

LICENSING COMMITTEE INFORMATION SHEET

22 March 2022

Public Application

TYPE OF APPLICATION: HMO LICENCE APPLICATION (RENEWAL)

APPLICANT: MICHAEL MCFADYEN

AGENT: WINCHESTERS LETTINGS

ADDRESS: 61 LESLIE ROAD, ABERDEEN

INFORMATION NOTE

This HMO licence renewal application is on the agenda of the Licensing Committee for the reason that one letter of representation/objection was submitted to the HMO Unit.

At the date of drafting this report, the necessary upgrading and certification has not been completed and this position is unlikely to change by the date of the Committee meeting. Consequently, if the Committee is minded to grant a new HMO licence it may do so under delegated powers.

DESCRIPTION

The property at No.61 Leslie Road, Aberdeen, is an upper-floor maisonette flat providing habitable accommodation of 3 letting bedrooms, 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's agent in response to the letter of representation/objection (Attached as Appendix C)

The letter of representation (Appendix B) was received by the HMO Unit within the 21-day statutory period and must therefore be considered by the Committee.

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.61 Leslie Road, together with another 10 rental properties. The majority of these 11 properties are currently HMO-licensed.
- The Council's Anti-Social Behaviour Investigation Team (ASBIT) has no record of any complaints of anti-social behaviour involving the tenants of No.61 Leslie Road.
- The applicant was first granted an HMO licence for No.61 Leslie Road in April 2015 and he renewed his licence in February 2019. The application under consideration is therefore his 2nd renewal application.
- There are currently 6 HMO-licensed properties in Leslie Road, ie. Nos.4, 7, 20, 51, 57 & 61.
- The letter of representation/objection (Appendix B) refers to additional licence conditions that were added to the 2 previous HMO licence certificates in respect of No.61 Leslie Road. The details are as follows:

- **ORIGINAL HMO LICENCE APPLICATION - 2014**

Following the submission of the original HMO licence application in May 2014, a letter of objection was submitted by a neighbour. The application was considered by the Licensing Committee on 2 September 2014, when the Committee resolved to defer consideration until they had visited the premises. The visit took place on 30 October 2014, following which the application was reconsidered at the Committee meeting on 25 November 2014, where the Committee resolved:

“that the application be granted under delegated powers for the full three year period for a maximum occupancy of four persons, subject to the standard conditions being implemented, plus the additional conditions that (1) good quality carpet/vinyl (as appropriate) and good quality underlay was installed on all floors and the stairs of 61 Leslie Road, and (2) that the ground floor utility room was to be used for storage only.”

The 2 new licence conditions, which were added to the usual licence conditions on the HMO licence certificate, were as follows:

LC 12: *That the licence-holder ensures that carpets and vinyl, together with underlay, are laid throughout the property at all times to include any staircases and that such floor coverings and underlay are of good quality to the satisfaction of an authorised officer from Aberdeen City Council*

LC 13: *That the licence-holder uses the outhouse to the rear of the property on the ground floor for storage and for no other purpose.*

- **HMO LICENCE RENEWAL APPLICATION – 2018**

Prior to the expiry of the original 3-year HMO licence, the landlord submitted a renewal application in March 2018. The same neighbour submitted a letter of objection and the application was due to be considered by the Licensing Committee on 5 June 2018. Discussions then took place between the HMO Unit, the objector and the applicant and it was proposed that a new HMO licence be granted subject to the usual licence conditions plus the additional conditions that were added in 2014 and another 2 new conditions. All parties agreed to this arrangement and the objection was withdrawn. Consequently the application was never considered by Committee and a new licence was granted under delegated powers subject to the usual licence conditions plus LC 12 & 13 (above) and the following 2 new conditions:

LC 14 *The licence-holder will undertake periodic inspections of the (garden areas, shared areas and both bin areas, onsite and remote) and will take appropriate action if they are found to be in an unsatisfactory condition.*

LC 15 *The licence-holder will provide their tenants with comprehensive written information concerning waste management (with particular regard to the correct use and storage of the bins relating to the property) and will ensure that their tenants comply with same.*

- **LETTER OF OBJECTION**

The letter of objection refers to the additional licence conditions LC 12, 13, 14 & 15 (above). I can advise as follows:

LC12 : During the recent visit by the HMO Officer following submission of the renewal application, the floor coverings were inspected and found to be in a satisfactory condition.

LC13 : During the recent visit by the HMO Officer, he noted that the ground floor outhouse was in use by the tenants as somewhere to dry their washing.

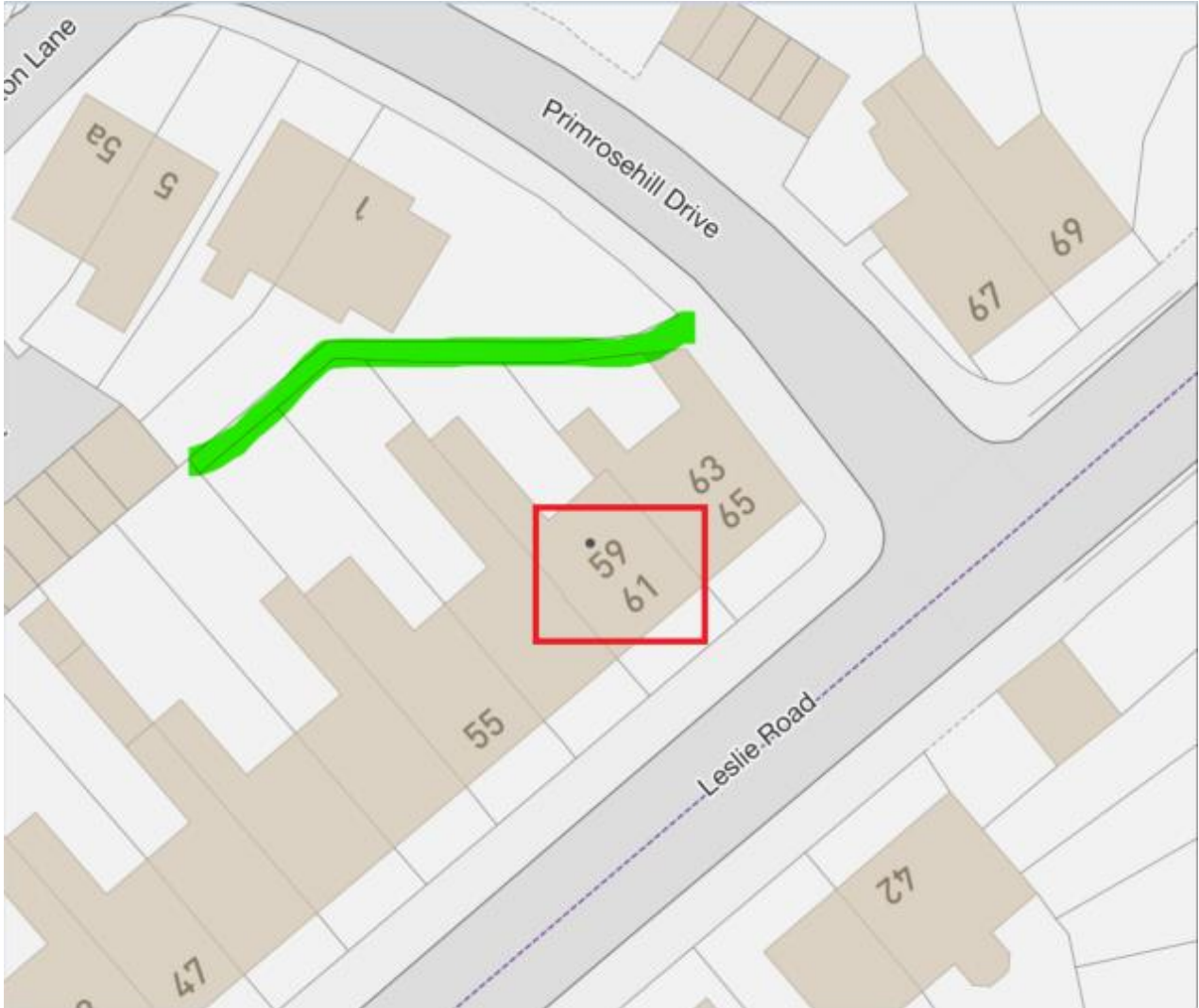
LC14 : During the recent visit by the HMO Officer, he noted the condition of the garden areas, shared areas and bin areas and found them to be well maintained.

LC15 : During the recent visit by the HMO Officer, he noted that the shared path at the rear was in a tidy condition and not obstructed by bin bags, etc. Bin uplift day is Monday and the HMO Officer returned after the bins had been uplifted to check the condition of the shared path which he found to be in a tidy condition. The Council's Waste Team was then contacted to establish whether there had been issues with No.61's bin uplift in the past. The Waste Team advised that *"the mixed recycling wasn't uplifted because of severe contamination (plastic bags) on 11/10/21, 06/12/21 and 20/12/2021."* The Waste Team were then asked whether they had contacted the tenants of No.61 regarding these 3 failed uplifts and they advised that they *"could find no record of contact being made with the occupants of this property regarding management of waste and recycling."*

- **SHARED FOOTPATH**

The shared footpath referred to in the letter of objection is highlighted in green on the location plan (Appendix A)

'A'



'B'

02/03/2022

HMO Unit
Communities, Housing and Infrastructure
Business Hub 1
Lower Ground Floor West
Marischal College
Broad Street
Aberdeen
AB10 1AB

Dear Sir/Madam,

**REPRESENTATION WITH REGARDS TO APPLICATION FOR A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION
– No. 61 LESLIE ROAD, AB24 4HU, ABERDEEN**

Please accept this letter as my representation for the application of an HMO licence for No. 61 Leslie Road.

Previously imposed conditions to HMO licence

The current HMO licence for this property is due to expire shortly. Previously the council and committee had granted this licence subject to several conditions in order to protect the amenity of adjacent properties. An example of some conditions applied to the HMO licence related to;

- LC 12 That the applicant ensures that carpets and vinyl, together with underlay, are laid throughout the property at all times to include any staircases and that such floor coverings and underlay are of good quality to the satisfaction of an authorised officer from Aberdeen City Council.
- LC 13 That the outhouse to the rear of the property is used for storage and no other purpose.

A subsequent application had the above conditions (LC12 and LC13) maintained and added additional conditions (LC14 and LC15) to address and manage the issues, noted by several neighbours, arising from poor management of the bins and waste from the property. A summary of the additional conditions are provided below;

- LC 14 The licence-holder will undertake periodic inspections of the (garden areas, shared areas and both bin areas, onsite and remote) and will take appropriate action if they are found to be in an unsatisfactory condition.
- LC15 The licence-holder will provide their tenants with comprehensive written information concerning waste management (with particular regard to the correct use and storage of the bins relating to the property) and will ensure that their tenants comply with same.

Previously after numerous correspondence, representations and debate, the committee considered these conditions to be necessary for the previous application and subsequent licence, it would stand to reason that these conditions should also be carried over and applied to any new HMO licence for this property.

Furthermore, after an additional 3 years of wear and tear in an HMO property the current effectiveness of the floor coverings should be reassessed for their suitability for the duration of the new licence.

Management of waste from property

Since the current licence was granted, with the additional conditions (LC14 & LC15), the issues with waste and mess arising from this property has continued.

Speaking with the 2 sets of tenants that have been in the property since the current licence (with the additional conditions added) was issued, both sets of tenants have stated to several neighbours that no information was provided by landlord or agent regarding the management of waste, this is clearly against what was agreed with the addition of LC14 & LC15.

The conditions imposed on the licence to operate an HMO property are being ignored and that the concerns of neighbours, in this regard, are not being taken seriously.

The issues with the bins, mess and littering that arise from this property have been reported to the council several times over the duration of this licence.

The current behaviour regarding waste and lack of responsibility of managing it can only be described as Anti-social Behaviour.

Specifically relating to this issue below are some summarised points;

- There exists a shared footpath to the rear of the properties at this end of Leslie Road, giving rear access to the properties. A significant mess can accumulate at the entrance to the path or up the path as a result of overflowing. This path is shared between 5 properties and is well used. There are young children in neighbouring properties that use this path and the mess constitutes a hazard to health.
- Upon vacating the premise (at the end of the lease) rubbish and furniture is left on the street and having remained on the street for weeks, neighbours continue to have to arrange for collection/ or disposal of personally.
- The waste from the property is being continuing to be incorrectly disposed. This is due to filling up any bin, of any other property, and the council (quite correctly) not uplifting the bins as they have the wrong contents.

There appears to be no monitoring of the property from the landlord in this regard. Furthermore, there still appears to exist no explanation of the waste collections and bin scheme to the tenants from the landlord.


It is not the responsibility of the neighbouring properties to be responsible for and manage the waste from No.61. Rather it is the responsibility of the landlord to ensure that the waste is correctly managed - this agreed previous conditions have clearly not been actioned over the years.

Clearly the management of waste from this property is an issue. I would add that since becoming an HMO property, No. 61 has become a "problem property" in this regard in the area.

I hope that you will take the above into consideration when reviewing whether to renew this licence or consider updating the imposed conditions.

Thank you for your consideration of this letter and if you have any questions, please feel free to contact me anytime.

I look forward to receiving your response.

Best Regards,


'C'

Dear HMO department, Committee and residents concerned.

Thank you for passing on your concerns and highlighting points in relating to the HMO of 61 Leslie Road, Aberdeen, AB24 4HU.

I will break down the letter received into points and aim to answer these in full.

1. Previous conditions.

The Landlord and Winchesters have no objection to the current conditions placed on the application and welcome these to remain on the license moving forward. Both parties understand that these conditions give a level of comfort to surrounding residents and are an active part of the landlords commitment to running a suitable HMO for all concerned parties.

- a. Floor coverings are to a good standard and no remedial action is required at present, No comments from neighbours have been received relating to any concern about this.
- b. The room to the rear of the property is only being used for storage as this is not a habitable room, this has been confirmed at multiple points throughout the last HMO license period.
- c. Periodic inspections have taken place throughout the tenancies, no less than every 100 days, please bear in mind this has not been possible for a number of consecutive months during the pandemic to ensure safety of the tenants and this coupled with the property sitting empty for some 6 months during 2020 where no waste would have been produced.

I would like to note that I have searched our email correspondence and as per previous request "contact details for resolving issues relating to waste are provided to neighbouring properties." We have not received any email communication relating to this since 2018, this was dealt with within 24 hours of receiving the notification that there was an issue, since this point the council has provided an extra bin and recycling boxes for use

"This is Alireza from 61 Leslie road and I am writing on behalf of myself, and my flatmates Dean and Scott. We would like to all apologize for inconvenience we have causes by using the wrong bins. On the 4th of April 2018 I discussed the matter with a neighbour who had come to the door to notify us of the issue and we did acknowledge our mistake and moved the bins immediately. We also made sure not to use the wrong bins again and have not done so since. I would also like to mention we never intended to intentionally bother anyone. The problem began when someone moved our bin away and we could not find it. We also had only one bin which got full very quickly. And we did not know about the public bin around the corner (Which is also sometimes full for days) so we used the empty bins by the flat. We do understand however that this does not justify our action and we will make sure this will not happen again.

Best regards,
Alireza "

This response is what we would expect from tenants and has been the general response any time we have reinforced and reiterated any communication relating to waste.

All neighbours (unless they have changed since the last granting of the HMO License) have been provided with our directors email address and mobile number should there be any complaints regarding any aspect of the property. We have had some communication relating to a leak and property specific repairs.

The only issue we are aware of within the current tenancy relating to waste is during the first week the tenants were in residence, was the bins were left at the pick up point and the wind blew these over. From speaking to the tenants at the time one of the neighbours brought this to their attention and they cleared up the area and returned the bins to the correct spot.

From speaking to the tenants they had not got round to reading the documentation relating to pick up days for waste, this comes, as you can imagine, wrapped up in a number of documents relating to the lease of the property and can easily be skimmed over or missed, I have made a note on the property that for future tenancies as well as the current practice of sending writing instructions for waste management along with the clauses within the lease, we will also reinforce this with a verbal conversation to highlight its importance.

Upon speaking to the tenants recently and conducting an inspection at the property we found the bins to be within the confines of the properties garden, that the correct items were in each bin and that both recycling and food waste containers were in use within the kitchen of the property. The tenants when asked about waste requirement we aware and carrying out all requirement. With regards to the property becoming a "problem property" I would urge any problems to be highlighted to us at the time so we can assess the validity of these claims, while not wanting to belittle any claims it is very possible that the use of other peoples bins is not related to this property as the storage area for bins is in a public place in a densely populated area, notification to ourselves at the time will allow us to quantify this claim and act accordingly.

Moving forward I would like to reinforce the offer to contact myself or Winchesters as soon as any minor or major infringement on the correct use and storage of waste is noticed, it is not reasonable or possible for us to monitor each bin day as a certain amount of this is a requirement of the tenants, however please do not construe this as the Landlord or Agent shirking their responsibilities, we are more than happy to quickly intervene and resolve any issues promptly.

Many Thanks

Chris Minchin

Director – Winchesters