

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	allyt@aberdeencity.gov.uk	Date	23 August 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.185 Links Road, Aberdeen

Applicant/s: Allan Caldwell

Agent: Stonehouse Property

I refer to the above HMO Licence application, which is due to be considered by the Licensing Committee at its meeting on 4 September 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 a 'fit & proper' person to hold an HMO Licence.
- 2) Having taken account of the following, the property is unsuitable for occupation as an HMO:
 - 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 and security of persons likely to occupy it
 - viii) The possibility of undue public nuisance, and,
 - 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 four letting bedrooms (one en-suite), one public room, one kitchen & one bathroom. The location of the premises is shown on the plan attached as Appendix 'A'.

The HMO application:-

The HMO Licence application is dated 8 May 2012, and was received by the Council on 9 May 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 completed although this is not the reason for referral to Committee.

Letters of objection:-

The Notice of HMO Application – Certificate of Compliance, submitted by the applicant states that the Notice was displayed between 8 May 2012 – 29 May 2012.

One letter of objection was received by the HMO Unit on 28 May 2012, within the statutory period and is therefore competent. The letter is attached as Appendix 'B'.

Other considerations:-

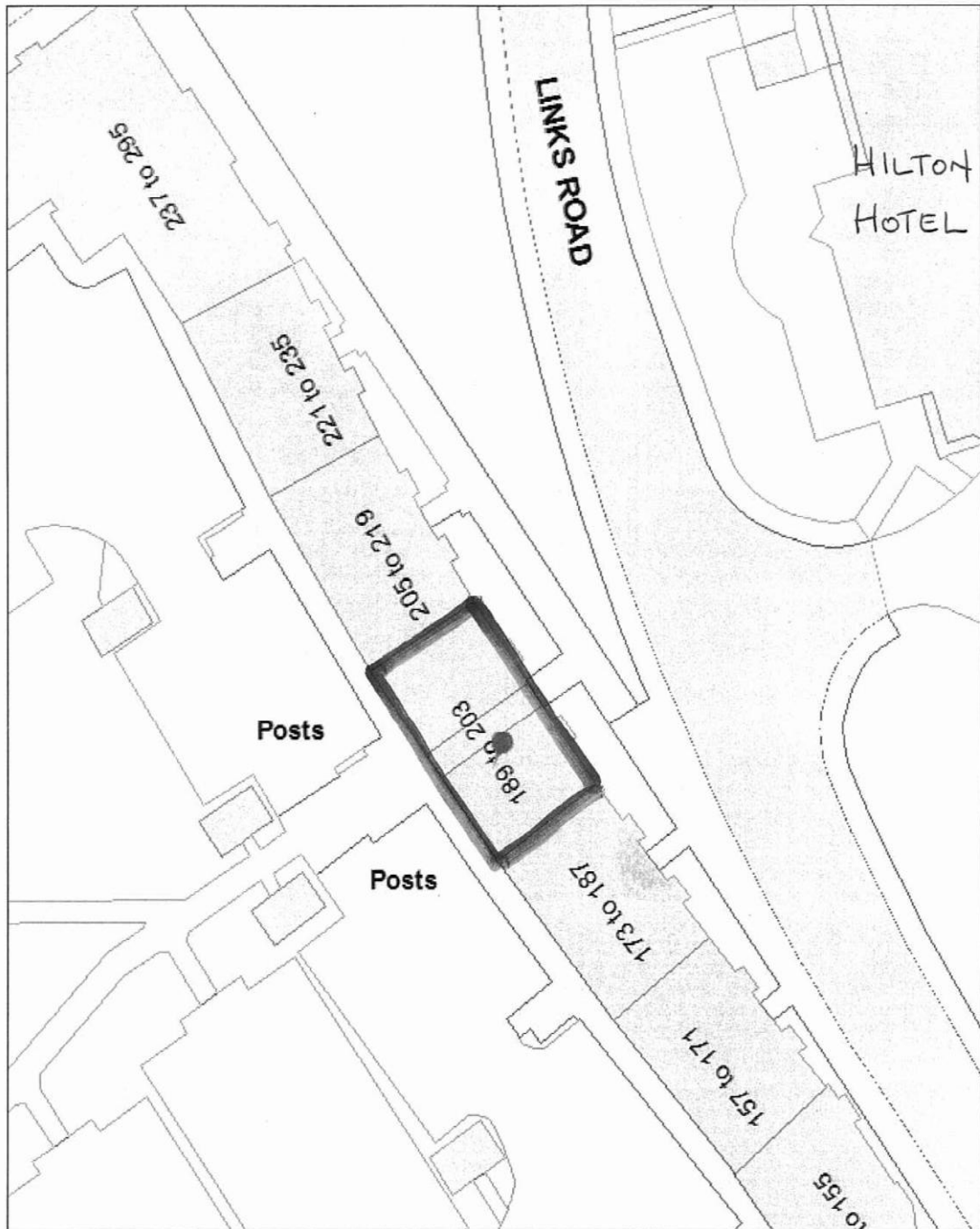
- The Chief Constable, Grampian Police, has been consulted in respect of the applicant's suitability as a "fit and proper person", and has made no comment or objection.
- Grampian Fire & Rescue Service has been consulted in respect of the suitability of the property, and has made no comments or objections.
- At the date of this memo, the Council's Antisocial Behaviour Investigation Team (ASBIT) has a record of a request for advice in June 2011 from a neighbour of No.185 Links Road, Aberdeen. The request was as a result of alleged anti-social behaviour by the tenants there, however this alleged behaviour was not witnessed.
- The applicant and his property are currently registered with the Landlord Registration database.
- The applicant has requested an occupancy of 4 persons, which is acceptable to the HMO Unit in terms of space and layout.
- The applicant currently holds an HMO licence for the property.
- The objection concerns a specific Burden in the Title Deeds for the property. Such an objection is not one of the grounds of refusal within Part 5 of the Housing (Scotland) Act.

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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APPLICATION FOR HMO LICENCE
PREMISES: 185 LINKS ROAD, ABERDEEN

APPENDIX 'B'

Bannermill Residents Association Committee

WORKING TOGETHER FOR BANNERMILL

24th May 2012

To whom it may concern,
185 Links Road, Aberdeen, AB24 5EH

We are aware that from time to time proprietors within the above complex have applied for HMO Licences. The Title Deeds for all flats within the complex states very clearly, "each flat is to be used and occupied as a private dwelling house and shall not be subdivided or occupied by more than one family at a time".

You have previously been provided with these deeds. However, for ease of access we attach the relevant section of the Deed as recorded in the Land Register of Scotland.

At the present time we note that Allan Caldwell, Ceol Na Mara, 12 Long Craig Walk, Kirkcaldy, Fife, KY11 1S has requested a HMO Relevant to 185 Links Road, Aberdeen AB24 5EH. Given the above information we are confused as to why this license has been applied for.

BANNERMILL RESIDENTS ASSOCIATION COMMITTEE
C/O Select Property Management Services
The Factors Office
Bannermill Place
Aberdeen
AB24 5EG

Committee Members

Andy Proctor

Ann Schofield

Sharon Hughes

Aberdeen City Council
Housing & Environment
DATE RECEIVED
28 MAY 2012
Private Sector Housing Unit



LAND REGISTER OF SCOTLAND



TITLE NUMBER [REDACTED]

D 3

D. BURDENS SECTION

ENTRY
NO

SPECIFICATION

for all damage which may be thereby occasioned to the surface of the Whole Subjects or the buildings erected or to be erected thereon as such damage shall, failing agreement, be ascertained by arbitration as aftermentioned.

(THIRD)

No Flat or building whether of a permanent, temporary or portable nature shall be erected on the Whole Subjects nor shall any additions, enlargement, alteration, rebuilding or reconstruction in whole or in part be made on any Flat or building on the Whole Subjects until the plans thereof have been approved and written consent thereto given by the Superiors and no poultry house, kennel or apiary shall be erected on any part of the Whole Subjects.

(FOURTH)

* [Each Flat is to be used and occupied as a private dwellinghouse and shall not be subdivided or occupied by more than one family at a time; No Flat or Parking Space shall be used for the carrying on therein of any trade, business or profession or for the selling of any goods or wares of any sort, whether or not such use may be deemed incidental or natural to the ordinary residential use of the Flat or whether any person occupying the same may have a contractual right to use the same for or in connection with or arising out of any trade business or profession notwithstanding any Rule of Law to the contrary; No Flat or Parking Space shall be used for the sale of any wines or spirits or other excisable liquors nor for the making or manufacturing of any goods for sale without the prior written consent of the Superiors; No board, card, plate or advertising notice of any kind shall be placed on any Flat or Parking Space or any other parts of the Whole Subjects (except in connection with the selling or leasing thereof) without the prior written consent of the Superiors; No power boats, marine craft, caravans, motor homes, trailers, commercial vehicles or vehicles other than private motor cars, motor cycles or cycles shall be parked on any Parking Space or in the open or on any other part of the Whole Subjects; No handicrafts for commercial purposes shall be carried on in any Flat or Parking Space or other parts of the Whole Subjects without the consent of the

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