

# MEMO

Shelter & Environment

## Housing & Environment

Lower Ground Floor West, Marischal College



**ABERDEEN**  
CITY COUNCIL

To	Eric Anderson, Senior Solicitor, Corporate Governance, Town House		
From	Ally Thain, Private Sector Housing Manager, Housing & Environment		
Email	<a href="mailto:allyt@aberdeencity.gov.uk">allyt@aberdeencity.gov.uk</a>	Date	20 March 2012
Tel.	522870	Our Ref.	
Fax.		Your Ref.	

### Part 5 of the Housing (Scotland) Act 2006

**Application for a Licence to Operate a House in Multiple Occupation (HMO) at No.28 Pitmedden Road, Aberdeen**

**Applicant/s: Callidus Services Limited**

**Agent: None stated**

I refer to the above HMO Licence application, which is due to be considered by the Licensing Committee at its meeting on 17 April 2012, for the reason that one letter of objection has been received by the HMO Unit.

I can advise you as follows:-

#### The HMO legislation:-

This application is being dealt with under the provisions of Part 5 of the Housing (Scotland) Act 2006, which came into effect on 31 August 2011. Available grounds of refusal are as follows:

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

#### The premises:-

The premises to which this HMO Licence application relates is an upper-floor maisonette flat with accommodation comprising of five letting bedrooms, one public room, one kitchen & two bathrooms. The location of the premises is shown on the plan attached as Appendix 'A'.

**The HMO application:-**

The HMO Licence application is dated 23 February 2012, and was received by the Council on 24 February 2012.

**Works / Certification Requirements:-**

The HMO Officer carried out an initial inspection of the property, identifying upgrading work and certification requirements to bring the property up to the current HMO standard. At the date of this memo, all requirements have not been met, although this is not the reason for referral to the Licensing Committee.

**Letter of objection:-**

One letter of objection was received by the HMO Unit on 9 March 2012, within the statutory 21-day period for lodging objections or representations, and is therefore competent. The letter of objection is attached as Appendix 'B'.

**Applicant's Response:-**

A copy of the letter of objection was issued to the applicant, who submitted a written response, attached as Appendix 'C'.

**Other considerations:-**

- The Chief Constable, Grampian Police, has been consulted in respect of the applicant's suitability as a "fit and proper person", and has made no comments or objections.
- Grampian Fire & Rescue Service has been consulted in respect of the suitability of the property, and has made no comments or objections.
- At the date of this memo, the Council's Antisocial Behaviour Investigation Team (ASBIT) has no record of any complaint in respect of No.28 Pitmedden Road, Aberdeen.
- The applicant and their property are currently registered with the Landlord Registration database.
- The applicant has requested an occupancy of 5 persons, which is acceptable to the HMO Unit in terms of space and layout.
  - The applicant submitted the HMO Licence application prior to the expiry of the existing HMO Licence, therefore the property may continue to be legally operated as an HMO until the new application is determined.

I trust the above explains the position. Please contact me on x2870 if you wish to discuss any of the above.

**Ally Thain**

Private Sector Housing Manager

APPENDIX A



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## APPENDIX B

**HMO Unit, Private Sector Housing Unit**  
Housing and Environment  
Business Hub 1, Lower Ground Floor West  
Marischal College  
Broad Street  
Aberdeen, AB10 1AB

6 March 2012

Dear Sirs,

**24 & 28 Pitmedden Road, Garthdee, Aberdeen, AB10 7BQ**  
**Houses in Multiple Occupation (HMO) licences**

We wish to object to the above applications for Houses in Multiple Occupation made by Callidus Services Ltd. We have experienced water damage to our property on two occasions and take exception to the poor upkeep of these properties and the occasional poor behaviour of the tenants.

We summarise our objections as the following, all of which are covered in the attached letter sent to Callidus Services Ltd on the 5 February 2012. We have yet to receive an acknowledgement.

### **1) Noise from occupation of flat at 28 Pitmedden Road**

Two instances of water damage due to the poor upkeep of 28 Pitmedden Road has damaged the timbers between our two properties, leading to an increase in the impact and airborne sounds from its occupants. This regularly disrupts sleep and often results in us being woken during the night or very early in the morning. This impacts on our quality of life and tiredness impacting on our work.

In our attached letter we offered to work with the landlord to investigate and remediate this.

### **2) Noise from tumble drier in 28 Pitmedden Road**

The tumble drier is noisy and frequently on during anti-social hours so disrupts our sleep. We believe a modern model would be quieter and that it is reasonable to ask the landlord to replace the unit.

### **3) Lack of upkeep of exclusive and shared garden areas for both 24 & 28 Pitmedden Road**

There is a serious lack of upkeep in the exclusive gardens for these properties. We also consider that the landlord is not playing their part in the maintenance of the shared parts of the gardens such as the paths and the drying green.

Yours sincerely

**Alistair Watson & Lina Back**

Attached: letter to Callidus Services Ltd, 5 February 2012

<b>Aberdeen City Council</b>
<b>Housing &amp; Environment</b>
<b>DATE RECEIVED</b>
<b>- 9 MAR 2012</b>
<b>Private Sector Housing Unit</b>



## APPENDIX B cont...

David Montgomery  
Callidus Services Ltd  
29 Gladstone Place  
Aberdeen  
AB10 6UX

5 February 2012

Dear Mr Montgomery

### **24 & 28 Pitmedden Road, Garthdee, Aberdeen, AB10 7BQ Houses in Multiple Occupation (HMO) licences**

It has come to our attention that you are due to apply for your two HMO licences for above properties in the near future. We are concerned about a number of issues which are affecting our property and would consider entering objections to your applications unless you agree to investigate them and take steps towards resolving them. We feel that our requests below are quite reasonable to expect a private landlord to agree to remediate and are well within your capacity and resources to do so. We have taken advice from Housing and Environment section of Aberdeen City Council who agree that these issues affect our quality of life and recommend that we raise these matters with you directly.

#### **1) Noise from occupation of flat at 28 Pitmedden Road**

A result of the two water damage incidents of the 31 December 2009 and 23 December 2010 has been a significant increase in the sound of footfall and airborne sounds from occupant activity in 28 Pitmedden Road which can be heard in our property. We believe that this is a result of the floor timbers warping and loss of insulation properties of your flooring.

We usually have an amenable understanding with your tenants of number 28 about noise during sleeping hours during the working week and we do not consider them to be 'anti-social' in their typical behaviour. We are also tolerant of the social hours of the 'student lifestyle'. We do however consider the neighbourly noise levels to be excessively high due to poor sound insulation. The transmitted neighbourly noise causes significant disturbance to our sleep and the sleep of those visiting us. At times there is also considerable noise disturbance during the day as well. We would find it very hard to believe that your tenants themselves do not also experience disturbance from noisy floorboards in the property.

We consider it reasonable to request that you undertake investigations and remedial works to reduce the noise from the floorboards and dampen the noise. We would be willing to accept a reasonable level of disruption and access to our property by arrangement for works to proceed. The best practice guidance "Housing and Sound Insulation: Improving existing attached dwellings and designing for conversions", available on the Scottish Government website may be of some use in leading you towards a range of possible solutions:

## APPENDIX B cont...

[www.scotland.gov.uk/Topics/Built-Environment/Building/Building-standards/publications/pubtech/techhsi](http://www.scotland.gov.uk/Topics/Built-Environment/Building/Building-standards/publications/pubtech/techhsi)

If you wish to undertake sound testing, we would be more than happy to facilitate access by arrangement to our property. The Scottish Government has published a methodology for testing noise between properties: [www.scotland.gov.uk/Topics/Built-Environment/Building/Building-standards/soundairtesting](http://www.scotland.gov.uk/Topics/Built-Environment/Building/Building-standards/soundairtesting)

### **2) Noise from tumble drier in 28 Pitmedden Road**

As a multiple occupancy property, the tumble drier is on frequently, often late in the evenings - up to and occasionally later than 11pm. We consider the noise generated by the unit in place to be excessive and would like for you to replace the unit with a more modern and quieter model.

### **3) Lack of upkeep of exclusive and shared garden areas for both 24 & 28 Pitmedden Road**

Whilst we accept that we did not undertake communal grass cutting during the periods of being out of our property due to flood damage and during periods of significant works and moving of belongings, we are disappointed with the poor upkeep of the communal and your exclusive garden areas for both of your flats in this block in the last year. In addition to the grass not being cut on a regular regime, we are disappointed by the weeds, litter and lack of care taken to shrubs in your gardens.

At one point late last year, the grass associated with number 24 was so long that we believe the occupants of eventually requested their own gardener to cut it. Furthermore, last year on several occasions we had to clear up drinks cans and beer bottles (including broken beer bottles) and litter which had been abandoned by your tenants on the low dividing wall and surrounding area behind our properties. We believe that poor upkeep on your part fostered poor behaviour by your tenants.

We are concerned that the lack of care gives the impression that your properties are not presently occupied and would make our block a target for criminals and anti-social behaviour. We also suspect that your poor upkeep is contributing to the 'over the fence' dumping of litter by anti-social people in the area.

We would like for you to undertake or commission a regular garden maintenance regime which we can agree to play a complementary part to.

### **Discussion of issues and remediation**

We would welcome you to visit us by arrangement to discuss these matters or to experience them for yourself.

We trust that you welcome our approach in raising these issues with you directly rather raising formal complaints or objections with Aberdeen City Council.

Yours sincerely

Alistair Watson & Lina Back

## APPENDIX C

29 Gladstone Place

Queens Cross

Aberdeen

AB10 6UX

26<sup>th</sup> March 2012

Ally Thane Esq

Private Sector Housing Manager

Private Sector Housing Unit

Aberdeen City Council

Business Hub1 Lower Ground Floor West

Marischal College

Broad Street

Aberdeen

AB10 1AB

Dear Mr Thain

28 Pitmedden Road Aberdeen

HMO Application

Licensing Committee: 17 April 2012

Thank you for your letter dated 19<sup>th</sup> March advising that there is one letter of objection in respect of our HMO Licence application. I confirm that we will attend the Committee meeting on 17<sup>th</sup> April 2012.

I am writing to you now in support of our application.

We currently hold 6 HMO Licences from Aberdeen City Council. We were granted our first HMO Licence almost 10 years ago. We believe that we are good, responsible and reasonable landlords and our practice is to deal with all problems and issues as they arise. We were therefore surprised and disappointed that [redacted] did not phone us about the issues and [redacted]

## APPENDIX C cont...

raised with you which is what he has always done in the past if there has been something that has needed to be dealt with.

This is the first objection we have had. We were not aware that there were any problems with the property from our tenants or from [redacted] and [redacted] until we received your letter. Our tenants have confirmed that they have not received any complaints from [redacted] or [redacted] about the issues raised by them in their letter or any other matters.

We also own 24 Pitmedden Road. 22, 24, 26 and 28 Pitmedden Road form a block of 4 flats and comprise 2 upper and 2 lower self contained flats.

I see that the objection to the application for the above property is in respect of (a) noise from the occupation of the flat (b) noise from the tumble drier and (c) lack of upkeep of exclusive and shared garden areas.

I have called at Number [redacted] in person several times in the past week to discuss the issues raised but have not found [redacted] or [redacted] at home. I emailed [redacted] and [redacted] using the email address they supplied on their letter on 22<sup>nd</sup> March suggesting that we meet to discuss this at a time convenient to them and asked them to be in touch with me and attach a copy for your information. At the time of writing this letter I have not had a response from them and so have today sent them a copy of the email by recorded delivery in case they have not seen the email in their Inbox or Junk email.

28 Pitmedden Road is an upper flat in a block of four. The property is well maintained by us as is required of us and we have not had complaints from [redacted] and/or [redacted] about our tenants behaviour. Our tenants have confirmed to us in the last week that they have not been approached by [redacted] and/or [redacted] with any complaints about anything.

I was at our property on 20<sup>th</sup> March when I met with Brian McEwan in connection with the inspection of the property for the HMO renewal application and we discussed the fact that you had received a letter of objection to our application and discussed the objections.

With regard to the issue of noise the floors of the flat are carpeted throughout except for the kitchen which has vinyl on the floor for obvious hygiene reasons. I believe that what is heard are normal living sounds. It would be good though if I could have access to Number [redacted] to hear for myself what noise there might be from Number 28. If the noise is more than normal living sounds then we could discuss what options are available to reduce any noise and reach agreement. When at the flat Brian McEwan saw that the flat is carpeted throughout and at that visit the tenants who were present were going about their normal business at home making no excessive noise.

With regard to the noise from the tumble drier Brian McEwan heard the tumble drier in operation and the noise level was not any greater than any other tumble drier makes when operating. We have not had an opportunity of hearing the tumble drier in operation from Number [redacted]. However as at this date we have instructed our tradesman to lay sound deafening material beneath the tumble drier and that work should be completed shortly. I asked our tenants who were present at my meeting with Brian McEwan when they used the tumble drier and they confirmed that it was usually used at tea time. When asked they confirmed that they never use the tumble drier at anti-social hours such as 2am or 3am.



## APPENDIX C cont...

Finally with regard to the garden, we have always employed a gardener to maintain both the exclusive garden areas and shared areas of the garden including the shared drying green. The gardener has visited the property twice a month during the growing season to cut the grass, weed and tidy the garden both exclusive and shared. The gardener has already visited the property this month as recently as last Friday 23<sup>rd</sup> March. There is no set agreement with the owners of numbers 22 and 26 Pitmedden Road and ourselves as to which weeks our gardener is to visit the property each month to maintain the shared areas. Brian McEwan and I looked at the garden and it seemed to me that the garden was in a reasonable condition. I believe that he was reasonably happy with the state of the garden too. However I think that the way forward is for us to continue employing the gardener to visit the property twice a month as we have been doing but to come to an agreement with , and and the owner of number 22 about which weeks we will undertake the maintenance of the shared areas and the cutting of the shared drying green grass.

I hope that our application will be considered favourably and our application for a renewal granted.

Yours sincerely



Hilary Montgomery

Company Secretary

Callidus Services Ltd.

## Hilary Montgomery

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**From:** Hilary Montgomery [montgomeryhilary@btconnect.com]  
**Sent:** 22 March 2012 08:38  
**To:**  
**Cc:** 'Dave Montgomery'  
**Subject:** 24 & 28 Pitmedden Road

Dear            and

I have been told by Aberdeen City Council that you have submitted letters of objection to them in respect of the HMO Licence applications for the above properties. I have been sent copies of your letters and see that attached to your letters of objection is a copy of a letter dated 5<sup>th</sup> February which you had written to my husband. He never received your letter. There are three Gladstone Places in Aberdeen. One is at Dyce, one at Woodside and our one. We often get mail for the address at Woodside as well as police visits, ambulances and G-Doc visits for that address so it not a surprise that you letter did not reach us here. Our experience is that even with the correct postcode on letters they do not always reach us.

We are disappointed that you did not on this occasion phone us which is your normal practice if there is something you feel needs to be dealt with. I have spoken to our tenants and they have told me that you have made no mention of any of the matters raised in your letters with them at any time. We could have dealt with the matters raised in your letters as they arose which is our normal practice as you know.

I think that it would be a good idea if we could meet to discuss the contents of your letters and wonder when would be a convenient time for you to do this.

I look forward to hearing from you.

Best regards.

Hilary Montgomery