

Licensing Sub-Committee of the Regulatory Committee

9.30am, Monday, 13 November 2023

Application for House in Multiple Occupation Licence – 59 (Pf2) Marchmont Road

Executive/routine

Wards

Ward 10 – Morningside

Council Commitments

N/A

Executive Summary

An application for a new House in Multiple Occupation ('HMO') Licence has been received for a property at 59 (Pf2) Marchmont Road, Edinburgh.

The applicant requests an exemption from policy. 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 – 59 (Pf2) Marchmont Road

1. Recommendations

- 1.1 It is recommended that the Committee:
 - 1.1.1 notes the contents of this report; and
 - 1.1.2 determines the application and the request for exemption, and, if granted, attaches standard conditions to the licence.

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.
- 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

- 3.1 An application (Appendix 1) for the grant of an HMO Licence for a property for three persons has been received from Kate James. The property at 59 (Pf2) Marchmont Road has previously been an HMO licensed for three people for several years, but the licence was allowed to lapse and thus this is a new application.
- 3.2 The applicant requests an exemption from policy (Appendix 2) with respect to the 'tolerable standard' requirements for three person occupancy noted at 3.3 below and points noted in the attached Appendix 3. The property was previously licensed as an HMO for three people, having been assessed against the standard that applied at the date of initial licensing. Policy allows this to continue to be the relevant standard for any continuation of the licence, and it is only when there is any break in the licensing of the property that the current assessment criteria ('Tolerable standard') become the legally required standard.

- 3.3 'Tolerable standard' criteria specify the minimum requirements for a HMO property for three persons. As a result of this application the property has been inspected by Council officers regarding its suitability for use as an HMO for three persons. The 'Tolerable standard' requirements are not met with respect to the dimensions of Bedroom 3 (Appendix 3).
- 3.4 It is recommended that the Committee considers this application and the request for exemption. The Committee may wish to consider whether it would be appropriate to agree exemption from policy and grant a licence for a three person HMO which does not fully comply with Tolerable Standard requirements.
- 3.5 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

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

5 Financial impact

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

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

11 Appendices

11.1 Appendix 1 – application form

11.2 Appendix 2 –email from applicant requesting exemption from policy

11.3 Appendix 3 - report on inspection carried out on 21 April 2023

11.4 Appendix 4 – plans of property