

Licensing Sub-Committee of the Regulatory Committee

1.30pm, Monday, 9 March 2020

Request for Refusal of HMO Licence

Executive/routine
Wards

Executive Summary

This report requests that the Licensing Sub Committee refuses the renewal application for a House in Multiple Occupation Licence which has been submitted by Bashiran Ahmed for the property at 7 Lady Road Edinburgh.

During the process of renewal of the House in Multiple Occupation (HMO) licence, the Private Rented Services inspection team identified that the electrical safety certificate which was submitted with the application had been altered to falsify its validity.

It was also noted that there had been a gap in the validity of the gas safety certificates during the previous licence period.

Bashiran Ahmed is not currently registered as a landlord.

Request for Refusal of HMO Licence

1. Recommendations

- 1.1 After hearing from the relevant licence holder and Council officers, it is recommended that the Licensing Sub Committee refuses the renewal application for 7 Lady Road Edinburgh which has been submitted by the applicant Bashiran Ahmed on the grounds that applicant is not a fit and proper person to hold a licence because they:
- falsified a gas safety certificate;
 - failed to ensure that valid safety certificates were in place during the completed period of the previous licence; and
 - failed to maintain a valid landlord registration.

2. Background

- 2.1 The Council licenses Houses in Multiple Occupation (HMOs) under the Housing (Scotland) Act 2006.
- 2.2 A licensing authority can refuse an application if in its opinion:
- 2.2.1 the property is no longer suitable for occupation as an HMO;
 - 2.2.2 the applicant is not a fit and proper person to hold a licence; or
 - 2.2.3 any condition of an HMO licence has been breached (regardless of whether the local authority has taken any other action, or of whether criminal proceedings have been commenced, in respect of that breach).

3. Main report

- 3.1 Bashiran Ahmed is the licence holder for an HMO property at 7 Lady Road Edinburgh. This property has been licensed since 2017. On 29 March 2019 an application (Appendix 1) to renew the HMO licence for this property was received by the Council.
- 3.2 Submitted with this application on 29 March 2019 were a number of certificates including an electrical safety certificate (Appendix 2) and a gas safety certificate (Appendix 3).
- 3.3 It was noted by the Private Rented Services (PRS) inspection team that the electrical safety certificate (Appendix 2) that was submitted with the application

stated that it was valid for six years from December 2014. A copy of the electrical safety certificate that was submitted with the previous application in 2017 is included as Appendix 4. This shows the same certificate issued in December 2014 but stating it is valid for five years. The certificates are identical except for page 3 where the validity period has clearly been altered from five to six years.

- 3.4 The validity period of the certificate was raised with the electrician who carried out the test in 2014. He confirmed that the electrical safety certificate issued in December 2014 was only valid for five years. An extract to this effect from the investigating officer's notebook, signed by the electrician, is included as Appendix 5.
- 3.5 By comparing the gas safety certificates for the current licence and the renewal application the inspection team was able to establish that there was a gap in the validity of the gas safety certificates. The gas safety certificate (Appendix 3) which was submitted with this application is valid from 14 January 2019. The gas safety certificate which was submitted with the previous application (Appendix 6) expired on 29 May 2018.
- 3.6 The applicant was invited to a meeting to discuss the findings of the investigation on 5 June 2019. Mrs Ahmed did not attend this meeting, instead sending her son Nadim Ahmed who is believed to be the 24 hour contact for the property. When he was asked about the alteration to the electrical certificate and the gap in gas safety certificates he advised that he didn't know anything as it was his mother who had submitted the application.
- 3.7 A further check with the Landlord Registration team has established that Mrs Ahmed is not currently registered as a landlord with the City of Edinburgh Council, a previous registration for Mrs Ahmed having expired on 9/12/2017. Having allowed her registration to lapse, the Council is not aware of any further correspondence on this issue.
- 3.8 It is recommended that the committee refuses the application on the grounds that the applicant is not fit and proper because: a) they falsified safety certificates as outlined in para 3.3; b) they failed to ensure that valid gas safety certificates were in place during the completed period of the previous licence as described at para 3.5 this being a breach of licence conditions and comprises essential checks required to keep tenants safe; c) they failed to maintain valid landlord registration as required by law.

4 Measures of success

- 4.1 Not relevant, as decisions on individual licences have to be considered on their own merits.

5 Financial impact

5.1 None.

6 Risk, policy, compliance and governance impact

6.1 The process outlined takes account of the relevant statutory provisions.

6.2 The applicant has a right of appeal against any decision made. The appeal lies to the Sheriff Court

7 Equalities impact

7.1 There is no equalities impact arising from the contents of this report.

8 Sustainability impact

8.1 There is no environmental impact arising from the contents of this report.

9 Consultation and engagement

9.1 None

10 Background reading/external references

10.1 None

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11 Appendices

11.1 Appendix 1 - HMO Application form

11.2 Appendix 2 - Electrical certificate submitted with current application

11.3 Appendix 3 - Gas safety certificate submitted with current application

11.4 Appendix 4 - Electrical certificate submitted with previous application

11.5 Appendix 5 - Statement from A Sennussi, Electrician.

11.6 Appendix 6 - Gas certificate submitted with previous application

11.7 Appendix 7 - Landlord registration emails