

The Highland Licensing Committee

Meeting – 13 May 2014

Agenda Item	6.1
Report No	HLC/029/14

Application for the Grant of a licence for a House in Multiple Occupation – 35 Glenurquhart Road, Inverness (Ward 14 – Inverness West)

Report by the Legal Manager

Summary

This Report relates to an application for a licence for a house in multiple occupation.

This application is subject to a formal hearing procedure.

1.0 Background

1.1 The licensing of houses in multiple occupation is an activity covered under Part 5 of the Housing (Scotland) Act 2006. The licensing of this activity became mandatory on 1 October 2000 and from this date all houses in multiple occupation which had six or more persons residing at the premises required to be licensed. This limit or threshold has been reduced and now applies to properties with three or more unrelated persons.

1.2 An HMO is defined as living accommodation in which 3 or more unrelated adults live and share one or more of the basic amenities which are a toilet, personal washing facilities and facilities for the preparation or provision of cooked food. It must be their only or main residence.

2.0 Application

2.1 On 10 March 2014 an application for the grant of a licence in respect of a House in Multiple Occupation was received from Inverness City Apartments. The applicants have declared that the Highland Homeless Trust will be responsible for the day to day management of the premises.

2.2 The property to which the application relates is 35 Glenurquhart Road, Inverness. The maximum number of persons applied for to reside at the property is 9.

2.3 A location plan is appended for Members information (Appendix 1).

3.0 Process

3.1 Following receipt of this application a copy of the same was circulated to the following Agencies/Services for consultation:

- Police Scotland
- Scottish Fire and Rescue Service
- Highland Council Environmental Health Service
- Highland Council Building Standards Service
- Highland Council Planning Service
- Highland Council Housing Service

3.2 Confirmation has been received from Police Scotland, Fire and Rescue Service, Environmental Health Service, Building Standards Service and the Planning Service that they have no objections to the application.

3.3 Any documents or certificates required by the remaining Services will be requested from the applicant should the Committee be minded to grant the application.

4.0 Objections

4.1 In terms of Section 4(2) of Schedule 4 of the Housing (Scotland) Act 2006 any objection or representation in relation to an application requires to be submitted within 21 days of the application being made.

4.2 Two letters of objections have been received in relation to the application which are attached in Appendix 2.

4.3 A petition, objecting to the application, has also been received, and is attached in Appendix 3.

4.4 In terms of the abovementioned legislation all persons who provided their name and address and signed the petition have the right to be heard by the Committee. Therefore those who provided the above details have been invited to attend the meeting.

5.0 Hearing

5.1 In accordance with the Act both the applicant and objectors have been invited to attend the meeting and will be provided with an opportunity to address the Committee through the attached hearing procedure.

6.0 Determining Issues

6.1 Section 130 of Part 5 of Housing (Scotland) Act 2006 states that a Licensing Authority may refuse to grant a licence where the applicant or anyone else detailed on the application is not a fit and proper person.

6.2 Section 131 of the same Act also states that a Licensing Authority may grant a licence only if it considers that the living accommodation concerned is:

- (a) is suitable for occupation as an HMO, or
- (b) can be made so suitable by including conditions in the HMO licence.

and in determining whether any living accommodation is, or can be made to be, suitable for occupation as an HMO the local authority must consider—

- (a) its location,
- (b) its condition,
- (c) any amenities it contains,
- (d) the type and number of persons likely to occupy it,
- (da) whether any rooms within it have been subdivided,
- (db) whether any rooms within it have been adapted and that has resulted in an alteration to the situation of the water and drainage pipes within it,
- (e) the safety and security of persons likely to occupy it, and
- (f) the possibility of undue public nuisance.

6.3 If required the Legal Manager will offer particular advice on the criteria relating to this particular application.

7.0 Policies

7.1 The following policies are relevant to this application:

Highland Council HMO Conditions and Standards. A copy of these can be accessed at:

<http://www.highland.gov.uk/businessinformation/licensing/civ-gov-lic-hmo.htm>
or a hard copy can be supplied where requested.

8.0 Other Requirements

8.1 If members are minded to grant the application delegated powers should be given to the Legal Manager to issue the licence once any requirement required by the Services details in Paragraph 3.1 of the report have been completed.

9.0 Recommendation

Members are **invited** to give consideration to the above application.

If Members are minded to grant the licence, agreement in principal could be given that the licence be issued by the Legal Manager using delegated powers once any works, documents and certification has been received.

Alternatively the Committee may wish to refuse the application on one of the grounds detailed in paragraphs 6.1 and 6.2 of the report.

Designation: Legal Manager

Officer Reference: Michael Elsey

Date: 23 April 2014

Attachments: Appendix 1 – Location plan of premises
Appendix 2 – Letters of objection
Appendix 3 – Copy of petition



35 Glenurquhart Road, Inverness
Scale 1:1500

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33 Glenurquhart Road
Inverness
IV3 5NZ

Michael Elsey,
The Highland Council,
Town House,
Inverness,
IV1 1JJ.
Tel: 01349 886609

Formal Objection to HMO Licence Application 35 Glenurquhart Road

Hello Mike,

We write to formally object to the HMO Licence application for 35 Glenurquhart Road on the grounds that this is likely to cause the possibility of undue public nuisance. Although Inverness City Apartments have now agreed to provide live-in wardens we feel that, as a minimum, CCTV cameras would be required. As you are aware there have already been issues about anti-social behaviour from residents of No 35 which have caused distress to vulnerable elderly neighbours. Although there is now boundary fencing at the back, we are concerned that the wall along the length of the boundary between our house & No. 35 is at an inadequate height (~3ft, at sitting height). This wall is simply not high enough to provide any reassurance of privacy or security for us as residents of No 33.

We realise that local residents cannot have a veto on the change of use of adjacent buildings and we have empathy for people who find themselves housed in HMOs. However as existing residents, who also operate a B&B, we also have a right to quiet enjoyment of our own property.

We have no confidence that Inverness City Apartments can guarantee that undue public nuisance will not be caused as a result of this HMO Licence and therefore object to the licence being granted.

regards,

Evelyn Girvan

Clive Girvan

Michael Elsey
Senior Licensing Officer
Highland Council
Town House
Inverness,
IV1 1JJ

Dear Mr Elsey,

License Application for HMO at 35 Glenurquhart Road, Inverness

As owners of neighbouring property, please find attached our objections and comments on the above referenced HMO license application.

Due to vacation, I should be grateful if you can direct any correspondence regarding the license application to our son's address:

c/o Paul Fraser
Maskee
11 Bellfield Park
Inverness IV2 4SZ

Many thanks.

Yours sincerely,

17/03/2014

Bill Fraser & Mary Fraser

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Objections to and Comments on the License Application for a House in Multiple Occupation at 35 Glenurquhart Road, Inverness

Dear Sir / Madam,

As the owners of neighbouring property, I wish to object to the above HMO license application for No 35 Glenurquhart Road, Inverness. Grounds for objection and associated comments are detailed below:

Background and Comment

The property at No 35 was a small family home located in a residential area which was ultimately acquired by developers following the death of the occupants. Since that time the site has been subject to development "creep" and currently comprises three commercial rental units (front house No 35, rear house comprising No 35A and 35B) all operated by the same owner. Garden and amenity space have been seriously compromised and the Planning Authority advise that planning permission was not sought or obtained from Highland Council to convert the rear property into two letting units, nor was an HMO license obtained. It also appears that significant structural changes from the approved holiday accommodation plans, to reflect current HMO proposals, were made prior to the first submission for an HMO license at the end of 2013 and before planning approval was sought.

The front house (No 35) was significantly extended for the purpose of holiday accommodation but was never used for that purpose and remains empty, despite the extensive lobbying of neighbours by the owners to support their holiday accommodation proposals. In contrast, the HMO application came out of the blue, with not so much as a whisper from the owners. The perceived lack of transparency and common courtesy extended to neighbours flies in the face of the good neighbourly relations which exists within the locality, and creates a lack of trust in the owners' ability to run a successful HMO of this size within an established residential community.

It is also worth noting that the number of HMO bedroom units is greater than that which was approved for the holiday accommodation. Indeed, initial plans for holiday accommodation which contained seven bedrooms were rejected for a number of reasons, including "unacceptable intensification in use, and overdevelopment of the site". One would therefore question the logic of an increase in bedroom capacity for the HMO.

HMO Impact Assessment

The established neighbourhood is characterised by residential family homes, both owner occupied and rented; traditional bed and breakfast businesses, and a mix of age groups, including senior citizens and young children. It is a mixed and balanced community where an excellent neighbourly spirit prevails. There are also a number of HMO's within the locality.

Any expansion of HMO accommodation requires careful consideration. Effective HMO integration can only be achieved if the sensitivities of residents are taken fully into consideration, as well as the needs of the homeless. Proposals to house significant numbers of homeless people in a single dwelling at No 35 are not sensitive or sympathetic to local residents amenity, site amenity of tenants, or to the character of the area. The proposals are a recipe for future problems and serious concern is expressed about the general principle of HMO suitability at this site.

Evidence suggests that the concentration of HMO accommodation can have a significant negative impact in terms of increased crime, noise, and disturbance in the areas where they are located. Guidelines on what constitutes excessive concentration in a census output area

should not be viewed in isolation. At the micro level, concentration of numbers within a specific site can also have the same negative impact on immediate residents and should not be ignored. Further, rules restricting the number of persons occupying a property are generally ineffective unless 24 hour on-site professional supervision is provided and monitored by the authorities for compliance.

Problems encountered are often caused by the activity of unrelated people living together in numbers, some with significant problems of addiction and mental health issues. Such a collective group of individuals with different lifestyles and different patterns of behaviour, can result in frequent comings and goings with associated excessive noise and disturbance. This in turn can have a detrimental impact upon the amenity of tenants at the HMO property and neighbouring residents.

HMOs are also likely to attract those who are transient, who will live in the property for a comparatively short period of time and consequently, may not have the same interest in the well being of the community as those who are more permanent. This cyclical change in occupants can have a negative impact upon both residential amenity and, often due to poor or no on-site management, have a detrimental effect on the character and appearance of an area.

Unfortunately, the potential for anti social behaviour noted above, resonates with neighbours due to problems experienced in the recent past with regard to previous tenants / occupants of No 35 under the current owners. Windows were broken, there was excessive noise and ongoing disturbance, and the police were frequent visitors to the property. The management of the tenancy and the site in general, was very poor. Older residents in the immediate area of No 35 were often left in a state of alarm as a result of the anti social behaviour.

Feeling comfortable in your own neighbourhood; the absence of threat, real or imagined, are important aspects of an individual's rights within society and their residential amenity. From a resident's perspective, there is a significant difference between the provision of holiday accommodation to tourists visiting the city on holiday (as was originally proposed), and providing accommodation for homeless people in such numbers. The provision of HMO accommodation is a much more sensitive issue for neighbouring properties and carries much more risk to residential amenity and preserving the character of the locality; particularly where there are significant numbers of individuals residing at one location.

I am strongly of the opinion that the proposed use of No 35 Glenurquhart Road as a house in multiple occupation for the homeless, comprising seven double bedroom units, will result in an unsympathetic and over intensive use of the property for a purpose which will have a significant detrimental impact upon the amenity of occupants of No 35, neighbouring residents, their families, and the character of the area.

Suitability of Applicants

Serious question marks are placed over the applicants' suitability to be granted a license at this site due to:

- Failure to respond within acceptable timescales to acts of anti social behaviour by previous tenants at No 35 Glenurquhart Rd (refer comments under HMO impact assessment)
- Poor past record in maintaining expected standards at No 35 and completing repairs in a timely manner (e.g. broken window, garden not maintained for months). The dilapidated state of the property at times caused much concern amongst neighbours.
- Lack of dialogue with neighbours re recent HMO application and lack of sensitivity to neighbours amenity. (refer background and comment section).
- Apparent planning "oversights" at the site (refer background and comment section)

Internal / External Layout of No 35

Concern is expressed at the lack of internal and external amenity space at the property as well as the suitability of kitchen accommodation for the potential number of tenants occupying No 35.

Parking and Road Safety Issues:

There appears to be insufficient parking spaces to accommodate the number of potential residents, and additional visitors to No 35. Parking also appears to be extremely tight for the current number of vehicles shown on the plan, and a question mark is raised over the size of the turning circle, to allow vehicles to enter and exit the site front facing. Concern is also raised over the safety of parking and the movement of a significant number of cars in a compact site which accommodates so many residents. It is believed that there are also safety issues regarding the number of vehicles accessing and exiting this property from the very busy trunk road. It should also be borne in mind that cars access the rear property housing No 35A and 35B via a shared drive with No33, it is understood that the shared access was granted for use by a single dwelling house only.

Yours sincerely,

WILLIAM R FRASER

Mary L Fraser

17/03/2014