

REPORT TO: Licensing Sub-Committee

MEETING DATE: 12 November 2020

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Housing (Scotland) Act 2006, Part 5, Application for Renewal of a Licence to operate a House in Multiple Occupation at 16 Tyne Court, Haddington, EH41 4BL

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1 PURPOSE

- 1.1 A licence application for renewal of an HMO licence has been received from Linda Gaughan (the “landlord”), to allow them to operate the property at 16 Tyne Court, Haddington, EH41 4BL (the “property”) as a House in Multiple Occupation (HMO) (Appendix 1).
- 1.2 A letter of objection has been received from a neighbour of the rental property. 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 Although the objection was received outwith the specified time frame, members of this Committee have agreed for the objection to be heard, based on one of the points raised in the objection, namely that the site notice was not prominently displayed.
- 1.4 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 objection, and to determine whether the HMO licence application for 16 Tyne Court, Haddington, EH41 4BL is to be renewed; 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 is being rented to tenants who are employees of TLS (Scotland) Ltd (Appendix 3).
- 3.3 The HMO Application was received on 28 October 2019, and was dated 25 October 2019. Notices, under Section 2 of Schedule 24 of the Housing (Scotland) Act 2006, were displayed at and around the property on 27 October 2019, and remained in place for the statutory minimum 21 days (Appendix 4). 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 The Council has received one objection to the granting of the application. The objection was not received within the 21 day time period. Members of this Sub-Committee were consulted on whether the objection could be considered. Based on one of the points of the objection, that the site notice was not prominently displayed, members agreed to consider the objection. The objection was received in writing (by email) on 31 January 2020. A redacted copy of the objection is attached to this report (Appendix 5).
- 3.5 The representation raises an objection to the renewal of an HMO Licence at 16 Tyne Court, Haddington, EH41 4BL. The concerns raised relate mainly to antisocial behaviour by the tenants with regard to noise disturbance and cigarette fumes.

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.
 - 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.

- 3.9 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

- 3.10 Consultation responses are summarised as follows:

- 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 the property.
- Report received from Environmental Health notes that an upgrade is required in terms of the number of electrical sockets in the property (Appendix 6).
- No report has been received from the Scottish Fire and Rescue Service (SFRS), under Part 3 of the Fire (Scotland) Act 2005 and The Fire Safety (Scotland) Regulations 2006.
- The Antisocial Behaviour Team have reported that they had three complaints of anti-social behaviour made against the property. One complaint in 2017 related to excessive noise, discarded cigarettes and not recycling. Two complaints in 2018 related to excessive noise (Appendix 7).
- Roads department have reported no objection to the application.
- Planning department have reported no objection to the application.

Grant of Licence and Conditions

- 3.16 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 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 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: Licence conditions

Appendix 3: Tenancy agreement

Appendix 4: Compliance notice

Appendix 5: Redacted letter of representation/objection

Appendix 6: Environmental Health consultation response

Appendix 7: Community Safety consultation response



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DESIGNATION	Team Leader – Licensing and Landlord Registration
CONTACT INFO	01620 820623
DATE	30 October 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>NAME AND ADDRESS OF PREMISES (inc postcode)</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 1st floor left)</p>	<p>16 TYNE COURT HADDINGTON EH41 4BL</p>
<p>1. To be completed by the owner if a natural person</p> <p>(a) Full name</p>	<p>First Name LINDA Surname GAUGHAN</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>2. To be completed by the owners if a company or partnership</p> <p>(a) Full Name</p>	<p>/</p>
<p>(b) Address of Registered/Principal Office</p>	

East Lothian Council
Licensing

28 OCT 2019

Received

Business hours telephone number				
(b) Full names, private addresses and dates of birth of all directors, partners or other persons responsible for the management of the business				
(c) Full name, address and date of birth of employee or agent to carry on the day to day management of the activity Business hours telephone number of the employee or agent Home telephone number of the employee or agent				
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

East London
 Court
 100
 100

<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/NO</p> <p>EAST LoTHIAN.</p> <p>18/10/19</p> <p>VALID 23/11/18 - 23/11/21.</p> <p>*YES/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>*YES/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 = 3</p> <p>No of single BRs= 1</p> <p>No of double BRs 2 =</p> <p>No of other BRs=</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/NO</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/NO</p> <p>✓</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.

452.00.

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

Date 25/10/19

Signature of applicant or agent

Agent's address

.....

.....

Position of applicant in Company/
Partnership if not otherwise stated OWNER OF

PROPERTY

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.

TENANCY AGREEMENT

Appendix 3

THIS AGREEMENT

BETWEEN:

LINDA GAUGHAN (Trading as TARN PROPERTIES)

(the "Landlord collectively and individually")

OF THE FIRST PART

AND

TLS (Scotland) Ltd

(the "Tenant")

OF THE SECOND PART

(individually the "Party" and collectively the "Parties")

IN CONSIDERATION OF the Landlord leasing certain premises to the Tenant and other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, the Parties agree as follows:

BACKGROUND:

The Landlord is the owner of residential property available for rent and is legally entitled to grant this tenancy.

LET PROPERTY

The Landlord agrees to let to the Tenant, and the Tenant agrees to take a tenancy of the house, known as and forming (the "Property"), for use as accommodating workers working for TLS (Scotland) Ltd. Neither the Property nor any part of 16 TYNE COURT, HADDINGTON, EH41 4BL. The property will not be used at any time during the term of this Agreement by Tenant for the any other purpose.

1. If a person aged 16 or older, other than the Tenant, occupies the Property as that person's principal home, the Tenant will inform the Landlord in writing of that person's name. If the Landlord has been informed about such a person, and that person ceases to occupy the Property as that person's principal home, the Tenant will inform the Landlord.

2. No pets or animals are allowed to be kept in or about the Property without the prior written permission of the Landlord. Upon thirty (30) days' notice, the Landlord may revoke any consent previously given pursuant to this clause

3. Subject to the provisions of this Agreement, the Tenant is entitled to the use of parking on or about the Property.

4. The Property is provided to the Tenant without any furnishings.

5. The Tenant will not smoke anywhere on the Property nor permit any guests or visitors to smoke on the Property.

TERM

6. The term of the tenancy commences on 1st November 2019 (the "Term").

7. The Landlord or the Tenant may end this agreement in accordance with Part 5 of the Private Housing (Tenancies) (Scotland) Act 2016.

8. Notwithstanding that the Term commences on 5 August 2018, the Tenant is entitled to possession of the Property at 12:00 noon on 31 October 2021.

RENT

9. Subject to the provisions of this Agreement, the rent for the Property is £ 750.00 per month (the "Rent").

10. The Tenant will pay the Rent in advance, on or before the 15th of each and every month of the Term to the Landlord by electronic payment using an online money transfer service.

QUIET ENJOYMENT

11. The Landlord covenants that on paying the Rent and performing the covenants contained in this Agreement, the Tenant will peacefully and quietly have, hold, and enjoy the Property for the Term.

ACCESS

12. The Landlord and the Tenant will complete, sign and date an inspection report at the beginning and at the end of this tenancy.

13. The Tenant will allow reasonable access to the Property for an authorised purpose where the Tenant has been given at least 24 hours' notice or access is required urgently for carrying out

work on the Property or inspecting the Property to determine the type of work that the Landlord may be entitled or obligated to carry out.

14. The following are authorised purposes:

- a. carrying out any work on the Property which the Landlord has an entitlement or obligation to carry out,
- b. inspecting the Property:
 - i. in order to determine what work of a type mentioned in paragraph (a) (if any) to carry out, or
 - ii. in pursuance of any entitlement or obligation which the Landlord has to carry out an inspection, and
- c. valuing the Property or any part of the Property.

15. References to the Landlord having an entitlement or obligation to do something are to the Landlord having an entitlement or obligation to do the thing by virtue of an enactment or the terms of any agreement between the Landlord and the Tenant.

16. The Tenant is to allow reasonable use of facilities within the Property in connection with any work or inspection done, or to be done, under the previous three sections.

TENANT IMPROVEMENTS

17. The Tenant will obtain written permission from the Landlord before doing any of the following:

- a. applying adhesive materials, or inserting nails or hooks in walls or ceilings other than two small picture hooks per wall;
- b. painting, wallpapering, redecorating or in any way significantly altering the appearance of the Property;
- c. removing or adding walls, or performing any structural alterations;
- d. installing a waterbed(s);
- e. changing the amount of heat or power normally used on the Property as well as installing additional electrical wiring or heating units;
- f. placing or exposing or allowing to be placed or exposed anywhere inside or outside the Property any placard, notice or sign for advertising or any other purpose; or
- g. affixing to or erecting upon or near the Property any radio or TV antenna or tower.

UTILITIES AND OTHER CHARGES

18. The LANDLORD is responsible for obtaining a HMO licence and any charges in relation to the HMO license.

19. The Tenant is responsible for the payment of the following utilities and other charges in relation to the Property: electricity, internet, cable, telephone, natural gas and alarm/security system, Council tax.

INSURANCE

20. The Tenant is hereby advised and understands that the personal property of the Tenant is not insured by the Landlord for either damage or loss, and the Landlord assumes no liability for any such loss.

21. The Tenant is not responsible for insuring the Property for either damage or loss to the structure, mechanical or improvements to the building of the Property, and the Tenant assumes no liability for any such loss.

ABSENCES

22. The Tenant will inform the Landlord if the Tenant is to be absent from the Property for any reason for a period of more than 28 days. The Tenant agrees to take such measures to secure the Property prior to such absence as the Landlord may reasonably require and take appropriate measures to prevent frost or flood damage.

23. If the Tenant has abandoned the Property and the Landlord is unsure whether the Tenant intends to return, the Landlord is entitled to apply for a court order for possession.

24. If the Tenant has abandoned or surrendered the Property and the Landlord feels that the Property is in an insecure or urgent condition, or that electrical or gas appliances could cause damage or danger to the Property then the Landlord may enter the Property to carry out urgent repairs. If the locks have been changed for such urgent security reasons, the Landlord must attempt to provide notice to the Tenant of the change in locks and how they can get a new key.

25. If there is implied or actual surrender of the Property by the Tenant, the Landlord may, at its option, enter the Property by any means without being liable for any prosecution for such entering, and without becoming liable to the Tenant for damages or for any payment of any kind whatever, and may, at the Landlord's discretion, as agent for the Tenant, let the Property, or any part of the Property, for the whole or any part of the then unexpired term, and may receive and collect all rent payable by virtue of such letting, and, at the Landlord's option, hold the Tenant liable for any difference between the Rent that would have been payable under this Agreement during the balance of the unexpired term, if this Agreement had continued in force, and the net rent for such period realised by the Landlord by means of the letting. Implied surrender will be deemed if the

Tenant has left the keys behind or where the Tenant has ceased to occupy the Property and clearly does not intend to return.

26. If the Tenant has abandoned or surrendered the Property and the Tenant has left some belongings on the Property, the Landlord will store the Tenant's possessions with reasonable care for a reasonable period of time taking into consideration the value of the items and cost to store them. Once the cost of storage is greater than the value of the items, such items may be disposed of by the Landlord.

GOVERNING LAW

27. This Agreement will be construed in accordance with and governed by the laws of Scotland and the Parties submit to the exclusive jurisdiction of the Scottish Courts.

SEVERABILITY

28. If there is a conflict between any provision of this Agreement and the Act, the Act will prevail and such provisions of the Agreement will be amended or deleted as necessary in order to comply with the Act. Further, any provisions that are required by the Act are incorporated into this Agreement.

29. The invalidity or unenforceability of any provision of this Agreement will not affect the validity or enforceability of any other provision of this Agreement. Such other provisions remain in full force and effect.

AMENDMENT OF AGREEMENT

30. This Agreement may only be amended or modified by a written document executed by the Parties.

ASSIGNATION AND SUBLETTING

31. The tenant is permitted to sublet the Property but only to people who are working for TLS (Scotland) Ltd.

ADDITIONAL PROVISIONS

32. Council tax will be paid by the Tenant
Noise Levels will be monitored after 10 p.m.

DAMAGE TO PROPERTY

33. If the Property should be damaged by the Tenant's negligence or wilful act or that of the Tenant's employee, family, agent, or visitor and the Landlord decides not to rebuild or repair the Property, the Landlord may end this Agreement by giving appropriate notice.

CARE AND USE OF PROPERTY

34. The Tenant will promptly notify the Landlord of any damage, or of any situation that may significantly interfere with the normal use of the Property.

35. Vehicles which the Landlord reasonably considers unsightly, noisy, dangerous, improperly insured, inoperable or unlicensed are not permitted in the Tenant's parking stall(s), and such vehicles may be towed away at the Tenant's expense. Parking facilities are provided at the Tenant's own risk. The Tenant is required to park in only the space allotted to them.

36. The Tenant will not park (or allow to be parked) any caravan, boat or vehicle by the Property, if such parking, in the reasonable opinion of the Landlord, would cause nuisance or annoyance to neighbours or to anyone nearby.

37. The Tenant will keep the Property in good repair and condition and in good decorative order. The Tenant will maintain and clean the stairs and other common parts of the building in conjunction with the neighbouring proprietors, tenants and residents.

38. The Tenant or anyone living with the Tenant will not engage in any illegal trade or activity on or about the Property including, but not limited to, using the Property for drug storage, drug dealing, prostitution, illegal gambling or illegal drinking.

39. The Parties will comply with standards of health, sanitation, fire, housing and safety as required by law.

40. If the Tenant is absent from the Property and the Property is unoccupied for a period of 14 consecutive days or longer, the Tenant will arrange for regular inspection by a competent person. The Landlord will be notified in advance as to the name, address and phone number of this said person.

41. At the expiration of the Term, the Tenant will quit and surrender the Property in as good a state and condition as they were at the commencement of this Agreement, reasonable use and wear and damages by the elements excepted.

HAZARDOUS MATERIALS

42. The Tenant will not keep or have on the Property any article or thing of a dangerous, flammable, or explosive character that might unreasonably increase the danger of fire on the Property or that might be considered hazardous by any responsible insurance company.

RULES AND REGULATIONS

43. The Tenant agrees to obey all reasonable rules and regulations implemented by the Landlord from time to time regarding the use and care of the Property and of the building, which will include any car park and common parts or facilities provided for the use of the Tenant and other neighbouring properties.

ADDRESS FOR NOTICE

44. For any matter relating to this tenancy, the Tenant may be contacted at the Property or through the phone number below. After this tenancy has been terminated, the contact information of the Tenant is:

- a. Name: TLS (Scotland) Ltd
- b. Phone: 01620 824700 / 07778143380
- c. Post termination notice address:

Main Office, 5 West Garleton, HADDINGTON, EH41 3SL

45. For any matter relating to this tenancy, whether during or after this tenancy has been terminated, the

Landlord's address for notice is:

- a. Name: LINDA GAUGHAN (Trading as TARN PROPERTIES)
- b. Address: [REDACTED]

The contact information for the Property Manager of the Landlord is:

- a. Name: LINDA GAUGHAN.
- b. Phone [REDACTED]

46. The Landlord or the Tenant may, on written notice to each other, change their respective addresses for notice under this Agreement.

GENERAL PROVISIONS

47. Any waiver by the Landlord of any failure by the Tenant to perform or observe the provisions of this Agreement will not operate a waiver of the Landlord's rights under this Agreement in respect of any subsequent defaults, breaches or non-performance by the Tenant of its obligations in this

Agreement and will not defeat or affect in any way the Landlord's rights in respect of any subsequent default or breach.

48. This Agreement will extend to and be binding upon and inure to the benefit of the respective heirs, executors, administrators, successors and assignees, as the case may be, of each Party to this Agreement. All covenants are to be construed as conditions of this Agreement.

49. All sums payable by the Tenant to the Landlord pursuant to any provision of this Agreement will be deemed to be additional rent and will be recovered by the Landlord as rental arrears.

50. Locks may not be added or changed without the prior written agreement of both Parties, or unless the changes are made in compliance with the Act.

51. Headings are inserted for the convenience of the Parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa.

Words in the masculine mean and include the feminine and vice versa.

52. This Agreement and the Tenant's leasehold interest under this Agreement are and will be subject, subordinate, and inferior to any liens or encumbrances now or hereafter placed on the Property by the Landlord, all advances made under any such liens or encumbrances, the interest payable on any such liens or encumbrances, and any and all renewals or extensions such liens or encumbrances.

53. Facsimile signatures are binding and are considered to be original signatures.

54. This Agreement will constitute the entire agreement between the Parties. Any prior understanding or representation of any kind preceding the date of this Agreement will not be binding on either Party except to the extent incorporated in this Agreement.

55. The Tenant will indemnify and save the Landlord, and the owner of the Property where different from the Landlord, harmless from all liabilities, fines, suits, claims, demands and actions of any kind or nature for which the Landlord will or may become liable or suffer by reason of any breach, violation or non-performance by the Tenant or by any person for whom the Tenant is responsible, of any covenant, term, or provisions hereof or by reason of any act, neglect or default on the part of the Tenant or other person for whom the Tenant is responsible. Such indemnification in respect of any such breach, violation or non-performance, damage to property, injury or death occurring during the Term will survive the termination of the Agreement, notwithstanding anything in this Agreement to the contrary.

56. Unless due to the Landlord's negligence, the Tenant agrees that the Landlord will not be liable or responsible in any way for any personal injury or death that may be suffered or sustained by the Tenant or by any person for whom the Tenant is responsible who may be on the Property of the

Landlord, or for any loss of or damage or injury to any property, including cars and contents thereof belonging to the Tenant or to any other person for whom the Tenant is responsible.

57. The Tenant is responsible for any person or persons who are upon or occupying the Property or any other part of the Landlord's premises at the request of the Tenant, either express or implied, whether for the purposes of visiting the Tenant, making deliveries, repairs or attending upon the Property for any other reason. Without limiting the generality of the foregoing, the Tenant is responsible for all members of the Tenant's family, guests, servants, tradesmen, repairmen, employees, agents, invitees or other similar persons.

58. During the last 30 days of this Agreement, the Landlord or the Landlord's agents will have the privilege of displaying the usual 'For Sale' or 'To Let' or 'Vacancy' signs on the Property and the Tenant agrees to allow the Landlord or its agents reasonable access to the Property at reasonable times for the purpose of displaying such signs upon the Property.

IN WITNESS WHEREOF these presents are subscribed as follows:

[Redacted]

LINDA GAUGHAN

[Redacted]

Witness:

05/11/19

Date

5/11/19

Date

[Redacted]

Address

Signed for and on behalf of

TLS (Scotland) Ltd. By

[Redacted]

BERNARD GAUGHAN

[Redacted]

Witness:

05/11/19

Date

5/11/2019

[Redacted]

Address

The Tenant acknowledges receiving a duplicate copy of this Agreement signed by the Tenant and the Landlord

on the 5 day of NOVEMBER, 2019

Signed for and on behalf of TLS (Scotland) Ltd by

BERNARD GAUGHAN

NAME

[Redacted]

SIGNATURE

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

I, LINDA CAUCHAN

applicant for a House in Multiple Occupation Licence, hereby certify that a Notice has been posted at or near the premises at 16 TYNE COURT HADDINGTON EH41 4BL

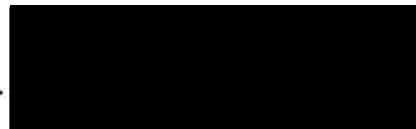
from 27/10/19 to 17/11/19.

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 25/10/19

Signature..



* Delete if not applicable

1st call
shona martin

NOTICE

HOUSE IN MULTIPLE OCCUPATION

NOTICE IS HEREBY GIVEN that application has been made on 18th August 2012 (date)

to EAST LoTHIAN COUNCIL for a House in Multiple Occupation Licence in respect of premises at:-

16 TAYNE COURT HADDINGTON EAST LoTHIAN EH41 3HA

by ¹ BERNARD CAUGHAN

and ² As in (1) Above.

Any objections and representations in relation to the application may be made to East Lothian Council, Environmental & Consumer Services, John Muir House, Haddington, East Lothian EH41 3HA within 21 days of the above-mentioned date. Objections and representations should be made in accordance with the following provisions, namely:-

1. Any objection or representation relating to an application for the grant or renewal of a licence shall be entertained by the licensing authority if, but only if, the objection or representation:-
 - (a) is in writing;
 - (b) specifies the grounds of the objection or, as the case may be, the nature of the representation;
 - (c) specifies the name and address of the person making it;
 - (d) is signed by him or on his behalf;
 - (e) was made to them within 21 days of whichever is the later or, as the case may be, latest of the following dates:-
 - (i) where public notice of the application was given in a newspaper, the date when it was first so given;
 - (ii) where East Lothian Council have required the applicant to display the Notice again from a specified date, that date;
 - (iii) in any other case, the date when the application was made to them.

2. Notwithstanding (1)(e) above, it shall be competent for a licensing authority to entertain an objection or representation received by them before they take a final decision upon the application to which it relates if they are satisfied that there is sufficient reason why it was not made in the time required.

An objection or representation shall be made for the purposes of (1) above if it is delivered by hand within the time there might be expected to be delivered to them within that time.

State Name and Address of Applicant

State Name and Address of day [redacted] appropriate

Signature of Applicant or Manager/Agent

Address

Bernard

Additional information for neighbours may be obtained from Environmental Protection, East Lothian Council, John Muir House, Haddington East Lothian EH41 3HA

Tel : 01620 827365

E mail: ehs@eastlothian.gov.uk

Website: www.eastlothian.gov.uk

Fitzpatrick, Sheila

From: Greg Chandler [REDACTED]
Sent: 31 January 2020 19:16
To: HMO Licensing
Subject: 16 Tyne Court - ATT: SHEILA FITZPATRICK
Attachments: HMO.pdf

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Good day Sheila

Thanks for your patience and assistance when taking the call from my wife on Thursday. Heather informed me that your advice was for us to place our concerns in writing and hence the reason for this e-mail.

Heather says you have only been in situ for the past six months, and you will probably not be aware of the history so -

I have attached copies of applications dated August 2012 and November 2013 together with copies of our letters dated 22 August 2012 and 09 December 2013. (At that point in time there were also lots of maintenance issues going on at Tyne Court as a whole, so some of the items that were brought up then, will no longer have any bearing on the HMO licence issue).

Heather told you that we had not had a response from ELC at that time (2012/2013) to either of our letters. I am also aware that other flat owners raised objections and when Heather phoned ELC to enquire if our letters had been received she was told by Shona Martin that they had been received and would Heather please let all the other folk know this fact. (Heather declined to do this as she felt it was not her place to do the work on behalf of the Council). We never received any responses or feedback at all from ELC and the next thing we knew, the license application had been granted.

Heather also mentioned that none of the application notices were placed in a prominent place - you will see in our objection/response to ELC that we mentioned this fact. (It was just by chance that we happened to see the first notice dated 18 August 2012, tied up outside the door to Flat 16 - where it would only have been visible to the occupants of No 15 and No 16).

You advised Heather that a new application (which was dated 27 October 2019 with a twenty one day notice period until 17 November 2019), was pending consideration by ELC - this notice was also not displayed in a prominent place and it is only by deduction that we realised that the license was probably up for renewal. (One of our neighbours admitted that she noticed a piece of paper on the railing outside Flat no 16, but it was certainly not displayed prominently or for the required 21 days and we never saw it).

We have had a few problems over the years with noisy neighbours living in this apartment and have had occasion to call the Police, as well as the owner of the flat - only after trying to resolve the problems with the tenants. (Not all of the tenants have been problematic and we did have a spell of relative peace and quiet).

Just recently we have had a spate of problems with the tenants again. We are not sure whether or not they are allowed to smoke in the flat, but they tend to congregate outside the door for a smoke and a chat. This is fine and dandy during the day, but they also do the same thing late at night or when they come in from being out (most especially over the weekend), when the sound of their voices carry and become a disturbance. They also speak on their phones outside the flat, sometimes they stand just outside their door, at other times they use the landing between the top and bottom stairs or use a little alcove on the pebbled road which is just under our bedroom window. Their voices are loud and the sound carries - especially when it is late at night.

On a few occasions we have tried speaking to them, sometimes they apologise but at other times they turn their backs on us and just carry on with their business. We had occasion to call the police in December as there was an argument outside the flat late one night. There was also an argument between a male and a female on the stair landing one Saturday/Sunday afternoon and when we asked them to tone down the noise and the shouting, they again continued to argue until they were done.

I work seven days a week and am awake at 05h00 every morning. Because of the noise, and also cigarette fumes, we keep our bathroom and landing window closed. We also have to keep the study window and the kitchen window closed at times to curtail the excessive noise from the stair landing. This seems unfair as this is our Home and we are being dictated to as to how we conduct our daily living.

During the weekend 25th and 26th January, we had some issues with noise and shouting and tried to speak with the tenants. They ignored us and carried on arguing and shouting at one another. We advised them that we were going to call the owner of the flat or the Police - they told us to please ourselves. On Monday afternoon I left a message for the owner of the Flat - Mr Bernard Gaughan - to call so we could discuss these issues. To date I have not yet received a response or the courtesy of a return call from him.

Please could you advise what the correct procedure is for us to follow, as we are sad that this matter has escalated to this point, when a civil conversation between all parties could have resolved most of the issues!

Thanks for your assistance in this matter. I look forward to hearing from you in due course.

Kind regards

Greg Chandler



22 August 2012

East Lothian Environmental and Consumer Services

John Muir House

Haddington

EAST LOTHIAN

EH41 3HA

Dear Sirs

HOUSE IN MULTIPLE OCCUPATION - 16 TYNE COURT, HADDINGTON

We refer to the abovementioned application and wish to raise questions and concerns on the following matters in respect to this application.

1. As this is a three bedroomed apartment with one bathroom, how many residents/tenants will be occupying these premises?
2. The reason we are enquiring about the number of residents is that there is already limited parking available at Tyne Court. If there are going to be a number of residents, each with their own mode of transport, and also transport for their work, where will these vehicles be parked? In the past there have been issues raised with the residents from this apartment regarding the starting up of their vehicles in the mornings. It is especially more inconvenient in the winter months when the vehicles are left 'idling' whilst they warm up. This takes place anytime between 05h30 and 07h30 in the morning.
3. How will the drying area underneath our apartment be divided amongst the tenants from apartment 16 and apartment 17? Again, in the past, we have had to contend with motorbikes being parked in the drying area, and also a generator (and fuel for said generator). This is a fire risk as well and also creates a noise factor when the residents start up the motorbikes in the drying area which is directly below our lounge and bedroom windows. I am sure this contravenes Health and Safety requirements. The fumes from the bike and the noise from the generator were very unwelcome and we had to close our windows to try to alleviate some of the noise and smell.
4. Will the owner of these premises be contactable in the future as regards to the ongoing maintenance problems which we are experiencing at Tyne Court? You will observe that the guttering along the top of number 17 and 18 has recently been replaced - at a cost to ourselves from an insurance claim, as well as a part payment from the East Lothian Council. We would like to improve the staircase on this landing as well and seeing as there is wear, and tear and damage to the risers in the communal staircase due to the steel toe capped boots worn by the residents in number 17 as



09 December 2013

East Lothian Environmental and Consumer Services
John Muir House
Haddington
EAST LOTHIAN
EH41 3HA

Dear Sirs

HOUSE IN MULTIPLE OCCUPATION - 16 TYNE COURT, HADDINGTON

We refer to the abovementioned application dated 20 November 2013 and wish to raise questions and concerns on the following matters in respect to this application.

1. The notice was not placed in a prominent place as it was tied to the railings just next to the front door of number 16. Surely such application should have been placed so that all concerned parties would be able to see/read/ and object to the application if necessary.
2. The application is dated 20 November 2013 and gives 21 days for a response but said notice was only placed on the railings during the first week of December 2013.
3. We raised an objection to the previous application (on 22 August 2012) and are still awaiting an acknowledgement/ response from the ELC. Heather phoned the Council during August/September 2012 to ascertain whether or not they had indeed received our objection!
4. At the time of the previous objection we raised concerns over the state of disrepair on the outside of the apartment. It is surely common knowledge that there are ongoing problems with the maintenance of the buildings at Tyne Court and this applicant has had some repair work carried out to the interior of his apartment but the exterior has not been touched. We are concerned that because of this decision on the part of the owner, our roof may eventually be impacted and we will be financially liable for repair work that could have been avoided.

We look forward to hearing from you in due course.

Yours sincerely

GREG & HEATHER CHANDLER



East Lothian Council

MEMORANDUM

TO: Sheila Fitzpatrick, Team Leader – Licensing and Landlord Registration

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

DATE: 30 October 2020

SUBJECT: Housing (Scotland) Act 2006
Application for a House in Multiple Occupation Licence
16 Tyne Court, Haddington EH41 4BL

I refer to the House in Multiple Occupation Licence application submitted by Linda Gaughan in respect of premises at 16 Tyne Court, Haddington EH41 4BL.

An inspection of the premises was carried out on 20 August 2019 ahead of the most recent application being received and to tie in with inspections of other properties also owned by Linda Gaughan. A more recent inspection was undertaken on 29 October 2020.

The property is a semi-detached house, located within a housing complex which has a double garage / storage area on the ground floor. The property is located over the first and second floors. On the first floor, the accommodation comprises an entrance hallway with stairs leading to the second floor, a kitchen and living room. On the second floor there is a hallway, a bathroom and three bedrooms.

Location

The property is located within a mixed residential and commercial area on Tyne Court in the town of Haddington.

Condition of the Accommodation

The property is in a good state of repair. It is heated by gas central heating and the boiler is located within a cupboard in the upper hall. 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, toaster, kettle and washing machine. There is also one fridge freezer, a further freezer and two further fridges. There is one sink with integral drainer. The property has

one bathroom which has a bath with electric shower, wc and wash hand basin. The kitchen, cooking and sanitary facilities within the property are sufficient 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 property is currently only occupied by two people however the application is for a maximum occupant capacity of five. 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/double occupancy and capable of accommodating a bed, a freestanding wardrobe and drawers. There is adequate activity space in all rooms. The property is utilised by Mr Gaughan to house workers for his business, Total Labour Solutions.

Safety and Security

There is one gas appliance within the property (central heating boiler). A Carbon monoxide detector is located in the upper hallway which has an expiry date of 1 April 2024. The Gas Safety Record which has been submitted was dated 19 November 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 did not appear to comply with this standard. In terms of electrical safety a current and valid copy of an 'Electrical Installation Condition Report (EICR)' was viewed and is dated 1 December 2016. An up to date Portable Appliance Test (PAT) Certificate was also viewed and is dated 19 November 2019. The property is capable of being adequately secured and exited without recourse to a key.

Fire Safety Audit Form

A Fire Safety Audit Form was completed during this inspection and has been passed on to the Scottish Fire & Rescue Service.

Summary

Environmental Protection would therefore have no objections to the granting of this HMO licence application for up to five residents and subject to the following conditions:

1. In terms of electrical socket provision, where necessary the property should be upgraded to ensure that the following is provided. 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.

From: [Black, Kenneth](#)
To: [Fitzpatrick, Sheila](#)
Subject: FW: HMO license application - 16 Tyne Court, Haddington, EH41 4BL
Date: 21 November 2019 14:55:08

Appendix 7

Sheila
Further detail as requested.
Thanks
Kenny

From: Reid, Jordan <jreid@eastlothian.gov.uk>
Sent: 21 November 2019 14:17
To: Black, Kenneth <kblack@eastlothian.gov.uk>
Subject: RE: HMO license application - 16 Tyne Court, Haddington, EH41 4BL

Kenny,

Note further details of jobs bellow as requested;

- 16/07/2017 complaint received from a neighbour reporting the following - Noises in middle of night, cigarette butts thrown out of window, tenants do not recycle so litter builds up.
- 28/01/2018 complaint received from a neighbour reporting the following - Noise outside the property in the early hours of the morning, the last instance was 5am on Sun 28/01/18, spoken to them on numerous occasions regarding this issue. Flat is an HMO were told the last time reported that landlord was going to speak with tenants. wishes the council to review the application for HMO, initially when application was granted residents of Tyne Court objected
- 04/03/2018 complaint received from a neighbour reporting the following - Again a disturbance at 4am on 04/03/2018 at the address mention below where tenants were shouting at each other and slamming their front door, so far not heard any response to the first case number and now the same issue is being repeated, flat is an HMO

Thanks
Jordan

From: Black, Kenneth <kblack@eastlothian.gov.uk>
Sent: 21 November 2019 12:58
To: Reid, Jordan <jreid@eastlothian.gov.uk>
Subject: Fwd: HMO license application - 16 Tyne Court, Haddington, EH41 4BL

JR
Can you dig out the jobs if you can and e-mail to me.
Ta
Kenny

Sent from my iPhone

Begin forwarded message:

From: "Fitzpatrick, Sheila" <sfitzpatrick1@eastlothian.gov.uk>
Date: 21 November 2019 at 12:38:35 GMT
To: "Black, Kenneth" <kblack@eastlothian.gov.uk>
Subject: RE: HMO license application - 16 Tyne Court, Haddington, EH41 4BL

Please Kenny,

Thank you,

Sheila

From: Black, Kenneth <kblack@eastlothian.gov.uk>
Sent: 21 November 2019 12:25
To: Fitzpatrick, Sheila <sfitzpatrick1@eastlothian.gov.uk>
Subject: FW: HMO license application - 16 Tyne Court, Haddington, EH41 4BL

Sheila

To note.

Do you want more details on the jobs in point?

Kenny

From: Reid, Jordan <jreid@eastlothian.gov.uk>
Sent: 21 November 2019 12:22
To: Black, Kenneth <kblack@eastlothian.gov.uk>
Subject: RE: HMO license application - 16 Tyne Court, Haddington, EH41 4BL

Hi Kenny,

1 Call in 2017 relating to littering.

2 Calls in 2018 relating noise, including; shouting, swearing, slamming doors and partying till the early hours of the morning.

Thanks

Jordan

From: Black, Kenneth <kblack@eastlothian.gov.uk>
Sent: 21 November 2019 10:23
To: Reid, Jordan <jreid@eastlothian.gov.uk>
Subject: FW: HMO license application - 16 Tyne Court, Haddington, EH41 4BL

From: Black, Kenneth
Sent: 19 November 2019 09:18
To: Hanlin, Laura <hanlin@eastlothian.gov.uk>
Subject: FW: HMO license application - 16 Tyne Court, Haddington, EH41 4BL

Hi Laura
To see Kenny.
Thanks
Kenny

From: Fitzpatrick, Sheila <sfitzpatrick1@eastlothian.gov.uk>

Sent: 18 November 2019 15:32

To: Environment Reception <environment@eastlothian.gov.uk>; Black, Kenneth <kblack@eastlothian.gov.uk>; Building Standards <buildingstandards@eastlothian.gov.uk>; Parking <parking@eastlothian.gov.uk>

Subject: HMO license application - 16 Tyne Court, Haddington, EH41 4BL

Please provide observations/comments regarding the renewal application for a House in Multiple Occupation license for the above address.

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