

**NOTICE OF THE MEETING OF
THE LICENSING SUB COMMITTEE**

**THURSDAY 10 SEPTEMBER 2020, 10.00am
VIA DIGITAL MEETING FACILITY**

Agenda of Business

Apologies

Declarations of Interest

Members should declare any financial and non-financial interests they have in the items of business for consideration, identifying the relevant agenda item and the nature of their interest.

1 Minutes for Approval

Licensing Sub-Committee, 12 March 2020 (pages 1-6)

2 Application for the Grant of a Licence for a House in Multiple Occupation (HMO)

a) 69 Kennedy Crescent, Tranent, EH33 1DN (pages 7-48)

3 Update of Delegated Powers List – Report by the Depute Chief Executive (Resources and People Services) (pages 49-52)

4 Proposed Amendment of Resolution on Public Entertainment Licensing Regime – Report by the Depute Chief Executive (Resources and People Services) (pages 53-58)

PRIVATE

5 Removal of Requirement for Display of Public Notice for HMO Application – Report by the Depute Chief Executive (Resources and People Services) (pages 59-64)

6 Application for the Grant of a Street Trader Licence (pages 65-72)

7 Fitness and Propriety of Private Landlord, Antisocial Behaviour etc. (Scotland) Act, Part 8, Section 97a, Power to Obtain Information – Report by the Depute Chief Executive (Resources and People Services) (pages 73-122)

NOTE: Access to Information.

The Committee will exclude the public from item 5 in terms of paragraph 2 (information relating to individual tenants) and items 6 and 7 in terms of paragraph 6 (information relating to the business affairs of particular persons) of Schedule 7A to the Local Government (Scotland) Act 1973.

**Monica Patterson
Chief Executive
John Muir House
Haddington**

3 September 2020



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

**THURSDAY 12 MARCH 2020
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON**

1

Committee Members Present:

Councillor C McGinn (Convener)
Councillor J Henderson
Councillor J Williamson

Other Councillors Present:

None

Council Officials Present:

Mr I Forrest, Senior Solicitor
Ms C Shiel, Licensing Officer
Ms S Irvine, Service Development & Support Team Manager

Others Present:

PC C Banks, Police Scotland

Clerk:

Ms B Crichton, Committees Officer

Apologies:

Councillor J Findlay
Councillor J McMillan
Councillor T Trotter

Declarations of Interest:

None

1. MINUTES FOR APPROVAL – LICENSING SUB COMMITTEE, 13 FEBRUARY 2020

The minutes of the meeting of the Licensing Sub-Committee on 13 February 2020 were approved.

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

a. 170 Pinkie Road, Musselburgh, EH21 7QL

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 170 Pinkie Road, Musselburgh as a House in Multiple Occupation (HMO).

Ms Stephanie Irvine, Service Development & Support Team Manager, was present on behalf of the Applicant.

The Sub-Committee 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 made no objection or representations 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 Irvine to speak in support of the application.

Ms Irvine provided information about funding for a project to help care-experienced young people take up accommodation with a peer flatmate, usually a university student, who would provide peer support to the young people. The care-experienced young people would also be supported by the Rock Trust. Two care-experienced young people with one peer flatmate would occupy each property, and ten properties would eventually be established in East Lothian. She advised that East Lothian Council would purchase open market acquisitions for this use.

Ms Irvine responded to questions from Members. She advised that the project would be like any other tenancy for the young people, but with the benefit of having a peer flatmate, who would themselves benefit by receiving free rent and WiFi. The Rock Trust offered an on-call service. She advised that the young people were well-known

to the Council, and it was thought that this was the best route for them at the time. She gave a short account of another HMO being used as part of the same project, at which no issues had been encountered. She advised that the young people would be in different situations with regards to employment and education, but would receive intensive support between the Rock Trust and their peer flatmate.

The Convener commented that East Lothian Council's approach to homelessness and care-experienced young people had been fantastic, and that life chances for these young people would be diminished if they were not in appropriate accommodation.

Councillor Henderson proposed that the licence be granted for the maximum term of three years, and this was seconded by Councillor Williamson.

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 ELC Public Health and Environmental report at Appendix 3 must be implemented; and
- iii. 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. 27 Stoneybank Rod, Musselburgh, EH21 6HJ

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 27 Stoneybank Road, Musselburgh as a House in Multiple Occupation (HMO).

Ms Stephanie Irvine, Service Development & Support Team Manager, was present on behalf of the Applicant.

The Sub-Committee 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. He advised that all aspects of the application were the same as the item previously discussed, and there had been similarly no objections or representations made by the Police, public, or health and environment team.

Ms Irvine reiterated that this house would be used in the same way as the previous item discussed, with two care-experienced young people and one peer flatmate benefitting from placement in the HMO.

The Convener proposed that an HMO licence be granted for three years, and this was seconded by Councillor Henderson.

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; and
- ii. 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.

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. POSSIBLE REVOCATION OR SUSPENSION OF TAXI OPERATOR LICENCE

Decision

One taxi operator's licence was reviewed and the Committee agreed that the taxi operator in question could retain their licence.

REPORT TO: Licensing Sub-Committee

MEETING DATE: 10 September 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 69 Kennedy Crescent, Tranent, EH33 1DN

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1 PURPOSE

- 1.1 A licence application for grant of an HMO licence has been received from Cameron Veitch of Benchmark 4 LLP, to allow them to operate the property at 69 Kennedy Crescent, Tranent, EH33 1DN as a House in Multiple Occupation (HMO) (Appendix 1).
- 1.2 Letters of objection/representations have been received from local residents. Relevant representations and objections 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 representations/objections, and to determine whether the HMO licence application for 69 Kennedy Crescent, Tranent, EH33 1DN 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 69 Kennedy Crescent, Tranent, EH33 1DN has previously been rented to tenants who are from the same family. The owner now wishes to rent the property as an HMO.
- 3.3 This application was previously refused (on 14 November 2019) on the grounds that ‘the property is not suitable for occupation as an HMO based on the lack of car parking availability which could subsequently cause an undue public nuisance’.
- 3.4 Following an appeal of this decision, the Scottish Courts referred the case back to East Lothian Council for reconsideration as there was a material change of circumstances (Appendix 3).
- 3.5 Notices, under Section 2 of Schedule 24 of the Housing (Scotland) Act 2006, were displayed at and around the property on 13 March 2020, 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 (Appendix 4).

Representations/Objections Received

- 3.6 The Council has received 12 representations which object to the granting of the application. These are from neighbours at numbers 41, 47, 55, 58, 61, 62, 64, 65, 71, 72, 73 and 93 Kennedy Crescent, Tranent, EH33. The representations are competent as they were received in the correct format, and within the 28 day time period as set out in the above legislation. All representations were in writing and were received on or around 6 April 2019. All 12 representations can therefore be considered by the Sub-Committee. Redacted copies of the representations are attached to this report (Appendix 5).
- 3.7 The representations raise objections to the granting of an HMO Licence at 69 Kennedy Crescent, Tranent, EH33 1DN. The concerns raised relate to several issues. In summary these are:
- limited available parking;
 - the potential for antisocial behaviour;

- the estate is a family estate and not suitable for student/transient accommodation; and
- there is a restriction in the title deeds (title condition) that prevents the subdivision of the property or occupation of the property by more than one family at a time.
- An adverse effect on property values and saleability
- The display of the Site Notice by the applicant

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 69 Kennedy Crescent, Tranent, EH33 1DN.
- 3.10 On 30 August 2019 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 October 2019 (Appendix 6). The recommendations of the Officer, in summary are:
- a current Gas Safety Certificate must be submitted to cover the boiler;
 - all bedrooms must have at least six electrical sockets provided;
 - the attic space on the second floor must not be used as sleeping accommodation; and
 - if internal changes have been made on the ground floor of the property, revised plans should be submitted to clearly show these changes.

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: Standard Licence Conditions

Appendix 3: ELC Solicitor response to Appeal hearing

Appendix 4: Site Notice and accompanying commentary

Appendix 5: Redacted letters of Representation/Objection

Appendix 6: ELC Public Health and Environmental Report

AUTHOR'S NAME	Sheila Fitzpatrick
DESIGNATION	Team Leader – Licensing and Landlord Registration
CONTACT INFO	01620 820623
DATE	21 July 2020

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


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

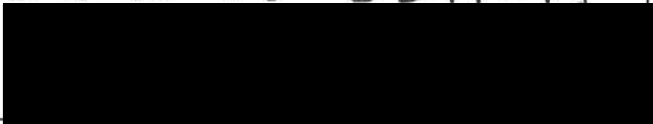
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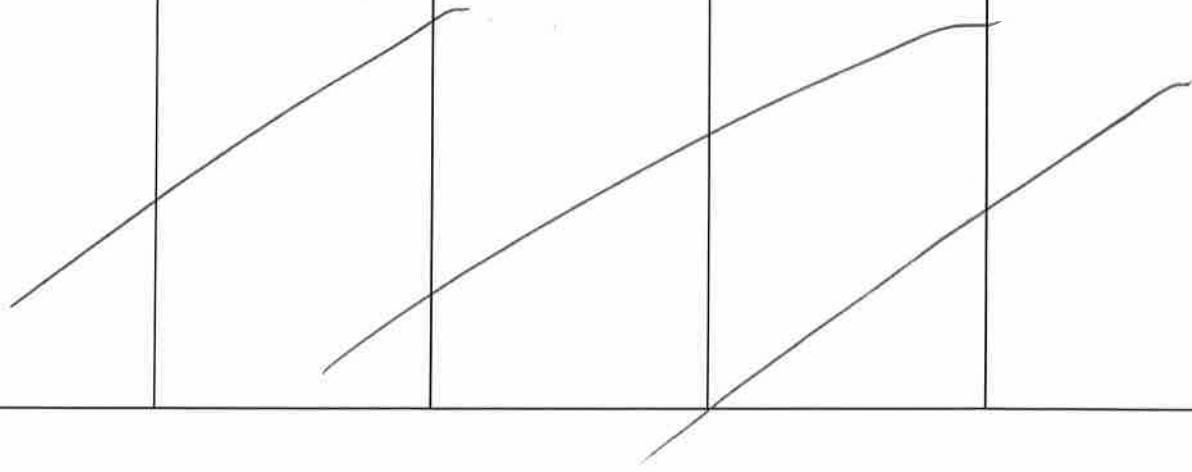
<p>NAME AND ADDRESS OF PREMISES (inc postcode)</p> <p>for which the Licence is required (hereinafter referred to as 'the premises') (If premises are in a flatted or sub-divided building, please give flat number and location eg 1st floor left)</p>	<p>69 KENNEDY CRESCENT , TRANENT EH33 1DN</p>
<p>1. To be completed by the owner if a natural person</p> <p>(a) Full name</p>	<p>First Name CAMERON</p> <p>Surname VEITCH <i>OF BENCHMARK 4 LLP</i></p>
<p>(b) Home Address</p> <p>Business hours telephone number</p> <p>Home telephone number</p>	<p>[REDACTED]</p>
<p>(c) Age, date and place of birth</p>	<p>[REDACTED]</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</p>
<p>2. To be completed by the owners if a company or partnership</p> <p>(a) Full Name</p>	<p><i>BENCHMARK 4 LLP</i></p>

<p>(b) Address of Registered/Principal Office</p> <p>Business hours telephone number</p>	
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<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>CAMERON VEITCH</p> 
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<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</p> <p>Home telephone number of the employee or agent</p>	<p>CAMERON VEITCH</p> 
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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.

Name	Date	Court	Offence	Sentence
				

<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 CURRENTLY HOLD 4 HMO LICENSES WITH EDINBURGH COUNCIL</p> <p>EDINBURGH 2007 to PRESENT DAY 2020</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>NO</p> <p>*YES/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"> • single • double • other <p>(c) Occupant capacity of premises</p>	<p>Number 2</p> <p>TOTAL = 4</p> <p>No of single BRs = 0</p> <p>No of double BRs = 4</p> <p>No of other BRs = <u>ATTIC STORE ROOM</u></p> <p>5</p>

<p>7. 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 PRT OR ANY OTHER TYPE OF LEASE EAST LOTHIAN COUNCIL DEEM SUITABLE</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>

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.

I/we enclose £ in payment of the appropriate fee and hereby make application to the Council for the *grant/renewal of the licence applied for.

Date 26/7/2019

Signature of applicant or agent

Agent's address

Position of applicant in Company/
Partnership if not otherwise stated

MEMBER OF LLP

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 £420.00
- 6-10 Occupants £680.00
- 11-20 Occupants £1,040.00
- 21-30 Occupants £1,250.00
- 31-40 Occupants £1,455.00
- 41-50 Occupants £1,665.00
- 51-75 Occupants £2,180.00
- 76-100 Occupants £2,700.00
- 101-200 Occupants £3,740.00
- 201+ Occupants £4,775.00

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 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.

HOUSES IN MULTIPLE OCCUPATION LICENSING CONDITIONS

1. The Licensee shall make the Licence and these conditions, available to occupiers within the premises where it can be conveniently read by residents.
2. If there is a material change of circumstance affecting the Licensee or the operation of the HMO, the Licensee must inform the licensing authority as soon as possible. No alteration must be made to the property without the prior written consent of the authority.
3. The granting of a licence requires that notice in writing be given to every occupier of premises in the same building and the occupiers of adjoining premises which share a common boundary with the land upon which the licensed premises are situated, advising them of the name of the Licensee or managing agent, a contact address, daytime telephone number and emergency telephone contact number. For the purposes of this condition, "common boundary" means any land or buildings which share a boundary with the land on which the licensed premises are situated or are on the opposite side from the licensed premises of any road, pathway or common area less than 20 metres in width. Where the licensed premises are in a sub-divided building, notification requires to be made to all other parts of that building, in addition to any land or buildings falling within the terms of the preceding sentence. Where any such adjoining buildings are themselves part of a sub-divided building, all parts of that building require to be notified.
4. 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.
5. Where appropriate, the Licensee shall comply with the Food Safety Act 1990, and any regulations thereunder. The Food Hygiene Regulations, The Health and Safety at Work Act 1974, and any regulations thereunder and The Furniture and Furnishings (Fire) Safety Regulations 1988.

HOUSES IN MULTIPLE OCCUPATION – LICENSING CONDITIONS (continued)

- 6.** All licensed premises shall comply with the requirements of the Fire (Scotland) Act 2005 and the Fire Safety (Scotland) Regulations 2006 and will be provided with:
 - Adequate means of escape in case of fire.
 - Adequate means of ensuring that the means of escape can be safely and effectively used at all times.
 - Adequate and suitable fire-fighting equipment.
 - An adequate fire alarm system.
 - An adequate number of smoke detectors.
 - An adequate number of Notices detailing procedures in the event of fire.
- 7.** The equipment required to comply with these conditions shall be adequately maintained at all times, and it shall be the responsibility of the Licensee to ensure sufficient instructions are given to the residents of the licensed premises regarding the procedures to be followed in the event of a fire.
- 8.** To ensure an adequate electricity supply is maintained to the installed Fire Detection system, where credit card meters are in use, the Licensee will be responsible for ensuring that the meters remain in credit when the premises are unoccupied for any period exceeding 48 consecutive hours.
- 9.** 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.
- 10.** 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.
- 11.** The number of persons residing in the premises shall not exceed the maximum number stated on the licence. The use and occupancy levels of each room shall not be changed without the approval of East Lothian Council. Any change may be subject to a variation fee.

HOUSES IN MULTIPLE OCCUPATION – LICENSING CONDITIONS (continued)

- 12.** The Licensee shall allow access to the premises at any reasonable time to the following officials for licensing purposes:
 - Any officer of East Lothian Council.
 - Any officer of the Scottish Fire & Rescue Service
 - Any officer of Police Scotland
- 13.** The Licensee shall comply with all relevant legislation affecting private sector residential tenancies.
- 14.** Written occupancy agreements must be provided, and must meet with the approval of East Lothian Council. Once approved, the occupancy agreement must not be altered unless the Licensee obtains further approval from the Council.
- 15.** The Licensee will be responsible for the day to day running of the premises, and for ensuring that residents comply with the terms of their Lease and in particular to deal effectively with any anti-social behaviour by tenants to anyone else in the HMO or in the locality of the HMO.
- 16.** Actions to secure repossession must be only by lawful means.
- 17.** The Licensee shall be responsible for ensuring that all electrical installations are in accordance with the current IEE Wiring Regulations, and gas installations comply with the Gas Safety (Installation and Use) Regulations 1998.
- 18.** Gas and electrical appliances provided by the Licensee must be maintained in a safe and satisfactory condition. Continuity of certification must be maintained. Tenants' appliances should be in good repair, used for the intended purpose, and suitable for the intended purpose.
- 19.** Liquefied Petroleum Gas (LPG) shall not be used or stored on the premises.
- 20.** The licence holder shall comply with the current regulations regarding maximum re-sale prices of gas and electricity supplied, as appropriate.

HOUSES IN MULTIPLE OCCUPATION – LICENSING CONDITIONS (continued)

- 21.** 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.
- 22.** The building should be maintained in a reasonable state of repair, having regard to its age, type and location. Garden and environmental areas should also be adequately maintained. Where an HMO is in a shared building the Landlord must co-operate and participate in the general repair and maintenance of the building and the cleaning of common parts. Where the tenants fail to participate in the cleaning and maintenance of common areas or environmental areas, the landlord will be expected to carry out the work.
- 23.** Adequate and suitable facilities must be provided for the storage and disposal of refuse. Where bins are provided to terraced and tenemental property they must be clearly identified by flat or property address. The landlord must ensure that the tenants utilise the bins provided and ensure that refuse or bins are placed out on collection day and that bins are returned to the bin storage area following collection (where applicable).
- 24.** The Licensee will ensure that residents' mail is made available to residents on a daily basis.
- 25.** The Licensee shall maintain comprehensive Building Insurance and Property Owner/Public Liability Insurance in accordance with the approved Standards.

Cameron Veitch v. East Lothian Council

Application to remit case back for reconsideration.



Mr Veitch raised an action at court to remit his case for an HMO license at 69 Kennedy Crescent, Tranent, EH33 1DN (thereinafter “the property”). The HMO had previously been refused as there was not adequate parking.

The case called on 4 February 2020. On this date, Mr Veitch’s Solicitor provided the local authority with a title deed and photographs of a newly mono-blocked area outside the property. They argued that this was now sufficient to hold 6 cars. There are some concerns that the mono-blocked area covers a portion of land that is not owned by Mr Veitch. However, on the basis that there was a material change of circumstances, it was agreed that the case should be remitted back to the Licensing Sub-Committee for re-consideration at a continued court hearing on 20 February 2020.

I would be obliged if this case could be remitted back and a date assigned.

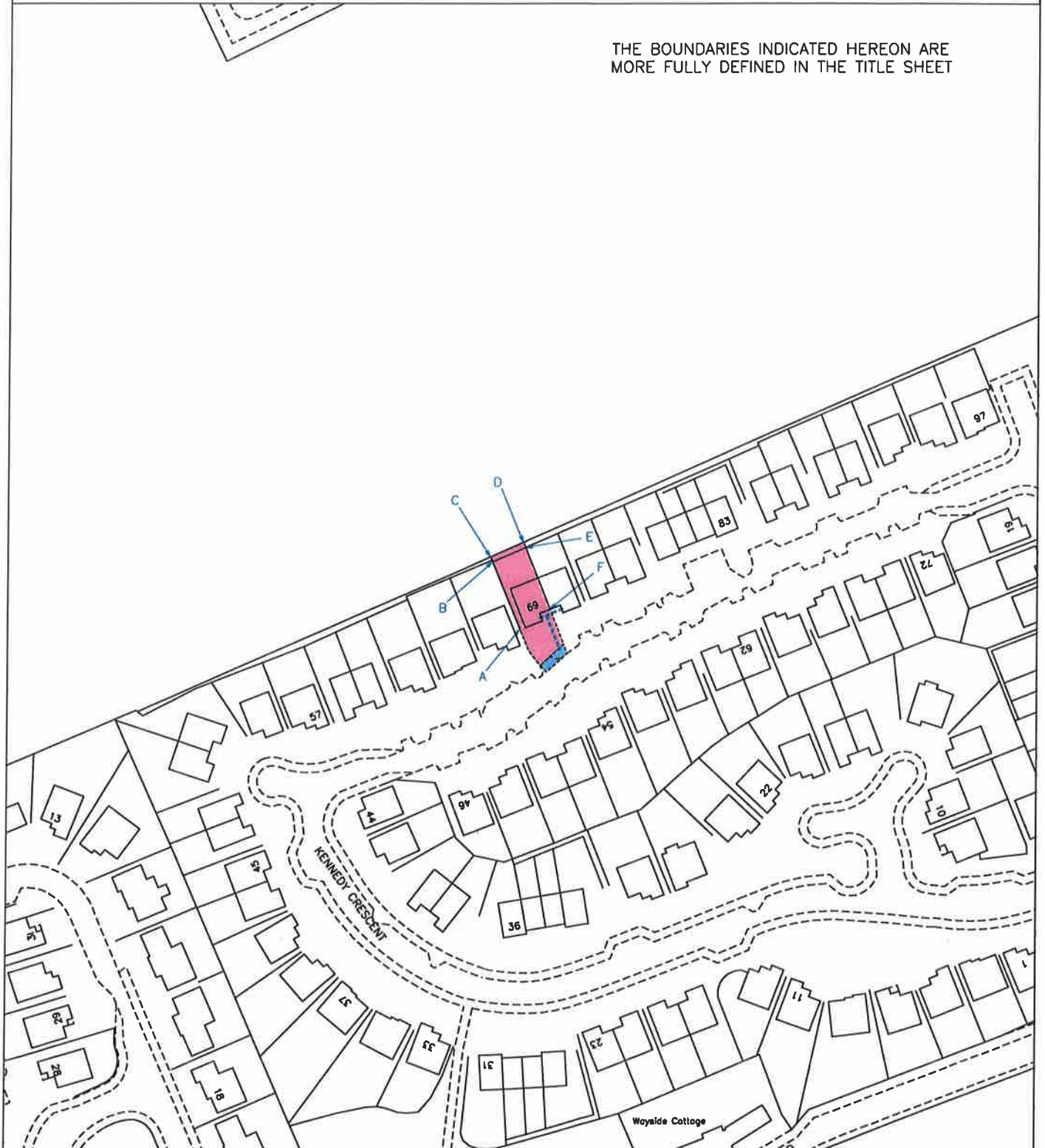
If you require anything further, please do not hesitate to contact me.

Louise Shearer
Senior Solicitor
20 February 2020

 LAND REGISTER OF SCOTLAND	Officer's ID / Date	TITLE NUMBER
	2719 16/7/2001	ELN3045
 ORDNANCE SURVEY NATIONAL GRID REFERENCE	70m	
	Survey Scale 1/1250	
NT4073SE		

CROWN COPYRIGHT © - This copy has been produced from the ROS Digital Mapping System on 26/06/2012 and was made with the authority of Ordnance Survey pursuant to Section 47 of the Copyright, Designs and Patents Act 1988. Unless that act provides a relevant exception to copyright, the copy must not be copied without the prior permission of the copyright owner.

THE BOUNDARIES INDICATED HEREON ARE MORE FULLY DEFINED IN THE TITLE SHEET



Google Maps 71 Kennedy Cres



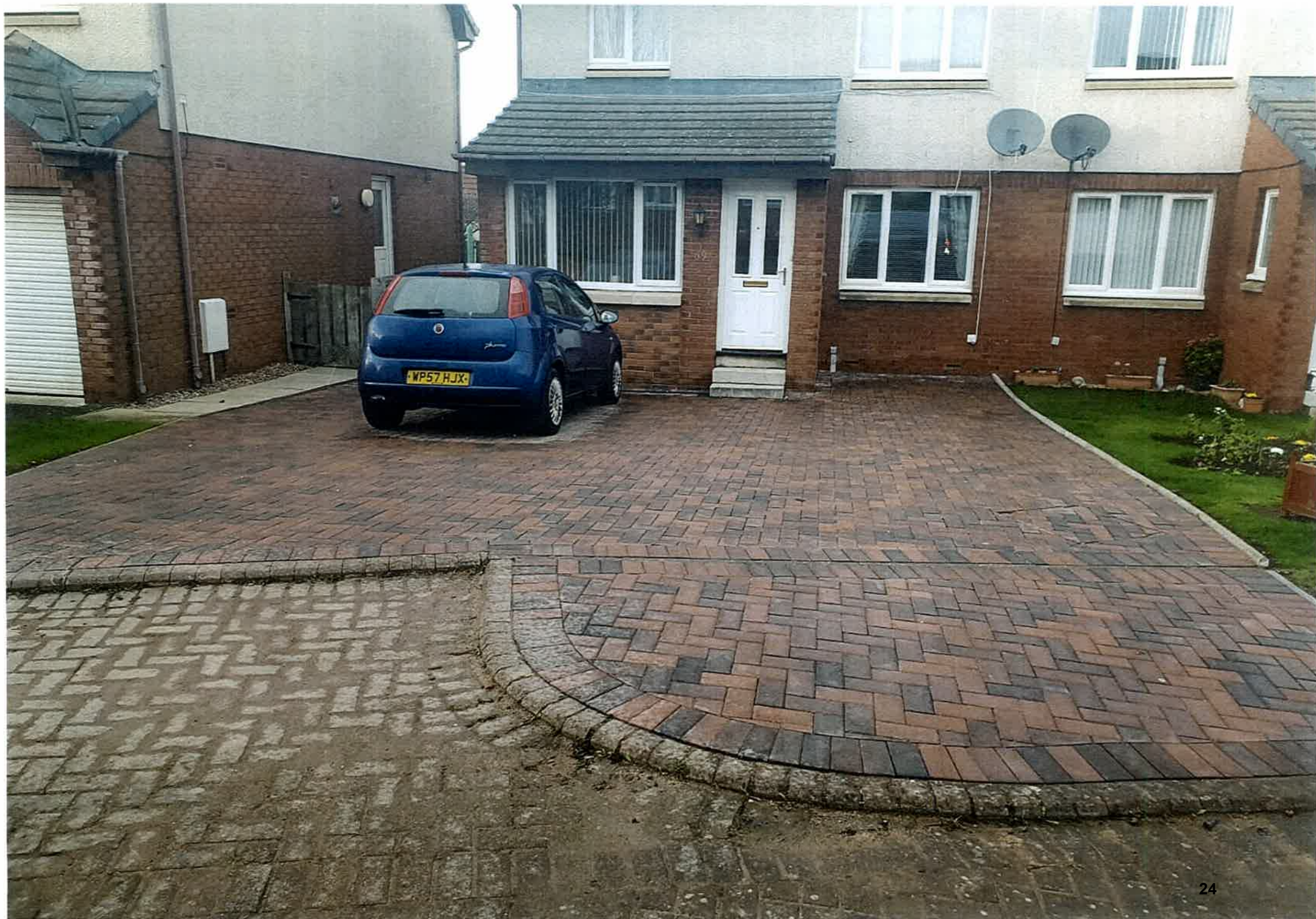
Image capture: Mar 2009 © 2020 Google

Tranent, Scotland



Street View





HOUSING (SCOTLAND) ACT 2006
HOUSING IN MULTIPLE OCCUPATION
CERTIFICATE OF COMPLIANCE

I, CAMERON VEITCH OF BENCHMARK4 LLP

applicant for a House in Multiple Occupation Licence, hereby certify that a Notice has been posted at or near the premises at 69 KENNEDY CRESCENT TRANENT

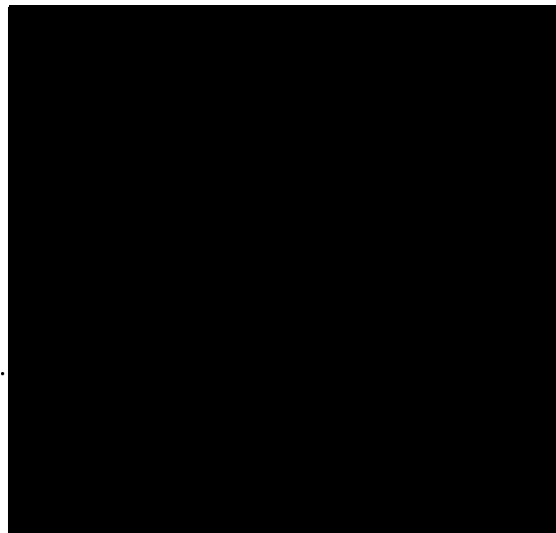
from 13 MARCH 2020 to 3 APRIL 2020

containing such information as required by the above Act.

* Where the said Notice was removed, obscured or defaced during the above-mentioned period, I took reasonable steps for its protection and replacement as follows:- (give details and circumstances)

Date 4/4/2020 Signature.....

* Delete if not applicable



On 13 Mar 2020, at 22:33, Cameron Veitch wrote:

For info I put the site notice up today and gaffa taped it to the front door today.

However the current tenants came home & felt it was way too obtrusive.

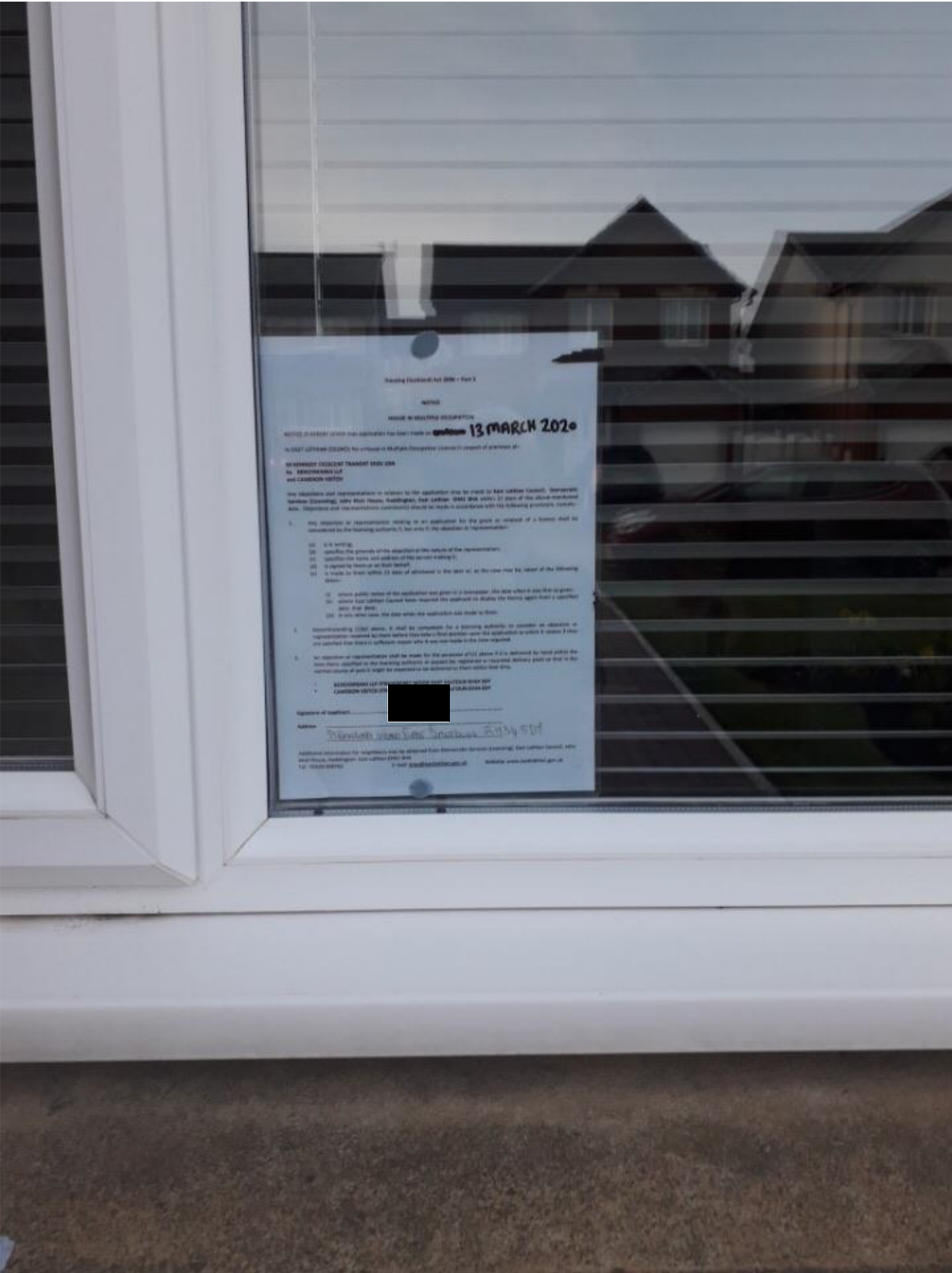
As a compromise we have put it on the living room window which is less obtrusive & is still easily seen.

There are no lamp posts within 100 metres that are not in a neighbours garden & suitable & the entire drive is now mono blocked so there is nowhere to put a post in the ground.

The neighbours will easily see the site notice stuck to the living room window at front so in my opinion it's all good.

Thank you and regards

Cameron Veitch



Notice of Request for Representation

13 MARCH 2020

TO EAST LOTHIAN COUNCIL for a House in Multiple Occupation (see report of written report)

BY REPRESENTATIVE

AND CAUTION VOTER

This resolution and representation in relation to the application may be made to East Lothian Council, Sherwood House (Sherwood), 14th Floor, Highgate, East Lothian EH42 3BA unless 21 days of the above-mentioned date. Representations and the resolutions submitted should be made in accordance with the following provisions:

- Any objection to representation relating to an application for the grant or refusal of a licence shall be considered on the following authority, 7, but not if the objection is representation:
 - in writing;
 - specify the grounds of the objection on the notice of the representation;
 - specify the name and address of the objector in writing;
 - to signed by the objector or their agent;
 - to made to reach within 21 days of submission to the local authority at the time of the receipt of the notice of the objection.
- Where public notice of the application has been given in accordance with the above and the objector has not been notified by the council to attend a meeting to discuss the licence application, the objector shall:
 - in any other case, the date when the application was made to them;
- Representation relating to the grant or refusal of a licence shall be considered on the following authority: to consider an objection to representation received by them within 21 days of the receipt of the application for which it appears that the objector has been notified that they are to attend a meeting to discuss the application.
- An objection to representation shall be made for the purposes of 1(a) above if it is allowed for the objector to be notified of the meeting authority or invited to register an objection. Where public notice of the receipt of the application is made to the local authority, the objector shall be notified of the meeting authority and invited to register an objection to the licence application within 21 days of the receipt of the notice.

REPRESENTATIVE (Name and Address) **CAUTION VOTER**

Signature of applicant: _____
 Address: 14th Floor, Highgate, East Lothian EH42 3BA

Additional information for applicants: see the Council's website for further information (Sherwood House, East Lothian Council, 14th Floor, Highgate, East Lothian EH42 3BA)
 Tel: 0131 534 1000 Email: representations@eastlothian.gov.uk Website: www.eastlothian.gov.uk

On 13 Mar 2020, at 09:45, HMO Licensing <hmo@eastlothian.gov.uk> wrote:

Good morning Mr Veitch,

As per our telephone call, please find attached blank site and compliance notice. The site notice is to be displayed for 21 days and the compliance notice, completed and submitted to this office at the end of the 21 days.

Regards,

Sheila Fitzpatrick
Team Leader – Licensing and Landlord Registration
East Lothian Council
Democratic & Licensing Services
John Muir House
HADDINGTON, EH41 4HA

01620 820623

hmo@eastlothian.gov.uk

25. 3. 2020

East Lothian Council,
Democratic Services (icensing)
John Muir House,
Haddington, EH41 3HA.

Dear Sirs,
69, Kennedy Crescent-H140 Application

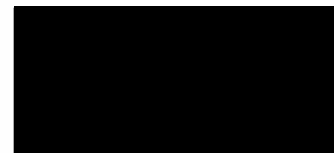
We wish to object to the above application. This is due to firstly the very limited parking in the area. This can be extremely disrupted when the Sanderson Wyrud school is occupied. The Title Deeds also state that the property should only be used for family accommodation, not multiple occupancy. There was an application turned down on 14th November, 2019.

Yours faithfully,

EAST LOTHIAN COUNCIL
RECEIVED

- 2 APR 2020

LEGAL & PROCUREMENT



27th March 2020

East Lothian Council
Democratic Services (Licensing)
John Muir House
Haddington
EH41 3HA

Dear Sirs,

HMO Licence Application- 69 Kennedy Crescent, Tranent

We would like to register our objection to the above application on the following grounds:-

1) Application Advertisement -

The Notice of Application paperwork states that this should be advertised outside the property for 21 days to allow residents around the proposed HMO a chance to comment. In this instance, a Notice had been placed on the front door of the property on the 13th March 2020 and was very prominent for people to see. By the following day this had been moved from the front door to the middle of the Living Room window and later that day, to the very inside corner of the window, making it much less obvious and therefore more difficult for anyone other than ourselves to see. As such, we do not think that this application has been advertised correctly in that the Notice was not displayed outside the property for the relevant 21 day period and did not allow the proper time for all neighbours to comment should they wish to do so.

2) Parking -

As was discussed at the Committee Meeting in November when the previous application was rejected, parking is a real problem in Kennedy Crescent and is already overcrowded with existing cars of the current residents as on average each house has 2 cars.

It is acknowledged that the Applicant has tried to improve this situation by monoblocking the whole of the front garden, although this is contrary to what is allowed in the Title Deeds. Having looked at how the cars are currently parking, there does not look like there would be sufficient space for 4 cars/vans on the new driveway without significant intrusion into the roadway and the potential for increased nuisance being caused to residents of the street.

3) Noise & Anti Social Behaviour -

Kennedy Crescent is an enclosed residential estate where the vast majority of properties are owned and occupied by families, many of whom have young children. The neighbourhood, especially the lower part of the street where the application property is located, is very quiet and an area where there has not been a property or residents that have caused noise, anti social behaviour or neighbourhood problems. Many of the current residents in the street have chosen to live here both for the fact that it is very close to the local school as well as for the very quiet and peaceful location which is perfect for families to live and for children to play safely in the street.

4) Property Title Deeds -

Having reviewed the Title Deeds of our property Clause Eighteenth states the following

"Each of the feus and the buildings thereon shall be used for private residence only and for no other purpose whatsoever;- and none of the said dwelling houses shall be sub-divided or occupied by more than one family at a time".

Also as mentioned above, Clause Eighth of the Title Deeds states

"Each Feuar shall be bound to ascertain the location of any Service Strip traversing the feu and to maintain the area of ground above any such Service Strip in a neat and tidy condition **under grass** (which grass shall be of a type approved by us, Walker Homes and the Local Authority) and open and unbuilt upon in all time coming....."

Copies of these sections of the Title Deeds can be provided if required.

5) Alterations to Property -

This former 3 bedroom house has been significantly altered to form a 5 bedroom accommodation, having both the garage and the attic space converted. We do not know if this complies with building regulations as we are aware that others in the estate have been refused permission to convert the attic space as there is insufficient height for it to be classed as a bedroom.

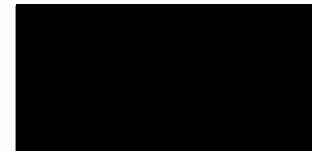
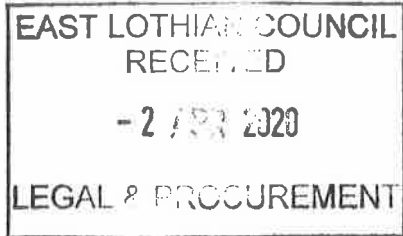
On a personal note, our house [REDACTED] so we are concerned that multiple occupancy with tenants sharing facilities could impact greatly on us. We have lived here for 20 years, since the property was built, and have a disabled son who finds loud noise and changes to routine challenging. [REDACTED] and should a tenant living there cause any sort of disruption this would cause him significant distress.

In summary we feel that to introduce a property with an HMO licence to this very quiet neighbourhood could cause very significant problems in terms of parking, noise & potential anti social behaviour.

Yours faithfully

[REDACTED]

Michael & Hazel Brunton



28th March 2020

East Lothian Council
Democratic Services (Licensing)
John Muir House
Haddington
EH41 3HA

To Whom it May Concern,

HMO License Application

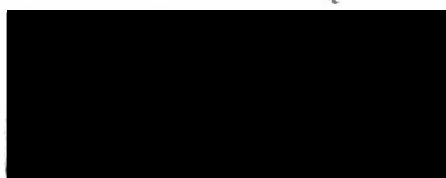
Please register our objection to the application for 69 Kennedy Crescent, Tranent for the following reasons:-

- Kennedy Crescent is a street where families have chosen to live mainly due to the fact that it is very close to the primary school. All the houses and gardens are well maintained & children regularly play out in the street. It is a very quiet area and there has never been any noise or disturbance at any of the houses. We are all concerned that if the HMO license is granted and the property has up to 5 unrelated tenants there is potential for this to change.
- Currently parking in Kennedy Crescent is very limited with most households having 2 or more cars and many of the properties having space for only one car on their drive. Despite changes to the layout of driveway at the property there is still not enough room for potentially 5 vehicles & there are no designated parking places around number 69. The already crowded street is likely to increase the risk to road safety, especially for children.
- The deeds of our properties state that only families can occupy the houses within Kennedy Crescent so this application for the property to have unrelated tenants should not proceed.

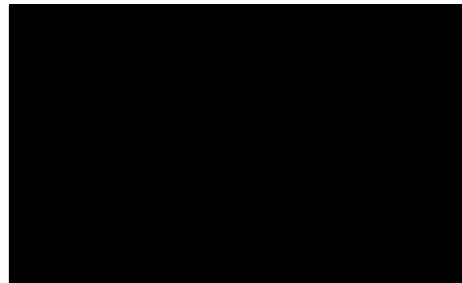
We would also like to make you aware that the Notice of the application has been placed in the inside corner of the living room window, and to view this you would need to go past the front door and it would appear as if you are looking in the tenant's window. This is not in an obvious place as required.

Please allow a family estate to continue as one by declining this application.

Yours faithfully



Mr Iain & Mrs Patricia Cunningham



RE: HMO application 69 Kennedy Crescent

I should like to register my objection to the granting of a license for the above mentioned property to be converted to a H.M.O. My main reasons are as listed:-

- 1) This scheme was built as family homes, not apartments for multiple occupation and Title Deeds state this.
- 2) Parking availability is already compromised by garage conversions and multiple vehicle ownership in family homes, with foot path at corners often obstructed. This would only get worse.
- 3) Once the precedent is set, the doors are opened for further HMO development. Any such development is likely to have an adverse effect on house prices and future saleability.

On top of these, there is also the extensive developments in the local area taking place that are likely to place extra strain on local infrastructure including schools GP surgeries etc which are already stretched

I urge you to reject this application for H.M.O.

yours faithfully



S. M. LE MAY

To Whom it may concern.

HMO application - 69 Kennedy Crescent.

I understand a further application has been submitted to E.L.C. for the above mentioned property.

Objection - Firstly to inform neighbours and give them the right to object a notice has been placed in the livingroom of the property which is at the end of the drive and usually has cars parked on front of it.

By law the notice should be more public.

Objection - The updated driveway will not accommodate all the tenants cars. This is a danger as the road does not lead to a pavement therefore at present the double parking is on the road which narrows the road considerably.

Objection - The Title Deeds state the purpose of this property is for family accomadation. Not multiple occupancy.

Therefore I formally object to the applicants request.

Yours,



James & Elizabeth McGoldrick



27th March 2020

To whom it may concern,

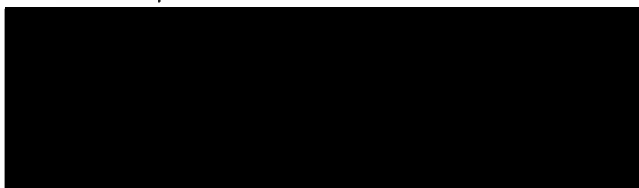
We object strongly to the Multiple Occupancy license application at :

69 Kennedy Crescent, Tranent, East Lothian.

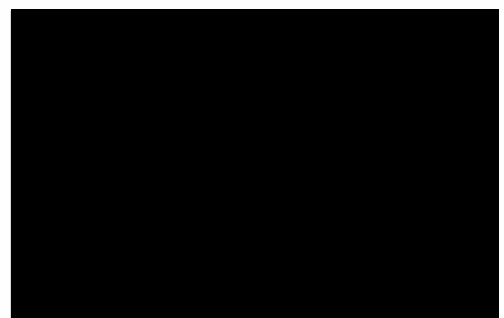
Our grounds for objection are detailed below:

1. The Title Deeds of these properties state that the properties should only be used for family occupancy, not multiple occupancy.
2. On safety grounds: using this property for multiple occupancy will, in all probability, increase car traffic in an already busy, small street, where young children play.
3. Parking at the property: At present, there are already two vehicles at the property, with only two people staying there. From our experience of living in the same property style for 16 years, any more cars parked there will need to be parked in front of those already in the driveway, meaning cars will need to be moved to allow others out. This, from our observation and experience, leads to people not bothering to park in front of others in the driveway, but on the street in front of, or near the property, blocking the street further. This then also becomes a safety concern.
4. Potential Anti-social behaviour: We believe that allowing multiple occupancy in this type of house, to people who will not have an attachment to the street beyond staying there, and potentially with no children, could lead to differences in attitude to what is acceptable behaviour, particularly with families and children in the vicinity. This could lead to unsafe situations and "flash points" developing.

Sincerely



Michael & Fiona McNeill





Dear Sir/Madam

I am writing in reference to the application which has been made for a License for a House in Multiple Occupation for 69 Kennedy Crescent, Tranent and to make my objection to this application known to you.

I object on 3 key issues. Firstly, it states in title deeds for properties on this estate that the properties should be used for family accommodation, **not** multiple occupancy.

Secondly, I would be concerned about the possibility of on-going transient tenants engaging in anti-social behaviour, where they are not invested in the upkeep and community ethos of the estate.

A further significant concern is around the potential, and highly likely issues around parking. This is already a huge issue on Kennedy Crescent, where many residents have more vehicles than there is space to park, *even with* access to driveways. At weekends in particular, cars are parked in the street. This causes issues around visibility and cars often obstruct pedestrian access and force people to walk onto the road. This obviously causes issues around pedestrian safety. There are existing issues with people driving too fast around the estate, in particular delivery drivers, and for parents who want to be able to encourage their children out on their bikes for example, this is a major concern.

I hope you will take these valid and reasonable concerns into consideration and make the decision to once again reject this application, as you rightfully did on the previous occasion.

Yours faithfully,



Ailsa and Craig Morgan



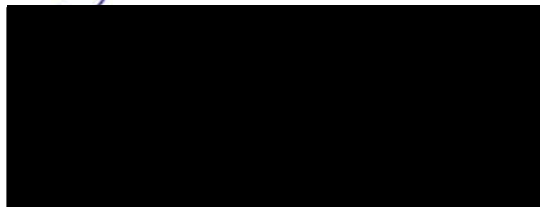
Dear Sir/Madam,

Please accept this as a formal objection to the HMO application at 69 Kennedy Crescent, Tranent.

My reasons are as follows:

- 1/ The title deeds forbid more than one family per house.
- 2/ Parking is already a problem. Multiple cars equal multiple cars. This will also cause increased traffic. This house is on a route used by children to go to school. There are NO PAVEMENTS so pedestrians have no option but to walk on the road. An accident waiting to happen.
- 3/ This could affect property prices in the street.

Regards



Lynne POLLACK + Robbie DUNCAN

1/4/2020

DEAR SIR/MADAM, WE (LYNNE P + ROBBIE D) WANT TO OBJECT STRONGLY AGAINST THE REQUEST TO CHANGE THE STATUS OF '69 KENNEDY CRESCENT' TO ONE OF MULTI-OCCUPANCY. THIS CHANGE FROM A PRIVATE HOUSE TO WHAT'S ESSENTIALLY A BUSINESS THREATENS THE CHARACTER + USAGE OF THIS WHOLE STREET. WE OBJECT ON SAFETY GROUNDS RE TRANSPORT WHICH WILL BE INCREASED AND ENDANGER MY CHILDREN PLAYING IN THE STREET.

WE ALSO OBJECT ON THE GROUNDS THAT THIS IS A PRIVATE RESIDENTIAL AREA NOT A BUSINESS FOR ABSENTEE LANDLORDS TO MAKE MONEY. OUR DEEDS IN THIS STREET SPECIFICALLY SAY THAT THIS IS A RESIDENTIAL AREA WHERE THIS SORT OF BUSINESS DOESN'T ~~AND~~ SHOULDN'T HAPPEN.

IF YOU ALLOW ONE HOUSE OWNER WHO DOESN'T LIVE ON THE STREET TO CHANGE THE DEEDS AND/OR OCCUPANCY YOU ARE SETTING A DANGEROUS PRECEDENT FOR ALL OUR DEEDS, WHICH COULD HAVE AN ONGOING IMPACT ON HOUSE PRICES + WHEN PEOPLE ARE (LIKE ME) MOVING OR THINKING OF MOVING TO KENNEDY CRESCENT THEN THEY WILL BE PUT OFF BUYING. ~~I~~ I WOULD NOT HAVE BOUGHT A FAMILY HOME HERE IF I THOUGHT THAT GRANT LETHBRIDGE COUNCIL WAS GOING TO CHANGE KENNEDY CRESCENT INTO A PLACE WHERE SELFISH BUSINESS INTERESTS COUNT FOR MORE THAN SAFETY IN A QUIET RESIDENTIAL STREET. WE MOVED HERE BECAUSE THAT AWOULD OR COULDN'T HAPPEN.

I Also object to the noise threats, + overpowered
Parking where instead of one house we have up to
3-4 different people/groups all with transport.

So to sum up we object on safety, ROAD safety,
Parking, change of DEEDS + the impact on our own
DEEDS + Ability to sell our homes.

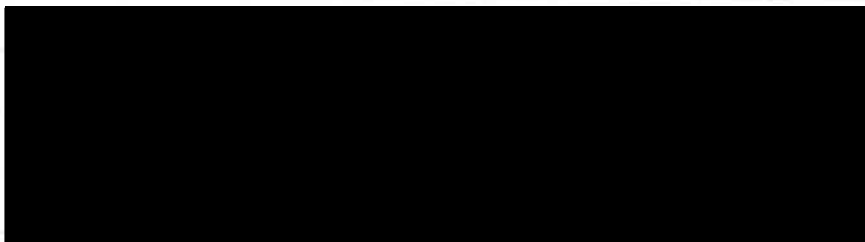
This is a GOOD SAFE AREA to raise my children +
this potential change of occupancy threatens this
for the PROFIT + BUSINESS INTERESTS of someone who
doesn't live here + would not have to deal with the
CONSEQUENCES of his/her BUSINESS DECISION but we would.

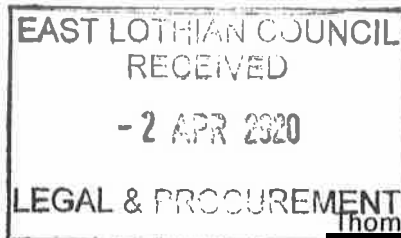
We want East Leitham Council to refuse this request
AND ARE ALSO TAKING ADVICE FROM ESTATE AGENTS + LAWYERS
IN STOPPING THIS FROM HAPPENING

Yours Sincerely



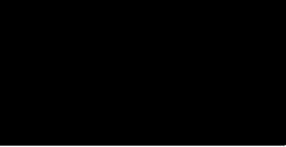
Home owners +
Council TAX Payers !





East Lothian Council,
Democratic Services (Licensing),
John Muir House, Haddington,
East Lothian,
EH41 3HA.

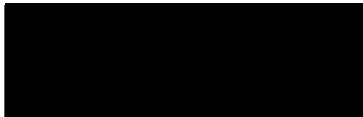
Thomas & Linda Rattray



Subject: 69 Kennedy Crescent – HMO Application.

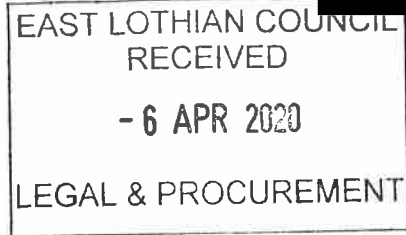
We believe that a new application has been made for a license for a House in Multiple Occupation for number 69 Kennedy Crescent, Tranent, East Lothian. **We strongly object** to this application being approved, the council declined the previous application in November 2019 due to concerns around parking, the potential for antisocial behaviour and the fact that our Title Deeds state that the property should only be used for family accommodation, not for multiple occupancy. The parking problem has not improved, if anything its deteriorated further, nothing else has changed since the original application was declined therefore this application should also be declined and any future HMO applications for this property should not be entertained.

Yours Sincerely



Thomas Rattray

East Lothian Council
Democratic Services (Licensing)
John Muir House
Haddington
East Lothian
EH41 3HA



29th March 2020

Dear Sir/Madam,

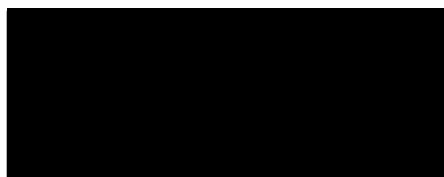
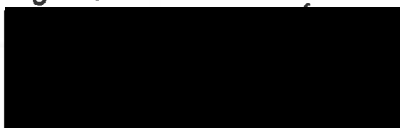
As residents of Kennedy Crescent, we would like to log an objection to an application that has been made for a License for a House in Multiple Occupation for number 69 Kennedy Crescent, Tranent.

Our objections are based on a number of concerns:

1. The Crescent was built as a residential street where, for the 20 years since we have lived here, has been a safe place for families with young children to reside. The residence in question was built originally as a 3 bedroomed home, not an opportunity for business let.
2. Parking is already an issue in the street and parking spaces at that part are already very limited - with the potential of multiple occupancy and therefore more cars, this would cause greater concern for not only safe driving in the street but also for safety issues particularly regarding young children playing in the street.
3. With limited space between houses and the fact it is a semi-detached property, the opportunity for multiple occupancy would lend itself towards the potential for greater antisocial behaviour - none of which is acceptable but particularly in an existing family residential street.
4. The Title Deeds, like all those of the Street, clearly state that the property should only be used for family accommodation. All property owners must be made to abide by these terms. If all property owners were to not abide by this, the whole demographic of the Street could change.

We'd be grateful if you would log our objections to the above application and for the above reasons.

Kind regards



Stephen & Zoe Walker



30th March 2020



Dear Sir/Madam

Objection to HMO Application
69 Kennedy Crescent
Tranent

We write to lodge the following objections to the above noted application.

1) Use of property in a prohibited manner.

The Title Deeds for properties in Kennedy Crescent clearly state that the "building thereon shall be used for private residence only"....."and none of the said dwelling houses shall be sub-divided or occupied by more than one family at a time".

1.1) Using a property as HMO therefore contravenes the use of the property as recorded in the Land Register of Scotland.

1.2) Surrounding properties have been professionally valued on the understanding HMO is not permitted and subsequent decisions to purchase and obtain mortgages will be based upon that valuation. Contravening the title deeds by conducting HMO will have a negative impact on that value and, it is possible to such an extent, that newer, younger families will be forced into a negative equity position.

2) Insufficient Parking

The Title Deeds for properties in Kennedy Crescent clearly state that the "service strip" found to the front of the property is maintained "under grass".

2.1) We have observed the current owners have chosen to ignore this "burden" and have removed the grass replacing it with mono-block.

2.2) We have surmised this alteration is an attempt to contravene the previous reason for rejection relating to insufficient parking. However the alteration cannot be relied upon to allow extra parking given the alteration itself is prohibited and requires to be immediately removed with grass returned.

2.3) As insufficient parking is already prevalent in the street and the property alteration cannot be allowed to remain and therefore cannot mitigate the extra parking HMO will require; the reason for the previous rejection, due to lack of parking, has not been changed.

2.4) It should also be noted that if every property in the street undertook the removal of the service strip that this would create future problems for emergency access to the services for each property. By allowing this property to proceed in this manner it is likely others will now follow in a like manner thus creating a wider problem.

2.5) Furthermore the alterations are such as to have already impacted on the residents by actually removing an on street parking space by creating a wider access to the property. As stated such an action is prohibited but should that be allowed to stand and other properties follow there will be, in effect, no on street parking remaining.

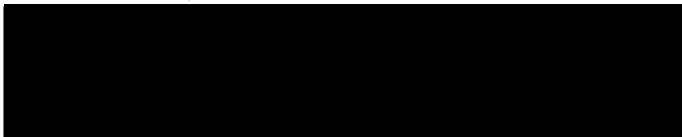
3) Insufficient Notice

The ELC instructions state that the notice advising HMO application should be made "outside the property (in an accessible location for the public)"

The notice is in fact displayed inside a property window and in such a place that the only way to read it is by entering the property's boundary. Had we not observed, from the street, the A4 sheet in the window, after what we can only assume is a period of two weeks, and entered the property boundary to check we would have missed this completely. It is therefore likely other residents have failed to be made aware and have been denied the opportunity to consider this application and the impact on themselves. We recall a similar tactic was employed in the previous application.

For the above reasons we strongly object to the granting of the HMO license for 69 Kennedy Crescent, Tranent.

Yours Faithfully

A large black rectangular redaction box covering the signature of the sender.

Grant & Suzanne Walker

East Lothian Council

MEMORANDUM

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

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

DATE: 21 October 2019

SUBJECT: Housing (Scotland) Act 2006
Application for a House in Multiple Occupation Licence
69 Kennedy Crescent, Tranent EH33 1DN

I refer to the House in Multiple Occupation Licence application submitted by Cameron Veitch of BENCHMARK4 LLP in respect of premises at 69 Kennedy Crescent, Tranent EH33 1DN. The property will be managed by Mr Veitch.

An inspection of the premises was carried out on 30 August 2019.

The property is a two storey semi-detached house which has had the integral garage converted to a bedroom and associated en-suite. The attic space creates a second floor and has been converted to a room which is to be used for storage. The accommodation comprises on the ground floor an entrance vestibule with en-suite bedroom leading off, living room with stairs leading to the first floor (please note that discussions during the Fire Officers inspection may have lead to a hallway being created with the stairs leading off and the living room becoming a separate room) and a dining kitchen. On the first floor there is a hallway, three further bedrooms (one en-suite) and a main bathroom. On the second floor there is an attic storage room. The property has a front and rear garden and a driveway.

Location

The property is located within a residential area on Kennedy Crescent in the town of Tranent.

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 within a cupboard in Bedroom 1 on the ground floor. 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 hob and oven. There is a microwave and freestanding fridge freezer, there is also a further integrated fridge freezer. There is a sink with integral drainer and a dishwasher as well as a washing machine and an external washing line to dry clothes. The property has one main bathroom which has a bath with shower over it, wc and wash hand basin. Two of the bedrooms have en-suite shower rooms which each have a shower cubicle, wc and wash hand basin. The kitchen, cooking and sanitary facilities within the property offer sufficient amenities for the proposed number of occupants (five). 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 five. In terms of space and layout there are four bedrooms within this property. Each of the bedrooms are of a size which exceeds the minimum space standards for single/double 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 individuals who are working in the area.

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 Gas Safety Certificate was viewed and dated 14 August 2018. Therefore an up to date certificate will be required. 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 generally complies with this standard with the exception of one of the bedrooms. In terms of electrical safety a current and valid copy of an 'Electrical Installation Condition Report (EICR)' was viewed and dated 10 December 2018. A PAT certificate is not required as the owner has supplied a statement confirming this. The property is capable of being adequately secured and exited with 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 five residents and subject to the following condition:

1. A current Gas Safety Certificate must be submitted to cover the boiler.

2. All bedrooms must have at least six electrical sockets provided.
3. The attic space on the second floor must not be used as sleeping accommodation.
4. If internal changes have been made on the ground floor of the property, revised plans should be submitted to clearly show these changes.

REPORT TO: Licensing Sub-Committee
MEETING DATE: 10 September 2020
BY: Depute Chief Executive (Resources and People Services)
SUBJECT: Update of Delegated Powers List

3

1 PURPOSE

- 1.1 To advise the Sub-Committee of a proposed update to the list of delegated powers granted to licensing officers.

2 RECOMMENDATIONS

- 2.1 That the Sub-Committee agree to the update to the list of delegated powers as outlined in paragraph 3.4 below

3 BACKGROUND

- 3.1 The Licensing Sub-Committee delegated a number of tasks to relevant officials a number of years ago, with a view to reducing the number of routine cases which require to be put before the Sub-Committee for determination.
- 3.2 The list is couched in deliberately broad terms, and principally deals with the grant or renewal of licences in routine cases where no objections have been received.
- 3.3 Since the list was initially drawn up, there have been a number of additions to it as circumstances required. The overall result is a somewhat untidy and repetitive list.
- 3.4 It is proposed that the delegated powers list be amended to the proposed streamlined format shown in the appendix hereto. The principal powers are effectively unchanged but the new list is more streamlined and simple

to read. The update also specifies a list of licensing legislation for which the delegated powers exist, which is non-exclusive and so future-proofed against the advent of new relevant legislation being introduced.

- 3.5 The intention remains that this list of powers would allow officers to deal with routine licensing matters, and avoid the need for such cases to be brought before the Sub-Committee for approval. The current arrangement whereby more complex or controversial cases, and those where objections have been received, continue to go before the Sub-Committee, would not change.

4 POLICY IMPLICATIONS

- 4.1 None – Standing Orders empower the Licensing Sub-Committee to delegate such duties as they deem appropriate to relevant Licensing Officers.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the wellbeing of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

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

7 BACKGROUND PAPERS

- 7.1 Current delegated powers list.

AUTHOR'S NAME	Ian Forrest
DESIGNATION	Senior Solicitor
CONTACT INFO	x7389
DATE	21.8.2020

DELEGATED POWERS UPDATED 23 JUNE 2020

The Delegated Officer is authorised to determine the following licensing matters:

1. To grant licences, on advice from the Chief Constable that there are no objections
2. To renew licences, if there are no new objections or adverse information received since or before the Licensing Sub-Committee's last consideration of the matter and the licence sought is the same as the licence previously granted;
3. To grant a licence in terms of any other primary or secondary legislation which regulate licensing regimes falling within the ambit of the Licensing Sub-Committee, on advice from the Chief Constable that there are no objections
4. To renew a licence in terms of any other primary or secondary legislation which regulate licensing regimes falling within the ambit of the Licensing Sub-Committee, if there are no new objections or adverse information received since or before the Licensing Sub-Committee's last consideration of the matter and the licence sought is the same as the licence previously granted
5. To determine whether exceptional circumstances exist which would justify the return of Application fees in cases where the application is not progressed.
6. To suspend a licence with immediate effect in terms of paragraph 12 of Schedule 1 to the Civic Government (Scotland) Act 1982
7. To determine whether "good cause" has been shown by an applicant where the application for renewal of a licence is received late, in terms of Schedule 1, paragraph 8(5A) of the Civic Government (Scotland) Act 1982.
8. To determine whether individual conditions are to be included in the grant or renewal of a licence, in addition to standard conditions
9. To determine whether existing conditions are varied, on a temporary or permanent basis
10. Provide that if, for any reason, the delegated officer considers it inappropriate to determine an application under delegated powers, the application will be referred for determination to the Licensing Sub-Committee.

The above powers can be applied in the consideration of the following legislation, which list is indicative and not conclusive:

- Animal Boarding Establishments Act 1963
- Animal Health & Welfare (Scotland) Act 2006
- Breeding of Dogs Act 1973 and Breeding and Sale of Dogs (Welfare) Act 1999
- Caravan Sites and Control of Development Act 1960
- Civic Government (Scotland) Act 1982
- Dangerous Wild Animals Act 1976
- Deer (Scotland) Act 1996
- Explosives Regulations 2014
- Gambling Act 2005
- Health and Safety at Work etc. Act 1974
- Housing (Scotland) Act 2006
- Housing (Scotland) Act 2014
- Licensing (Scotland) Act 2005
- Performing Animals Act 1925
- Pet Animals Act 1951 (amended 1983)
- Petroleum (Consolidation) Regulations 2014
- Riding Establishments Act 1964 and 1970
- Travelling Funfairs (Licensing) Act (currently going through Parliamentary procedures)
- Zoo Licensing Act 1981

REPORT TO: Licensing Sub-Committee

MEETING DATE: 10 September 2020

BY: Depute Chief Executive (Resources and People Services)

4

SUBJECT: Proposed Amendment of Resolution on Public Entertainment Licensing regime

1 PURPOSE

- 1.1 To advise the Sub-Committee of proposals to amend and streamline the list of activities within the Resolution to licence Public Entertainment Activities.

2 RECOMMENDATIONS

2.1 That the Sub-Committee-

- (i) approve the proposed wording of the amended resolution, which wording is attached to this report,
- (ii) authorise the Service Manager (People & Governance), and such staff as she may designate, to advertise the proposed wording in the local press and undertake the necessary consultation process, and
- (iii) agree to thereafter receive and consider a further report following conclusion of the consultation process.

3 BACKGROUND

3.1 Public entertainment licences under section 42 are one of a range of licences which are discretionary in terms of the Act, meaning that the licence will only be required if the Local Authority makes a resolution to that effect. In East Lothian the resolution to licence Public Entertainment activities was made in 1984.

3.2 The resolution has been amended on a couple of occasions in recent years, principally to take account of the removal of the requirement for

the activity to require payment of money or money's worth by members of the public, and also to amend the list of activities which would be exempt from the requirement to be licensed, and to generally modernise the list of activities that would require a licence, as the list was more or less unchanged since the original introduction of the resolution in 1984.

- 3.3 Upcoming statutory changes necessitate a further amendment to the Resolution. At present, the licensing of theatrical performance is governed by the terms of the Theatres Act 1968. This legislation is due to be repealed next year by the Air Weapons & Licensing (Scotland) Act 2015. Local Authorities are therefore left to determine whether or not such activities should continue to be regulated by a statutory licensing regime, and the way of achieving that is to include the activity among those covered by the resolution on Public Entertainment Licensing. The proposed resolution includes theatrical performances among those for which a Public Entertainment licence will thereafter be required.
- 3.4 The opportunity is being taken to make some other updates and amendments to the terms of the resolution at the same time, including the inclusion of airshows, escape rooms, and the enhancement of the definition of water-based activities, as well as widening skate parks to include outdoor and well as indoor venues.
- 3.5 It is proposed that the current resolution be replaced with the new, updated one, in terms of the Schedule annexed hereto. As the proposed amendments will have the effect of extending the number of activities which will fall within the terms of the resolution by the addition of theatres and others, the Council is required to advertise the proposed amendments and undertake a public consultation process regarding the proposals. Following the consultation process, the Sub-Committee shall require to consider the terms of any representations received. Once the proposed resolution is adopted following consideration of such representations, there will then be a period of nine months before the new resolution would become enforceable.

4 POLICY IMPLICATIONS

- 4.1 The Council has the statutory power to resolve to require a licence for public entertainment and had made such a resolution. The Council equally has the statutory power to amend and extend the terms of such resolution.

5 EQUALITIES IMPACT ASSESSMENT

- 5.1 This report is not applicable to the wellbeing of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – the potential widening of the activities qualifying as “public entertainment” and thus needing to be licensed in terms of the legislation as amended may lead to a potential increase in fee income relative to this type of licence.
- 6.2 Personnel – none.
- 6.3 Other – none.

7 BACKGROUND PAPERS

- 7.1 Civic Government (Scotland) Act 1982

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DATE	24.8.2020

RESOLUTION ON PUBLIC ENTERTAINMENT LICENSING:

East Lothian Council, as Licensing Authority for East Lothian, in terms of Section 9 of the Civic Government (Scotland) Act 1982, has decided that the present resolution regarding public entertainment licensing in East Lothian shall, from (tbc) be replaced by the following resolution wording:

- 1) Section 41 of the Act relating to public entertainment licences shall continue to have effect throughout the local government area of East Lothian.
- 2) Subject to the terms of Section 41 and Schedule 1 of the said Act, a Public Entertainment licence shall be required for the use of premises as places of public entertainment for the classes of activity specified in Clause 4 hereof as from 12 July 2018.
- 3) A Public Entertainment Licence shall not be required for the classes of activity listed in Clause 5.
- 4) A Public Entertainment licence shall be required in respect of any of the following types of activity-
 - Dancing establishments
 - Theatres, including any play, dramatisation, concert, hypnotism act to which the Hypnotism Act 1952 applies, or comedy act
 - Billiards, snooker or pool halls
 - Any exhibition to which the Hypnotism Act 1952 applies insofar as not covered by the definition of Theatres
 - Exhibitions of objects such as paintings, sculptures, drawings or historical artefacts
 - Exhibitions of persons, including but not limited to boxing, wrestling, cage fighting or martial arts (where not already covered by an Indoor Sports Entertainment Licence)
 - Saunas, massage parlours, tanning salons, nail bars, health clubs or gymnasia
 - Circuses, carnivals and funfairs, including merry-go-rounds, roundabouts, swings, switchback railways, skittle alleys, coconut shies, hooplas, mechanical riding, driving or boating apparatus or anything similar to any of the foregoing
 - Any activities involving shooting, including but not limited to archery, clay pigeon shooting, or paintball
 - Laser or war gaming
 - Motor cycle and quad bike scrambling
 - Track racing and go-carting
 - Indoor or open air festivals or variety concerts, shows or performances
 - Airshows

- Amusement arcades with automatic or other machines, including but not limited to video gaming machines, intended for entertainment or amusement which are not licensed in terms of the Gambling Act 2005
- Escape rooms (including puzzle and breakout rooms)
- Bouncy castles or similar structures, or trampoline venues
- Internal or external children’s play areas including soft play areas
- Indoor bowling alleys including ten pin bowling alleys
- Bungee jumping or catapulting
- Outdoor adventure or activity parks or anything similar to the foregoing
- Water sports activities including raft races, wake boarding, water skiing, sail boarding, canoeing and jet skiing activities (where the activity is not licensed as defined by a Boat Hire Licence)
- Fireworks or bonfire displays
- Torchlight processions
- Agricultural, equestrian or livestock shows
- skate parks
- Major Sporting events such as Golf Opens
- Highland Games
- “Boot camp” type organised exercise and fitness activities

5) The following public events/activities DO NOT require a licence under the said Section 41:-

- Small scale exhibitions of art work
- Small scale performance of live music which is incidental to the main purpose of the premises where the performance takes place
- Small scale oral recitals including poetry reading and story telling
- Small scale community non-profit festivals, fetes, treasure hunts, duck derbys, galas, and organised exercise and fitness activities

In respect of the foregoing, “small scale” is understood to mean less than 150 persons at any one time.

In respect of the foregoing, “non-profit” is understood to mean a non-commercial event held solely for the purpose of raising funds for the organisation holding the function and NOT for the purposes of making a profit or deriving any other form of financial benefit by any person or organisation, and where ALL surplus funds raised by the event are utilised to further the aims and activities of the organisation holding the event.”

