

LICENSING COMMITTEE INFORMATION SHEET

6 September 2022

Public Application

TYPE OF APPLICATION: HMO LICENCE APPLICATION (RENEWAL)

APPLICANT: DAVE HARRIS

AGENT: WINCHESTERS LETTINGS

ADDRESS: 2 QUEENS GATE, ABERDEEN (SECOND-FLOOR FLAT)

INFORMATION NOTE

This HMO licence application is on the agenda of the Licensing Committee for the reason that 2 letters of objection were submitted to the HMO Unit.

DESCRIPTION

The flatted granite building at No.2 Queens Gate, Aberdeen, comprises 2 basement flats, ground-floor flat, first-floor flat and second-floor flat. The second-floor flat is the subject of this HMO licence renewal application and the applicant wishes to accommodate a maximum of 3 tenants, which is the maximum occupancy of the current HMO licence. 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 public to the HMO licence application.

REPRESENTATIONS/OBJECTIONS

- Police Scotland – no objections
- Scottish Fire & Rescue Service – no objections
- One letter of objection from Liberata Tayler (Attached as Appendix B)
- One letter of objection from Peter Tayler (Attached as Appendix C)
- Licence-applicant – one letter from the agent in response to the 2 letters of objection (Attached as Appendix D)

Both letters of objection were received within the statutory 21-day period therefore the Council must consider them.

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 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 2 rental properties, one of which being the second-floor flat at No.2 Queens Gate.
- The Council's Anti-Social Behaviour Investigation Team (ASBIT) has no record of any complaints of anti-social behaviour involving the tenants of the second-floor flat at No.2 Queens Gate.
- The applicant was first granted an HMO licence for the second-floor flat at No.2 Queens Gate in September 2019 and the application under consideration is his first renewal application.
- The only currently HMO-licensed flat in No.2 Queens Gate or the adjoining building at No.4 Queens Gate is the subject of this Information Note, i.e.. Second-floor flat at No.2 Queens Gate.
- The Landlord Register currently shows 3 rental flats at No.2 Queens Gate and 2 rental flats in the adjoining building at No.4 Queens Gate.
- At the time of drafting this Information Sheet, an initial inspection of the property has not been carried out therefore the extent of any upgrading work and/or certification has not been established. An inspection has been scheduled ahead of the Committee meeting therefore I will update the Members on the position during the meeting.
- Members may wish to note the following comments about the various points made in the letters of objection:

Noise insulation – the building at No.2 Queens Gate is a traditional granite townhouse which was converted into flats many years ago. It is unknown if a Building Warrant was required and if so, whether noise insulation was installed however there is no requirement to retrospectively install noise insulation.

Tenant's friends – the HMO licence, if granted, will state the maximum occupancy of tenants who can occupy the flat as their 'only or main' residence'. It is for the landlord to decide whether to allow his tenants to have guests sleeping over.

Seal against water leaks – accidental water spillages are inevitable, as they are in most houses and flats. It is accepted that tenants do not have the same personal stake in maintaining their rental flat as owner-occupiers do but any water spillages in rental flats are the ultimate responsibility of the landlord who should be insured for such an event.

Allocated car parking – car parking is not a consideration of HMO licensing since it is not mentioned in the Scottish Government statutory HMO guidance.

Bike storage – bike storage is not a consideration of HMO licensing since it is not mentioned in the Scottish Government statutory HMO guidance. However, bikes chained within the common hallway/stair might obstruct the means of escape in the event of a fire and should therefore be discouraged.

Pets – the Private Residential Tenancy (PRT) agreement includes a series of discretionary conditions which a landlord may choose to implement some, all, or none. One such condition is in relation to pets and if the landlord decides to include the 'pets' clause in the PRT, the clause is as follows:
"The Tenant will not keep any animals or pets in the Let Property without the prior written consent of the Landlord. Any pet (where permitted) will be kept under supervision and control to ensure that it does not cause deterioration in the condition of the Let Property or common areas, nuisance either to neighbours or in the locality of the Let Property."

Rubbish disposal - the Council's Waste Team were asked to confirm any complaints of rubbish disposal at No.2 Queens Gate. Their report is as follows: *"there does appear to be a history of the wrong bins being left out and the bins being rejected because they are contaminated. This stretches back to May 2019 and is consistent until about July 2021. Since then, it looks like the general waste collections have been missed regularly because the bins were not out. Also, a mixed recycling bin at this property was rejected in May 2022 because of severe contamination (plastic black bags)."*

There are 5 flats within No.2 Queens Gate and it should be noted that the Waste Team's report is general to the whole building and does not identify the 'guilty party/parties'.

'A'



'B'

Liberata Tayler



25/07/2022

HMO unit

Early Intervention and Community Empowerment

Business Hub 6

First Floor South

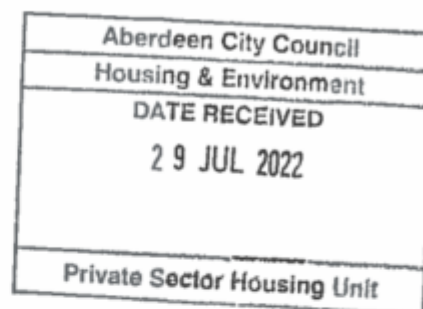
Marischal College

Broad Street

Aberdeen AB10 1AB

Dear sir/Madam

Reference: HOUS437766979



This application refers to an application for a license to operate a House in Multiple Occupation in the second floor flat in 2 Queens gate Aberdeen AB15 5XZ

As owner of [REDACTED] I strongly object to the award of this license on the following grounds, as per experience sustained by myself, as the result of the letting to large number of people in adjoining flats in the past.

1. The building is well over 100 years old and has been converted into flats. There is no effective noise insulation between the flats. Noise reverberates from the staircase into the bedrooms and everywhere else, especially above our head that at times resembles an earthquake due to running and stomping of feet, dragging of chairs and other furniture most of day and night.
2. Tenants usually bring other friends to stay leading to overcrowding.
3. There is no effective seal against water leaks between flats, and irresponsible use of showers, baths etc has led and would lead to repeated flooding problems in the flat(s) below.
4. There is only one allocated car parking space per flat, which is already not enough. We have had people parking anywhere outside allocated bays, blocking access for emergency vehicles and access to and from allotted bays.
5. There is no effective Bike storage – tenants would want to store bikes in common hallway or chained to railings outside.
6. Pets are already a problem with dogs urinating and defecating on the lawns, burning all the grass and making it impossible the use of the gardens as a relaxing amenity to all.
7. We also had to deal with rubbish being left on landings, dumped in large quantities in other residents' bins, overflowing, left unemptied for long periods of time, and to the reach of birds and gulls creating a mess everywhere

As these problems have occurred over the years, they would be exacerbated by additional people living in the building, especially when the flat was rented out separately to individuals who would not have any accountability to maintain good responsible behaviour.

Liberata Tayler



'C'

Peter Tayler



25/07/2022

HMO unit

Early Intervention and Community Empowerment

Business Hub 6

First Floor South

Marischal College

Broad Street

Aberdeen AB10 1AB

Aberdeen City Council
Housing & Environment
DATE RECEIVED
29 JUL 2022
Private Sector Housing Unit

Dear sir/Madam

Reference: HOUS437766979

This application refers to an application for a license to operate a House in Multiple Occupation in the second floor flat in 2 Queens gate Aberdeen AB15 5XZ

I would like to object to the award of this license on the following grounds:

1. The building is well over 100 years old and has been converted into flats. There is no effective noise insulation between the flats.
2. Tenants would bring other friends to stay leading to overcrowding
3. There is no effective seal against water leaks between flats, and irresponsible use of showers, baths etc would lead to flooding problems in the flat(s) below.
4. There is only one allocated car parking space per flat, which is already not enough. People park outside allocated bays, which blocks access for emergency vehicles.
5. There is no effective Bike storage – tenants would want to store bikes in common hallway or chained to railings outside.
6. Pets are already a problem with dogs urinating and defecating on the lawns.

These problems already exist or have occurred over the years. However they would be exacerbated by additional people living in the building, especially when the flat was rented out separately to individuals who would not have any accountability to maintain good responsible behaviour.



Peter Tayler

'D'

Dear HMO Department, Liberata Taylor, Peter Taylor and Councillors.

Many thanks for your comments on the application for the HMO license at 2 Queens Gate. Below I will respond to each of your concerns point by point.

The property at 2, Top Floor, Queens gate was first granted on 10/4/2019 and in that time the property has been leased to 3 separate groups of tenants both student and professional.

Concerns to answer.

1. The age of the building

The building does have a degree of sound deadening in the sub floor in the guise of an ash layer. In the past 3 years there have been no reports from other residents in the common stair (2 Queens Gate) of any excess noise. Further more there have been no complaints received from the adjoining building which is separated by a thick granite partition wall.

2. Overcrowding.

The license clearly states a maximum occupancy of 3 persons, I would contest the language used in this comment as a sweeping statement. People are within their rights to have friends over to their homes, I would be concerned if this was a daily occurrence but there has been nothing to suggest (inspections and the lack of any complaints relating to the property) that this has ever been an issue at 2 Queens gate. However if this was ever the case in the future we would deal with this if it arose.

3. There is no increased risk or anything to suggest the future tenants in this property would ever use the shower or bath in an irresponsible manner. I would also point out that there is physically no way that a water escape from 2, Top floor, Queens gate into [REDACTED] Queens Gate.



Green – 2 Queens Gate, Top Floor
Blue – Granite separation
Red – Mr and Mrs Taylor's [REDACTED]
Note. Separate door access

This conclusion is drawn from standard building practices in place at the time of build to place a fire break wall between properties such as this. There will not be penetration by voids or services for fire protection. This gives a barrier to any water leaks. I would suggest that any leaks would be received by 2 Queens Gate, First floor flat. To prevent this we regularly inspect the seals and plumbing around showers and baths for integrity. Should anything be reported to us as Managing Agents, we would of course action a repair at the quickest timescale possible.

4. Carparking

Tenants are explicitly told that there is only 1 carparking space available at the building and if they require more, then they need to seek alternative arrangements for parking, generally student tenants do not have a vehicle but in the case there are multiple vehicles then tenants are signposted to the council to get a permit for Forest road, some 10m away from the property. (Side note, HMO regulations do not take parking into account as a reason for refusing a license however Winchesters are happy to mediate any issues that arise from this)

5. Bicycle Storage

Tenants MAY wish to store bikes, however this is not a request that we have received, you will note that in section "34. STORAGE" of the lease used for this property reads

34. STORAGE

Nothing belonging to the Tenant or anyone living with the Tenant or a visitor may be left or stored in the common stair if it causes a fire or safety hazard, or nuisance or annoyance to neighbours.

The Tenant shall ensure that at no time shall any bicycle be kept or brought into the Let Property and that no liability will attach to the Landlord in respect of any bicycles used by the Tenant or others visiting the Let Property and further ensure that all such bicycles will not occasion any nuisance or inconvenience to neighbouring residents.

Should the tenants wish to store bikes around the grounds of the property they would need to reach out to ourselves or the landlord to make suitable arrangements for this. This would be done on a case by case basis and inline with the allowances of the landlords title deeds.

6. Pets.

Please see section "36. PETS" of the lease

36. PETS

The Tenant will not keep any animals or pets in the Let Property without the prior written consent of the Landlord. Any pet (where permitted) will be kept under supervision and control to ensure that it does not cause deterioration in the condition of the Let Property or common areas, nuisance either to neighbours or in the locality of the Let Property. Such consent, if granted, shall be revocable at any time by the Landlord.

I can confirm that the landlord does not intend to give permission for pets in a Student lease however if a standard tenancy for say a family, the landlord may allow this but the tenants will then be subject to a pet policy that outlines proper conduct and the ability for the landlord to revoke such permission should any of the conditions not be met. Further more I will note that there has never been a pet in the property under our management and during the time the property has been granted a HMO License.

7. Rubbish left on landing.

The tenants of 2 Queens Gate do not have access to the communal hall of ■ Queens Gate, no concerns have ever been raised by residents of 2 Queens gate as to any issues relating to the common stair of 2 Queens Gate over the past 3 years. In relation to the bins in the development, It is clearly noted to the tenants in section "33. BINS AND RECYCLING" of the lease that...

33. BINS AND RECYCLING

The Tenant agrees to dispose of or recycle all rubbish in an appropriate manner and at the appropriate time. Rubbish must not be placed anywhere in the common stair at any time. The Tenant must take reasonable care to ensure that the rubbish is properly bagged or recycled in the appropriate container. If rubbish is normally collected from the street, on the day of collection it should be put out by the time specified by the local authority. Rubbish and recycling containers should be returned to their normal storage places as soon as possible after it has been collected. The Tenant must comply with any local arrangements for the disposal of large items.

Should residents have probable concern and witnessed tenants of 2 Queens Gate, Top Floor Flat using the wrong bins or any lack of adherence to this clause, we would ask that they first approach the tenants in a polite and neighbourly fashion, if this does not have the desired effect then please reach out to Winchesters and we will ensure that this is followed.

8. Lease type and tenant make up.

Just to address any fears relating to the tenant make up of this property, the Landlord does not intend to lease this property out room by room, the lease provided clearly shows this is a joint and several lease. Likely tenant make ups are a group of 3 friends all jointly liable for all actions in and around the property or a single family unit.

9. I would contest the assertion that tenants would have not have any accountability to maintain good, reasonable behaviour. I would point out that the lease in use on this property provides accountability to the Tenants, Managing Agent and Landlord to ensure behaviour in and around the property that is of a higher standard than that enforceable to other residents.

Conclusion.

While some points raised are reasonable, I would question if some are actually related to ■■■■■ in its isolation and are more grievances that should be raised with other residents in the building. Where proof is provided of any wrongdoing and none conforming to the lease in place then Winchesters and the Landlord will of course act swiftly to make sure tenants actions are corrected. I would urge Mr and Mrs Taylor to contact me directly on ■■■■■ should they feel that we need to intervene on any specific point. I would note that this is a 24 hour service that we offer. In relation to water leaks and noise from properties above, I do not feel in the balance of probabilities that these issues Mr and Mrs Taylor describe are the result of any actions carried out by the residents of the adjoining building.

As always we are more than happy for any concerned residents to reach out to us.

Kind Regards

Chris Minchin

Director

Winchesters Lettings