

Agenda item	7.2
Report no	HLC/020/19

THE HIGHLAND COUNCIL

Committee: THE HIGHLAND LICENSING COMMITTEE

Date: 2 April 2019

Report title: Application for the grant of a licence for a house in multiple occupation – 14 Fingal Place, Portree, Isle of Skye, IV51 9ND (Ward 10 - Eilean a' Cheò)

Report by: The Principal Solicitor – Regulatory Services

1. Purpose/Executive Summary

- 1.1 This report relates to an application for the grant of a licence for a house in multiple occupation.
- 1.2 This item is subject to a formal hearing procedure.

2. Recommendation

- 2.1 Members are asked to determine the application in accordance with the Hearings Procedure.
- 2.2 If Members are minded to grant the application, delegated power is sought to allow the Principal Solicitor – Regulatory Services to issue the licence if the works required to bring the property up to the Council's HMO standards have been completed to the satisfaction of the Council's Environmental Health Service, and the relevant documents and certification submitted, by 14 April 2019, or to refuse the application under section 131 of the Housing (Scotland) Act 2006 should the Council's HMO standards not have been met, and the necessary documents and certification submitted, by that date.

3. Background

3.1 The licensing of houses in multiple occupation (HMO) is an activity covered under Part 5 of the Housing (Scotland) Act 2006 (the "Act"). 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 since been reduced and now applies to properties with three or more unrelated persons.

3.2 An HMO is defined as living accommodation in which three 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.

4. Application

4.1 On 15 April 2018 an application for the grant of a licence for a house in multiple occupation was received from Neil MacNeil on behalf of Seabreezes Limited in respect of 14 Fingal Place, Portree, Isle of Skye, IV51 9ND.

4.2 In terms of the abovementioned Act the Licensing Authority have twelve months from receipt of the application to determine the same, therefore this application must be determined by 14 April 2019. Failure to determine the application by this time would result in the application being subject of a 'deemed grant' which means that a licence would require to be issued for a period of 1 year. The application is before this Committee as this is the last meeting before the determination date expires.

5. Process

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

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

5.2 Police Scotland, the Fire Service, Planning and Building Standards, have confirmed that they have no objections to the licence being issued.

5.3 Community Services Environmental Health submitted a Schedule of Non-Compliance following their visit to the premises on 10 May 2018 which is attached to this report (**Appendix 1**). Confirmation from the applicant that the works detailed in the Schedule of Non-Compliance, which are required to comply with the licence conditions and the Council's Adopted Standards for HMOs, have been carried out has not yet been submitted.

5.4 The applicant has also still to submit the following documents:-

- plans of the premises;
- an electrical installation condition report (as per the Schedule of Non-Compliance);
- PAT testing certificate (as per the Schedule of Non-Compliance);
- confirmation that the public notice was displayed for a period of 21 days;
- the insurance policy for the premises;
- a suitable tenancy agreement which meets the Council's HMO Standards.

5.5 Given these outstanding matters, the application cannot at present be granted under delegated powers.

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.

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.

If required the Principal Solicitor will offer particular advice on the criteria relating to this particular application.

7. Policies

7.1 The following policies are relevant to this application:

7.2 Standard house in multiple occupation licence conditions and standards. A copy of these can accessed at http://www.highland.gov.uk/directory_record/738757/houses_in_multiple_occupation_hmo/category/497/housing

or a hard copy can be supplied where requested.

8. Implications

8.1 Not applicable.

Date: 19 March 2019

Author: Carol Nicolson

Ref: HMO/18/05

Appendix 1 Community Services Environmental Health Schedule of Non-Compliance

Background Papers: Housing (Scotland) Act 2006

Appendix 1.

Community Services Environmental Health SCHEDULE OF NON-COMPLIANCE				
PREMISES		14 Fingal Place Portree	VISIT DATE	10/5/2018
No		Comments		
1	Approved Standards 8.1 Licence Condition 11.4.2	A formal inspection of the electrical installation requires to be carried out by a competent person. Following any remedial works required following that inspection, a satisfactory Electrical Condition Report (as prescribed in IEE Guidance Note 3 – Inspection and Testing) requires to be submitted		
2.	Approved Standard 8.2 Licence Condition_11.4.3	A current Portable Appliance Test (PAT) test certificate must be provided for all plug-in electrical appliances provided by the applicant. The report must identify the contractors name& address and indicate if the item passed or failed		
3	Approved Standards 8.3 Licence Condition1.1	There were an insufficient number of 13 amp electrical sockets in the bedrooms. The applicant requires to provide a minimum of 6 sockets in the bedrooms		
4	Approved Standards 14.2 Licenced Condition_33.1	The entry doors to bedrooms require being capable of being locked by residents to ensure their privacy and security. All door locks must be capable of being opened from the inside without the use of a key.		