The Highland Licensing Committee	Agenda Item	7.1
Meeting – 17 June 2014	Report No	HLC/038/14

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 1st 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.
- **1.3** Members may recall that an application for the same type of licence in relation to the same premises was withdrawn at the last meeting of the Committee held on 13th May 2014.

2.0 Application

- **2.1** On 14th May 2014 an application for the grant of a licence in respect of a House in Multiple Occupation was received from Marilyn Rattray. The applicant has 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 6.
- **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** Three letters of objection 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** One of the Objectors has also asked that the previous petition submitted be considered in relation to this new application and in view of this has also been attached in Appendix 3.
- **4.5** Of the 39 signatures listed on the most recent petition, 12 of these are duplicates from the original petition submitted.
- **4.6** 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:
 - (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 accessed at: <u>http://www.highland.gov.uk/businessinformation/licensing/civ-gov-lic-hmo.htm</u> 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 and any relevant documents and certification submitted.

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.

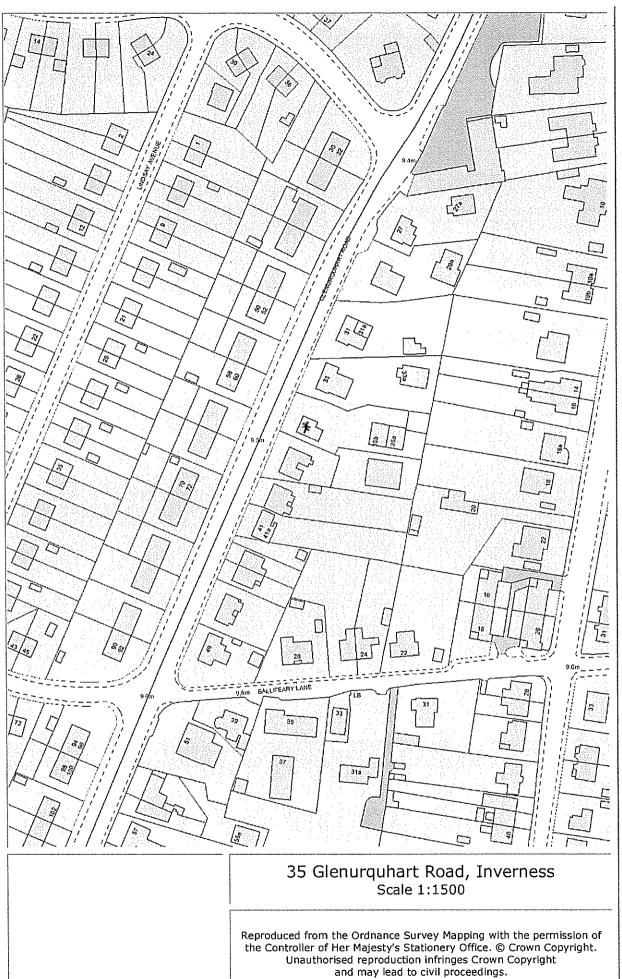
Alternatively the Committee may wish to refuse the application on one of the grounds detailed in paragraphs 6.1 and 6.2 of the report.

Designation: Legal Manager

Officer Reference: Michael Elsey

Date: 4th June 2014

Attachments: Appendix 1 – Location plan of premises Appendix 2 – Letters of objections Appendix 3 – Copy of petitions



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Legal Manager

Town House

Inverness

I write to formally object to the granting of a House of Multiple Occupation Licence at 35 Glenurguhart Road, Inverness.

My reasons for objection are as follows.

- The premises are not of adequate size to meet the criteria for the number of residents proposed (7 residents including a 24 hour warden service) as the kitchen space available is too small to accommodate the requisite number of appliances and food storage facilities as per the stated guidelines.
- 2. As the application proposal is to let the premises to the Homeless Trust, the residents may have additional support needs and this puts further pressure on the limited accommodation space.

The number of residents therefore needs to be reduced appropriately to the size of the accommodation available.

3. Although 5 parking spaces have been identified, there are not sufficient spaces for potentially 7 people and visitors. This would inevitably lead to car parking on Glenurquhart Road which is located on the very busy A82 trunk road, thereby causing difficulties for both local residents and through traffic.

It should also be noted this is a shared driveway with a house to the rear and one adjacent to the property, also potentially creating considerable traffic movement and disturbance.

4. It is recognised that several unrelated residents living in HMO accommodation can often result in altercations occurring. This can be extremely distressing for the other residents within an HMO and also to surrounding neighbours.

In order to protect both the residents of the HMO (if a licence is granted) and the nearby neighbours, a security camera system should be installed. This should record activity both within public areas inside the HMO and also the outside of the premises covering all the grounds. This would offer some peace of mind for people in neighbouring properties that any incidents could be captured on camera. It would also act as a security measure for the residents of the HMO.

Yours sincerely

Graham Ross May 29th 2014

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

Dear Sir / Madam,

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

Objections

As local residents become more aware of what is proposed for No 35, and its implications, there is a strong and growing support for the objections. Earlier in May 2014 a petition was signed by more than sixty people voicing their objection to the granting of an HMO license.

Local Community

The local community is an established neighbourhood characterised by residential family homes, both owner occupied and rented; traditional bed and breakfast businesses; and a mix of age groups. An excellent neighbourly spirit prevails. There are a number of small HMO's but none of the type and scale proposed for No 35.

Concern is expressed that No 35, its facilities, security and 24 hour professional supervision arrangements, are not suitable to meet the special needs of the proposed number of unrelated individuals that will be occupying the property, some with potentially significant problems of addiction and mental health issues. The limited internal and external amenity space available at the property should be of particular concern to the License Committee. The close proximity to a very busy main road and heavy use by pedestrians, including children attending the local primary school, should also raise alarm bells.

Boundary Issues

The site at No 35 comprises an extended front property (No 35) and a rear bungalow which was subdivided for rental into 35A and 35B. The boundary between the front and rear properties has been "flexible" over the period of ownership by the applicant and business associates. The boundaries were conveniently adjusted to favour the planning application being made at the time. The current physical boundary has significantly eroded the plot size allocated to the rear dwelling in favour of No 35. The reduced plot size for the rear property bears no relation to that approved when planning permission was granted a few years ago.

Frequent requests to consider the site as a whole when addressing specific planning applications fell on deaf ears, resulting in development creep and intensification of use at the site. The current situation is the worst of both worlds as both properties are left with virtually no amenity space. For No 35 this has particular relevance to its suitability for an HMO of the type and numbers proposed.

Planning Breaches at the Site

<u>No 35</u>

No 35 received planning permission for holiday accommodation use but was never used for that purpose and was subsequently converted, without the necessary planning approvals, to cater for HMO accommodation. The planning breach was highlighted by neighbours but to their disappointment, retrospective planning permission was eventually granted. Rear Property

In response to a query, the Planning Department advised that planning permission was not sought nor was in place for the subdivision of the rear property into two letting units 35A and 35B. Indeed, the Planning Department have stated that had there been any application for subdivision of the property it would not have been supported. This breach of planning control resulted in the Planning Department requiring the property to revert back to a single dwelling.

No HMO license was sought nor granted for the rear property.

HMO License Applications

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Having to seek retrospective planning permission for No 35 resulted in the initial HMO application having to be withdrawn. A further application for an HMO License was also withdrawn when it was pointed out that the application was not submitted in the name of the owner, but in the name of Inverness City Apartments.

Public Nuisance and Vandalism

Significant problems were experienced over recent years with regard to previous occupants at No 35. Issues related to broken windows, frequent excessive noise and disturbance, and police visits. The management of the tenancy and the site in general was considered to be very poor. Older neighbours were often left in a state of alarm as a result of the anti social behaviour.

Perspective of Neighbours and Local Residents

Although neighbours preference was for No 35 to remain as a family home they were reasonably sympathetic to the promise by the owners that conversion to quality holiday accommodation would be in keeping with B & Bs in the area and would be beneficial to the local community. If nothing else it was also seen as a vast improvement to what was rapidly becoming a local eyesore through the neglect of the owners.

In contrast to the strong canvassing of support by the owners for holiday accommodation, the application for an HMO license came completely out of the blue without so much as a whisper from the applicants. The lack of dialogue angered local residents as the applicant's actions were viewed as "underhand".

From a local resident's point of view there is a significant difference between the provision of quality holiday accommodation within the locality; to providing accommodation in numbers for homeless and vulnerable adults. The latter is a much more sensitive issue where problems both locally and nationally are well documented. It can only be hoped that lessons will be learned from past mistakes, and greater emphasis will be given to the views expressed by neighbours and local residents. After all is said and done it is the local community and not the decision makers who have to live with the aftermath of the decisions taken.

Voice of Neighbours and Local Residents

To date however, there is a growing anger and frustration that the voice of the local community has not been listened to by the decision makers. It is as if in trying to address the homeless issue the council's agencies are pursuing a "house at any cost approach" and have developed a blind spot to the anxiety of neighbours and the problems associated with the concentration of unrelated HMO residents in a specific location or site..

Effective HMO integration can only be achieved if the sensitivities and views of neighbours and the wider local community are taken fully into consideration; it is very much a balancing act to get a win / win situation. There is a desperate need for our decision takers to "think out of the box" and apply innovative solutions to the homeless issue and not continue to go down the same old path, make the same old mistakes, and antagonise the vast majority of local residents, by well meant but insensitive decision taking.

Feeling comfortable in your own neighbourhood; the absence of threat, real or imagined, are important aspects of an individuals rights to the quiet enjoyment of their property. Protection of those rights by the Local Authority is vitally important to the health of any society or community and should not be ignored or relaxed in any way.

Conclusion

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Serious concerns have been expressed in this document in relation to the applicant and business associates; together with concerns over the suitability of the property, accommodation, and the site for the purpose intended. The License Committee are strongly urged to reject the HMO License application for No 35 Glenurquhart Road in accordance with sections 130 and 131 of the Housing (Scotland) Act 2006 – Part 5.

As far as the applicant and business associates are concerned the key issues relate to:

- Non compliance with planning requirements for No 35 Glenurquhart Road.
- Non compliance with planning requirements for the rear properties 35A and 35B Glenurquhart Road.
- Poor record of response to significant and sustained antisocial behaviour by previous tenants at No 35 Glenurquhart Road.
- Poor record of site management resulting in long periods when the site and property was left in a dilapidated state and repairs were not carried out.
- Not engaging with neighbours regarding the change of direction from holiday accommodation to HMO despite previously extolling the virtues of holiday accommodation.
- Not engaging with neighbours prior to subdividing the rear property from a single dwelling house to one capable of multiple occupancy.
- Poor administrative record as evidenced by planning breaches and errors in HMO applications.
- Perceived manipulative approach to allocating boundaries to properties

There are also concerns over how often this property changes hands between business associates and the firm they represent, and the sums involved (for as little as a £1); and how this lack of continuity in ownership will impact on future plans and commitments made. It is also noted that the applicant's dogged pursuit of HMO status for commercial gain, despite the strong objections of neighbours and local residents, speaks volumes about their lack of empathy with the community.

From a property perspective the concerns relate to:

- The number and type of persons likely to occupy the HMO and the appropriateness of facilities, including those required to meet the special needs of specific individuals.
- Arrangements for 24 hour professional supervision of occupants.
- The lack of amenity space both internally and externally at the property. This is seen as of significant importance when housing unrelated adults in numbers, some of whom may suffer from addiction and mental health issues.
- The location of an HMO, housing vulnerable adults, in such close proximity to a very busy main road that is also heavily used by pedestrians and children attending the local primary school. Also in close proximity to licensed premises.
- The security arrangements at the site for the benefit of occupants and local residents.
- Inadequate car parking for the proposed number of residents. Guests with cars would exacerbate the problem.

1/6/2014

- The lack of information on risk assessment and back up support for special needs
- The real possibility of undue public nuisance.

Yours sincerely

William R Fraser & Mary L Fraser

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- <u>3</u> JUN 2014

33 Glenurquhart Road Inverness IV3 5NZ 01463 224321

01/06/2014

Re: HMO Licence Application by Marilyn Rattray for 35 Glenurquhart Road

Dear Councillors,

We write to formally oppose the application for an HMO Licence at 35 Glenurquhart Road submitted by Marilyn Rattray. The reasons for our objection fall into three main areas.

The Suitability of the Property for Use as an HMO

We live in the property directly adjacent to No 35 Glenurquhart Road and have had previous experience of anti-social behaviour from residents of this property (when it was multi-occupancy). An elderly, vulnerable relative of ours lives in a separate building on our property and was very upset by the previous episodes of anti-social behaviour (particularly those which involved the police). We have serious concerns that this problem will re-occur, to a worse degree, should the HMO licence be granted. In reaching your decision please be aware that there are a substantial proportion of vulnerable elderly people living in our area, who have lived there for many years. They have good reason to be fearful of the potential for anti-social disturbance and resulting change in environment should this licence be granted.

We welcome the fact that the Inverness City Apartments, however reluctantly, have agreed to have 24 hour live-in-wardens at No 35. However, our concerns about public nuisance have been heightened by the failure of the developers to install CCTV cameras or build an adequate boundary wall. The low height of this wall fails to provide privacy for our property and seems likely to be used as seating given the lack of outdoor amenity space at No 35. In addition, the vulnerable tenants of HMOs have as much right to adequate outdoor amenity space as other people and should not have to tolerate the cramped arrangements planned for No 35.

We would also ask you to consider carefully whether the parking arrangements for No 35 are adequate, especially given the proximity of the A82 and the heavy use of the adjoining

pavement by young schoolchildren attending Central Primary School. The proposed parking spaces for No 35 do not allow turning space should all spaces be filled. This is both inadequate and unsafe, posing a risk to pedestrians and traffic on the A82 since vehicles will be forced to reverse onto a major trunk road across a busy pavement.

The compactness of the property also means that there is inadequate amenity space for the potential residents of No 35. For instance, there is no space for a washing line or for adequate outdoor recreation. A recent check with the Land Registry has shown that, even the absolutely minimal amenity space available, has been achieved by encroaching on land registered to 35a Glenurquhart Road.

Because of the lack of outdoor amenity space, the potential for traffic disturbance and serious potential for public nuisance we do not believe that No 35 is suitable for use as an HMO.

The Suitability of the Applicant

One reason neighbours are not re-assured by the promise of live-in-wardens is the recent breach of planning regulations by the developers at No 35A (this was changed from a 3 bed single dwelling to 2 one bedroom apartments without planning permission or prior notification). We agreed to share a common driveway with 35a and were not consulted when the property was converted (illegally) by the developers into two properties. We believe this shows an underlying lack of respect for both planning law and for the rights of neighbouring residents which casts doubt on whether the developers / landlords are suitable agents to provide housing for vulnerable people or manage any possible risks of public nuisance. The vulnerable tenants of HMOs are likely to already suffer from social exclusion and this situation is hardly likely to be helped by landlords who demonstrate such a lack of respect for neighbours.

This is now the third application for the HMO licence by the developers at No 35 in a process of botched applications which does not appear to reflect much professionalism or competence. Also, when the property was converted neighbours were informed that the intended use was for tourist related accommodation and we were happy to consent to this. However, no further serious conversion work appears to have been done and the developers now wish to use the property as an HMO. This leads us to suspect that the original intention was to use No 35 as an

HMO and we are left wondering why the applicant / developer's were less than straightforward about this.

The lack of clarity about intentions is matched by a lack of clarity about ownership / responsibility for No 35, which has changed registered ownership many times between close associates in recent years. At the last Licence hearing for No 35 the developers could not even decide who was responsible for applying for the licence. We would argue that this convoluted web of ownership / developers is not compatible with the clear accountability that should be expected of suitable applicants to house vulnerable people.

Overprovision of HMO Accommodation

Lastly, we would ask you to consider how many HMOs already exist in the vicinity of this area of Glenurquhart Road. The change in character of Inverness town centre due to a concentration of HMOs has been well reported in the press and the vulnerable people housed in HMOs must be negatively affected by living in an area which has an over-concentration of HMOs, leading to further social exclusion. Please bear in mind that the area around No 35 is a residential area which, in addition to several existing HMOs, also provides attractive B&B facilities for visitors to the City. The ambience and character of this area is very likely to be materially affected by the introduction of yet another HMO, particularly one as poorly planned & inadequately resourced as the current proposal.

We take the opportunity to thank you for considering our views and urge you to apply existing legislation in order to protect both vulnerable potential tenants of HMOs, and the existing vulnerable residents of Glenurquhart Road, by rejecting this latest licence application.

Yours sincerely

Mr Clive Girvan

Mrs Evelyn Girvan.

P.S. Lastly, we would also ask you to consider the petition, dating from the previous application, signed by a significant number of local residents. This was in clear opposistion to any H.H.O licence application for 35 glenurgubart Road & did not relate to one particular licence application, submitted by Marilyn Rattray or her Various associates.

62 Signatures. RECEIVE



To the Legal Manager, Highland Council, Town House, Inverness ****

We, the undersigned, strongly object to the conversion of 35 Glenurquhart Road into a house of multiple occupancy. A150 MHO License.

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To the Legal Manager, Highland Council, Town House, Inverness

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We, the undersigned, strongly object to the conversion of 35 Glenurquhart Road into a house of multiple occupancy. ALSO MHO LICENSE

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To the Legal Manager, Highland Council, Town House, Inverness

We, the undersigned, strongly object to the conversion of 35 Glenurquhart Road into a house of multiple occupancy. AISO MHO LICENSE . . .

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We, the undersigned, strongly object to the conversion of 35 Glenurquhart Road into a house of multiple occupancy.

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To the Legal Manager, Highland Council, Town House, Inverness

We, the undersigned, strongly object to the conversion of 35 Glenurquhart Road into a house of multiple occupancy. il F

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