

Licensing Sub-Committee of the Regulatory Committee

9.30am, Monday, 17 July 2023

Application for House in Multiple Occupation Licence – 193 (4f1) Bruntsfield Place

Item number

Report number

Executive/routine

Wards

All

Executive Summary

This is a request for the Licensing Sub Committee to consider an application for a new House in Multiple Occupation Licence.

This report outlines the procedures that the Licensing Sub Committee should adopt when considering the application and sets out the various options that are open to the Committee.

The Committee recently refused a separate application from the applicant for which he was acting as the agent, on the grounds that he was not fit and proper. Therefore the applicant is referred to committee to determine whether he is fit and proper to be granted a licence.

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1. Recommendations

- 1.1 After hearing from Council Officers and the applicant, it is recommended that the Licensing Sub-Committee determines the application, considering whether the applicant is fit and proper and secondly whether the premises is suitable to be licensed as an HMO.

2. Background

- 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 and the associated statutory guidance issued by the Scottish Government.
- 2.2 In considering an application for HMO licence, the Committee is required to assess whether the applicant and any agent appointed by them are fit and proper in terms of section 130 of the Act. This report sets out details of this Committee's previous consideration of the conduct of the applicant, and its subsequent decision to refuse an application for which he was specified as the agent.
- 2.3 The Committee is also required to assess whether the property for which the licence is sought is suitable for occupation as an HMO, or can be made suitable, in terms of section 131 of the Act.

3. Main report

- 3.1 The Committee is asked to determine this application made by Peter Lorn Macneal (Appendix 1).
- 3.2 The Directorate is satisfied that the property fully complies with the statutory requirements ('Tolerable Standard') specified for an HMO.
- 3.3 Committee members are asked to note that on 6 February 2023, after considering a report provided by the Directorate (Appendix 2), the Committee decided on a division to determine that Mr Macneal was not fit and proper to be authorised to permit persons to occupy any living accommodation as an HMO in terms of section 130 of the Act (Appendices 3 and 4). The Committee is asked to consider whether, if this applicant is

not fit and proper to hold an HMO licence at an alternative address, he can be considered fit and proper for this application. It is noted that an agent, other than Mr Macneal, has been appointed to manage the property and this is distinct from the circumstances which were considered in the previous decision of the Committee on 6 February 2023.

3.6 The applicant has been invited to attend.

4 Measures of success

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

5 Financial impact

5.1 The Council's costs are contained within the licence application fees charged.

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 would be made 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: H4O Licence applications for 193 (4f1) Bruntsfield Place
- 11.2 Appendix 2: Report to Licensing Sub Committee on 6 February 2023
- 11.3 Appendix 3: Section 130 of the Housing (Scotland) Act 2006
- 11.4 Appendix 4: Extract from minute of Licensing Sub Committee on 6 February 2023