

LICENSING COMMITTEE INFORMATION SHEET
10 November 2020

Public Application

TYPE OF APPLICATION: HMO LICENCE APPLICATION (NEW)

APPLICANT: MICHAEL HIGGINS

AGENT: NONE STATED

ADDRESS: 8 IVORY COURT, HUTCHEON STREET, 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 for the reason that the necessary upgrading works & certification have been satisfactorily carried out.

DESCRIPTION

The premises at No.8 Ivory Court, Aberdeen, is a first-floor flat with accommodation comprising 4 letting bedrooms (master bedroom en-suite), one public room, one kitchen & one bathroom. The applicant wishes to accommodate a maximum of 3 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 his registration includes No.8 Ivory Court.
- The Council's Anti-Social Behaviour Investigation Team (ASBIT) has no record of any complaints of anti-social behaviour involving the tenants of No.8 Ivory Court.
- All upgrading work required by the HMO Officer, including certification, has been satisfactorily carried out.
- The application under consideration is a 'first-time' application following the applicant's purchase of the property in August 2020.
- The previous owners of No.8 Ivory Court held an HMO licence between October 2003 until the property changed hands in August 2020.
- There are currently 4 HMO-licensed flats in Ivory Court.

- The letter of objection includes 6 separate points and Members may wish to note the following comments:

Point 1 – The public Notice of HMO Application is automatically generated by the Council's online HMO application facility and does not include the proposed occupancy.

Point 2 – Title Deed conditions or a breach of same are not a statutory ground of refusal of an HMO licence application.

Point 3 – The property at No.8 Ivory Court was purchased by the applicant as a 4-bedroom flat. The objector alleges that the property was designed as a 3-bedroom flat when the whole building was converted around 1999 and a previous owner subsequently created a 4th bedroom. This allegation was discussed with the Council's Building Standards team who advised that the Building Warrant drawings & documents for the conversion of the whole building are unavailable and they are therefore unable to confirm whether No.8 was originally designed as a 3-bedroom and a 4th bedroom was created thereafter. The then-owners of No.8 applied for a Building Warrant in 2006 for the installation of smoke detectors, and there were 4 bedrooms at that point in time. In conclusion, the Building Standards team advised that they will not pursue this matter unless they are provided with proof that the 4th bedroom was created without a Building Warrant having first been obtained.

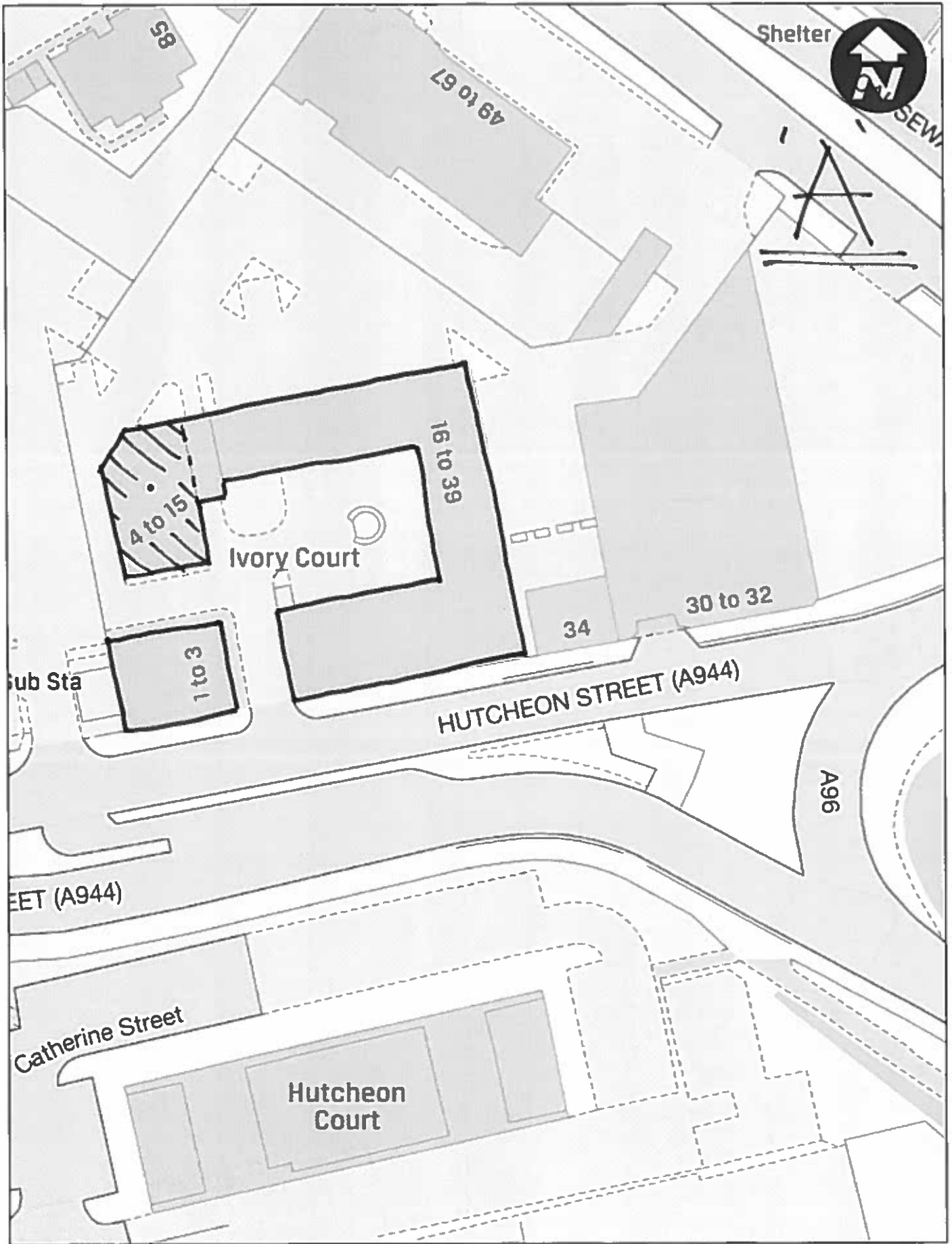
Point 4 - Common charges are not a statutory ground of refusal of an HMO licence application.

Point 5 – No comment

Point 6 – If an HMO licence is granted it will be conditional upon the usual conditions, one of which being the requirement for the licence-holder to provide his/her neighbours with their contact details.

With regard to the reference to the Police having a "long record of numerous violations of licence", Police Scotland advised that they have a record of 2 incidents within the Ivory Court postcode area within the previous 12 months. Neither incident resulted in any action being taken by Police Scotland.

As mentioned above, Police Scotland have no objections to the licence application under consideration.



B

25 August 2020

RE: HMO licence application for 8 Ivory Court

Reference: Letter 1

HMO unit
Operations and Protective Services
Business Hub 1
Lower Ground Floor West
Marischal College
Broad Street
Aberdeen AB10 1AB

To Whom It May Concern:

The purpose of this letter is to object to the HMO application () dated 13 August 2020 and posted in the street outside of the development on the weekend of 23-24 August 2020. The grounds for my objection are as follows:

1. The maximum number of persons residing in the HMO is not specified.
2. The plan/layout of the flat has been modified by the previous owner to include more rooms than permitted under the original development plans and existing specification in the title Deeds. The title Deeds prohibit such internal alterations.
3. The requirement for, or existence of a Building Warrant for the conversion of this property from 3 to 4 bedroom, is subject of ongoing investigation by the Aberdeen Council Building Standards Team.
4. Common charges for this flat are determined according to a lease fraction based on flat 8 being a 3 bedroom property. This unfairly prejudices all the other owners at the development.
5. The application has failed to take adequately into account that the access to flat 8 is via a communal hallway with external security door. Access to multiple families will pose increased security threat, risk of fire and higher maintenance costs on other residents.
6. The new licence holder is not local or contactable to resolve disputes and will not be in any position to take any of the necessary steps to deal with anti-social behaviour should it occur. This is an ongoing issue with all six HMOs in the development, where the Police have a long record of numerous violations of licence, such as excessive noise between 23:00 and 08:00 and urination in the courtyard.

I would normally copy current owners on this communication but their contact details have not yet been provided (LC10).

Respectfully yours,

Raymond Lynch

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23/10/2020

Ref Reply to objection *

To Whom it may concern

I have read the application objection that Raymond Lynch has made dated 25 August 2020 and wholly understand and empathise with his objection. From my understanding the previous tenants of this HMO have been students, and have had issues with the residents in the block of flats previously, with noise complaints and anti-social behaviour, etc.

Not that my intentions matter, it is not now and in the future my intention to rent the flat out to students for the reasons previously mentioned, and the issues that it raises with unhappy neighbours.

My plan is to let to 3 young professionals that work for me. I have 2 living in the property currently with the plan for the 3rd coming over from Canada in December to take up their role.

On buying this property it was done under the understanding and in good faith, that it was a 4 bedroom property and the first I have heard that it was not originally was through the objection letter. I have shown the objection to the solicitor that was involved in the sale of the property and their stance is that if a 4th bedroom has been created then it would have been done via a stud partition wall that would not have required building warrant consent. I will of course abide by the decision of the buildings standards team.

In relation to the matter of the "community burden" the solicitor has advised that 4th bedroom has been a historic change, at least before 2007, and in so, title and interest to enforce a "community burden" has to be done withing 12 months of the breach.

Currently I will be attending the virtual meeting on the 10th of November where I can answer any questions to the best of my ability.

Yours Sincerely

Michael Higgins