

Licensing Sub-Committee of the Regulatory Committee

9.30am, Monday, 13 November 2023

Application for House in Multiple Occupation Licence – 98 3f1 Marchmont Crescent

Executive/routine

Wards

Ward 10 – Morningside

Council Commitments

N/A

Executive Summary

An application to continue an House in Multiple Occupation ('HMO') Licence has been received for a property at 98 3f1 Marchmont Crescent, Edinburgh, however the licence holder has changed.

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.

Andrew Mitchell

Head of Regulatory Services

Contact: Andrew Mitchell, Head of Regulatory Services

E-mail andrew.mitchell@edinburgh.gov.uk | Tel: 0131 529 4042

Application for House in Multiple Occupation Licence – 98 3f1 Marchmont Crescent

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 four persons has been received from Rosalie Sweeney. The property at 98 3f1 Marchmont Crescent has previously been licensed for four people for several years the licence holder was noted as Siobhan Sweeney.
- 3.2 Section 129 of the Housing (Scotland) Act 2006 states that "an application to a local authority for an HMO licence can only be made by an owner of the living accommodation concerned". The first renewal application, recorded on APP, was received 18 December 2014. The detail on the application confirmed, by the agent, that Siobhan Sweeney was the owner of the property.

- 3.3 As the agent noted the owner as Siobhan Sweeney on each renewal application, she remained the licence holder until the application that was received 15 December 2022, this confirmed Rosalie Sweeney is the owner.
- 3.4 The agent has now confirmed (Appendix 2) that Rosalie Sweeney is the owner, and that Siobhan Sweeney is her daughter.
- 3.5 The property was previously licensed as an HMO for four people, having been assessed against the standard that applied at the date of the initial licence. Policy allows this to continue to be the relevant standard for any continuation of the licence, and it is only when there is any change in the licensing of the property (in this case the correct ownership was confirmed) that the current assessment criteria ('Tolerable standard') become the legally required standard.
- 3.6 The applicant requests an exemption from policy (Appendix 2) with respect to the 'tolerable standard' requirements for four person occupancy.
- 3.7 'Tolerable standard' criteria specify the minimum requirements for an HMO property for four persons. As a result of this application the property has been inspected by Council officers regarding its suitability for use as an HMO for four persons. The 'Tolerable standard' requirements are not met with respect to the dimensions of Bedroom 1 (Appendix 3).
- 3.8 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 four person HMO which does not fully comply with Tolerable Standard requirements.
- 3.9 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 on behalf of the applicant requesting exemption from policy
- 11.3 Appendix 3 - report on inspection carried out on 6 April 2023
- 11.4 Appendix 4 – plans of property