4<sup>th</sup> 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 6<sup>th</sup> December and gave the tenants' mobile numbers to Mr Birchley, however Mrs Birchley was not available to talk with Alicja.

On the 8<sup>th</sup> 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 9<sup>th</sup> 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 5<sup>th</sup> 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&amp;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&amp;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>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>							
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>					

