



**MINUTES OF THE MEETING OF THE
LICENSING SUB-COMMITTEE OF THE CABINET**

**THURSDAY 14 NOVEMBER 2019
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

Committee Members Present:

Councillor J Findlay
Councillor J Henderson
Councillor C McGinn (Convener)
Councillor T Trotter
Councillor J Williamson

Other Councillors Present:

None

Council Officials Present:

Mr I Forrest, Senior Solicitor
Ms S Fitzpatrick, Team Leader – Licensing & Landlord Registration
Ms C Shiel, Licensing Officer

Others Present:

PC H Bowsher, Police Scotland
Insp A Harborow, Police Scotland
PC C Banks, Police Scotland
Ms R Pringle, Strategy Officer
Ms J Allen, Communications Adviser

Clerk:

Ms B Crichton

Apologies:

Councillor J McMillan

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – LICENSING SUB COMMITTEE 10 OCTOBER 2019

The minutes of the meeting of the Licensing Sub-Committee on 10 October 2019 were approved.

2. APPLICATION FOR GRANT OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION

a) 17 Edenhall Bank, Musselburgh, EH21 7JQ

The Depute Chief Executive, Resources and People Services, had submitted a report to advise that an application for the grant of a House in Multiple Occupation licence had been received from East Lothian Council Community Housing, to allow them to operate the property at 17 Edenhall Bank, Musselburgh as a House in Multiple Occupation (HMO).

Ms Rebecca Pringle, strategy officer, was present on behalf of the Applicant. Ms Leah Hay and Ms Chloe Scott, participation assistants, were also present.

As letters of objection had been received from local residents, relevant representations and objections needed to be considered prior to the Council taking a decision on the licence application. It was therefore a requirement that this application was determined by the Licensing Sub-Committee and not through delegated powers.

The Sub-Committee was therefore required to assess the suitability of the property as an HMO and to establish that the Applicant was a fit and proper person to hold an HMO licence.

Ian Forrest, Legal Adviser, presented the report. He advised that the Housing (Scotland) Act 2006, Part 5 required that, where a property is to be occupied by three or more persons from three or more families, the owner must apply to the Local Authority for a licence to operate an HMO. In accordance with legislation, notices were displayed at and around the property and remained in place for the statutory minimum period of 21 days. He noted that Police Scotland had no objection to the application.

The Legal Adviser advised Members that, in determining the application, they were restricted to the grounds of refusal specified in Part 5 of the Housing (Scotland) Act 2006. This states that the application should be refused if, in their view, the Applicant is not a fit and proper person to receive an HMO licence, the Applicant is disqualified by an order of the court from holding an HMO licence, or they consider that the property is not suitable for occupation as an HMO. He also advised Members what they must consider when determining if a property were suitable for occupation as an HMO. Licences could be granted for a minimum period of 6 months up to a maximum of 3 years.

The Convener invited Ms Pringle to speak in support of the application.

Ms Pringle spoke in support of the application; she addressed some of the objections received, and noted that complaints made to the Homelessness Team had been unsubstantiated. Ms Pringle advised that East Lothian Council had been granted £300,000 by the Life Changes Trust; they intended to establish ten HMOs over the following ten years, each operated with two care-experienced young people and one peer housemate. The young people would also have a support worker from the Rock

Trust. Ms Pringle provided information about the peer housemate at the property at Edenhall Bank, who would help to create a community feeling and would guide the care-experienced young people in how to live. She emphasised that the project would give care-experienced young people the opportunity to feel at home.

Ms Pringle answered questions from Members. She stated that each property would always have a peer housemate, but that it could not be guaranteed that the peer housemates would not take a holiday/become unwell; there would be a group of relief peer housemates for such scenarios. She noted that the support from peer housemates would be backed up by East Lothian Council housing officers and support workers from the Rock Trust. She advised that this was a pilot project for East Lothian, and that this was a different model than had previously been used; the housemate who would support care-experienced young people would be a live-in young person/peer. She assured Members that East Lothian Council would also provide professional support.

Councillor Trotter felt East Lothian Council should be applauded for the scheme, and was happy to support the application.

Councillor Henderson stated that she was comfortable that past issues were in the past; she was also happy to support the application.

Councillor Williamson referred to previous projects not always being managed well, but the Council took on responsibility as being 'corporate parents'; this project would give care leavers the best possible start, and he would be supporting the application.

The Convener agreed with the sentiments of the other Councillors, and was delighted that the project was coming to fruition. He stressed that Councillors and officers all had responsibility for East Lothian's care-experienced young people. He volunteered to link in to obtain feedback, and would support the application.

Inspector Harborow questioned whether the young people who would benefit from the scheme would all be from East Lothian; Ms Pringle confirmed that this would be the case.

Decision

The Licensing Sub-Committee agreed to grant the licence for a period of 3 years, subject to the following conditions:

- i. all Conditions and Standards outlined at Appendix 2 to the report must be complied with;
- ii. all recommendations outlined in the Fire Risk Assessment at Appendix 4 must be implemented;
- iii. all recommendations outlined in the Legionella Risk Assessment at Appendix 5 must be implemented; and
- iv. it is for the Applicant to ensure that the title conditions for the property are not breached, taking appropriate legal advice as required. The granting of an HMO licence by East Lothian Council does not negate the requirement to comply with conditions contained in the title deeds.

b) 69 Kennedy Crescent, Tranent, EH33 1DN

The Depute Chief Executive, Resources and People Services, had submitted a report to advise that a licence application for the grant of a House in Multiple Occupation licence had been received from Cameron Veitch of Benchmark 4 LLP to allow him to operate the property at 69 Kennedy Crescent, Tranent as a House in Multiple Occupation (HMO).

The Applicant, Mr Cameron Veitch of Benchmark LLP, was present. Mr Michael Brunton was also present to represent those who had raised objections to the application.

As letters of objection had been received from local residents, relevant representations and objections needed to be considered prior to the Council taking a decision on the licence application. It was therefore a requirement that this application was determined by the Licensing Sub-Committee and not through delegated powers.

The Sub-Committee was therefore required to assess the suitability of the property as an HMO and to establish that the Applicant was a fit and proper person to hold an HMO licence.

The Legal Adviser presented the report, and noted that the same issues from the previous presentation also applied to this application. He referenced consultation responses, and noted that Police Scotland had no objection to the application. He also drew attention to the inspection by Public Health & Environmental Protection; he pointed out that a current Gas Safety Certificate must be submitted to cover the boiler, and the attic space on the second floor must not be used as sleeping accommodation.

The Convener invited Mr Veitch to speak in support of the application. Mr Veitch advised that he would be happy to answer any questions.

Members questioned Mr Veitch about various aspects of the application. Mr Veitch advised that his tenants would be those working locally or professionals. He emphasised that he had been running HMOs for twelve years in Edinburgh and had received no complaints.

Councillor McGinn raised the issue of parking in the area. Mr Veitch argued that four cars could be parked outside the house, but Members disputed this point. Mr Veitch suggested that he could specify that new tenants must not have a car.

The Convener invited Mr Michael Brunton to speak regarding his objection. Mr Brunton made a statement, emphasising that Kennedy Crescent was a quiet residential street of owner-occupied houses. He reported that there had been no issues with noise on the street in the twenty years he had lived there. The property was close to a primary school, and children played safely on the street; he felt there was great potential for disturbance should the Committee grant the HMO licence. He raised that the house builders had introduced a clause into the deeds stating that the houses should not be subdivided; he asserted that it therefore followed that properties on the street were not to be used as HMOs. Mr Brunton also raised issues with the displaying of the notices.

Councillor Trotter questioned the Committee's standing when considering granting an HMO licence on a property whose title deeds stated that the house could not be used thus. The Legal Adviser advised that the Applicant would need to resolve this matter, but the legislation did not include title aspects; Members' criteria for granting or refusal must be based on the statutory criteria as contained in paragraph 3.6. Mr Veitch stated that he had taken legal advice on this point and was comfortable that the title deeds

could be overridden; he pointed out that the title deeds were drafted before HMO legislation came into force.

Councillor Trotter questioned the process followed for displaying notices. Mr Veitch considered that there had been no place suitable to display a sign close by, as neighbours had refused permission to display on their trees; eventually a sign was displayed on the front door of the property.

Councillor Trotter remarked that the grant of an HMO would make existing issues on the street worse, and as such he would not be supporting the application. Councillor Findlay agreed, and asserted that four cars could not fit onto the driveway.

Councillor Henderson stated that she was uncomfortable with supporting the application due to the property's location and due to difficulties with parking on Kennedy Crescent; there was potential for undue public nuisance to be caused by parking difficulties. Councillor Williamson agreed, and raised that there were no pavements on the street for on-street parking; he would not be supporting the application. The Convener also agreed with his fellow Councillors.

Decision

The Licensing Sub-Committee decided to refuse the licence on the following grounds:

- i. the location of the property was unsuitable for the grant of an HMO licence;
and
- ii. the granting of an HMO licence would add to existing parking problems on the street.

SUMMARY OF PROCEEDINGS – EXEMPT INFORMATION

The public were excluded from the following business which contained exempt information by virtue of Paragraph 6 (information concerning the financial or business affairs of any particular person other than the Authority) of Schedule 7A to the Local Government (Scotland) Act 1973.

3. TAXI DRIVER LICENCE REQUEST FOR REVOCATION

Decision

The Sub-Committee agreed that they would not revoke the licence in question.

4. APPLICATION FOR THE GRANT OF A FULL PUBLIC ENTERTAINMENT LICENCE

Decision

The Sub-Committee agreed to refuse the application.