

**REPORT TO:** Licensing Sub-Committee

**MEETING DATE:** 12 March 2020

**BY:** Depute Chief Executive (Resources and People Services)

**SUBJECT:** Housing (Scotland) Act 2006, Part 5, Application for Grant of a Licence to Operate a House in Multiple Occupation at 27 Stoneybank Road, Musselburgh, EH21 6HJ

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## **1 PURPOSE**

- 1.1 A licence application for grant of an HMO licence has been received from East Lothian Council, to allow them to operate the property at 27 Stoneybank Road, Musselburgh, EH21 6HJ as a House in Multiple Occupation (HMO) (Appendix 1).
- 1.2 New applications for HMO licences require to be considered prior to the Council taking a decision on the licence application, and it is therefore a requirement that this application is determined by the Licensing Sub-Committee and not through delegated powers.
- 1.3 The Sub-Committee is required to focus on the suitability of the property as an HMO and to establish that the applicant is a fit and proper person to hold an HMO licence.

## **2 RECOMMENDATIONS**

- 2.1 The Licensing Sub-Committee is asked to consider the application and and to determine whether the HMO licence application for 27 Stoneybank Road, Musselburgh, EH21 6HJ is to be granted; granted subject to conditions; or refused.
- 2.2 If the HMO licence is granted, the Sub-Committee is asked to decide the period of the licence; this can range from six months to three years.
- 2.3 If the HMO licence is granted, the Sub-Committee is asked to agree that this be granted subject to the conditions and standards outlined in Appendix 2.

### **3 BACKGROUND**

3.1 The Housing (Scotland) Act 2006, Part 5 requires that where a property is to be occupied by three or more persons from three or more families, who share use of a sanitary convenience, personal washing facilities and cooking facilities, the owner must apply to the Local Authority for a licence to operate an HMO. The property must also be their main or principal residence in the UK.

3.2 The property at 27 Stoneybank Road, Musselburgh, EH21 6HJ is a recent purchase by East Lothian Council from the open market.

3.3 The HMO Application was received on 18 November 2019 and Notices, under Section 2 of Schedule 24 of the Housing (Scotland) Act 2006, were displayed at and around the property on 15 November 2019, and remained in place for the statutory minimum 21 days. These notices inform local residents of the licence application and give information regarding their right to submit objections and/or make representations in relation to the application.

#### **Representations/Objections Received**

3.4 No objections or representations were received.

#### **Matters to be Considered by the Sub-Committee**

3.6 In determining the application, the Sub-Committee must restrict itself to grounds of refusal specified in Part 5 of the Housing (Scotland) Act 2006. This states that an application shall be refused if:

- The applicant and/or any agent specified by the applicant are, in the opinion of the Sub-Committee, not fit and proper to be authorised to permit persons to occupy any living accommodation as an HMO (Section 130)
- The applicant and/or any agent specified by the applicant are disqualified by an order of a Court from holding an HMO Licence. (Section 130)
- The Sub-Committee determines that the property is not suitable for occupation as an HMO, or cannot be made suitable by including conditions on the HMO Licence (Section 131). In determining whether any property is, or can be made to be suitable for occupation as an HMO the Sub-Committee must consider:
  - its location;
  - its condition;
  - any amenities it contains;
  - the type and number of persons likely to occupy it;

- whether any rooms within it have been subdivided;
  - whether any rooms within it have been adapted resulting in an alteration to the situation of the water and drainage pipes within it;
  - the safety and security of persons likely to occupy it; and
  - the possibility of undue public nuisance.
- The Sub-Committee considers that there is (or, as a result of granting the licence, would be) an overprovision of HMOs in the locality (as determined by Sub-Committee) in which the property concerned is situated (Section 131A). In determining whether to refuse to grant an HMO Licence as a result of overprovision, the Sub-Committee must have regard to:
    - whether there is an existing HMO Licence in effect in respect of the property;
    - the views (if known) of the applicant, and if applicable, any occupant of the living accommodation;
    - the number and capacity of licensed HMOs in the locality; and
    - the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need.

### **Terms of an HMO Licence**

- 3.7 An HMO licence may include such conditions as the Sub-Committee thinks fit.
- 3.8 Any condition included in an HMO licence may specify a date from which that condition is to have effect. An HMO licence will have a valid period of between six months (minimum) and three years (maximum), to be determined by the Sub-Committee and declared on the licence.

### **Consultation Responses**

- 3.9 Police Scotland have been consulted and have indicated that nothing is known to the detriment of the applicants, and that they have no issues with the application for an HMO Licence at 27 Stoneybank Road, Musselburgh, EH21 6HJ
- 3.10 On 20 January 2020 the property was inspected by East Lothian Council's Team Manager – Public Health & Environmental Protection. A report was prepared by the Principal Environmental Health Officer on 21 January 2020 (Appendix 3). There are no objections to the grant of this licence.

## **Grant of Licence and Conditions**

- 3.11 An HMO Licence can be granted for a minimum of six months and a maximum of three years.

## **4 POLICY IMPLICATIONS**

- 4.1 Licensing of Houses in Multiple Occupation is a statutory obligation for East Lothian Council. This report is based upon Legislation and Scottish Government guidance for licensing HMOs.

## **5 EQUALITIES IMPACT ASSESSMENT**

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

## **6 RESOURCE IMPLICATIONS**

- 6.1 Financial – none.  
6.2 Personnel – none.  
6.3 Other – none.

## **7 BACKGROUND PAPERS**

- 7.1 Scottish Government Guidance published in January 2012 - Licensing of Houses in Multiple Occupation: Statutory Guidance for Scottish Local Authorities

Appendix 1: Application Form

Appendix 2: Recommended Conditions and Standards

Appendix 3: ELC Public Health and Environmental Report

<b>AUTHOR'S NAME</b>	Sheila Fitzpatrick
<b>DESIGNATION</b>	Team Leader – Licensing and Landlord Registration
<b>CONTACT INFO</b>	01620 820623
<b>DATE</b>	20 February 2020

**EAST LOTHIAN COUNCIL  
HOUSING (SCOTLAND) ACT 2006**

**APPLICATION FOR THE GRANT OR RENEWAL OF A LICENCE FOR A HOUSE IN MULTIPLE OCCUPATION**

**To be completed in BLOCK CAPITALS**

**Delete where appropriate**

<p><b>NAME AND ADDRESS OF PREMISES (inc postcode)</b></p> <p>for which the Licence is required (hereinafter referred to as 'the premises')</p> <p>(If premises are in a flat or sub-divided building, please give flat number and location eg 1<sup>st</sup> floor left)</p>	<p>27 Stoneybank Road, Musselburgh, Midlothian, EH21 6HJ</p>
<p><b>1. To be completed by the owner if a natural person</b></p> <p>(a) Full name</p>	<p>First Name</p> <p>Surname</p>
<p>(b) Home Address</p> <p>Business hours telephone number</p> <p>Home telephone number</p>	
<p>(c) Age, date and place of birth</p>	
<p>(d) Is the applicant to carry out the day to day management of the activity?</p> <p>If not, give the full name, address and date of birth of the employee or agent so engaged.</p>	<p>* YES/NO</p>
<p><b>2. To be completed by the owners if a company or partnership</b></p> <p>(a) Full Name</p>	<p>East Lothian Council Community Housing</p>

<p>(b) Address of Registered/Principal Office</p> <p>Business hours telephone number</p>	<p>John Muir House Brewery Park Haddington EH41 3HA 01620 827827</p>			
<p>(b) Full names, private addresses and dates of birth of all directors, partners or other persons responsible for the management of the business</p>	<p>Monica Patterson (Depute Chief Executive – Partnerships &amp; Community Services)</p>			
<p>(c) Full name, address and date of birth of employee or agent to carry on the day to day management of the activity</p> <p>Business hours telephone number of the employee or agent Home telephone number of the employee or agent</p>	<p>James Coutts (Service Manager – Community Housing &amp; Homelessness)</p> <p>Work – 01620 827483 Mobile - 07770653162</p>			
<p>3. Subject to the provisions of the Rehabilitation of Offenders Act 1974, state below particulars of any convictions, conditional offers and/or fixed penalties, spent or otherwise, recorded against any person named in 1 and 2 above including any recorded against the company.</p>				
<p>Name</p>	<p>Date</p>	<p>Court</p>	<p>Offence</p>	<p>Sentence</p>

<p>4.</p> <p>(a) Has any person named in 1 and 2 above previously held or do they currently hold a House in Multiple Occupation Licence?</p> <p>If yes, which Authority gave the Licence?</p> <p>When was it granted?</p> <p>When did/does it expire?</p> <p>(b) Has any person named in 1 and 2 above ever applied for and been refused a House in Multiple Occupation Licence?</p> <p>If YES, which Authority refused the Licence?</p> <p>When was it refused?</p>	<p>Yes</p> <p>East Lothian Council</p> <p>2019</p> <p>2022</p> <p>NO</p>
<p>5.</p> <p>(a) Does the landlord/agent/manager live on the premises?</p> <p>(b) If YES, what is the number of people in the landlord/agent/manager's family (including the landlord) living on the premises?</p> <p>(c) Does the landlord/agent/manager and/or his/her family share any facilities with the other residents of the premises?</p> <p>If YES, please specify what facilities are shared</p>	<p>No</p>
<p>6.</p> <p>(a) Specify the number of storeys in the premises</p> <p>(b) Total number of bedrooms</p> <ul style="list-style-type: none"> <li>• single</li> <li>• double</li> <li>• other</li> </ul> <p>(c) Occupant capacity of premises</p>	<p>Number - two</p> <p>TOTAL = Three</p> <p>No of single BRs = Two</p> <p>No of double BRs = One</p> <p>No of other BRs = Zero</p> <p>Three</p>
<p>7.</p> <p>Is a standard lease or other form of tenancy agreement used at the premises?</p> <p>If YES, please provide a copy with the application</p>	<p>Yes</p>

<p>8. Is gas used for cooking or heating purposes in the premises?</p> <p>If YES, include a copy of the current gas safety certificate with the application</p>	<p>Yes</p>
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**DECLARATION – DELETE AS APPROPRIATE**

I/We declare

\* (A) that I/we shall, for a period of 21 days commencing with the date hereof, display at or near the premises so that it can be conveniently read by the public, a notice containing such information required by the Housing (Scotland) Act 2006

**OR**

~~\* (B) I am/we are unable to display a notice of this application at or near the premises because I/we have no rights of access or other rights enabling me/us to do so, but that I/we have taken the following steps to acquire the necessary rights, namely-~~

**OR**

~~\* (C) that I am/we are not required to display a notice as the application is in respect of premises to be used as a women’s refuge.~~

- (D) that the particulars given by me/us on this form are correct to the best of my/our knowledge and belief.
- (E) that I/we have read the attached guidance notes.

we enclose £452 in payment of the appropriate fee and hereby make application to East Lothian Council for the grant of the licence applied for.

Date ..... Signature of applicant or agent .....

Agent’s address .....

.....  
 .....

Position of applicant in Company/  
 Partnership if not otherwise stated .....

NB Any person who in or in connection with the making of this application makes any statement which he knows to be false or recklessly makes any statement which is false in a material particular shall be guilty of an offence and liable on summary conviction, to a fine not exceeding £50,000.



Information supplied on this form may be held on computer and applicants are advised that in processing this application background enquiries will be made which may include reference to personal data held on computer.

**Fees (as at 1 April 2019)**

License fees are as follows:

- 3 - 5 Occupants £452.00
- · 6-10 Occupants £729.00
- · 11-20 Occupants £1,114.00
- · 21-30 Occupants £1,340.00
- · 31-40 Occupants £1,556.00
- · 41-50 Occupants £1,782.00
- · 51-75 Occupants £2,253.00
- · 76-100 Occupants £2,891.00
- · 101-200 Occupants £4,000.00
- · 201+ Occupants £5,109.00

**Fees will also be altered in line with the Retail Prices Index on the first day of April each year.**

Licenses generally last for 3 years but the License period can be shortened if deemed necessary.

A refund of 20% is granted to unsuccessful applicants for Licenses

Applications should be emailed to [hmo@ewastlothian.gov.uk](mailto:hmo@ewastlothian.gov.uk) or sent to **East Lothian Council, Licensing, John Muir House, Haddington, East Lothian EH41 3HA**. The appropriate fee requires to be paid when the application is lodged. Payment can be made via East Lothian council contact centre (01620 827827) or at a payment counter in council offices. Opening hours can be checked by calling the contact centre.

**STANDARDS AND CONDITIONS**

- LC1** The licence holder must take steps to ensure that the property, fittings and furniture, including fire precautions, plumbing, gas and electrical installations, are maintained throughout the period of the licence to the standard required. The HMO owner should hold all necessary certificates.
- LC2** The licence holder must ensure that advice to occupiers on action to be taken in the event of an emergency is clearly and prominently displayed within the living accommodation.
- LC3** The licence holder must ensure that the physical standards for HMO living accommodation assessed as suitable by the local authority when approving the licence application are met at all times.
- LC4** The licence holder must ensure that the number of persons residing in the premises shall not exceed XXXX.
- LC5** The licence holder must make the Licence, including any conditions, available to occupiers, within the premises where it can be conveniently read by residents.
- LC6** The licence holder must ensure that actions to secure repossession must be only by lawful means.
- LC7** The licence holder must ensure that Liquefied Petroleum Gas (LPG) shall not be used or stored on the premises.
- LC8** The licence holder shall comply with the current regulations regarding maximum re-sale prices of gas and electricity supplied, as appropriate.
- LC9** The licence holder should ensure that let rooms are fitted with a lever latch and secured with a suitable lock and thumb turn mechanism or other appropriate locking mechanism.

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East Lothian Council

MEMORANDUM

TO: Sheila Fitzpatrick – Team Leader – Licensing & Landlord Registration

FROM: Shona Grant, Team Manager – Public Health & Environmental Protection

DATE: 21 January 2020

SUBJECT: Housing (Scotland) Act 2006  
Application for a House in Multiple Occupation Licence  
27 Stoneybank Road, Musselburgh EH21 6HJ

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I refer to the House in Multiple Occupation Licence application submitted by East Lothian Council – Community Housing Team in respect of premises at 27 Stoneybank Road, Musselburgh. The property will be managed by James Coutts, Service Manager – Community Housing & Homelessness.

An inspection of the premises was carried out on 20 January 2020.

The property is a one and a half storey terraced house. The accommodation comprises on the ground floor an entrance hallway with stairs leading to the first floor, open plan living room, kitchen and dining room, one double bedroom and main bathroom. On the first floor there is a small landing and two further double bedrooms. The property has a front and rear garden.

Location

The property is located within a residential area on Stoneybank Road in the town of Musselburgh.

Condition of the Accommodation

The property is in a good state of repair and work has been undertaken to comply with relevant HMO standards. It is heated by gas central heating and the boiler is located in the kitchen. Each of the bedrooms have adequate natural lighting and ventilation. The kitchen and bathroom have natural ventilation and/or adequate mechanical ventilation. The electric lighting system throughout the property complies with the required standard.

Amenities

There is one kitchen within the property which has an electric cooker. There is a microwave and freestanding fridge freezer, kettle and toaster. There is a sink with integral drainer, a washing machine and an external washing line to dry clothes. The property has one main

bathroom which has a bath with electric shower over it, wc and wash hand basin. The kitchen, cooking and sanitary facilities within the property offer sufficient amenities for the proposed number of occupants (three). There is an adequate piped supply of hot and cold water and the drainage system appears to be safe and hygienic.

#### Type and number of persons likely to occupy the accommodation

The maximum occupant capacity of this property is three. In terms of space and layout there are three bedrooms within this property. Each of the bedrooms are of a size which exceeds the minimum space standards for single occupancy and capable of accommodating a bed, a freestanding wardrobe and drawers. There is adequate activity space in all rooms. The property will be used as accommodation for young individuals.

#### Safety and Security

There is one gas appliance within the property (central heating boiler). There is a carbon monoxide detector suitably located near to this appliance. A satisfactory Gas Safety Certificate has been submitted and dated 20 September 2019. In terms of electricity, the number of electrical socket outlets available for occupier use should be a minimum of 6 in each kitchen, 6 in each bedroom and living room and 4 additional sockets anywhere in the building. The property complies with this standard. In terms of electrical safety a current and valid copy of an 'Electrical Installation Condition Report (EICR)' was viewed and dated 7 November 2019. A PAT certificate is not required as all portable appliances are new. The property is capable of being adequately secured and exited without recourse to a key.

#### Fire Safety Audit Form

The Fire Officer attended this property and will provide a separate report.

#### Summary

I would therefore have no objections to the granting of this HMO licence application for up to three residents.