

LICENSING COMMITTEE INFORMATION SHEET

15 November 2022

Public Application

TYPE OF APPLICATION: HMO LICENCE APPLICATION (RENEWAL)

APPLICANT: AURELIE MERCIER

AGENT: NONE

ADDRESS: 44 KINCORTH PLACE, ABERDEEN

INFORMATION NOTE

This HMO licence application is on the agenda of the Licensing Committee for the reason that 2 letters representation/objection were 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 under delegated powers since at the time of drafting this report, the necessary upgrading works and certification have not been completed. I will advise Members during the Committee if that position has changed.

DESCRIPTION

The premises to which this HMO Licence application relates is an upper flat with accommodation comprising of 4 letting bedrooms, one kitchen/public room and 1 bathroom. The applicant wishes to accommodate a maximum of 4 tenants, which is acceptable to the HMO Unit in terms of space and 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 public to the HMO licence application.

REPRESENTATIONS/OBJECTIONS

- Police Scotland – no objections
- Scottish Fire & Rescue Service – no objections
- One objection letter from Hazel & Donald Tiffen (Attached as Appendix B)
- One objection letter from Janet Bruce (Attached as Appendix C)
- Applicant – one letter of representation, in response to the objection letters (Attached as Appendix D)

The objections were received within the statutory time period therefore the Council must consider.

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 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 their registration includes No.44 Kincorth Place.
- The letter of objection refers to the involvement of the Council's Anti-Social Behaviour Investigation Team (ASBIT) in respect of No.44 Kincorth Place. ASBIT were contacted and asked for their comments, the response was as follows:

21 October 2022 - A complainer phoned regarding raised voices and footfall at No.44 Kincorth Place. ASBIT team were on route, however cancelled as the tenants at No.44 Kincorth Place left the property.

04 July 2022 - A complainer emailed the ASBIT team regarding noise from No.44 Kincorth Place. The ASBIT team replied with appropriate advice and that the complainer call when excessive noise is ongoing.

16 February 2022 –Tenant at No.44 Kincorth Place raised a complaint to ASBIT about a neighbour banging the floorboards of No.44 Kincorth Place. The ASBIT team replied with appropriate advice and mediation information.

18 November 2021 – A complainer emailed the ASBIT team to report loud voices, gaming noises and banging doors at No.44 Kincorth Place. The ASBIT team replied with appropriate advice and mediation information.

16 June 2021 – A complainer emailed the ASBIT team to report parties and loud voices at No.44 Kincorth Place. ASBIT staff contacted the landlord to discuss the complaint regarding the HMO tenants.

- The letter of objection refers to floorboards within No.44 Kincorth Place. As part of the HMO application process, an Inspecting Officer attended the property on Tuesday 1 November 2022 and produced findings of the flooring within No.44 Kincorth Place. (Attached as Appendix E).
- All upgrading work required by the HMO Officer, including certification, has not yet been completed.
- The applicant was first granted an HMO licence for No.44 Kincorth Place in September 2016 and the application under consideration is a 2nd renewal application.
- There are no other Granted HMO's at Kincorth Place.

'A'



'B'

Ref: HOU5458086003

Aberdeen City Council Housing & Environment
DATE RECEIVED 18 OCT 2022
Priority Housing Unit

[REDACTED]
Kincorth
Aberdeen
AB12 5QJ
17th October 2022

Dear Sir/Madam,

We wish to submit the following issues we have with the licence renewal at number 44 Kincorth Place.

Since August 2020 the flat has been rented as a whole to groups of friends rather than the individual rooms, it was in the beginning.

That August four young boys (late teens early twenties) moved in. Even though it was during lock down they had several parties. Or would come back in the early hours and make a lot of noise. After complaining to them several times and also the police. I submitted a video recording on my phone to the ASBIT team which showed what we were subjected to on a regular basis. A warning was issued to them because of this. Little did we know that this was only the start.

Last year some young men moved in, they appeared to be slightly older. We don't know how many of them actually lived there as they seemed to come and go. They were often up all-night gaming, shouting and swearing. This could go on during day time too. We never got to speak to them as they wouldn't answer the door if they knew it was us. We did complain to the owners but they dismissed our complaint when the tenants said this wasn't true.

Now this year we have four young girls. I contacted the ASBIT team on Monday 3rd Oct after being woken up at 2am on 1st then 3.40am on the 2nd. I did ring the ASBIT team number on the 2nd but was told the phone wasn't being manned that night and to ring 103. I did follow this up by sending an Email to ASBIT and also the HMD unit. We have no issue hearing the girls coming in. It's the continuing to party that's the problem. They are often noisy late at night into the early hours. These instances weren't the first and there have been more since.

We had the ceiling lowered in our bedroom with sound proofing insulation just so we could get a night's sleep earlier in the year. We have recently had the hall and a second bedroom done, with the third being done the beginning of November. This in total has cost us over £2500. This is still not enough. The flooring in number 44 needs to be replaced. The floor boards in the hallway need some attention and either a sound membrane or better-quality underlay and flooring is needed throughout the whole property. (We have recordings of what we can hear from below) We don't think this is too much to ask as it's their tenants that are causing problems- yet we are the ones paying for it.

This has really affected my mental health. I'm sometimes too tired to function and last year I was prescribed antidepressants. Our grandchildren won't stay over night as they are terrified. This was

thanks to the young men shouting and swearing through the night. Even sitting in the garden was uncomfortable this year due to this.

Yours sincerely

[REDACTED]
Hazel & David Tiffen

'C'

██████████
ABERDEEN

AB12 5QJ

Ref No HOU5458086003

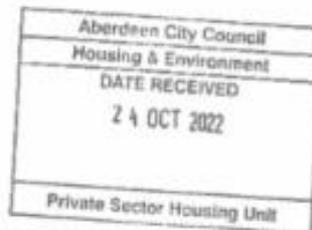
Dear Sir/ Madam,

I write with regard to the property at 44 Kincorth Place, ABERDEEN, AB12 5QJ. This property was granted an HMO licence several years ago and has been a problem since day one. The occupants have absolutely no regard for the other residents in this street who have mostly resided here for several decades. There is constant partying and shouting and swearing through open windows etc and we are all at a total loss as to why this licence was granted in a residential area. They party constantly and cause horrendous noise for the people downstairs. While this couple were on holiday I put their bin round the back of the house. While there I saw the upstairs bins overflowing and empty alcohol bottles strewn over the grass. There was also several plastic bags containing discarded food with a rat happily enjoying lunch. This situation is totally unacceptable and if nothing is done I intend to escalate my complaint to my local councillor who has revoked licences for other HMO properties in this street.

I look forward to a speedy and satisfactory response.

Yours sincerely

██████████
Janet Bruce



Aurélie Mercier

Ref: HOUS458086003

OCTOBER 26, 2022

Jocelyn Janssen

Business Hub 6, Broad Street, Aberdeen, AB10 1AB.

Dear Ms Janssen,

Thank you for forwarding the two letters of objection to the renewal of the HMO licence at 44 Kincoth Place. I do believe it is important that all parties are listened to. I will address the points raised, as well as give an overview of the situation from our perspective.

Letter from [REDACTED] Kincoth Place:

Firstly, we are under no obligation to let the flat individually by rooms or to a single group. This is dictated by the rental market more than anything else. To date we have done both, yet the downstairs neighbours have not been happy either way.

Regarding the group of students that rented the flat in August 2020, The ASBIT unit got in touch with us following Ms Tiffen's complaint and requested the tenants' contact details. I never saw any evidence of what Ms Tiffen described took place; however, we did make enquiries with the tenants and made it clear to them and their guarantors that any antisocial behaviour would be unacceptable. The tenants had a different version of the events. See attached document. We collaborated fully with the investigation. No letters or warnings due to high levels of noise were issued to us by the council or the police for this or any other event.

Following this, we let the flat to a group of workers instead, four of them to be clear. They worked long hours locally and often into the night. Mr Tiffen got in touch to complain about the level of noise and we investigated this. The tenants explained that sometimes they would finish work close to midnight and had to go home, eat and wash like everybody else. This was communicated to the neighbours. The long hours could also explain why it was difficult to meet them in person.

The council got in touch in November 2021 because the downstairs neighbours complained about noise until 5am. Once again, we investigated and the tenants told us they arrived late from work and were in bed by 2am. They did offer to go and apologise to the neighbours anyway but they also complained about the level of noise coming from downstairs early in the morning: "We also have a complaint, almost every morning at around 6 or 7am they put their TV on full blast and everyone can hear what

they are watching, by the way, they're watching 'Good Morning Britain' ". This is shown in the documents attached to this application.

Amongst the other complaints we received from our tenants about Mr and Ms Tiffen, one stands out. It is clearly coming from a young man who feels targeted by the neighbours and is deeply distressed: "while my girlfriend and I were asleep the neighbours banged my floor board not once or twice but 3 consecutive times really loudly and whether that's because we still had our TV on or not is not the point but the fact that it woke us both up and we struggled to get to sleep after thinking they were gonna do it again". We referred him to the ASBIT unit. You can also see the complaint to us and to the ASBIT unit in the attached documents.

The current tenants are a group of women. This is the first time we hear of any issues with them. Therefore, we ignore if any communication has taken place to solve any issues. One of the tenants has mental disabilities, so perhaps some compassion and clear communication would be more helpful than reporting them to the authorities.

Any alterations Mr and Ms Tiffen wish to make to their property for their own comfort is their choice. The flooring in our property was laid in line with the council requirements for an HMO licence and it was granted as such. The suggestion made by Mr and Ms Tiffen to reinsulate the flooring is not reasonable, they mention that they have insulated their ceiling but are not satisfied with the results obtained. Perhaps they should be addressing this issue with their contractor instead.

Certainly, everybody has the right to peacefully enjoy their home, this is true for Mr and Ms Tiffen and their grandchildren, but also for our tenants; all of which have expressed concerns about the downstairs neighbours. Furthermore, our tenants have even mentioned that Mr and Ms Tiffen have been very rude when describing us to them for no apparent reason, which is unacceptable.

Letter from [REDACTED]

This letter is evidently written in complicity with the neighbours from [REDACTED]. Regrettably, it does not provide any specific information or evidence of events that we could investigate. This neighbour has never approached us to express their concerns and the council has never got in touch about such issues.

The incident mentioned about the rubbish within our private garden happened in August during the bin collection strikes. The council specifically asked residents not to put additional rubbish bags out as they needed to clear the backlog. The tenants put excess rubbish in the back garden and we had a contractor take all of it to the recycling centre straight away and at our own cost. This is by no means a recurrent or long-term issue. It was caused by the strikes and was solved promptly.

To conclude and for the avoidance of doubt we have never received a letter of complaint or warning from the council, or any other agency, regarding noise at 44 Kincoth Place or for any other issue.

Yours faithfully,

Anne Mercier



Aurelie Mercier

Re: Antisocial behaviour 44 Kincorth Place

1 message

Tue, Jun 22, 2021 at 9:32 AM

Hello

Thanks for getting in touch and providing some background on this matter. It is good to listen to both sides of the conflict.

Going forward, the council is due to finalise their investigation and I expect that they will get back to all parties involved with their findings and feedback.

In the meantime, thank you for your support on this.

Aurelie

On Mon, Jun 21, 2021 at 6:06 PM wrote:

Hi Aurelie

In response to the allegations, I wish to voice my opinion on this matter. It would appear that the neighbours (directly downstairs) have been apprehensive of the residents since Day 1 of moving in, complaining that the garden would end up in a mess due to it being four young men staying there. In response to the complaints below -

1. Ever since moving in August 2020 we have had to go to the door several times to ask them to keep the noise down. This falls on deaf ears and the noise just continues until 5-6am in the morning. Every time they have asked, the music has been turned down or switch off and therefore it must be voice noise continuing.
2. Throughout December they would come in between 2-6am waking us up. Unfortunately, complaints are made when they go out and also when they come in, and therefore not a valid point.
3. On 12th Feb they had another party which was so bad I reported it to Police. Yes, the Police arrived and looked around the flat, found only 5 people in there and not the 30 people which had been reported to them. They asked them to turn down the music which they did and the matter appeared resolved. It would appear as far as the boys were concerned the matter had ended as the Police did not return.
4. On 5th March when they decided to climb out of the windows on to the ledge after midnight chanting and swearing. I cannot condone this behaviour and talking to my son they realised how dangerous this was and apologised straight away to the neighbours who accepted an apology. There was youthful banter amongst themselves, however they deny that any "chanting" took place.
5. They game with headsets and you can hear them shouting and swearing through our whole house at all hours. They accept they are gaming however not late into the night and never past 11pm. The walls in the flat must be thin as equally, noise can be heard from downstairs which the boys could have made complaints about too. However, they do not want to upset their neighbours and have tried to appease them on every occasion. (as detailed above). They have spoken to them and been obliging whenever possible by taking in parcels etc for them. Any conversation which has taken place outside the flat has always been positive and friendly.

6. Last night was the last straw with them chanting and swearing until the early hours of this morning. I had to get up for work at 6.30am after being kept awake until 5am. Boys accept they were up late but were not chanting. They were in the kitchen talking, and having seen around the flat the noise in this area will be heard as the floor is laminate.

I appreciate that you are caught in the middle of this and the boys will consider their actions in the future.

Regards

[REDACTED]

Sent from my iPhone

On 17 Jun 2021, at 19:39, feel@home [REDACTED] wrote:

Hello everyone,

This is to let you know that Aberdeen Council's Antisocial Behaviour unit got in touch with us yesterday to let us know that they have initiated an Antisocial Behaviour investigation against you, the residents of 44 Kincoth Place, following a complaint from your neighbours.

Some of the items listed in the neighbour's complaint are:

1. Ever since moving in August 2020 we have had to go to the door several times to ask them to keep the noise down. This falls on deaf ears and the noise just continues until 5-6am in the morning.
2. Throughout December they would come in between 2-6am waking us up.
3. On 12th Feb they had another party which was so bad I reported it to Police.
4. On 5th March when they decided to climb out of the windows on to the ledge after midnight chanting and swearing.
5. They game with headsets and you can hear them shouting and swearing through our whole house at all hours.
6. Last night was the last straw with them chanting and swearing until the early hours of this morning. I had to get up for work at 6.30am after being kept awake until 5am.

The council might get in touch with you directly to understand your version of the events and establish the facts of this complaint.

Our position based on the information provided by the council is that you are within your rights to come and go from your home at whatever hour of the day or night you wish, however, you must display courtesy to your neighbours and do so quietly. The same goes for day to day living.

Furthermore, I think we can all agree that some of the items above are out of order, namely, the police being called because of a party and climbing out of the windows to chant and swear on the ledge, which is also dangerous.

If there is another complaint of this nature the council will withdraw the HMO licence under which you live; this will result in you having to vacate the property immediately as it will become unlicensed.

Even though the accuracy of some of the items in this complaint is yet to be established by the council, this is extremely disappointing behaviour. I cannot stress enough that this simply cannot happen again and that you must respect your neighbours and be considerate with the level of noise and behaviour at all times.

I trust that this will not happen again.
Aurelie

Re: Neighbours complaint

1 message

To: "feel@home" [REDACTED]

Fri, Nov 19, 2021 at 4:26 PM

Thank you for your understanding.

Kind regards [REDACTED]

On Fri, 19 Nov 2021, 13:18 feel@home, [REDACTED] wrote:

Thanks for the feedback. We wanted to understand what the issue was. Thanks also for going down and discussing it with the neighbours, I find that most issues like this can be solved by having a chat.

I agree with you though, coming into your home at 11pm or any other time shouldn't be a problem when it is done quietly.

I will let the council know that we had a chat and that you also have important points to raise.

Regards
Aurelie

On Thu, Nov 18, 2021 at 11:04 PM [REDACTED] wrote:

Sorry, forgot to mention, nobody was up at 5am, I was the last one to go to bed and that was 2am.

Sorry again.

Kind regards [REDACTED]

On Thu, 18 Nov 2021, 21:49 [REDACTED] wrote:

I will go down tomorrow, apologise and give them a gift, but coming home from work at 11pm should not be a problem and also we had no music playing at night. We also have a complaint, almost every morning at around 6 or 7am they put their TV on full blast and everyone can hear what they are watching, by the way, they're watching 'Good Morning Britain' or sometimes you can feel the floor shaking in the morning and we don't know what they are doing. Karol sometimes goes to his girlfriend house to get some sleep due to this.

Sorry about this, we don't like to complain and also we don't want to cause you and the neighbours any problems.

Kind regards [REDACTED]

On Thu, 18 Nov 2021, 17:45 feel@home, [REDACTED] wrote:

Hello everybody

The council got in touch today because the downstairs neighbour contacted them to complain about you arriving home at 11:45pm last night, listening to music, "loud banter" and banging doors until 5am.

So, I wanted to get in touch with you to find out what happened and generally to hear your version of the events.

Thanks in advance
Aurelie

26/10/2022, 22:48

Gmail - Neighbours

Neighbours

1 message

Wed, Feb 16, 2022 at 2:07 PM

Hi Aurelie,

I hope you are doing well. I'm really sorry to be emailing you about this again but I'd like to raise a complaint whether that's to the council or to you. I spend 5 out of 7 days over at my girlfriend's apartment so that I don't have to deal with the neighbours and their banging into my floor board but my girlfriend and I came over last night to spend a night here since I'm paying rent I thought I should spend some time here and while my girlfriend and I were asleep the neighbours banged my floor board not once or twice but 8 consecutive times really loudly and whether that's because we still had our TV on or not is not the point but the fact that it woke us both up and we struggled to get to sleep after thinking they were gonna do it again.

I do not believe we are being loud at all but I still keep my music, TV, gaming and even my own voice level to the absolute minimum but clearly nothing is working and I've been pushed to my last straw after last night. So I'm emailing to find out how I can raise a complaint towards their behaviour and where I can complete that, thank you and I'm sorry to be emailing for a third time about this.

Kind regards,
[REDACTED]



Aurélie Mercier

Neighbours

1 message

Wed, Feb 16, 2022 at 8:03 PM

Good evening,

I have been directed to you by my landlord as I have a complaint I'd like to raise towards my neighbours, I live at 44th kinoroth place along with my 3 friends and the complaint I'd like to raise is that my neighbours constantly bang my floor boards which has caused distress to my and my girlfriend who stays some night with me, but recently I have been forced to spend at least 5 out of 7 days at my girlfriends due to the fact that I don't want to have to deal with my neighbours banging my floor every night that I'm spending.

Now I understand maybe sometimes my television could be loud and out of courtesy I have turned my volume down to a minimum, this includes the volume at which I speak and any music I have on but this does not matter anymore as I get bangs to my floorboard if any noise reaches a volume at which they are not happy with. These hits to the floor board can be heard by all my colleagues and even wakes them up sometimes.

Because of this I avoid sleeping in the apartment at which I pay rent so that I can avoid any trouble from them but last night I have reached my limit as I was fast asleep with my girlfriend and we both woke up from 8 very loud consecutive hits to the floor board now whether this is due to my television still being on is irrelevant as there's no need for waking us and making it hard for us to sleep after being afraid in case we hear it again. We are both aggravated from this.

This is not the first time as we have had many hits to the floor board and even a complaint coming from them as one of my colleagues came home from work at around 11, this complaint has no grounds and they're just looking for reasons to complain, and I have also received hits from the floor for pathetic reason like going to the bathroom.

This is not the first complaint I have made in fact I had several chances to complain but decided that I may have been in the wrong, although recently I now know that I wasn't and that they are looking for any reasons possible to hit the floor board.

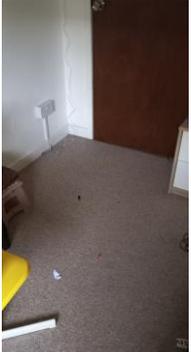
I hope that in some way you can help me with this situation, thank you and hope to be hearing from you.

Kind regards,


Address - 44 Kincorth Place, Aberdeen, AB12 5QJ

Application – HOUS45806003

Property – Upper flat, 4 Bedrooms, Bathroom, Lounge/kitchen.

Location	Situation at visit	
Bedroom 1	Normal quality carpeting. No evidence of creaking of floorboards when moving about room at time of visit.	
Bedroom 2	Normal quality carpeting. No evidence of creaking of floorboards when moving about room at time of visit.	
Bedroom 3	Normal quality carpeting. No evidence of creaking of floorboards when moving about room at time of visit.	
Bedroom 4	Normal quality carpeting. No evidence of creaking of floorboards when moving about room at time of visit.	
Hallway	Normal quality carpeting. Some evidence of creaking floorboards at entrance to lounge/kitchen as seen at top of photograph.	

<p>Bathroom</p>	<p>Linoleum floor covering – no evidence of creaking floorboards at time of visit.</p>	
<p>Lounge/Kitchen</p>	<p>Linoleum Flooring. No evidence of floorboard creaking.</p> <p>Suspect may be above lounge for downstairs property and may historically have been converted to lounge /kitchen to provide fourth bedroom? Possibility of some structure borne footfall but nothing more than what would be reasonably expected in a flatted property.</p>	
<p>Back Garden</p>	<p>No evidence of overflowing bins, area appeared well kept at time of visit.</p>	
<p>Side Garden</p>	<p>Area appeared well kept at time of visit.</p>	