

LICENSING COMMITTEE INFORMATION SHEET

25 January 2023

Public Application

TYPE OF APPLICATION: HMO LICENCE APPLICATION (RENEWAL)

APPLICANT: BRIAN JOHNSTON

AGENT: WINCHESTERS LETTINGS

ADDRESS: 108 BANNERMILL PLACE, ABERDEEN

INFORMATION NOTE

This HMO licence application is on the agenda of the Licensing Committee for the reason that 1 representation/objection e-mail 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 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 property at No.108 Bannermill Place, Aberdeen, is the subject of this renewal HMO licence application and its accommodation comprises 3 letting bedrooms, lounge, kitchen and bathroom. The applicant wishes to accommodate a maximum of 3 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 Robert Kerr (Attached as Appendix B)

The objection was 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'](#)

GROUNDS 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.108 Bannermill Place.
- The Council's Anti-Social Behaviour Investigation Team (ASBIT) has no record of any complaints in respect of No.108 Bannermill Place.
- All upgrading work required by the HMO Officer, including certification, has not yet been completed.
- There are currently 18 HMO licensed properties in Bannermill Place, ie. No 6, 36, 45, 49, 52, 53, 88, 103, 108, 153, 154, 155, 160, 165, 166, 171, 172 and 178.
- The applicant was first granted an HMO licence for No.108 Bannermill Place in October 2016 and the application under consideration is the second renewal application.
- The objection mentions a Notice of Display. The Notice was displayed on 5 December 2022 on a nearby lamppost. Pictures were taken by the Inspecting Officer (Appendix C). The legislation only requires the Notice to be displayed "on or near" the premises.

- 'Overprovision' is a statutory ground of refusal of an HMO licence application, however this ground of refusal is not available to the Committee for the reason that an 'Overprovision' policy is not currently in force at Aberdeen City Council.
- The information within the Deed of Conditions is not a ground for refusing an HMO licence within the statutory guidance. Licensing cannot be used to enforce other legal issues and that would have to be enforced via other means.

'B'

MY OBJECTION TO GRANTING HMO LICENCE FOR 108 BANNERMILL PLACE BY ABERDEEN CITY COUNCIL

FROM ROBERT KERR, OWNER AND OCCUPIER OF [REDACTED]

21/12/22

PREAMBLE

Apologies for the lack of formatting but I could not find a specific 'form' for this. Hopefully my document will be sufficient. I also apologise for being unable to include all that I want to be taken into account by the panel as I am awaiting additional information from the Council regarding overprovision of HMOs. Until I receive a response to my freedom of information request there are still unknowns to be accounted for. Finally, and this is not a complaint but feedback, I would give attention to the difficulties in being an 'objector'. Your HMO Unit will be able to provide fuller details but here is the short version. The 21day notice system is not being applied in accordance with information provided on the Council website. Notices are posted in remote and inaccessible area so are impossible to read without having to penetrate aggressive, overgrown thorny bushes. Associated with this is the lack of a practical navigation facility on the Council website for HMO applications.

BASIS OF MY OBJECTION

I have limited this to the permissible areas for Objection of i.e. A) **Suitability** of Accommodation and B) **Overprovision**, under the 2006 Act.

Suitability of the accommodation to be licenced includes several categories. The one I raise is 'The Condition of the Property'. The Title Deed I received as part of my purchase of [REDACTED] lists several conditions that are community burdens benefiting and burdening each property equally. They set procedures to be followed by the owners in making decisions about matters affecting the Bannermill Community. These include where things can be stored, how things should be maintained, how the common garden area should be replanted, the use of the individually owned car parking space (every property has a specific one) and the type of vehicles that can be parked there, what animals can be kept in the property, how properties may be divided and who may live there, what can be added or not added to the structure, drying lines, posters and so on. When I raised this with the HMO Unit, they said that these were not the Conditions meant in the 2006 Act so would not be considered as grounds for objection. I have searched extensively to see if there is anything to back this up but so far have found nothing so believe they are relevant.

I would have thought that if Councils had the power to erase these conditions there would be some record or discussion of doing that. The impact of such a measure, taken by the Council would be huge, effecting not only 108 Bannermill but all other Bannermill properties. Even beyond that, all of Aberdeen, those in Community

Developments would lose the benefit of similar conditions. I should highlight here that these conditions are benefits at a cost included in the purchase price I paid (JQT in effect).

Overprovision is clearly a matter to be considered under the 2006 Act as The Council can refuse a licence on these grounds. From my own research I believe that there is now an overprovision of HMOs across the City with the area including Bannermill being one of the most overprovided in spite of a decreasing

demand. This is the subject that I am awaiting information (via FOI request) to see if the Council has more up to date information and if so what is the current state of HMO Supply and Demand (the most up to date figures I have are 5 years old). If the Council decides to consider or not to consider the question of Overprovision I would like to know what data they are relying on.

SUMMARY OF MY OBJECTION

I believe that it is wrong for the Council to assume that conditions clearly defined in the Community Title Deeds are irrelevant to HMO application as conditions. The 2006 Act does not make that distinction.

I would like to request that the Council properly considers the Overprovision situation in the City for this application.

[REDACTED]

[REDACTED]

21/12/22

'C'





Housing (Scotland) Act 2006

APPLICATION FOR A LICENCE FOR A HOUSE

BEY GIVEN that an application has been submitted for a House in Multiple Occupation (HMO) in respect of

108 Bannermill Place, Aberdeen AB24 5EE

HOUS452916748

ADDRESS OF APPLICANT¹

Mr Brian Johnston

1 Hoy Terrace, Thurso, KW14 7PH

ADDRESS OF AGENT (WHERE APPLICABLE)²

Winchesters Lettings

7 Albert Street, Aberdeen, AB25 1XX

DATE OF APPLICATION MADE

2022-09-20

about the application must -
The following information must be set out the name and address of the person making the application on behalf and (d) be submitted to the HMO Licensing Officer, Aberdeen City Council, Business Hub 6, First Floor South, Marischal College, Aberdeen, AB9 8QJ, no later than 21 days from the date on which the application is given to the applicant, it will also be considered as part of the public agenda for Licensing Officers. The application must be submitted in hardcopy and on the Aberdeen City Council website. If the applicant is an individual this is their name and address (if a company or partnership) then it is the name of the company or partnership. If the applicant is an individual this is their name and address (if a company or partnership) it is the name of the body or partnership.

