

# Licensing Sub-Committee of the Regulatory Committee

9.30am, Monday, 17 July 2023

## Application for House in Multiple Occupation Licence -- 106 Ferry Road, Edinburgh

**Executive/routine**

**Wards**

Ward 4 – Forth

**Council Commitments**

N/A

### Executive Summary

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A new application for a House in Multiple Occupation ('HMO') Licence has been received for a property at 106 Ferry Road, Edinburgh.

The property does not meet the necessary safety requirements and the Scottish Fire and Rescue Service does not support the grant of the licence. Officers recommend refusal of the application.

The property would require an exemption from policy in order to allow it to operate as temporary accommodation for homeless people.

The report sets out relevant sections of the policy background which should be considered when determining this application.

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## Application for House in Multiple Occupation Licence – 106 Ferry Road

### 1. Recommendations

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- 1.1 It is recommended that the Committee:
  - 1.1.1 notes the contents of this report, in particular the concerns of Scottish Fire and Rescue Service set out in Appendix 3; and
  - 1.1.2 refuses the application based on the suitability of living accommodation.

### 2. Background

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- 2.1 The requirement to hold a House in Multiple Occupation ('HMO') Licence is set out in the Housing (Scotland) Act 2006 ('the Act'). The procedures for processing such applications and considering objections etc. are set out in the Act.
- 2.2 The Housing (Scotland) Act 1987 introduced the concept of the 'tolerable standard', which all homes must meet in order to be considered fit for habitation. Subsequent Acts incorporated and made amendments the requirements.
- 2.3 The Committee can add reasonable conditions as it sees fit, if it is minded to grant the licence.

### 3. Main report

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- 3.1 An application (Appendix 1) for the grant of an HMO Licence for a property has been received from Bryan Ho. The property at 106 Ferry Road has not previously been a licensed HMO property.
- 3.2 The property is currently being used for temporary accommodation for homeless people, and this has been the case since January 2021 (Appendix 2).
- 3.3 The Scottish Fire and Rescue Service ('SFRS') made comment on the fire safety measures in the property, with respect to 'Measures to prevent the spread of fire and smoke', the 'fire warning and detection system', 'Means of escape' and 'Testing and maintenance' (Appendix 3). As a result, SFRS does not support the granting of an HMO licence for this property (Appendix 4). As a result colleagues in the homelessness service are taking steps to relocate clients from this property.

- 3.4 There is a separate issue whereby the applicant requests an exemption from policy with respect to the 'tolerable standard' requirements noted in the attached Appendix 5. This would also be required to allow the accommodation to continue to operate as it is currently configured.
- 3.5 'Tolerable standard' criteria specify the minimum requirements for an HMO property for 13 persons. The property has been inspected by Council officers regarding its suitability for use as an HMO. The nonconformities found are highlighted in Appendix 5, and include the property's food preparation facilities and the size of one of the bedrooms (Appendix 5).
- 3.6 The Committee is asked to note for information that Planning colleagues have advised the Licensing Service that the applicant has been advised to obtain planning permission for this property, but has so far failed to do so.
- 3.7 The applicant has supplied an action plan and photos (Appendix 6) as evidence that works have been completed.
- 3.8 It is recommended that the Committee considers this application, the history of compliance, and the request for exemption.
- 3.9 Officers recommend that the application should be refused. The property does not meet the HMO standards and there is an adverse report from the Scottish Fire and Rescue Service regarding the fire safety standards.
- 3.10 Alternately if the Committee is minded to grant the application it may wish to consider if it is proportionate to insist on modifications to bring this property in line with current physical specifications. This could be achieved if a suitable licence condition could be imposed.
- 3.11 After hearing from the Executive Director of Place or his representative regarding this report, it is recommended that members of the Committee then hear from the applicant. The applicant or their representative have been invited to address the Committee.

## **4 Measures of success**

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

## **5 Financial impact**

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- 5.1 All associated costs are contained within the existing Licensing budget.

## **6 Risk, policy, compliance and governance impact**

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- 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 would be made to the Sheriff Court.

## **7 Equalities impact**

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

## **8 Sustainability impact**

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

## **9 Consultation and engagement**

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- 9.1 None.

## **10 Background reading/external references**

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- 10.1

## **11 Appendices**

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- 11.1 Appendix 1 – application form
- 11.2 Appendix 2 – email from Temporary Accommodation Service
- 11.3 Appendix 3 – Fire Safety audit report from Scottish Fire and Rescue Service dated 2 February 2023
- 11.4 Appendix 4 – letter from Scottish Fire and Rescue Service dated 2 February 2023
- 11.5 Appendix 5 – report on inspection carried out on 6 March 2023
- 11.6 Appendix 6 – action plan and photographs submitted by applicant