

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.49 Bedford Place, Aberdeen

Applicant/s: K.Millar Graham

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 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 a two-storey, mid-terraced house with accommodation comprising of four 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 16 May 2012, and was received by the Council on 16 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 16 May 2012 – 5 June 2012.

One letter of objection was received by the HMO Unit on 5 June 2012, within the statutory period and is therefore competent. The letter is attached as Appendix 'B'.

Applicant's response:-

The applicant has submitted a letter responding to the objection. The letter is attached as Appendix 'C'.

Other considerations:-

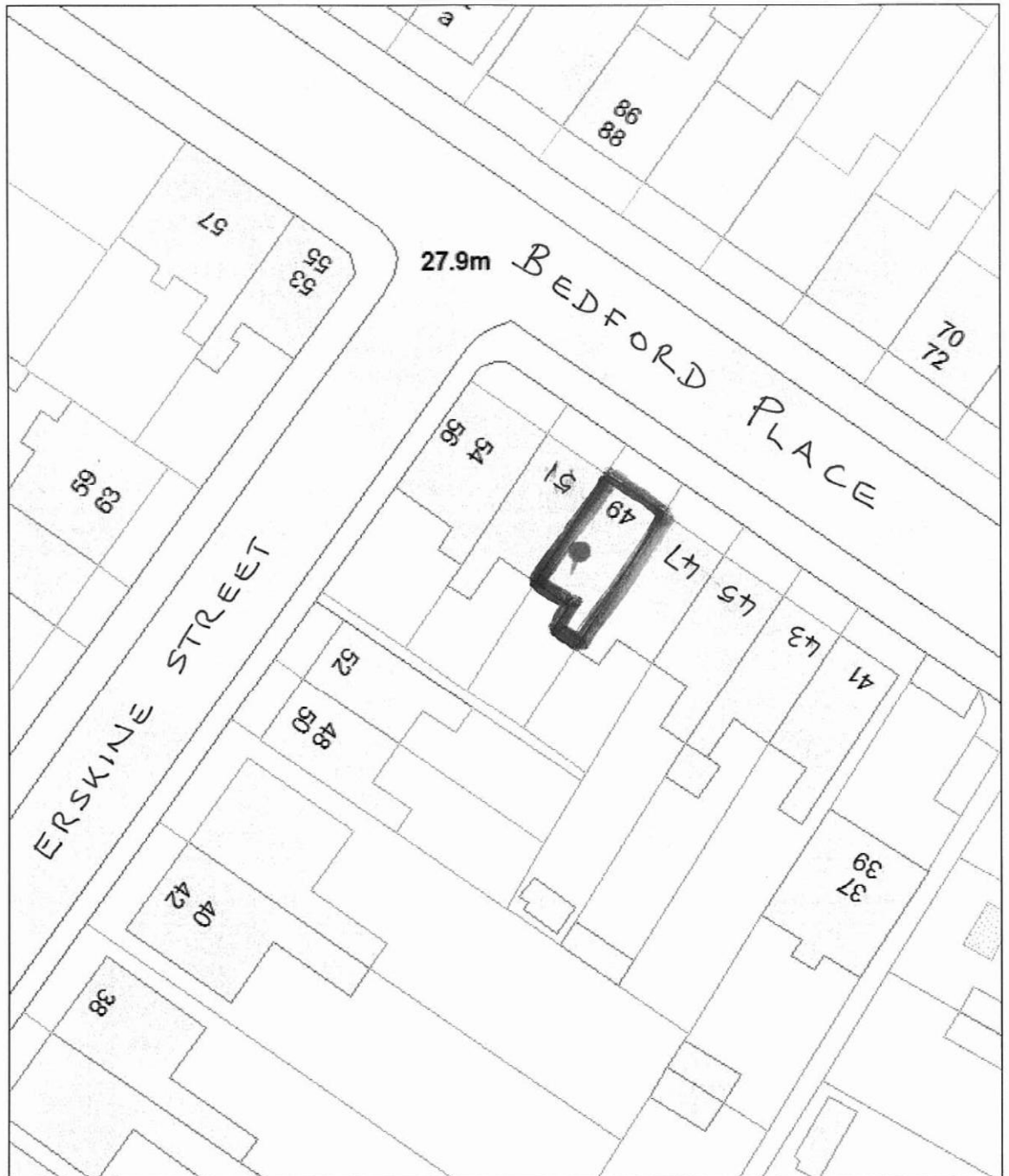
- The Chief Constable, Grampian Police, has been consulted in respect of the applicant's suitability as a "fit and proper person", and has made no comment or objections.
- Grampian Fire & Rescue Service has been consulted in respect of the suitability of the property, and has made no comments or objections.
- At the date of this memo, the Council's Antisocial Behaviour Investigation Team (ASBIT) has a record of one complaint in February 2012 about alleged anti-social behaviour by the tenants of No.49 Bedford Place, Aberdeen. The behaviour was not witnessed by the ASBIT team.
- The applicant and his property are 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 application under consideration is the first HMO Licence application in respect of the property.

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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1: 500

APPLICATION FOR HMO LICENCE
PREMISES: 49 BEDFORD PLACE, ABERDEEN

Aberdeen City Council
Housing & Environment
DATE RECEIVED
- 5 JUN 2012
Private Sector Housing Unit

Mrs. Rachel Bruce
 47 Bedford Place
 Aberdeen
 AB2 3NT
 4/6/12
 01224 432735

Regarding application for a multiple
 occupancy licence for ⁴⁹~~45~~ Bedford Place
 by Mr K Graham 36 Barton Avenue
 Edinburgh EH4 6DE.

APPENDIX B

Dear Sir/Madam,

I am writing to object about the above application by Mr K Graham

I stay next door at 47 Bedford Place

The reason for my objection is that for many years this house has been occupied by various students who have all caused a variety of problems.

Mr Graham bought the house about 2 years ago and his son a student, took up residency. He also sub-let the remaining rooms to other students. There are 5 rooms in this house.

Since his son moved in we have suffered from various anti-social behaviour issues.

I have had to involve the Noise Abatement as a last resort because of the noise from parties

'B' CONT'D

loud music both inside the house and outside in the garden, shouting and swearing, which has often been directed at us personally when we have asked them to cut out the noise.

Basically, the house is used as a meeting and drinking ^{place} before they go out and they return in the early hours of the morning and start all over again.

There has been many occasions when they are out at the front of the house (waiting for taxis) ^{urinating} in front of my house and being generally abusive to any reasonable request to cease their unacceptable behaviour.

When you grant these HMO licences (multiple occupancy) Do you ever consider the neighbours ~~adjoining~~ who have to put up with this.

My husband and I are in our early seventies and we don't think at our age we should have this stress

Yours Sincerely,

Isabel Bruce.

P.S. Mr Graham said he didn't know he needed a licence. I find this strange as his business card says he is an Property Investment.

APPENDIX 'C'

AVENUE HOUSE
36 BARNTON AVENUE WEST
EDINBURGH
EH4 6DE

Tel: 0131 336 4433
Fax: 0131 336 1190
e-mail: mgraham@bspartners.co.uk

21st June 2012

By e-mail and post

Mr A Thain
Private Sector Housing Manager
Aberdeen City Council
Business Hub 1
Lower Ground Floor West
Marischal College
Broad Street
Aberdeen
AB10 1AB

Dear Mr Thain

HMO Application: 49 Bedford Place, Aberdeen AB24 3NT

I acknowledge recent receipt of your letter dated 6th June 2012 with which you enclosed a copy of the letter of objection to my recent HMO application as submitted by Mrs Bruce, resident at No. 47.

I would wish to address the various claims made by Mrs Bruce and make comment in support of the application as follows:

- Mrs Bruce makes mention of there being a history of students creating a variety of problems over many years. I purchased the property a little over two years ago, although it has actually only been occupied, after a period of refurbishment, since September of 2010. Consequently I cannot be held responsible for whatever problems may have been experienced with previous occupiers.
- The statement that my son, a student at Aberdeen University, took up residency (actual date mid-Sept '10) sometime after purchase is correct. However her comment that there are 5 rooms in this house and the inference that all of these are the subject of lettings is misleading. The simple fact is that of the four bedrooms that exist, my son occupies one with three friends occupying the others. The '5th' room is in fact the living-room/lounge. The three rooms that are let to my son's friends are the subject of formal lease agreements the terms of which I understand meet with the requirements of HMO Licensing.
- When I first acquired the property I made a point of introducing myself to Mrs Bruce, explained that my son and some friends would be occupying the property for the 2nd-4th years of their University courses and provided her with my contact details such that she could make direct contact with me in the event that there was any emergency, perhaps when the property lay empty out-with normal term dates, or indeed any other issue.

'C' CONT'D

- *Since that time I estimate I have received about three calls from Mrs Bruce to complain about alleged noise being generated within the house. On each and every occasion when I then discussed her allegations with my son and his friends they consistently stated that any perceived noise was minimal, when and if Mrs Bruce complained they immediately did their best to limit it and in all instances any 'noise' occurred of an evening prior to them leaving the house by circa 11pm to go into town.*
- *Subsequent to that on my advice and in consideration of her relative age, the boys took to forewarning Mrs Bruce of when they might be having a few friends round, in part to effectively apologise in advance for any perceived inconvenience but also to reassure her that the noise would be cut or they would have departed to a venue in town by circa 11pm. I would however stress that this was not by necessity a nightly or even weekly occurrence but best estimates put it at anything between 5-6 weekly intervals and even then only during term time.*
- *In November last year, on the occasion of one of the boys 21st Birthday, in what by then was the adopted procedure they forewarned Mrs Bruce and also presented her with a couple of bottles of wine by way of a goodwill gesture and to state that they would, in their usual fashion, be out of the house and uptown by 11pm. Mrs Bruce acknowledged that but then appeared at the door of the house circa.10:30pm to complain despite the fact that she had been forewarned, had readily accepted the gesture of advanced apology of wine and indeed by that time they were already readying themselves to leave in taxis to go onto a venue in town ahead of schedule.*
- *My recollection is that it was around that time that Mrs Bruce made her last call to me threatening to involve the Police and noise abatement section of the Council. While explaining that I had every sympathy with her perception of the situation I advised her that if she really felt justified in her claims of such frequent nuisance and anti-social behaviour then she ought to call either of the aforementioned parties who would have more objective means of determining the factual position and act accordingly. So far as I and the boys who occupy the property are concerned there has been no instance of either Police or Noise Abatement involvement necessitating a direct visit to the house or any other form of contact during the entire period of occupancy.*
- *Mrs Bruce alleges frequent shouting and swearing and generally abusive behaviour at times directed towards her. This is vehemently denied by the boys but additionally Mrs Bruce has become increasingly rude and aggressive towards the boys and their friends. Indeed more recently she accosted a female friend when leaving the house circa 10:30pm to get into her car and accused her of potentially drink-driving; a girl who happens to be a non-drinker by virtue of her religious convictions. In response to the allegation that one of the boys or their friends urinated outside her house in the evening while waiting on a taxi this too is vehemently denied.*
- *As for the Post-Script note to Mrs Bruce's letter suggesting that I ought to have known of the requirement for HMO Licensing because I am involved in property investment I would make clear that my background is in commercial property only and I have never had any previous experience of residential letting. I did take advice at the time of purchase of the property, advice which I now know to be flawed, and was advised that because the house was in part owned and occupied by my son no formal Licence was required. Having made application to the Council for Domestic Rates relief back in September 2010 and made clear the fact that the house was occupied by four students I would have expected that subsequent to or as a consequence of that if there was any issue of non-compliance then this would have been picked up. That said, since being notified of the requirement to obtain formal HMO Licensing I have co-operated fully and timeously with the representatives of the Council's Private Sector Housing Unit and continue to do so in order to regularise the position.*

'C' CONT'D

While it is readily acknowledged that on occasion the boys do invite friends round prior to them collectively moving onto a night out in town, it is stressed that never has any such group later returned to party into the wee small hours as suggested in Mrs Bruce's correspondence. Furthermore, while I have every reasonable consideration for Mrs Bruce's personal perception of alleged 'nuisance' I feel that the reality of the situation is quite different to what is being portrayed in her correspondence and her ire is for the greater part borne out of a more deep-seated anger and frustration at the evolving character of her local neighbourhood allied to an unrealistic expectation of how normal, decent, well-educated young people live.

Were the house 'party central' or some kind of 'drinking den' as Mrs Bruce alludes to then it is inconceivable that before now there would not have been corroboration of this either by way of a whole raft of complaints if not even just one other from adjacent residents, never mind more than just her single objection to the granting of an HMO Licence.

I would be happy to discuss the foregoing or any associated issues in greater detail and trust that full consideration will be given to the facts of the situation at the time the License for this property is to be decided upon.

Yours sincerely



K Millar Graham