

**Civic Government (Scotland) Act 1982
Application for House in Multiple Occupation (HMO) Licence
Pentland House, Edinburgh Road, Penicuik**

Report by Director, Resources

1 Purpose of Report

To present an application for consideration for a licence as a House in Multiple Occupation (HMO) by Midlothian Council and Alex Marks, 1 White Hart Street, Dalkeith in respect of Pentland House, Edinburgh Road, Penicuik for 49 occupants.

2 Background

A licence is required where three or more unrelated persons are to be accommodated in the same house.

Midlothian Council and Alex Marks 1 White Hart Street, Dalkeith has applied for an HMO licence in respect of Pentland House, Edinburgh Road, Penicuik. The maximum number of residents proposed is 49. Several documents, namely the Space Heating Certificate, the Risk Assessment, the Electrical Safety Certificate and Building and Public Liability Insurance Policies have not been submitted.

Before deciding to proceed with the project, the Council, as Housing Authority, carried out a consultation exercise, as described in the attached excerpt from the Minutes of Meeting of Cabinet on 18 November 2014, shown in **Appendix 1**. A copy of the relative report is reproduced separately.

A Map showing the location is attached as **Appendix 2**.

The Applicant was required to post Notice at or near the site to confirm that application had been made and that representations could be made; and on 15 February 2016, confirmed that it was posted from 17 June to 10 July 2016.

3 Consultation

The Police, Fire and Rescue Services and the Environmental Health, Building Standards, Housing, Anti Social Behaviour and Planning Sections have been consulted.

4 Representations

One letter of representation was received prior to the submission of the application from Mr A Robertson. (**Appendix 3**.) It is circulated for information.

The representations are addressed in the response. (**Appendix 4**).

5 Reports by Consultees

The Police offer no objection. The Fire and Rescue Service and Building Standards Officer report that the property has not been made ready for use as an HMO; and will not be able to confirm their position until after the completion certificate has been issued. An Application for Planning Permission for change of use will be submitted. The report by the Environmental Health Officer is attached as **Appendix 5**. The occupancy agreement, is considered satisfactory by the Head of Housing and Customer Care.

6 Procedure at Hearing

The procedure for the Hearing is as shown in a separate report. The Committee should consider the representations and give the objectors and the applicant the opportunity to be heard and take a decision in their presence.

7 Conclusion

There are a number of issues, principally, the state of unreadiness of the property.

(a) Representation

One representation has been received (**Appendix 3**).

(b) Overprovision

On 5 January 2016, the Committee noted that applications can be refused if there is overprovision in a locality in which the HMO is situated.

The local authority may refuse to grant an HMO licence if it considers that there is (or, as a result of granting the licence, would be) overprovision of HMOs in the locality in which the living accommodation concerned is situated.

The approved methodology was that any areas where in excess of 8% of the population were living in an HMO could be considered as an overprovision of HMO accommodation in the area. Most areas in Midlothian are well below this level.

There are no other HMOs within the locality of the datazone which Pentland House is located in. There is a total population of 633 in this datazone so an occupancy of 49 occupants would not exceed the 8% level.

In considering whether to refuse to grant an HMO licence on this basis, the local authority must have regard to—

- (i) whether there is an existing HMO licence in effect in respect of the living accommodation,
- (ii) the views (if known) of—
- (iii) the applicant, and
- (iv) if applicable, any occupant of the living accommodation.

In considering whether there is or would be overprovision for the purposes in any locality, the local authority must have regard to—

- (1) the number and capacity of licensed HMOs in the locality, and
- (2) the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need.

(c) Suitability of the Premises

The supporting documents relate to these issues.

(d) Consideration

In determining whether any living accommodation is, or can be made to be, suitable for occupation as an HMO the local authority must consider (a) its location, (b) its condition, (c) any amenities it contains, (d) the type and number of persons likely to occupy it, (e) the safety and security of persons likely to occupy it, and (f) the possibility of undue public nuisance.

9 Options

The options available to the Committee appear to include agreeing:-

- (a) to grant the application for the licence subject to the standard conditions;
- (b) as (a) above but restrict period and / or other;
- (c) as (a) or (b) above but subject to additional reasonable conditions;
- (d) to counsel the applicant; or
- (e) to refuse to grant the application on reasonable grounds.

10 Resource Implications

Any resource implications are likely to impact on the Housing Service, as homeless persons are to be accommodated in these premises.

11 **Recommendation**

The Committee is invited to consider the application on the basis of the information that has been made available; and if it is decided that the housing accommodation can be made suitable by including additional conditions in the licence, remit consideration of these to the Director, in consultation with the Chair ie following satisfactory completion of the alterations, subject to the standard and any reasonable conditions.

9 February 2016

Contact Person:

Mr R Atack

Tel No: 0131 271 3161

APPENDIX 1

Excerpt from Minutes of Meeting of Cabinet on 18 November 2014

Additional Council HMO (House of Multiple Occupation) Accommodation Proposed at Midfield House and Pentland House

With reference to paragraph 1 of the Addendum to the Minutes of 22 April 2014, there was submitted report, dated 24 October 2014, by the Joint Director, Health and Social Care, providing an overview of feedback received following community consultation events by the Housing Service on the proposed change of use of Midfield House (former Young Persons Centre), Poltonhall, and Pentland House, Penicuik (former Care Home), to HMO accommodation.

The report explained that both properties were owned by the Council; were of a reasonable standard; were no longer being used by their respective services; and were considered to be suitable for re-use as HMO accommodation.

It was also explained that the advantage to using properties of this type was that the Council could substantially reduce the number of homeless households residing in bed and breakfast accommodation in Midlothian. Bed and breakfast accommodation was considered to be an unsuitable environment for homeless households as well being costly to the Council.

The report pointed out that the current shortage of affordable housing solutions could not, in the short to medium term, meet the demand from those experiencing homelessness. Consequently, this pressure was likely to continue and the Council would therefore need to continue to make use of temporary accommodation for some time to come.

Information was also provided on the following matters:-

- Standards of temporary accommodation;
- Community consultation;
- Homelessness legislation;
- Staffing requirements and costs;
- Cost-benefit analyses; and
- Resource implications.

With regard to the community consultation which had taken place, the report advised that if there was approval to take forward the proposals for using the two buildings as HMOs, then the mitigation actions would be necessary to provide reassurance in the projects and to address the listed concerns of residents in Appendices 5 and 6 of the report.

Decision

(a) To agree to carry out the feasible mitigation actions noted in the report following the wider community and stakeholder consultation exercise;

(b) In addition, to instruct the officials to investigate the following actions in relation to the proposed HMO provision at Midfield House:-

- The possible extension of the 30mph speed limit out from Poltonhall;
- The re-location of the existing bus stop for Midfield House (or preferably the provision of an additional bus stop) as the existing bus stop was not ideally situated; and
- The provision of additional boundary fencing to prevent residents from crossing through other owner's properties;

(c) To approve the proposals for the use of both Pentland House and Midfield House as temporary accommodation options for homeless households that will provide positive outcomes in an improved environment;

(d) To note that the proposals also prevent significant spend on bed and breakfast provision, and

(e) To note that the proposals were dependent on compliance with the necessary Planning Permissions, Building Standards requirements and HMO licensing requirements for Pentland House and Midfield House.

Recommendations which will help ameliorate concerns in respect of Pentland House

1. Appropriate management and supervision of the accommodation by a team of experienced staff.
2. Accommodation being provided to households with no history of criminal behaviour or substance dependency.
3. Supervision of the building and surrounding neighbourhood to avoid concerns about the safety of local residents and to address anti social behaviour currently occurring in the area.
4. Appropriate consultation with neighbours about the ongoing use of paths around the building and plans for adequate boundary fencing.

APPENDIX 2



Planning
Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith
EH22 3ZQ

Pentland House, Penicuik Location Plan

Reproduced from the Ordnance Survey map with the permission of the controller of Her Majesty's Stationery Office. Crown copyright reserved. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Midlothian Council, License No. 100023916 (2016)

10-02-2016

Scale: 1:1,850



Map

APPENDIX 3

Mr Kenneth Lawrie
Chief Executive
M.C.
General Purposes Committee

Planned Consultation

Pentland House
HMO

Dear Sir/Madam

(99.9999% of Penicuik and Midlothian did not know about HMOs).

Having attended Cabinet meeting on Tuesday 18 November 2014, and receiving report by Eibhlin McHugh, and presented to Cabinet by Kevin Anderson Customer & Housing Services, I am still not convinced the consultation gave a true reflection, or fair account of local reactions to Midlothian Councils report.

1. No mention in report – Police consultation?
2. No mention of Doctor/Health Workers consultation although Mr Anderson, said he spoke to a “doctors forum” locally? Other services Fire Brigade, ambulance.
3. Early in the so-called “consultation” (April 2014) to Penicuik and District Council, only 16 to 25 year olds, were mentioned by Mr Anderson, at that time no mention of other age group 26 to 80 was indicated. It was a “verbal” public relations exercise, with no written report brought forward, with local councillors Joe Wallace and Derek Rosie introduction possible debate! Not enough information PR disaster! Economic with the truth! Public Meeting – None!
4. I called in at Citizens Advice (Penicuik) and asked if “homeless” people contacted them – they said that only Edinburgh Council provided information (in their front window) and Midlothian Council did not provide any poster/contact numbers, etc for their services? Can we assume Midlothian Council does not have a homeless problem in Penicuik/Midlothian.
Please contact them! Address this issue please.
Note:- Consultation – No information at local library or town hall?
5. Planning – The old Lothian Region Care Home sign, at entrance of Pentland House was removed recently (last 2 weeks) and replaced by Midlothian Social Care sign – before Cabinet meeting recommendations – talk about “cart” before the “horse”! Fast track indeed!. I hope/assume John Blair’s team ensure “change of use”, from care home, to “temporary” social care building, is a “temporary lease”, before “change of use” back to 24 unit for elderly, in near future, given increased elderly (living longer) population, and retain building in Midlothian Councils estate – not handed over to private sector?. I would like this is writing please.

Please Note – Budget? For extra work on Pentland House

“Subsidence” - building and grounds – (1) Have you allowed cost of ground work/Cuiken-burn, has “subsidence” issues, at West end of building, due to flood/spate water pressure.

“Broken Bridge” (2) Pedestrian bridge is badly damaged and needs urgent repairs – This is the only “core” pathway in area. (Plastic pipe blocking burn) TV too!

“Service Access” (3) The side path inside grounds at west end of building requires widening/strengthening for service users – i.e. Grass cutting, Scottish Water, Electricity lighting access etc to Cuikenburn Valley and river

6. Future Planning – Midlothian/Penicuik Care Plan! - I am a pensioner, my wife is disabled and we need to move to a ground floor flat/house in near future – so I believe strongly, that provision for elderly is more important, than temporary HMO, and my local knowledge, and observation, is that a survey, ASAP should be conducted with all agencies, doctors/health centres and private providers, like Baldwin Court, Aaran House, Heinsberg House, to ensure Pentland House land/estate be publically retained, and owned, for future use for elderly. I would suggest “lonely” aged population should use this building for a new “drop in centre”, to socialise, and be mediated for future access, to nearby Cowan Court, and low/medium dementia people etc be houses, in 24 units for example “Broomhill Day Centre” is old, and no longer accommodate future increased use for elderly. Cowan Court is full, and large waiting list, only expensive private sector buildings, is alternative (as mentioned above).
7. Mr Kevin Anderson had I brief for HMO, but he compared it with Dunfermline, size and population difference was wrong.
8. Councillor Joe Wallace – councillor for Pentland House area has, at 2 Penicuik Community Council meetings, said various comments regarding Pentland House being in favour of a HMO House of Multiple occupation and want further about waiting lists for Penicuik housing
He is in breach of his “Midlothian Code of Conduct for Councillors”, regarding any personal of Council comments with Kevin Anderson while Planning – in my own opinion “Change of Use of Building”, and public consultation, was taking place, and at Penicuik Community Council meetings. I ask Kenneth Lawrie to investigate and give a report to Penicuik and District Community Council, and myself, and other residents like Mrs Margaret Wilson, ASAP. The Ombudsman/MSP is our next option, so please meet ASAP to discuss these 8 disturbing flaws in the whole consultation with the public and PDCC.

Yours sincerely

Resident and Community Councillor/Allan Robertson and Planning Convener.

Summary – We the residents, even at this late stage, would like council Chief Executive, John Blair (Planning) and General Purposes Committee, to defer any further decision, regarding Pentland House use as a HMO, till further notice, and public meeting, will take place on ASAP at 7pm venue – Penicuik Miners Welfare Club and Midlothian Council official spokespersons, and local and Midlothian Councillors welcome to attend.

Yours sincerely

Alan Robertson

Appendix 4

18 December 2014

Mr & Mrs A Robertson
43 Dykes Road
Penicuik
EH26 0JD

Dear Mr and Mrs Robertson,

Complaint – Pentland House HMO (House of Multiple Occupation) proposal.

I refer to your letter received on 1st December, 2014 regarding the HMO proposal at Pentland House, Penicuik, and advise that this matter has been dealt with in terms of the Council's complaints policy.

I thank you for your contributions to the public consultation on the proposed change of use of Pentland House, Penicuik (former Care Home), which was a useful exercise for us to take back to Cabinet on the feedback received. I have reviewed this case and note your concern in respect of the public consultation process.

Residents were made aware of consultation plans in the local press; Midlothian News and the Penicuik Cuckoo and also social networking websites. Homes in the immediate vicinity were made aware of the consultation dates by leaflet and posters were displayed in the neighbourhood and close to the adjacent Tesco store.

Local businesses along Edinburgh Road were visited on Monday 29 September. They were given information on the proposals and invited to the consultation events. Three consultation events were arranged during the week commencing 29th September. The times varied to give people with different work/social life patterns the opportunity to attend. Times included 10am – 1pm, 2pm – 5pm and 4pm – 7.30pm.

I can advise that Midlothian Council's Cabinet considered the matter on 18 November, which you attended and the public report detailed the consultation process and also the unedited feedback from these events was presented to members.

In your request for information, this has been compiled for ease of reference.

Complaints made by Mr Robertson	Response to complaints made.
No mention in report of Police consultation.	It was not detailed in the Cabinet report, although the proposals have been discussed at the Community Safety Partnership Delivery Group which is attended by Police and Fire Services.
No mention of Doctors/Healthworkers consultation.	It was not detailed in the Cabinet report, although the proposals have been discussed directly for these health service implications with the Head of Health and the Joint Director of Health & Social Care.
Early in the so- called consultation at Penicuik & District Community Council only 16 – 25 year olds were mentioned by Mr Anderson, no other age group.	Mr Anderson recalls the age related question was only in respect of the restricted housing options for this age group as a consequence of the Welfare Reform effects restricting them to a single shared room rate for housing costs.

Complaints made by Mr Robertson	Response to complaints made.
<p>Only Edinburgh Council provided homeless information on their front page.</p> <p>Can we assume Midlothian Council does not have a homeless problem in Penicuik.</p>	<p>Progress on the Homelessness Action Plan is reported in the annual Local Housing Strategy update.</p> <p>Midlothian Council publishes its performance information annually and service specific information includes homelessness. This is available on the Council's website in Housing Services and also in hard copy if you require this.</p>
<p>Planning concerns and potential sale of the building</p>	<p>A change of use planning application will be required and also a HMO application neighbour notification for the property. This was detailed in the Cabinet report.</p> <p>There are no proposals to sell the building.</p>
<p>Subsidence/Broken Bridge/Service Access</p>	<p>These issues are not specific to the HMO proposals so did not feature in the Cabinet report or consultation. They are receiving attention from Property Maintenance services.</p>

I advise that this complaint has been dealt with at Stage 2 in the Council's Complaints Policy, and I enclose the details of the complaints procedure for your information. If you are still dissatisfied with our decision or the way we dealt with your complaint, you can ask the Scottish Public Services Ombudsman (SPSO) to look at it.

The contact details for the SPSO are as listed:

Scottish Public Services Ombudsman

4 Melville Street, Edinburgh EH3 7NS or SPSO, Freepost EH641, Edinburgh EH3 0BR

Tel: **0800 377 7330** Email: ask@spso.org.uk www.spso.org.uk

Yours sincerely

Kenneth Lawrie
Chief Executive
kenneth.lawrie@midlothian.gov.uk

APPENDIX 5

MEMORANDUM

From: Graham Drummond, Environmental Health
Your Ref: 2015/0657/HMO (67)
Our Ref: HMO/15/0057
Date: 22 February 2016

Subject: **Housing (Scotland) Act 2006**
Application for a House in Multiple Occupation Licence
Pentland House, 14 Edinburgh Road, Penicuik, EH26 8NW

I refer to the application for a House in Multiple Occupation Licence in respect of Pentland House, 14 Edinburgh Road, Penicuik submitted by Midlothian Council.

The property is a three storey building which sits within its own grounds on the north side of Edinburgh Road, Penicuik. The application form states there will be 43 bedrooms however there are actually 40 bedrooms (of which 4 are marked double bedrooms). The property could therefore provide accommodation for a maximum of 44 people, in addition to a maximum of 4 persons in each of the two self-contained flats. See annexed Occupancy Table.

Communal kitchens, bathrooms and toilet facilities will be provided on each floor. There will be 24/7 staff cover including two night staff.

Electrical Installation and PAT reports will require to be submitted demonstrating that the electrical system and appliances have been tested by a competent person and are safe.

Since Environmental Health first became involved in this project, plans have been provided showing the detailed kitchen layout.

In terms of the Scottish Government Statutory Guidance for Houses in Multiple Occupation, the property is suitable to accommodate 44 persons, in addition to 4 people in each of the self-contained flats. Subject to the following conditions, Environmental Health would have no objections to this application being granted:-

1. All bedrooms, kitchens and lounge areas are provided with a minimum of 6 electrical sockets.
2. All communal kitchen, bathroom and toilet facilities are completed in accordance with the Building Warrant drawings.
3. Various windows and fire exits are restricted from opening due to overgrown shrubbery. All such shrubbery should be cut back/removed.
4. Various windows are in disrepair and boarded over. The windows must be repaired and boarding removed.
5. The exposed electric fittings in bedroom 3 on the ground floor require to be removed or repaired.
6. Appropriate mechanical ventilation should be provided in the bathroom (numbered SF 09) on the second floor.

7. Before the building is occupied, up to date electrical safety and PAT reports shall be submitted confirming that the electrical system and all appliances provided have been inspected and are safe.

Annex Occupancy Table

The following table has been updated using Midlothian Council's Building Asset room numbers. The numbers used previously were numbers on the doors for the previous use and may not relate to any future numbering.

GROUND FLOOR		FIRST FLOOR		SECOND FLOOR	
Bedroom No	Occupancy	Bedroom No.	Occupancy	Bedroom No.	Occupancy
GF03	1	FF01	1	SF01	1
GF04	1	FF02	1	SF02	1
GF05	1	FF03	1	SF03	1
GF06	1	FF04	1	SF04	1
GF08	1	FF05	1	SF05	1
GF14	1	FF06	1	SF06	1
GF15	1	FF08	2	SF08	2
GF28	1	FF13	1	SF13	1
GF29	1	FF14	1	SF14	1
GF33	1	FF26	2	SF25	2
		FF27	1	SF26	1
		FF28	1	SF 27	1
		FF29	1	SF28	1
		FF40	1	SF38	1
		FF41	1	SF39	1
Total	10		17		17
		Self - contained flat	4	Self- contained flat	4