

NOTICE OF MEETING

GENERAL PURPOSES COMMITTEE

Venue: Council Chambers
Midlothian House
Buccleuch Street
Dalkeith

Date: Tuesday 11 November 2014

Time: 2.00 pm

JOHN BLAIR
Director, Corporate Resources

Audio Recording Notice: Please note that this meeting will be recorded. The recording will be publicly available following the meeting, including publication via the internet. The Council will also comply with its statutory obligations under the Data Protection Act 1998 and the Freedom of Information (Scotland) Act 2002.

AGENDA

- 1 Apologies.
- 2 Order of Business – including notice of new business submitted as urgent for consideration at the end of the meeting.
- 3 Declarations of Interest.
- 4 Minutes of Meeting of 30 September 2014 (**Circulated: Pages 3 –14**).
- 5 Civic Government (Scotland) Act 1982 -
 - (a) Procedure for Disposing of Applications for Licences - Report by Director, Resources (**Circulated: Pages 15 – 18**); and
 - (b) Taxi Stances - Report by Director, Resources (**Circulated: Pages 19 – 22**).
- 6 Housing (Scotland) Act 2006 –
 - (a) Procedure for Disposing of Applications for HMO Licences - Report by Director, Resources (**Circulated: Pages 23 – 36**); and

- (b) Applications for renewal of licences –
- (i) 1, Bilston Cottages - Report by Director, Resources **(To Follow)**;
 - (ii) 2, Bilston Cottages - Report by Director, Resources **(To Follow)**; and
 - (iii) 3, Bilston Cottages - Report by Director, Resources **(To Follow)**.

THE COMMITTEE IS INVITED (A) TO CONSIDER RESOLVING TO DEAL WITH THE BUSINESS SHOWN OVERLEAF IN PRIVATE IN TERMS OF PARAGRAPHS 3, 12 AND 14 OF PART 1 OF SCHEDULE 7A TO THE LOCAL GOVERNMENT (SCOTLAND) ACT 1973 – THE RELEVANT REPORT THEREFORE IS NOT FOR PUBLICATION; AND (B) TO NOTE THAT NOTWITHSTANDING ANY SUCH RESOLUTION, INFORMATION MAY STILL REQUIRE TO BE RELEASED UNDER THE FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 OR THE ENVIRONMENTAL INFORMATION REGULATIONS 2004.

- 7 Examination of Hire Cars - Report by Director, Resources **(Circulated: Pages 37 – 39)**;

4 November 2014

7 November 2014

To Members of the General Purposes Committee

Dear Councillor

Meeting of the General Purposes Committee - Tuesday 11 November 2014

Follow Items of Business

I refer to the Agenda for the Meeting of the General Purposes Committee on Tuesday 11 November 2014 and enclose :-

FOLLOW PAPERS

- Item 6 (b) Applications for renewal of HMO licences –
- (i) No 1, Bilston Cottages - Report by Director, Resources
(Circulated Pages F 1 – F 12);
 - (ii) No 2, Bilston Cottages - Report by Director, Resources
(Circulated Pages F 13 – F 24); and
 - (iii) No 3, Bilston Cottages - Report by Director, Resources
(Circulated Pages F 25 – F 36).

If you wish to discuss this matter, please contact Bob Attack
(attackb@midlothian.gov.uk).

Yours sincerely

Legal and Secretariat Manager

Your Ref:

Our Ref: (RGA/GL)

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**General Purposes Committee
Tuesday 11 November 2014
Item No 4**

MINUTES of MEETING of the MIDLOTHIAN COUNCIL GENERAL PURPOSES

COMMITTEE held in the Council Chambers, Midlothian House, Buccleuch Street, Dalkeith on Tuesday 30 September 2014 at 2.00pm.

Present:- Councillors Coventry (Chair), Bennett, Bryant, Johnstone, Milligan, Montgomery, Pottinger, Rosie, Russell, and Wallace.

Apologies for Absence:- Councillors Baxter, Beattie, Constable, Imrie, Muirhead, Thompson and de Vink.

1 Declarations of Interest

Councillors Bennett and Montgomery declared an interest in Item 5(a) in that they knew the Applicant and indicated that they would not take part in the relative Hearing.

2 Minutes

The Minutes of Meeting of 19 August 2014 were approved as a correct record on the motion of Councillor Pottinger, seconded by Councillor Rosie.

3 Civic Government (Scotland) Act 1982

(a) Procedure for Disposing of Applications

There was submitted report, dated 16 September 2014, by the Director, Resources, concerning the procedure for disposing of applications for licences, in terms of the Civic Government (Scotland) Act 1982.

Decision

To note the report.

(b) Procedure for Considering Requests for Suspension of Licences

There was submitted report, dated 4 September 2014, by the Director, Resources, concerning the procedure for considering requests for suspension of licences, in terms of the Civic Government (Scotland) Act 1982.

Decision

To note the report.

(c) CCTV in Hire Cars

With reference to paragraph 4(b)(iii) of the Minutes of 1 April 2014, there was submitted report, dated 23 September 2014, by the Director, Resources, concerning the implementation of a policy to permit the introduction installation of CCTV in Hire Cars.

Appended to the report was information relating to the execution of a Privacy Impact Assessment (PIA) and a Draft Policy statement.

In his report, the Director, *inter alia*, (i) confirmed that discussions had taken place with the Information Commissioner and guidance obtained; (ii) discussed the factors relating to the PIA; (iii) confirmed that (1) the introduction of CCTV in Hire Cars was supported by the Trade; and (2) the Policy was being introduced for reasons of public safety; and (iv) requested authority to proceed with the implementation of a Scheme to provide, *inter alia*, that :-

- (1) footage or images must be securely stored at all time and never downloaded to portable devices such as memory sticks or CDs;
- (2) images or audio recording captured by CCTV must be retained for no longer than 31 days;
- (3) a sign indicating that a CCTV / Audio recorder is in use and the contact number of the licence holder, must be clearly displayed;
- (4) Passengers must be advised by the driver that a CCTV / Audio recorder is in use;
- (5) Police, Licensing Officers and Insurance Investigators must request permission, in writing, to view footage or images / listen to audio recording; and
- (6) only those who are the subject of a recording are permitted to view footage or images or listen to audio recordings.

During the course of discussion, with reference to (2) above, Members indicated a preference for a longer period of retention of recordings if this were possible; and note a view expressed by the Inspector that there may be technical reasons to prevent this.

Decision

To remit to the Director, Resources, in consultation with the Chair, to implement the Policy, as shown in **Appendix I** hereto, taking into account, if possible, the views expressed by Members concerning the retention of recordings.

(Action – Legal and Secretariat Manager)

4 Public Holidays

There was submitted report, dated 4 September 2014, by the Director, Resources, concerning the Public Holidays and Statutory Public Holiday / Festival dates from 2015 to 2019.

Decision

- (a) To note the report; and
- (b) To approve the public holiday dates for 2015 to 2019; and
- (c) To note the statutory public holidays / festival dates, both as shown in **Appendix II** hereto.

(Action Legal and Secretariat Manager)

5 Exclusion of Members of the Public

In view of the nature of the business to be transacted, the Committee agreed that the public be excluded from the Meeting during discussion of the undernoted items, as contained in the Addendum hereto, as there might be disclosed exempt information as defined in paragraphs 3, 12 and 14 of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973.

Decision

- (a) Private Hire Car Drivers' Licences – applications (2) – To refuse to grant the applications as the Applicants were not considered to be a fit and proper persons to be the holders of licences; and
- (b) Private Hire Car Driver's Licence – Request for Suspension – (i) to note that the Licence had been suspended with immediate effect in view of the public safety implications; and (ii) To agree that the licence be re-instated.

The Meeting terminated at 3.00pm.

APPENDIX I

(relative to paragraph 3(c))

POLICY FOR CCTV IN HIRE CARS

The aim of this policy is to allow for the safe installation and use of CCTV systems in taxis and private hire cars licensed by Midlothian Council's Licensing Authority. In allowing the installation and use of CCTV, the Licensing Authority recognises that such systems can be used to prevent and detect crime, reduce the fear of crime and enhance the safety of taxi and private hire car drivers, as well as their passengers. However, this policy also seeks to ensure that the installation and operation of CCTV systems do not compromise the safety of either drivers or passengers or unreasonably interfere with the privacy of members of the public. For the purposes of this policy, a CCTV system will include any electronic recording device attached to the inside of a taxi or private hire car having the technical capability to capture and retain visual images from inside or external to the vehicle.

This policy does not place a mandatory requirement on the licensed operators of taxis and private hire cars to install CCTV systems in their vehicles. Any CCTV system to be fitted in a taxi or private hire car must, as a minimum, meet the requirements of this policy. Only CCTV systems meeting these requirements can be installed into licensed taxis and private hire cars. Where an operator wishes to install and use a CCTV system, it will be a condition of the taxi or private hire car licence that the requirements of this policy are complied with. Failure to comply with the requirements of this policy could lead to a complaint being made to the Licensing and Regulatory Committee in order to consider the possible suspension of the licence.

THE DATA CONTROLLER

The Information Commissioner defines a "data controller" as the body which has legal responsibility under the Data Protection Act 1998 for all matters concerning the use of personal data. For the purpose of the installation and operation of a CCTV system in taxis and private hire cars, the "data controller" will be the holder of the taxi or private hire car licence and not the driver. The licence holder, as data controller, will therefore be responsible for ensuring compliance with the requirements of this policy and with all relevant data protection legislation, including the Data Protection Act 1998. The data controller is legally responsible for the use of all images including breaches of legislation.

THIRD PARTY DATA PROCESSOR

Where a service provider is used for the remote storage of CCTV data they will act as a 'data processor'. A data processor, in relation to personal data, means any person (other than an employee of the data controller) who processes data on behalf of the data controller, in response to specific instructions. The data controller retains full responsibility for the actions of the data processor.

There must be a formal written contract between the data controller and the data processor. The contract must contain provisions covering security arrangements, retention/deletion instructions, access requests and termination arrangements. A copy of the contract must be provided to an authorised officer of the Licensing Authority, or to the Police, on reasonable request.

GENERAL REQUIREMENTS – INSTALLATION AND OPERATION

CCTV systems must not be used to record conversations between members of the public as this is highly intrusive and unlikely to be justified except in very exceptional circumstances. Wherever possible, the CCTV system should not have any sound recording facility. However, if the system comes equipped with a sound recording facility then this functionality should be disabled and only capable of being utilised in the following limited circumstances:-

Audio recording will only be justified where the recording is triggered due to a specific threat to driver or passenger safety, e.g. a 'panic button' is utilised and must be subject to the following safeguards:-

a) Where this audio recording facility is utilised a reset function must be installed which automatically disables audio recording and returns the system to normal default operation after a specified time period has elapsed.

All equipment must comply with any legislative requirements in respect of Motor Vehicle Construction and Use Regulations. All equipment must meet any and all requirements as regards safety, technical acceptability and operational/data integrity.

All equipment must be designed, constructed and installed in such a way and in such materials as to present no danger to passengers or to the driver, including impact with the equipment in the event of a collision or danger from the electrical integrity being breached through vandalism, misuse, or wear and tear. In particular, the camera(s) must be fitted safely and securely in such a way that it does not adversely encroach into the passenger area and must not impact on the safety of the driver, passenger or other road users. All equipment must be installed as prescribed by the equipment and/or vehicle manufacturer installation instructions by a qualified auto-electrician.

The CCTV system must not weaken the structure or any component part of the vehicle or interfere with the integrity of the manufacturer's original equipment.

All equipment must be installed in such a manner so as not to increase the risk of injury and/or discomfort to the driver and/or passengers. For example, temporary fixing methods such as suction cups will not be permitted, or lighting, such as infra-red, which emits at such a level that may cause distraction or nuisance to the driver and/or passengers.

All equipment must be protected from the elements, secure from tampering and located such as to have the minimum intrusion into any passenger or driver area or impact on the luggage carrying capacity of the vehicle.

It is contrary to the Motor Vehicle (Construction and Use) Regulations 1986 for equipment to obscure the view of the road through the windscreen.

Equipment must not obscure or interfere with the operation of any of the vehicle's standard and/or mandatory equipment, i.e. not mounted on or adjacent to air bags/air curtains or within proximity of other supplementary safety systems which may cause degradation in performance or functionality of such safety systems.

Viewing screens within the vehicle for the purposes of viewing captured images will not be permitted. All wiring must be fused as set out in the manufacture's technical specification and be appropriately routed.

The location of the camera(s) installed within the vehicle must be for the purpose of providing a safer environment for the benefit of the taxi or private hire car driver and passengers, and not for any other purpose.

All equipment must be checked regularly and maintained to operational standards, including any repairs after damage.

All system components requiring calibration in situ should be easily accessible.

AUTOMOTIVE ELECTROMAGNETIC COMPATIBILITY REQUIREMENTS (EMC)

CCTV equipment must not interfere with any other safety, control, electrical, computer, navigation, satellite, or radio system in the vehicle. Any electrical equipment such as an in-vehicle CCTV system fitted after the vehicle has been manufactured and registered, is deemed to be an Electronic Sub Assembly (ESA) under the European Community Automotive Electromagnetic Compatibility Directive and therefore must meet with requirements specified in that Directive.

CCTV equipment should be e-marked or CE-marked. If CE marked confirmation by the equipment manufacturer as being non-immunity related and suitable for use in motor vehicles is required. Activation of the equipment may be via a number and combination of options, such as - door switches, time delay, drivers' panic button or in the case of incident/event recorder, predetermined G-Force parameters set on one or more axis (i.e. braking, acceleration, lateral forces) and configured to record for a short period of time before the event, during the event and a short period following the event.

SECURITY OF IMAGES

All Images captured by the CCTV system must remain secure at all times.

The captured images must be protected using encryption software which is designed to guard against the compromise of the stored data, for example, in the event of the vehicle or equipment being stolen. It is recommended by the Information Commissioner that the data controller ensures that any encryption software used meets or exceeds the current FIPS 140-2 standard or equivalent. System protection access codes will also be required to ensure permanent security.

RETENTION OF CCTV IMAGES

The CCTV equipment selected for installation must have the capability of retaining images either:

- within its own hard drive;
- using a fully secured and appropriately encrypted detachable mass storage device, for example, a compact flash solid state card;
- or where a service provider is providing storage facilities, transferred in real time using fully secured and appropriately encrypted GPRS GSM telephone) signalling to a secure server within the service provider's monitoring centre.

Images must not be downloaded onto any kind of portable media device (e.g. CDs or memory sticks) for the purpose of general storage outside the vehicle.

The CCTV system must include an automatic overwriting function, so that images are only retained within the installed storage device for a maximum period of 31 days from the date of capture.

Where a service provider is used to store images on a secure server, the specified retention period must also only be for a maximum period of 31 days from the date of capture. Where applicable, these provisions shall also apply to audio recordings.

USE OF INFORMATION RECORDED USING CCTV

Any images and any audio recording should only be used for the purposes described in this policy. Requests may be made to the data controller by Authorised Officers of the Licensing Authority, the Police or other statutory law enforcement agencies, insurance companies / brokers / loss adjusters or exceptionally other appropriate bodies, to view captured images, or obtain audio recordings if applicable. The licence holder, as data controller, is responsible for responding to these requests. Police, Authorised Officers of the Licensing Authority or other law enforcement agencies should produce a standard template request form, setting out the reasons why the disclosure is required. Alternatively a signed statement may be accepted.

All requests should only be accepted where they are in writing, and specify the reasons why disclosure is required.

Under the Data Protection Act 1998, members of the public may also make a request for the disclosure of images, but only where they have been the subject of a recording. This is known as a 'subject access request'.

Such requests must only be accepted where they are in writing and include sufficient proofs of identity (which may include a photograph to confirm they are in fact the person in the recording). Data controllers are also entitled to charge a fee for a subject access request (currently a maximum of £10) as published in the Information Commissioner's CCTV Code of Practice.

SIGNAGE

All taxis and private hire cars with CCTV must display signage within the vehicle to indicate that CCTV is in operation. The driver must also verbally bring to the attention of the passengers that CCTV equipment is in operation within the vehicle.

The signage must be displayed in such positions so as to minimise obstruction of vision and to make it as visible as possible to passengers, before and after entering the vehicle.

In the limited circumstance where audio recording is justified, signs must make it very clear that audio recording is being or may be carried out and this must also be verbally brought to the attention of the passengers.

CONTACT DETAILS

The name and the contact telephone number of the licence holder, as data controller must be included on the sign.

SIGNAGE FOR EXTERNAL FACING CCTV SYSTEMS

Where a CCTV system is installed within the vehicle in order to record incidents *outside of* the vehicle, it will not be practical to display a sign. Instead, when the CCTV is activated in response to an incident, the driver of the vehicle must inform the person(s) recorded that their personal data was captured - as soon as practicable after the incident.

They should also be informed of the purpose for which the device has been installed, being driver and passenger safety.

APPENDIX II

(relative to paragraph 4)

PUBLIC HOLIDAYS 2015-2019

2015

Thursday	1 January	New Year's Day
Friday	2 January	Public Holiday
Friday	3 April	Good Friday
Monday	6 April	Easter Monday
Monday	20 April	Spring Holiday: Public Holiday
Monday	4 May	May Day: Public Holiday
Monday	18 May	Victoria Day: Public Holiday
Monday	21 September	Autumn Holiday: Public Holiday
Monday	30 November	St Andrew's Day
Friday	25 December	Christmas Day
Saturday	26 December	Boxing Day

2016

Friday	1 January	New Year's Day
Monday	4 January	Public Holiday
Friday	25 March	Good Friday
Monday	28 March	Easter Monday
Monday	18 April	Spring Holiday: Public Holiday
Monday	2 May	May Day: Public Holiday
Monday	23 May	Victoria Day: Public Holiday
Monday	19 September	Autumn Holiday: Public Holiday
Monday	5 December	St Andrew's Day
Sunday	25 December	Christmas Day
Monday	26 December	Boxing Day

2017

Monday	2 January	New Year Public Holiday
Tuesday	3 January	Public Holiday
Monday	10 April	Spring Holiday: Public Holiday
Friday	14 April	Good Friday
Monday	17 April	Easter Monday
Monday	1 May	May Day: Public Holiday
Monday	22 May	Victoria Day: Public Holiday
Monday	18 September	Autumn Holiday: Public Holiday
Thursday	4 December	St Andrew's Day
Monday	25 December	Christmas Day
Tuesday	26 December	Boxing Day

2018

Monday	1 January	New Year's Day
Tuesday	2 January	Public Holiday
Friday	30 March	Good Friday
Monday	2 April	Easter Monday
Monday	16 April	Spring Public Holiday
Monday	7 May	May Day Public Holiday
Monday	21 May	Victoria Day Public Holiday
Monday	17 September	Autumn Public Holiday
Monday	3 December	St Andrew's Day
Tuesday	25 December	Christmas Day
Wednesday	26 December	Boxing Day

2019

Tuesday	1 January	New Year's Day
Wednesday	2 January	Public Holiday
Monday	15 April	Spring Public Holiday
Friday	19 April	Good Friday
Monday	22 April	Easter Monday
Monday	6 May	May Day Public Holiday
Monday	20 May	Victoria Day Public Holiday
Monday	16 September	Autumn Public Holiday
Monday	2 December	St Andrew's Day
Wednesday	25 December	Christmas Day
Thursday	26 December	Boxing Day

**Civic Government (Scotland) Act 1982
Procedure for Disposal of Applications for Licences**

Report by Director, Resources

1 Purpose of Report

This report outlines the procedure to be adopted for a Hearing; and this report should be considered along with each application.

2 Procedure for Considering Applications at Hearings

The Procedure for considering applications is as follows:-

- 1 The objectors are given the opportunity to explain the basis of their objection (copies of the representations have been previously circulated to the applicant).
- 2 The applicant and the Members are given the opportunity to question the objectors.
- 3 The applicant is given the opportunity to speak in support of the application; and respond to the comments which have been made.
- 4 The objectors and the Members are given the opportunity to question the applicant.
- 5 The objectors and then the applicant are given the opportunity to sum up.
- 6 The Committee take a decision on the matter in the presence of the applicant and the objectors. The Committee may first adjourn but only for the expressly stated purpose of seeking procedural or legal advice (normally from the Clerk or Legal Adviser) and not for the purpose of taking the decision in private. The reasons for making the decision should be explained when conveying the decision.

3 Disposal of Applications for Licences

In disposing of an application for the grant of a licence the Committee may:-

- (a) grant the licence unconditionally;

- (b) grant the licence subject to conditions; or
- (c) refuse to grant the licence.

The Committee may refuse an application for a licence if, in their opinion –

- (i) the applicant or any other person responsible for the management of the activity is not a fit and proper person to be the holder of the licence;
- (ii) the activity to which it relates would be managed by or carried on for the benefit of a person other than the applicant who would be refused the grant of such a licence if he made application himself;
- (iii) where the application relates to premises, those premises are not suitable or convenient for the activity having regard to –
 - (i) the location, character or condition of the premises;
 - (ii) the nature and extent of the proposed activity;
 - (iii) the kind of persons likely to be in the premises;
 - (iv) the possibility of undue public nuisance;
 - (v) public order or public safety; or
- (iv) there is other good reason for refusing the application.

Otherwise the Committee must grant the application.

If the Committee grant conditionally or refuse the application, the applicant has the right of appeal to the Sheriff. The Sheriff may uphold an appeal only if he considers that the Licensing Authority in arriving at their decision:-

- (a) erred in law;
- (b) based their decision on any incorrect material fact;
- (c) acted contrary to natural justice; or
- (d) exercised their discretion in an unreasonable manner.

There is no right of appeal against the Council's decision in relation to applications for Temporary Licences.

4 Spent Convictions

Where the Chief Constable intends to libel convictions which are 'spent', if the Committee agree that justice could not be done without disclosure of these, the spent convictions shall be heard and details will be circulated if so agreed.

5 Treatment of Fixed Penalties, Police Warnings and other Alternatives to Prosecution (ATPs)

In terms of the Rehabilitation of Offenders Act 1974 certain convictions become "spent" after several years and cannot be considered by the Committee ie with the exception of taxi and private hire car drivers, which Licensing Authorities are permitted to consider.

Representations by the Chief Constable either objecting to applications or seeking suspension may also contain details of conduct of the applicant which are not convictions, classed as ATPs, the main types of which include (1) warnings given by the Police or Procurator Fiscal; (2) Conditional Offers and Compensation Offers made by the Procurator Fiscal under Section 302 of the Criminal Procedure (Scotland) Act 1995; (3) a Fixed Penalty offered by the Police under Section 129 of the Antisocial Behaviour etc (Scotland) Act 2004; and (4) certain foreign warnings or fixed penalties.

ATPs are "spent"; warnings become "spent" as soon as they are issued; and the remainder are regarded as "spent" within three months of issue.

Most ATPs appearing on such objections will be "spent"; offences that resulted in ATPs which are "spent" cannot be considered by the Committee; and the exemption allowing the Committee to consider "spent" convictions do not apply to ATPs.

The Chief Constable can ask the Committee to consider "spent" ATPs, by exercising discretion under Section 7(3) of the Rehabilitation of Offenders Act 1974, which permits the Committee to consider them if it is satisfied that justice cannot be done except by considering them ie subject to the driver being asked for a view as to whether the information should be submitted (and before the Committee decide whether or not to consider any ATPs).

Many road traffic offences are dealt with through the issue of Conditional Offers of Fixed Penalties under the Road Traffic Offenders Act 1988 which are not ATPs and therefore can be considered by the Committee.

Letters from the Chief Constable objecting to applications may also contain details of complaints and allegations against the driver which have not resulted in conviction or ATPs and details of pending criminal court cases; and as these are not convictions or ATPs, can be considered by the Committee.

6 Recommendations

The Committee is recommended to note the terms of the report.

28 October 2014

Contact Person: R G Attack **Tel No:** 0131 271 3161
Background Papers: File CG 10.1 (RGA)
Civic Government (Scotland) Act 1982.

Taxi Stances**Report by Director, Resources****1 Purpose of Report**

To report back concerning potential alterations to / additions of and seek authority to proceed with the appointment and alteration of Taxi Stances.

2 Background

2.1 On 1 April 2014, as recommended by the Hire Car Working Group, the Committee agreed that :-

- (a) That the Stance for three Taxis in Eskview Grove, be revoked but delayed pending an investigation as regards the feasibility of appointing, instead, a Stance for three taxis on the carriageway at the east of the roundabout at Bogwood Road, Mayfield;
- (b) That the Stance for two Taxis at High Street Penicuik, be retained and re-marked;
- (c) That the Stance for two Taxis at Imrie Place Penicuik, be not replaced;
- (d) That the feasibility of altering the Stance for fifteen Taxis at Lothian Street / Buccleuch Street, Dalkeith, to facilitate the manoeuvring of Taxis, be investigated;
- (e) That the appointment of the Stance for two Taxis at Edinburgh Road, Penicuik, be revoked;
- (f) That the Stance for seven Taxis at Polton Street, Bonnyrigg, be retained and re-marked;
- (g) That the feasibility of appointing a Stance at the Community Hospital at Hardengreen, be investigated;
- (h) That the commencement date for the Stance adjacent to the Supermarket in Eskbank Road, Dalkeith be 16 May 2014; and, with reference to paragraph 5(c) of the Minutes of 7 October 2008, having noted that the physical layout of the site had changed and the stance had been reduced in size by the Developer, to vary the appointment by reducing the number of taxis to six, subject to public consultation; and

- (i) That, in respect of the Stance at Lothian Street / Buccleuch Street, Dalkeith, the feasibility of it (1) being monitored by CCTV directly to improve visibility and public safety, be investigated; and (2) in respect of the reports of frequent disturbances in the early hours of the morning at weekends which prevented safe access by Taxi Drivers, the cooperation of the Police be sought in an endeavour to control the area and achieve a reduction in bad behaviour.

2.2 Progress

Progress has been made as follows:-

- (a) **Revocation of Stance for three Taxis in Eskview Grove, but delayed pending an investigation as regards the feasibility of appointing, instead, a Stance for three taxis on the carriageway at the east of the roundabout at Bogwood Road, Mayfield** - informal discussion suggests that it would not be feasible to site the Stance at the roundabout. This site was considered some time ago and it was rejected for road safety reasons. This will be considered in more detail by Roads Services in due course;
- (b) **Stance for two Taxis at High Street Penicuik, be retained and re-marked** – the stance will be (signed and) re-marked when the next road marking operation takes place;
- (c) **the Stance for two Taxis at Imrie Place Penicuik, be not replaced** – no further action needed;
- (d) **That the feasibility of altering the Stance for fifteen Taxis at Lothian Street / Buccleuch Street, Dalkeith, to facilitate the manoeuvring of Taxis, be investigated** – This will be considered in more detail by Roads Services in due course however, there is no budget for this and it will not be possible to progress the proposal unless a budget provision is made;
- (e) **That the appointment of the Stance for two Taxis at Edinburgh Road, Penicuik, be revoked** – the stance has been re-marked in error but that will be rectified;
- (f) **That the Stance for seven Taxis at Polton Street, Bonnyrigg, be retained and re-marked** – the works will be carried out when road marking operations are being carried at that location ;
- (g) **That the feasibility of appointing a Stance at the Community Hospital at Hardengreen, be investigated** – initial contact has been made with the Clinician in Charge and information is awaited ;
- (h) **The Stance adjacent to the Supermarket in Eskbank Road, Dalkeith** – it is now operational;

- (i) That, in respect of the Stance **at Lothian Street / Buccleuch**
- (j) **Street, Dalkeith, the feasibility of it (1) being monitored by CCTV directly to improve visibility and public safety, be investigated; and (2) in respect of the reports of frequent disturbances in the early hours of the morning at weekends which prevented safe access by Taxi Drivers, the cooperation of the Police be sought in an endeavour to control the area and achieve a reduction in bad behaviour** – CCTV at this location is fixed and cannot be adapted without additional resource.

Before appointing any stance for taxis, the licensing authority shall give notice to the chief constable and shall also give public notice of the proposal by advertisement in at least one newspaper circulating in their area and shall take into consideration any objections or representations in respect of such proposal which may be made to them in writing within 28 days of the first publication of such notice.

3 Report Implications

3.1 Resource

There are no resource implications arising directly from this report.

3.2 Risk

There are no risk implications arising directly from this report.

3.3 Single Midlothian Plan and Business Transformation

Themes addressed in this report:

- ☐ Community safety
- ☐ Adult health, care and housing
- ☐ Getting it right for every Midlothian child
- ☐ Improving opportunities in Midlothian
- ☐ Sustainable growth
- ☐ Business transformation and Best Value
- ☐ None of the above

3.4 Key Priorities within the Single Midlothian Plan

There are implications arising directly from this report.

3.5 Impact on Performance and Outcomes

There are no implications arising directly from this report.

3.5 Adopting a Preventative Approach

There are no implications arising directly from this report.

3.6 Involving Communities and Other Stakeholders

The Hire Car Associations were consulted.

3.7 Ensuring Equalities

There are no implications arising directly from this report.

3.8 Supporting Sustainable Development

There are no implications arising directly from this report.

3.9 IT Issues

There are no implications arising directly from this report.

4 Summary

Before appointing any stance for taxis, the licensing authority shall give notice to the chief constable and shall also give public notice of the proposal by advertisement in at least one newspaper circulating in their area and shall take into consideration any objections or representations in respect of such proposal which may be made to them in writing within 28 days of the first publication of such notice.

In respect of the Stance at Buccleuch Street / Lothian Street, Dalkeith, suggestions were made as regards potential improvements to make it more effective. Formal prior consultation with the Police and Roads Services is necessary in order to investigate the feasibility of this; and test the viability of appointing a stance at the roundabout at Bogwood Road, Mayfield and the Community Hospital. A report back will be made prior to any action being taken.

5 Recommendations

It is recommended that the Committee:-

- (1) as regards the appointment of the Stance for three Taxis in Eskview Grove, be revoked and the feasibility of appointing a Stance for three taxis at the east side of the roundabout at Bogwood Road, Mayfield be investigated, consider whether any further action should be taken in this respect;
- (2) as regards the feasibility of altering the Stance for fifteen Taxis at Lothian Street Dalkeith, to facilitate the manoeuvring of Taxis be investigated; consider whether any further action should be taken;
- (3) as regards the Stance at Lothian Street, Dalkeith and the feasibility of it (a) being monitored by CCTV directly to improve visibility and public safety, be investigated; and (b) the cooperation of the Police be sought in an endeavour to control the area and achieve a reduction in bad behaviour, in respect of the reports of frequent disturbances in the early hours of the morning at weekends which prevented safe access by Taxi Drivers - consider whether any further action should be taken in this respect; and
- (4) otherwise note the report.

Date 28 October 2014

Report Contact:

Name Bob Atack Tel No 0131 271 3161
atackb@midlothian.gov.uk

Background Papers: report of meeting held on 13 March 2014

**Housing (Scotland) Act 2006
Procedure for Disposal of Applications for Licences**

Report by Director, Resources

1 Purpose of Report

This report outlines the procedure to be adopted for a Hearing; and this report should be considered along with each application.

2 Procedure for Considering Applications at Hearings

The Procedure for considering applications is as follows:-

- 1 The objectors are given the opportunity to explain the basis of their objection (copies of the representations have been previously circulated to the applicant).
- 2 The applicant and the Members are given the opportunity to question the objectors.
- 3 The applicant is given the opportunity to speak in support of the application; and respond to the comments which have been made.
- 4 The objectors and the Members are given the opportunity to question the applicant.
- 5 The objectors and then the applicant are given the opportunity to sum up.
- 6 The Committee take a decision on the matter in the presence of the applicant and the objectors. The Committee may first adjourn but only for the expressly stated purpose of seeking procedural or legal advice (normally from the Clerk or Legal Adviser) and not for the purpose of taking the decision in private. The reasons for making the decision should be explained when conveying the decision.

3 Disposal of Applications for Licences

In disposing of an application for the grant of a licence the Committee may:-

- (a) grant the licence unconditionally;

- (b) grant the licence subject to conditions; or
- (c) refuse to grant the licence.

The Committee must refuse to grant an HMO licence if (a) the applicant, any agent specified in the application, and where the applicant or agent is not an individual, any director, partner or other person concerned in the management of the applicant or agent is disqualified by an order made under section 157(2) of the Act, or (b) the authority considers that any of those persons is not a fit and proper person to be authorised to permit persons to occupy any living accommodation as an HMO. Section 85 of the Antisocial Behaviour etc. (Scotland) Act 2004 applies to a local authority in deciding whether a person is a fit and proper person for the purposes of Agents as it applies to the authority when it is deciding whether a person is a fit and proper person for the purposes of section 84(3) or (4) of that Act.

The Committee may grant an HMO licence only if it considers that the living accommodation concerned—

- (a) is suitable for occupation as an HMO, or
- (b) can be made so suitable by including conditions in the HMO licence.

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.

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.

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

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

It is for the local authority to determine the localities within its area. In considering whether there is or would be overprovision in any locality, the local authority must have regard to—

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

An HMO licence may include such conditions as the Committee thinks fit. The Standard conditions are attached (**Appendix I**). Where an HMO licence includes, or is varied to include, a condition which requires work to be carried out in any living accommodation, the condition must also specify the date by which that work must be completed. No date may be specified which would (a) cause a condition of an HMO licence to have effect, or (b) require the work required by such a condition to be completed, before the date by which the local authority reasonably considers that the licence holder can secure compliance with the condition or, as the case may be, complete the work.

4 Appeals

Any decision may be appealed by summary application to the Sheriff.

An appeal may be made only by a person on whom notice of the decision requires to be served.

An appeal is not competent unless the person making it has followed every procedure made available for stating a case to the local authority in relation to the decision being appealed that it would be reasonable to have expected the person to follow.

An appeal must be made within 28 days of the person receiving notice of the decision.

But the Sheriff may on cause shown hear an appeal made after the deadline.

5 Recommendations

The Committee is recommended to note the terms of the report.

6 Report Background and Appendices

6.1 Background

Housing (Scotland) Act 2006.

2 October 2014

Contact Person:	R G Atack	Tel No: 0131 271 3161
Background Papers:	File CG 10.7 (RGA)	

APPENDIX I

Houses in Multiple Occupation Standard Licence Conditions
(These conditions should be read in conjunction with the Statutory Guidance.)

GENERAL

- 1 Where appropriate, the Licensee shall comply with the Food Safety Act 1990, and any regulations thereunder; the Health and Safety at Work etc Act 1974 and any regulations thereunder; and the Furniture and Furnishings (Fire) Safety Regulations 1988.
- 2 Where alterations to the premises are required or proposed a building warrant and certificate of completion shall be obtained under the Building (Scotland) Acts 1959 & 1970 and the Licensee shall comply with the building regulations and technical standards made thereunder.
- 3 The use of the licensed premises shall comply with the terms of any planning permission issued by Midlothian Council's Planning Committee.
- 4 No alteration shall be permitted to the premises without the written permission of the Director, Corporate Resources, Midlothian Council, or of any officer authorised to act for him in this respect.
- 5 The Licensee shall allow free access to the premises for the following officials for licensing purposes:-
 - (a) any officer of Midlothian Council;
 - (b) any officer of Lothian and Borders Police; and
 - (c) any officer of Lothian and Borders Fire & Rescue Service.
- 6 The Licensee shall take all available means to ensure that no disturbance arises from within the premises.
- 7 The Licensee shall maintain comprehensive building insurance and Property Owner's Liability Insurance in accordance with the approved Standards. These shall be displayed in the premises where they can be conveniently read by residents.
- 8 The licence holder must make the Licence, including any conditions, available to occupiers, within the premises where it can be conveniently read by residents.
- 9 The premises shall be maintained in a good state of repair, cleanliness and decoration.
- 10 The licence holder must ensure that the physical standards for HMO living accommodation, assessed as suitable by Midlothian Council when approving the licence application, are met at all times.

- 11 The Licence holder must take steps to ensure that the property, fittings and furniture, including fire precautions, plumbing, gas and electrical installations, are maintained to a satisfactory standard throughout the period of the licence. The HMO owner shall hold all necessary certificates.
- 12 The licence holder must ensure that the number of persons residing in the premises shall not exceed the maximum number stated on the front cover of the licence.
- 13 Adequate facilities shall be provided for the storage and disposal of refuse.
- 14 A telephone to which the residents have access shall be installed in the premises for the purpose of calling the Emergency Services. This will be maintained in good working order by the Licensee.

FIRE PRECAUTIONS

- 15 Fire safety measures shall be implemented as per recommendations of the Fire and Rescue Service.

Applicants have a duty to provide a written fire safety risk assessment, in accordance with Part 3 of the Fire (Scotland) Act 2005 as amended and the Fire Safety (Scotland) Regulations 2006. Further guidance on the Act, Regulations, fire safety risk assessment and benchmarks is available on the Scottish Government Website, www.firelawscotland.org.

SAFETY / EMERGENCIES

- 16 The licence holder must ensure that advice to occupiers on action to be taken in the event of an emergency is clearly and prominently displayed within the living accommodation.
- 17 The licence holder should ensure, where considered appropriate, that let rooms are fitted with a lever latch and secured with a suitable lock and thumb turn mechanism or other appropriate locking mechanism.
- 18 All chimneys / flues that are in use must be cleaned annually.
- 19 Glazing in the licensed premises positioned where accidental collision with it is likely must be constructed and installed, or protected, to minimise the danger of collision and injury to people. Compliance with BS6262 Part 4:1994 will satisfy this condition.

ELECTRICITY

- 20 The Licensee shall be responsible for ensuring that all electrical installations are in accordance with the current IEE Regulations and that electrical appliances provided by the Licensee are maintained in a safe and satisfactory condition.
- 21 At least once every five years (or earlier as directed by the approved electrical contractor) certification must be provided to confirm that the installed electrical system has been examined by a competent person and is functioning properly and is safe. Portable Appliance Testing of all plug in appliances shall be carried out on an annual basis to confirm they are functioning properly and are safe.

Continuity of certification is required and where a PIR certificate or PAT certificate expires part of the way through a licence period then a new PIR or PAT certificate shall be obtained.

- 22 There shall be a minimum of:-
- (a) in each kitchen, six electrical socket outlets;
 - (b) in each bedroom and living room, six electrical socket outlets; and
 - (c) elsewhere in the building, four additional socket outlets.
- 23 There shall be an electric lighting system providing at least one lighting point to every circulation space, bedroom, living room, kitchen, bathroom, watercloset compartment and other space having a floor area of two square metres or more. Any lighting point serving a stair within a HMO shall have controlling switches at each storey.

KITCHEN FACILITIES

- 24 Suitable and sufficient refrigerated and non-refrigerated facilities shall be provided for food storage. Food storage should be lockable where requested by the occupant.
- 25 A wholesome supply of cold running water, suitable for drinking purposes shall be provided for the use of residents. This shall be in a readily accessible position within the premises and accessible at all times.
- 26 Should full board not be provided, the premises shall have facilities for preparing, cooking and storing food. Each letting unit must contain a cooker with rings, grill and oven or ONE cooker (with rings, grill and oven) must be provided for up to FIVE people, TWO for between SIX and TEN people in a common kitchen. Cookers within common kitchens must be sited so as to provide the minimum activity space as detailed in Annex A of the statutory guidance.

- 27 Where there is a common kitchen, ONE sink with hot and cold water supply and integral drainer, must be provided for up to FIVE people. Two such sinks and drainers must be provided for between SIX and TEN people.
- 28 Suitable and sufficient worktop area with impervious surfaces shall be provided for preparing food.

SANITARY PROVISIONS

- 29 There shall be:
- (a) one watercloset for every five persons, either located on the same level as the floor containing bedrooms or on the first floor immediately above or below the storey containing the bedrooms; and
 - (b) one bath or shower for every five persons.
- 30 For the purposes of determining the scale of provision of sanitary facilities the number of persons shall include the occupying owner or manager and residing family where appropriate unless separate exclusive sanitary facilities are provided for them.
- 31 Every toilet shall have a wash hand basin within the toilet compartment itself, or within an adjacent space providing the sole means of access to the toilet. The watercloset and wash hand basin shall also be separated by a door from any room or space used wholly or partly for the preparation or consumption of food.
- 32 Hot and cold water supplies shall be suitable and sufficient for the purposes.
- 33 The licensed premises shall be provided with a safe and hygienic drainage and plumbing system in compliance with the relevant British or European Standards.
- 34 Every bedroom shall be located so that it is not necessary to pass through another bedroom in order to reach a bathroom, watercloset compartment, or circulation space.

HEATING, LIGHTING AND VENTILATION

- 35 The premises shall be provided with suitable and adequate heating, lighting and ventilation in accordance with standards detailed in the statutory guidance. Annual inspections shall be carried out by a Gas Safe Registered Engineer for gas appliances and an approved certificate shall be provided for solid fuel or gas appliances. Continuity of gas safety certification is required and where a gas safety certificate expires part of the way through a licence period, then a new certificate shall be obtained.

- 36 Each bedroom and living room shall have a fixed controllable space heating appliance (making available not less than, in the case of the former, 2 kilowatts and, in the case of the latter, 3 kilowatts). Where there is a central heating system, it must be capable of maintaining a temperature of 18°C (in the bedrooms and livingrooms) when the outside temperature is minus 1°C. Where there is a failure in the heating system, the system shall be fully operational within 12 hours or replacement heating appliances to the standards specified above shall be provided within the same period.
- 37 All bedrooms and living-rooms shall have adequate natural lighting, i.e. the area of clear glazing equal to at least 1/15th of the floor area of the room.
- 38 All bedrooms and living-rooms shall be ventilated directly to the external air by window or rooflight, the openable area of which must be equal to at least 1/30th of the floor area of the room.
- 39 All kitchens, bathrooms and waterclosets shall open to the external air, or alternatively, adequate mechanical ventilation must be provided.
- 40 The licence holder must ensure that Liquefied Petroleum Gas (LPG) shall not be used or stored on the premises.

CARBON MONOXIDE DETECTION

- 41 A carbon monoxide alarm which meets the requirements of BS EN 50291:2001 must be installed in the same room as any gas appliance.

SPACE STANDARDS

- 42 All bedrooms and any livingrooms shall comply with the minimum space standards detailed in Annex A of the statutory guidance. Activity spaces for bedrooms and kitchens also contained in Annex A must be met.

TENANTS RIGHTS

- 43 The Licensee shall ensure that adequate and up-to-date records are maintained for all residents. These records shall be made available on request to officials of Midlothian Council and Lothian and Borders Police and shall include the following details:
- (a) each resident's full name;
 - (b) dates of entry and departure of each resident; and
 - (c) records of rental payments and arrears.
- 44 The Licensee shall comply with all relevant legislation affecting private sector residential tenancies.

- 45 Written occupancy agreements shall be provided to each tenant and must meet with the approval of Midlothian Council. Once approved, the occupancy agreement shall not be altered unless the Licensee obtains further approval from Midlothian Council. Tenants' appliances shall be in good repair, used for the intended purpose and suitable for the intended purpose.
- 46 The Licensee shall be responsible for the day to day running of the premises, and for ensuring that residents comply with the terms of their Lease.
- 47 Only rent books, occupancy records, and tenancy agreements approved by the licensing authority shall be used.
- 48 Where the rent is payable weekly, payments shall be recorded in a rent book, which will be retained by the resident. Otherwise, a written receipt of each rental payment shall be issued to residents.
- 49 The Licensee shall issue receipts for any rental deposits received.
- 50 The Licensee shall refund the rental deposit, or part thereof, within 14 days of any agreed occupancy termination date or as soon as is practicable thereafter.
- 51 The Licensee shall ensure that residents' mail is available to residents on a daily basis.
- 52 The licence holder must ensure that actions to secure repossession must be only by lawful means.
- 53 The licence holder shall comply with the current regulations regarding maximum re-sale prices of gas and electricity supplied, as appropriate.

Annex A - Space Standards

1 Bedrooms where common living room available

Single room (1 adult)	6.5 sq. metres
Double room (2 adults)	10.5 sq. metres
Triple room (3 adults)	16.5 sq. metres
Over 3 adults	16.5 sq. metres + 4.5 sq. metres per person over 3
Family room(2 adults + Children under 10)	10.5 sq. metres + 4.5 sq. metres per child

2 Bedrooms where no communal living area available

1 adult	10 sq. metres
2 adults	15 sq. metres
3 adults	19.5 sq. metres
Over 3 adults	19.5 sq. metres + 6 sq. metres per person over 3
Family Room(2 adults + Children under 10)	15 sq. metres +7 sq. metres per child.

3 Bedroom with cooker

1 adult	13 sq. metres
2 adults	19 sq. metres

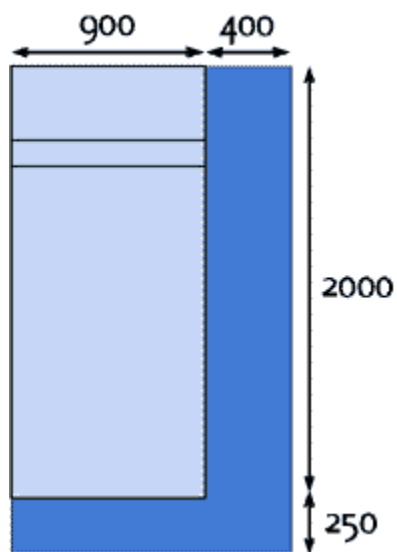
(In normal circumstances children would not be accommodated in bedrooms with cookers. If, exceptionally, they are, appropriate measures must be taken to ensure their safety.)

4 Communal Living Room

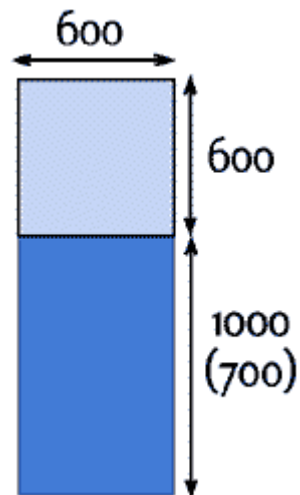
3-6 persons	11 sq. metres
7-10 persons	16.5 sq. metres
11-15 persons	19.5 sq. metres

Annex B - Activity Spaces

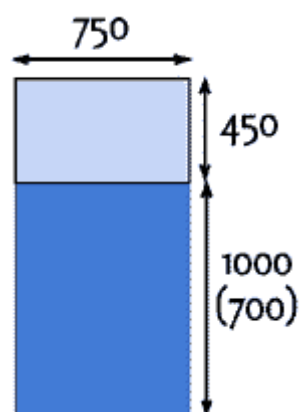
Bed space



Wardrobe space



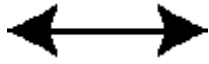
Chest of drawers space



key



Activity Space



Dimensions in millimetres

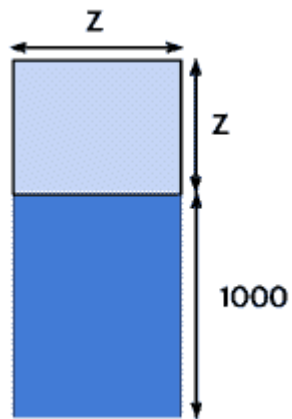
() Reduced dimension when measured to a bed

Notes

- 1 An activity space is measured at floor level.
- 2 The shaded area of an activity space may overlap only the shaded area of another activity space.

Annex C - Activity Space for Cookers

Cooker Space



key



Activity Space

z

Not less than the dimensions of the appliance



Dimensions in millimetres

Note: An activity space is measured at floor level.

**Civic Government (Scotland) Act 1982
Application for Renewal of House in Multiple Occupation (HMO) Licences
No 1 Bilston Cottages**

Report by Director, Corporate Services

1 Introduction

A licence as a House in Multiple Occupation is required where three or more unrelated persons are to be accommodated in the same house.

2 Background

Mr N Brown, Straiton has applied for the renewal of the HMO licence in respect of No 1, Bilston Cottages which expired on 1 August 2014 but runs on until it is determined. The maximum number of residents proposed is five persons. A Map showing the location and other HMOs is attached as **Appendix 1**.

The Applicant has provided a fire risk assessment and confirmed that Notice of the submission of the application has been posted at or near the Property. The property is insured but it is not known to what extent or type.

On 6 December 2011, the Committee agreed:-

- (a) To grant the applications for renewal of the licences of No's 1, 2 and 3 Bilston Cottages and the application for material change of circumstance in respect of No 3 Bilston Cottages, increasing the number of residents there to eight, all subject to:-
 - (i) the appointment of a Night Warden on a daily basis at the location, and
 - (ii) the standard and additional conditions to secure the removal of signage, appropriate adaptation of the joint water supply and the circulation of the Applicant's contact details amongst residents in the vicinity; and
- (b) To remit to the Head of Housing and Community Safety, to fix the hours of operation of the night warden service and monitor the relative arrangements.

The Applicant introduced a Night Warden Service in February 2012 but this was discontinued some time after following an alteration to the working arrangements of the HMO.

3 Consultation

The Police, Fire and Rescue Services and the Council's Managers of Environmental Health and Trading Standards, Building Standards, Housing and Planning have been consulted.

4 **Objections**

Letters of objection and representation have been received. Copies are attached as **Appendices 2(a) – (c)** which relate to the fear of disturbance, vandalism, noise, obstruction caused by parked cars, damage to vehicles, littering, lack of a presence of the landlord on site, etc.

5 **Reports by Consultees**

The Police state that the applicant is considered to be a fit and proper person to be the holder of a licence and there have been no reported incidents to the Police in relation to this address.

The Fire and Rescue Service indicate that at the last audit, the fire safety measures were found to be unsatisfactory, the duty holder was informed in writing of the deficiencies but it is their belief that these deficiencies do not cause public safety concerns and accordingly offer no objection.

The Building Standards Officer reports that the property is satisfactory.

The report by the Environmental Health Officer is attached. (**Appendix 3**).

In relation to the occupancy agreement, the statement by the Head of Housing and Community Safety is awaited.

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**

(a) Letters of Representation

In respect of the letters of representation, the concerns impact on whether the house is suitable, and include (i) the fear of an increase in disturbance in the area; and (ii) a fear for public order and public safety.

(b) Objections

Those who have objected have been invited to appear and be heard.

The Committee may grant an HMO licence only if it considers that the living accommodation concerned (a) is suitable for occupation as an HMO, or (b) can be made so suitable by including conditions in the HMO licence. 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.

8 Options

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

- (a) to grant the applications for the licences 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 the basis of the suitability of the living accommodation or the ability to make it suitable.

9 Resource Implications

There are no resource implications arising directly from this report.

10 Recommendation

The Committee is invited to consider the application.

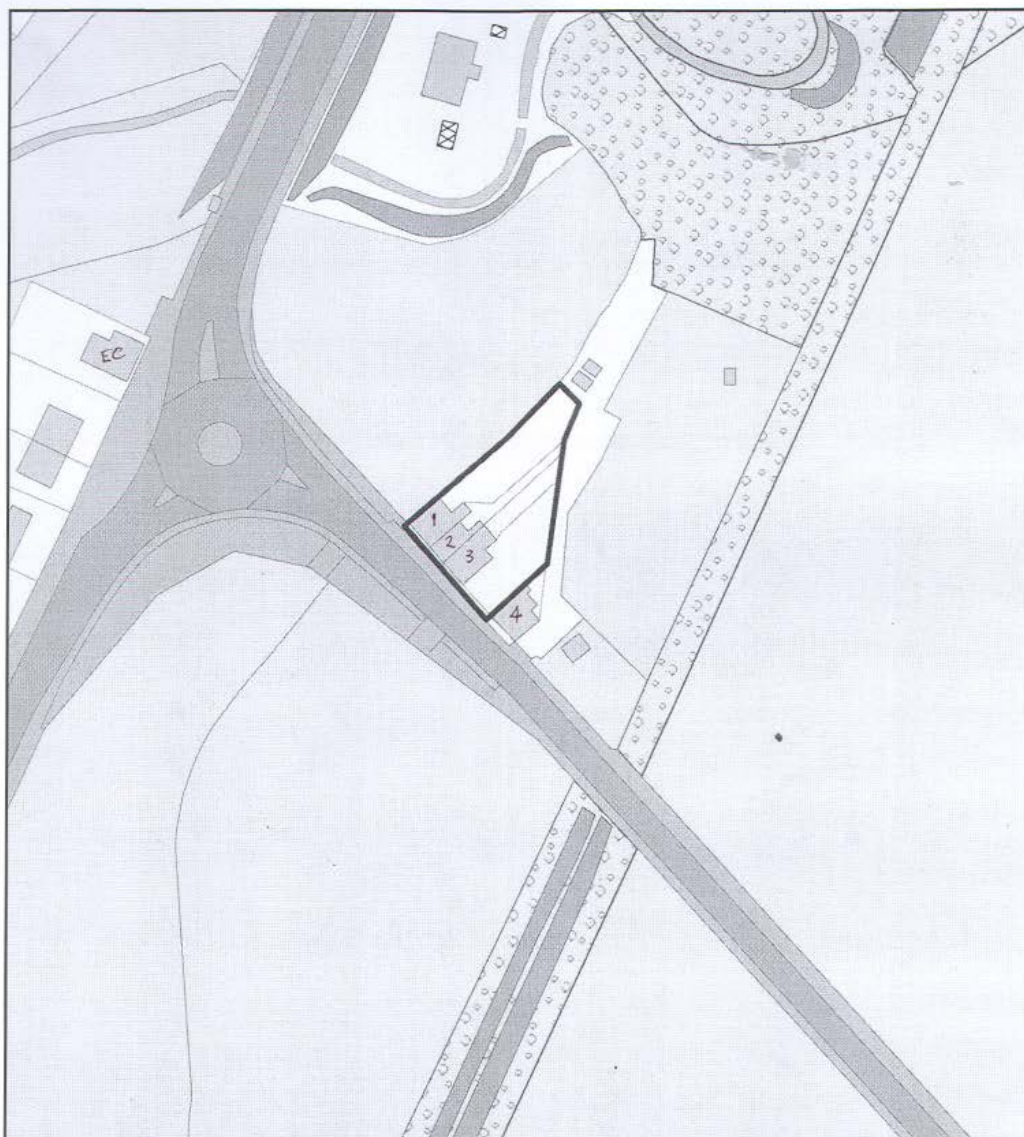
28 October 2014

Contact Person:

Mr R Atack

Tel No: 0131 271 3161

APPENDIX 1



Midlothian

Corporate Resources

Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith EH22 3ZQ

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Midlothian Council Licence No. 100023416 (2011)

1 - 3 Bilston Cottages, Roslin.

26 September 2011

File No:

Scale: 1:1,250



APPENDIX 3

MEMORANDUM

To: Rosemary Walsh, Council Secretariat, Midlothian House

From: Moira Malcolm, Environmental Health, Communities and Economy

Our Ref: HMO/07/01100, 0111, 0112

Date: 5 November 2014

Subject: Application for renewal of a House in Multiple Occupation Licence
1, 2 & 3 Bilston Cottages, Roslin

I refer to the HMO licence applications for the above properties submitted by Neil Brown.

An inspection of the properties was carried out on 10 September 2014 at which time they were generally found to be clean and in a good state of repair, with the exception of the points raised below which require attention.

Ventilation

The extract fans in the bathrooms and kitchens of all three properties require to be cleaned.

Small Repairs

One item of disrepair was noted and requires to be repaired:

No 3 The varnish around the wash hand basin in the downstairs bathroom is damaged and requires to be repaired to prevent further water damage.

Certification

Satisfactory certification has been received in respect of electrical safety for Nos 1 & 2. No PAT certification has been received for any of the properties, nor any certification for No 3, including gas safety.

Carbon Monoxide Detectors

Cottage no 3 is provided with gas, and the boiler is located in the kitchen of this property however it does not have a carbon monoxide detector.

Electrical Outlets

Since the last licence inspection, Statutory Guidance for HMOs has been introduced and all bedrooms must be provided with 6 electrical socket outlets. The guidance permits upgrading work to be undertaken within an appropriate time frame during the period of the licence. All rooms currently have a minimum of 6 sockets with the exception of rooms 2 and 3 in No 2 Bilston Cottages, one of which has four and one has five working sockets.

Taking into account the provision of a common living area in cottages 1 & 2, the maximum potential occupancy of the bedrooms, as marked on the plans, are given in the following table:

Bedroom No.	Maximum potential occupancy
1 Bilston Cottages	
1	1
2	2
3	2
2 Bilston Cottages	
1	1
2	2
3	2
3 Bilston Cottages	
2	2
3	1
4	2
5	2
6	2
7	2

In no circumstances should any bedroom contain a greater number of persons than that listed in the maximum potential occupancy column.

This Division therefore has no objections to the granting of the HMO licence applications for the following number of residents, detailed on the licence application forms:-

- 5 residents for 1 Bilston Cottages;
- 5 residents for 2 Bilston Cottages; and
- 8 residents for 3 Bilston Cottages

subject to the following conditions:-

1. The mechanical ventilation (including all extract fans and cooker hoods) are cleaned throughout the properties;
2. The small repair as detailed above to cottages 3 is actioned;
3. The programme of regular inspection, maintenance and repair implemented to ensure that a good standard is maintained within each of the properties is continued and extended to include the outdoor area;
4. Bedrooms 2 & 3 in No 2 Bilston Cottages are provided with 6 electrical outlet sockets within three months;
5. A CO detector is provided in the kitchen of No 3;
6. Satisfactory gas safety and electrical installation reports are provided for No 3, and PAT reports are provided for all three properties.

**Civic Government (Scotland) Act 1982
Application for Renewal of House in Multiple Occupation (HMO) Licences
No 1 Bilston Cottages**

Report by Director, Corporate Services

1 Introduction

A licence as a House in Multiple Occupation is required where three or more unrelated persons are to be accommodated in the same house.

2 Background

Mr N Brown, Straiton has applied for the renewal of the HMO licence in respect of No 1, Bilston Cottages which expired on 1 August 2014 but runs on until it is determined. The maximum number of residents proposed is five persons. A Map showing the location and other HMOs is attached as **Appendix 1**.

The Applicant has provided a fire risk assessment and confirmed that Notice of the submission of the application has been posted at or near the Property. The property is insured but it is not known to what extent or type.

On 6 December 2011, the Committee agreed:-

- (a) To grant the applications for renewal of the licences of No's 1, 2 and 3 Bilston Cottages and the application for material change of circumstance in respect of No 3 Bilston Cottages, increasing the number of residents there to eight, all subject to:-
 - (i) the appointment of a Night Warden on a daily basis at the location, and
 - (ii) the standard and additional conditions to secure the removal of signage, appropriate adaptation of the joint water supply and the circulation of the Applicant's contact details amongst residents in the vicinity; and
- (b) To remit to the Head of Housing and Community Safety, to fix the hours of operation of the night warden service and monitor the relative arrangements.

The Applicant introduced a Night Warden Service in February 2012 but this was discontinued some time after following an alteration to the working arrangements of the HMO.

3 Consultation

The Police, Fire and Rescue Services and the Council's Managers of Environmental Health and Trading Standards, Building Standards, Housing and Planning have been consulted.

4 **Objections**

Letters of objection and representation have been received. Copies are attached as **Appendices 2(a) – (c)** which relate to the fear of disturbance, vandalism, noise, obstruction caused by parked cars, damage to vehicles, littering, lack of a presence of the landlord on site, etc.

5 **Reports by Consultees**

The Police state that the applicant is considered to be a fit and proper person to be the holder of a licence and there have been no reported incidents to the Police in relation to this address.

The Fire and Rescue Service indicate that at the last audit, the fire safety measures were found to be unsatisfactory, the duty holder was informed in writing of the deficiencies but it is their belief that these deficiencies do not cause public safety concerns and accordingly offer no objection.

The Building Standards Officer reports that the property is satisfactory.

The report by the Environmental Health Officer is attached. (**Appendix 3**).

In relation to the occupancy agreement, the statement by the Head of Housing and Community Safety is awaited.

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**

(a) Letters of Representation

In respect of the letters of representation, the concerns impact on whether the house is suitable, and include (i) the fear of an increase in disturbance in the area; and (ii) a fear for public order and public safety.

(b) Objections

Those who have objected have been invited to appear and be heard.

The Committee may grant an HMO licence only if it considers that the living accommodation concerned (a) is suitable for occupation as an HMO, or (b) can be made so suitable by including conditions in the HMO licence. 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.

8 Options

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

- (a) to grant the applications for the licences 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 the basis of the suitability of the living accommodation or the ability to make it suitable.

9 Resource Implications

There are no resource implications arising directly from this report.

10 Recommendation

The Committee is invited to consider the application.

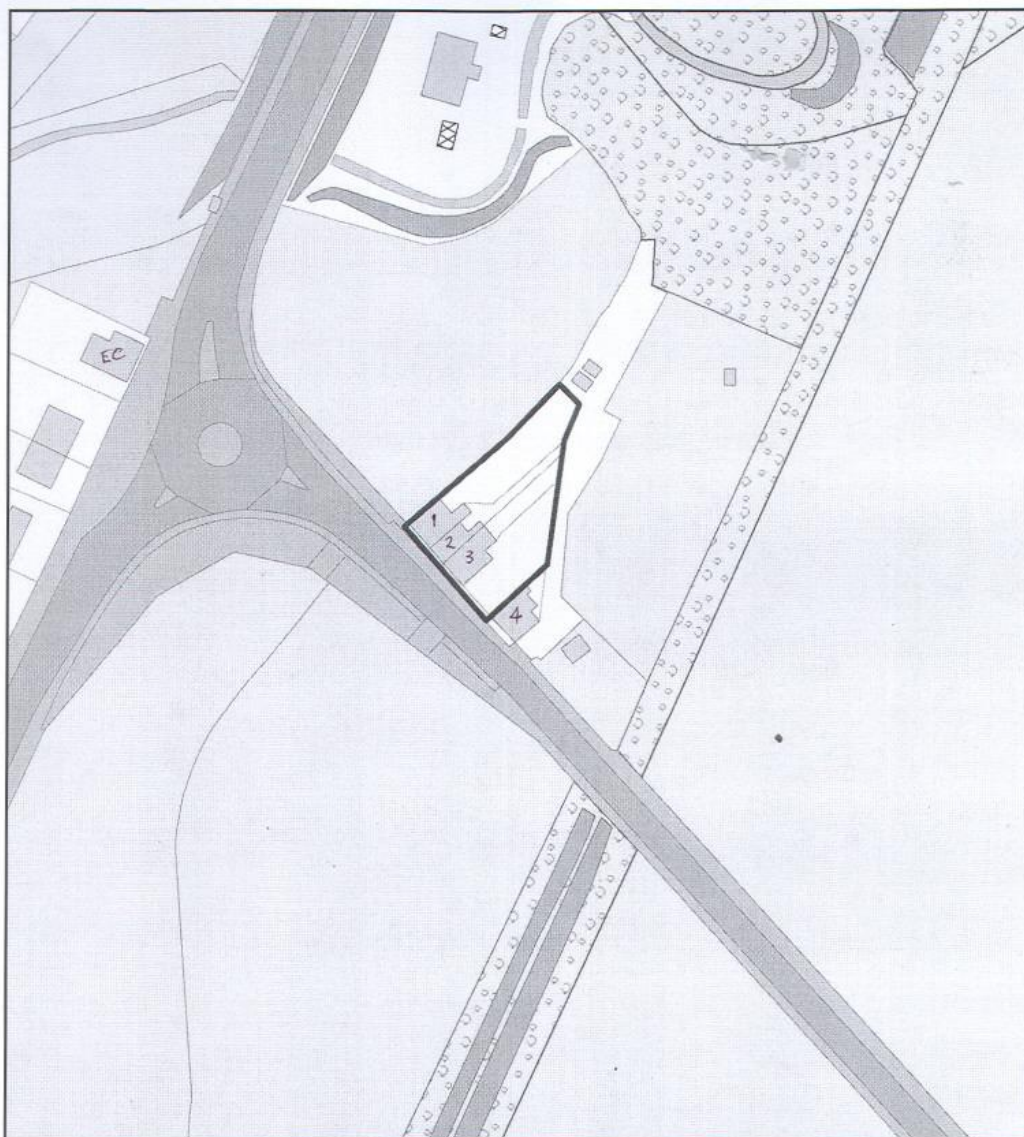
28 October 2014

Contact Person:

Mr R Atack

Tel No: 0131 271 3161

APPENDIX 1



Midlothian

Corporate Resources

Midlothian Council
Fairfield House
8 Lothian Road
Dalkeith EH22 3ZQ

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Midlothian Council Licence No. 100023416 (2011)

1 - 3 Bilston Cottages, Roslin.

26 September 2011

File No:

Scale: 1:1,250



APPENDIX 3

MEMORANDUM

To: Rosemary Walsh, Council Secretariat, Midlothian House

From: Moira Malcolm, Environmental Health, Communities and Economy

Our Ref: HMO/07/01100, 0111, 0112

Date: 5 November 2014

Subject: Application for renewal of a House in Multiple Occupation Licence
1, 2 & 3 Bilston Cottages, Roslin

I refer to the HMO licence applications for the above properties submitted by Neil Brown.

An inspection of the properties was carried out on 10 September 2014 at which time they were generally found to be clean and in a good state of repair, with the exception of the points raised below which require attention.

Ventilation

The extract fans in the bathrooms and kitchens of all three properties require to be cleaned.

Small Repairs

One item of disrepair was noted and requires to be repaired:

No 3 The varnish around the wash hand basin in the downstairs bathroom is damaged and requires to be repaired to prevent further water damage.

Certification

Satisfactory certification has been received in respect of electrical safety for Nos 1 & 2. No PAT certification has been received for any of the properties, nor any certification for No 3, including gas safety.

Carbon Monoxide Detectors

Cottage no 3 is provided with gas, and the boiler is located in the kitchen of this property however it does not have a carbon monoxide detector.

Electrical Outlets

Since the last licence inspection, Statutory Guidance for HMOs has been introduced and all bedrooms must be provided with 6 electrical socket outlets. The guidance permits upgrading work to be undertaken within an appropriate time frame during the period of the licence. All rooms currently have a minimum of 6 sockets with the exception of rooms 2 and 3 in No 2 Bilston Cottages, one of which has four and one has five working sockets.

Taking into account the provision of a common living area in cottages 1 & 2, the maximum potential occupancy of the bedrooms, as marked on the plans, are given in the following table:

Bedroom No.	Maximum potential occupancy
1 Bilston Cottages	
1	1
2	2
3	2
2 Bilston Cottages	
1	1
2	2
3	2
3 Bilston Cottages	
2	2
3	1
4	2
5	2
6	2
7	2

In no circumstances should any bedroom contain a greater number of persons than that listed in the maximum potential occupancy column.

This Division therefore has no objections to the granting of the HMO licence applications for the following number of residents, detailed on the licence application forms:-

- 5 residents for 1 Bilston Cottages;
- 5 residents for 2 Bilston Cottages; and
- 8 residents for 3 Bilston Cottages

subject to the following conditions:-

1. The mechanical ventilation (including all extract fans and cooker hoods) are cleaned throughout the properties;
2. The small repair as detailed above to cottages 3 is actioned;
3. The programme of regular inspection, maintenance and repair implemented to ensure that a good standard is maintained within each of the properties is continued and extended to include the outdoor area;
4. Bedrooms 2 & 3 in No 2 Bilston Cottages are provided with 6 electrical outlet sockets within three months;
5. A CO detector is provided in the kitchen of No 3;
6. Satisfactory gas safety and electrical installation reports are provided for No 3, and PAT reports are provided for all three properties.

3rd August 2014

Ms Rosemary Walsh or Mr John Blair
Resources Directorate
H.M.O
Midlothian Council
Midlothian House
Buccleuch Street
Dalkeith
EH22 1DN

Mrs Sarah Revnolds &
Mr Peter McVie
Rose Cottage
4 Bislton Cottages
Roslin
Midlothian
EH25 9SS

Dear Sirs

HMO Licence
Mr Neil Brown 1 & 2 Bislton Cottages Roslin Midlothian

I would like it to be noted that this HMO licence that has been applied for is totally out of order.... **PLEASE NOTE OUR OBJECTIONS.**

For almost a year we have not had much bother with our neighbours, things going along just nicely.....Now we are about to have our life and well being grind to an abrupt halt again!!

You may think that this is an exaggeration, but we know from past experience the whole area ends up in turmoil.

Sleep depravation, (from us) rubbish and mattresses lying about. residence from next door banging our door to get in, they always seemed very confused??????

All residents doing anything they wanted any time of the day and night. Cars at various times of the night banging doors and revving their cars..

Shouting and swearing..

It always seems very unfair that we have worked hard all our lives, now retired cannot have a nice quiet life with some peace and tranquillity - the reason that we bought this lovely wee cottage in the first place.

Absolutely no respect for neighbours.

I hope this will all be considered when the decision is made.

Yours sincerely


Sarah Reynolds



Bilston Gardens
Roslin
EH25 9RR

5th Aug 2014

Miss Walsh / Mr Blair

I write regarding the request for multiple occupancy at Bilston Cottages by Mr Neil Brown.

I am totally against this from past experiences with this situation.

My property is to the side and across from the above named cottages.

I have had innumerable carrier bags full of domestic rubbish tied up & thrown in my fields. Personal documents pertaining to the owners & previous tenants strewn around the same area. A prison visiting card included!

Cutlery, crockery, food waste, supposedly blown from the kitchen window to land in my field!!

My field gate (wooden) was hacked beyond repair resulting in my having to replace it with a metal one all at my expense. The police were involved on this occasion as others.

Entrance to my field across from the cottages is in use constantly as free parking bay negating access when the field needs cutting. No one has ever asked my permission. This field too has been used as a refuse disposal unit.

My fields have been used as a bike playground, as a golf course and verbal abuse profuse from the youths involved who definitely came from the cottages.

Having lived here for 35 years in a problematic conditions I have no desire to repeat past situations from inconsiderate tenants and owners who take no control or responsibility for any situation arising from those ensconced on their properties.

No one should have to live in situations like this and consideration for the quality of life for neighbours should be paramount.

Yours sincerely

E. MacKinlay (Mrs)

Edwyndale Cottage
Bilston
Roslin
Midlothian
EH25 9SQ
18/08/14

Resources Directorate
H.M.O.
Midlothian Council
Midlothian House
Buccleuch Street
Dalkeith
EH22 1DN

H.M.O – 1 + 2 Bilston Cottages

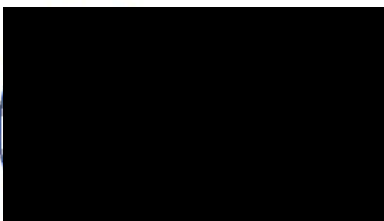
Dear Mr Ateck,

My husband and I wish to object to Mr Neil Brown's application to convert 1+2 Bilston Cottages, Bilston into a house of multiple occupation.

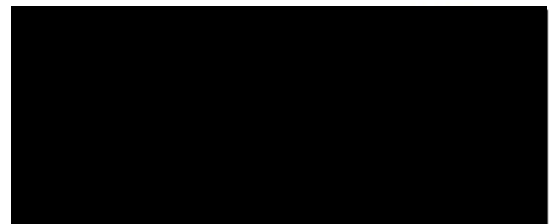
The last time Mr Brown ran the premises as such, there was a constant police presence at the buildings, a lot of noise by day and night and a lot of unsavoury characters hanging about the area with nothing being done by the owners to alleviate the problem.

The Browns blatantly ignored a direct order from the Council to have a warden on the premises overnight. Despite many objections from local people and the police at a meeting in December 2012, their last application was granted because of the "they might sue us if we don't" attitude of one of the committee members. My husband actually heard this being said to the convenor of the meeting by one of the committee members before the application was granted. This does not instil much confidence in the decision making process if this is an example of how decisions are made.

We would strongly urge you not to grant an HMO licence for the premises in Bilston to Mr Brown. We do not want a repeat of the problems, as mentioned in paragraph two.



John S. Innes



Joy Innes-Greig

Civic Government (Scotland) Act 1982
Application for Renewal of House in Multiple Occupation (HMO) Licences
No 2, Bilston Cottages

Report by Director, Corporate Services

1 Introduction

A licence as a House in Multiple Occupation is required where three or more unrelated persons are to be accommodated in the same house.

2 Background

Mr N Brown, Straiton has applied for the renewal of the HMO licence in respect of No 2, Bilston Cottages which expired on 1 August 2014 but runs on until it is determined. The maximum number of residents proposed is five persons. A Map showing the location and other HMOs is attached as **Appendix 1**.

The Applicant has provided a fire risk assessment and confirmed that Notice of the submission of the application has been posted at or near the Property. The property is insured but it is not known to what extent or type.

On 6 December 2011, the Committee agreed:-

- (a) To grant the applications for renewal of the licences of No's 1, 2 and 3 Bilston Cottages and the application for material change of circumstance in respect of No 3 Bilston Cottages, increasing the number of residents there to eight, all subject to:-
 - (i) the appointment of a Night Warden on a daily basis at the location, and
 - (ii) the standard and additional conditions to secure the removal of signage, appropriate adaptation of the joint water supply and the circulation of the Applicant's contact details amongst residents in the vicinity; and
- (b) To remit to the Head of Housing and Community Safety, to fix the hours of operation of the night warden service and monitor the relative arrangements.

The Applicant introduced a Night Warden Service in February 2012 but this was discontinued some time after following an alteration to the working arrangements of the HMO.

3 Consultation

The Police, Fire and Rescue Services and the Council's Managers of Environmental Health and Trading Standards, Building Standards, Housing and Planning have been consulted.

4 **Objections**

Letters of objection and representation have been received. Copies are attached as **Appendices 2(a) – (c)** which relate to the fear of disturbance, vandalism, noise, obstruction caused by parked cars, damage to vehicles, littering, lack of a presence of the landlord on site, etc.

5 **Reports by Consultees**

The Police state that the applicant is considered to be a fit and proper person to be the holder of a licence and there have been no reported incidents to the Police in relation to this address.

The Fire and Rescue Service indicate that at the last audit, the fire safety measures were found to be unsatisfactory, the duty holder was informed in writing of the deficiencies but it is their belief that these deficiencies do not cause public safety concerns and accordingly offer no objection.

The Building Standards Officer reports that the property is satisfactory.

The report by the Environmental Health Officer is attached. (**Appendix 3**).

In relation to the occupancy agreement, the statement by the Head of Housing and Community Safety is awaited.

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, namely:-

(a) Letters of Representation

In respect of the letters of representation, the concerns impact on whether the house is suitable, and include (i) the fear of an increase in disturbance in the area; and (ii) a fear for public order and public safety.

(b) Objections

Those who have objected have been invited to appear and be heard.

The Committee may grant an HMO licence only if it considers that the living accommodation concerned (a) is suitable for occupation as an HMO, or (b) can be made so suitable by including conditions in the HMO licence. 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.

8 Options

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

- (a) to grant the applications for the licences 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 applications on reasonable grounds.

9 Resource Implications

There are no resource implications arising directly from this report.

10 Recommendation

The Committee is invited to consider the applications.

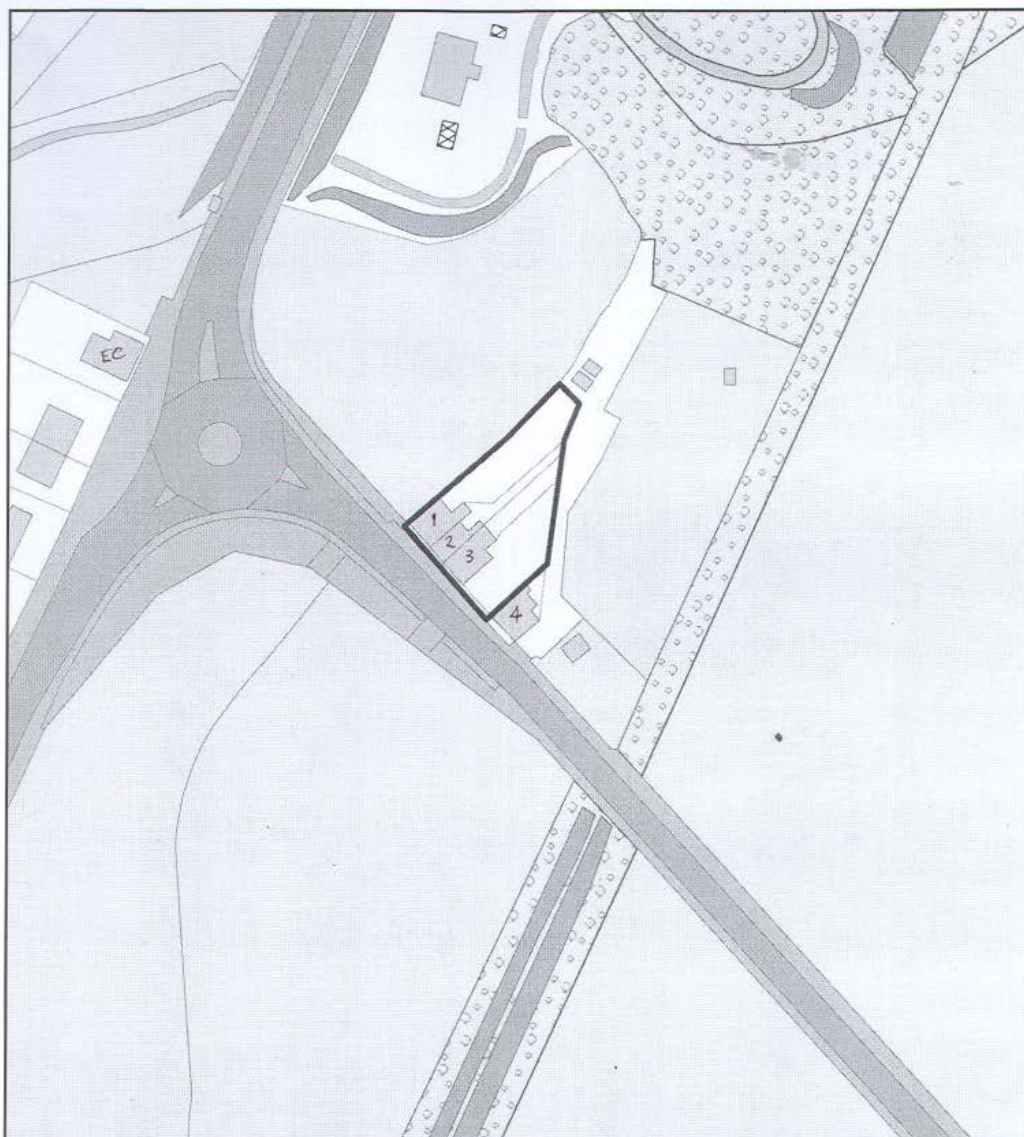
28 October 2014

Contact Person:

Mr R Atack

Tel No: 0131 271 3161

APPENDIX 1



Midlothian

Corporate Resources

Midlothian Council
Fairfield House
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Midlothian Council Licence No. 100023416 (2011)

1 - 3 Bilston Cottages, Roslin.

26 September 2011

File No:

Scale: 1:1,250



APPENDIX 3

MEMORANDUM

To: Rosemary Walsh, Council Secretariat, Midlothian House

From: Moira Malcolm, Environmental Health, Communities and Economy

Our Ref: HMO/07/01100, 0111, 0112

Date: 5 November 2014

Subject: Application for renewal of a House in Multiple Occupation Licence
1, 2 & 3 Bilston Cottages, Roslin

I refer to the HMO licence applications for the above properties submitted by Neil Brown.

An inspection of the properties was carried out on 10 September 2014 at which time they were generally found to be clean and in a good state of repair, with the exception of the points raised below which require attention.

Ventilation

The extract fans in the bathrooms and kitchens of all three properties require to be cleaned.

Small Repairs

One item of disrepair was noted and requires to be repaired:

No 3 The varnish around the wash hand basin in the downstairs bathroom is damaged and requires to be repaired to prevent further water damage.

Certification

Satisfactory certification has been received in respect of electrical safety for Nos 1 & 2. No PAT certification has been received for any of the properties, nor any certification for No 3, including gas safety.

Carbon Monoxide Detectors

Cottage no 3 is provided with gas, and the boiler is located in the kitchen of this property however it does not have a carbon monoxide detector.

Electrical Outlets

Since the last licence inspection, Statutory Guidance for HMOs has been introduced and all bedrooms must be provided with 6 electrical socket outlets. The guidance permits upgrading work to be undertaken within an appropriate time frame during the period of the licence. All rooms currently have a minimum of 6 sockets with the exception of rooms 2 and 3 in No 2 Bilston Cottages, one of which has four and one has five working sockets.

Taking into account the provision of a common living area in cottages 1 & 2, the maximum potential occupancy of the bedrooms, as marked on the plans, are given in the following table:

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4	2
5	2
6	2
7	2

In no circumstances should any bedroom contain a greater number of persons than that listed in the maximum potential occupancy column.

This Division therefore has no objections to the granting of the HMO licence applications for the following number of residents, detailed on the licence application forms:-

- 5 residents for 1 Bilston Cottages;
- 5 residents for 2 Bilston Cottages; and
- 8 residents for 3 Bilston Cottages

subject to the following conditions:-

1. The mechanical ventilation (including all extract fans and cooker hoods) are cleaned throughout the properties;
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3. The programme of regular inspection, maintenance and repair implemented to ensure that a good standard is maintained within each of the properties is continued and extended to include the outdoor area;
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5. A CO detector is provided in the kitchen of No 3;
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3rd August 2014

Ms Rosemary Walsh or Mr John Blair
Resources Directorate
H.M.O
Midlothian Council
Midlothian House
Buccleuch Street
Dalkeith
EH22 1DN

Mrs Sarah Revnolds &
Mr Peter McVie
Rose Cottage
4 Bislton Cottages
Roslin
Midlothian
EH25 9SS

Dear Sirs

HMO Licence
Mr Neil Brown 1 & 2 Bislton Cottages Roslin Midlothian

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You may think that this is an exaggeration, but we know from past experience the whole area ends up in turmoil.

Sleep depravation, (from us) rubbish and mattresses lying about. residence from next door banging our door to get in, they always seemed very confused??????

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It always seems very unfair that we have worked hard all our lives, now retired cannot have a nice quiet life with some peace and tranquillity - the reason that we bought this lovely wee cottage in the first place.

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Yours sincerely


Sarah Reynolds



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Miss Walsh / Mr Blair

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I am totally against this from past experiences with this situation.

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Having lived here for 35 years in a problematic conditions I have no desire to repeat past situations from inconsiderate tenants and owners who take no control or responsibility for any situation arising from those ensconced on their properties.

No one should have to live in situations like this and consideration for the quality of life for neighbours should be paramount.

Yours sincerely

E. MacKinlay (Mrs)

Edwyndale Cottage
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18/08/14

Resources Directorate
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Midlothian House
Buccleuch Street
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H.M.O – 1 + 2 Bilston Cottages

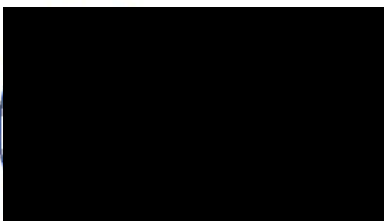
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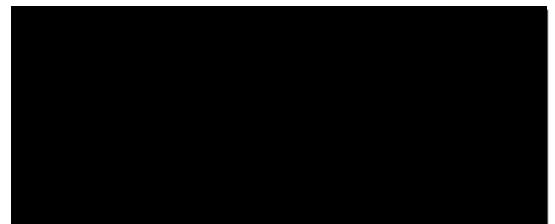
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The Browns blatantly ignored a direct order from the Council to have a warden on the premises overnight. Despite many objections from local people and the police at a meeting in December 2012, their last application was granted because of the "they might sue us if we don't" attitude of one of the committee members. My husband actually heard this being said to the convenor of the meeting by one of the committee members before the application was granted. This does not instil much confidence in the decision making process if this is an example of how decisions are made.

We would strongly urge you not to grant an HMO licence for the premises in Bilston to Mr Brown. We do not want a repeat of the problems, as mentioned in paragraph two.



John S. Innes



Joy Innes-Greig

Civic Government (Scotland) Act 1982
Application for Renewal of House in Multiple Occupation (HMO) Licences
No 3, Bilston Cottages

Report by Director, Corporate Services

1 Introduction

A licence as a House in Multiple Occupation is required where three or more unrelated persons are to be accommodated in the same house.

2 Background

Mr N Brown, Straiton has applied for the renewal of the HMO licence in respect of No 3, Bilston Cottages which expired on 28 August 2014 but runs on until it is determined. The maximum number of residents proposed is eight persons. A Map showing the location and other HMOs is attached as **Appendix 1**.

The Applicant has provided a fire risk assessment and confirmed that Notice of the submission of the application has been posted at or near the Property. The property is insured but it is not known to what extent or type.

On 6 December 2011, the Committee agreed:-

- (a) To grant the applications for renewal of the licences of No's 1, 2 and 3 Bilston Cottages and the application for material change of circumstance in respect of No 3 Bilston Cottages, increasing the number of residents there to eight, all subject to:-
 - (i) the appointment of a Night Warden on a daily basis at the location, and
 - (ii) the standard and additional conditions to secure the removal of signage, appropriate adaptation of the joint water supply and the circulation of the Applicant's contact details amongst residents in the vicinity; and
- (b) To remit to the Head of Housing and Community Safety, to fix the hours of operation of the night warden service and monitor the relative arrangements.

The Applicant introduced a Night Warden Service in February 2012 but this was discontinued some time after following an alteration to the working arrangements of the HMO.

3 Consultation

The Police, Fire and Rescue Services and the Council's Managers of Environmental Health and Trading Standards, Building Standards, Housing and Planning have been consulted.

4 **Objections**

Letters of objection and representation have been received two of which were received late. A copy of the timeous objection is attached as **Appendix 2(a)** which relates to the fear of disturbance, vandalism, noise, obstruction caused by parked cars, damage to vehicles, littering, lack of a presence of the landlord on site, etc.

The Committee can consider late representations if there is good reason. In this case, whilst the neighbours were aware that Notice had been posted in Nos 1 and 2, they were not aware of Notice being posted later at No 3. Copies of the letters of representation have been given to the Applicant. Informally, he has advised that he has no objection to these being considered.

5 **Reports by Consultees**

The Police state that the applicant is considered to be a fit and proper person to be the holder of a licence and there have been no reported incidents to the Police in relation to this address.

The Fire and Rescue Service indicate that at the last audit, the fire safety measures were found to be unsatisfactory, the duty holder was informed in writing of the deficiencies but it is their belief that these deficiencies do not cause public safety concerns and accordingly offer no objection.

The Building Standards Officer reports that the property is satisfactory.

The report by the Environmental Health Officer is attached. (**Appendix 3**).

In relation to the occupancy agreement, the statement by the Head of Housing and Community Safety is awaited.

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, namely:-

(a) Letters of Representation

In respect of the letter of representation, the concerns impact on whether the house is suitable, and include (i) the fear of an increase in disturbance in the area; and (ii) a fear for public order and public safety.

The Representations which were received late can be considered if the Committee decide that there is good reason. If the Committee so decide, copies can be tabled.

(b) Objections

Those who have objected have been invited to appear and be heard.

The Committee may grant an HMO licence only if it considers that the living accommodation concerned (a) is suitable for occupation as an HMO, or (b) can be made so suitable by including conditions in the HMO licence. 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.

8 Options

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

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- (c) as (a) or (b) above but subject to additional reasonable conditions;
- (d) to counsel the applicant; or
- (e) to refuse to grant the applications on reasonable grounds.

9 Resource Implications

There are no resource implications arising directly from this report.

10 Recommendation

The Committee is invited to consider the application.

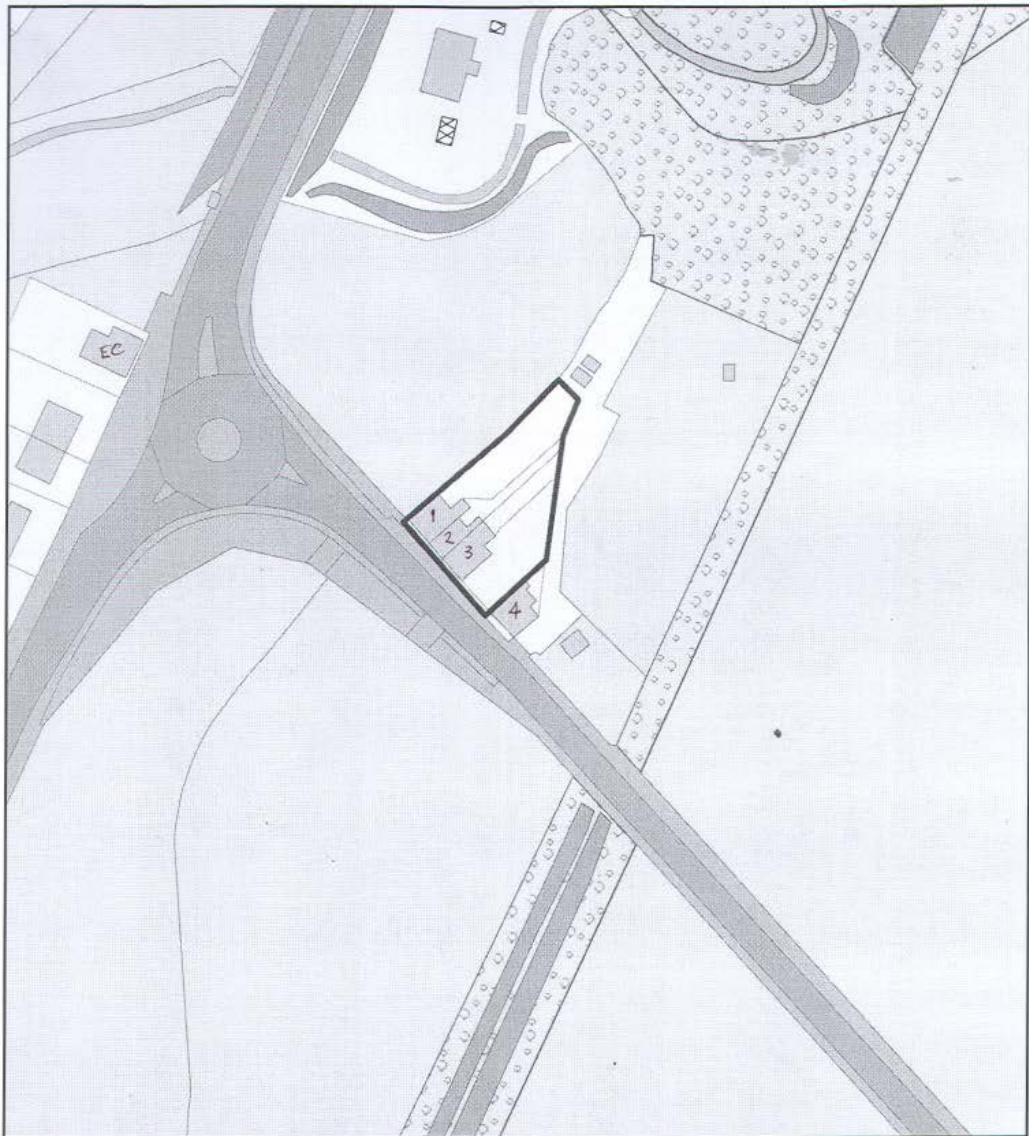
28 October 2014

Contact Person:

Mr R Atack

Tel No: 0131 271 3161

APPENDIX 1



Midlothian

Corporate Resources

Midlothian Council
Fairfield House
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1 - 3 Bilston Cottages, Roslin.

26 September 2011

File No:

Scale: 1:1,250



APPENDIX 3

MEMORANDUM

To: Rosemary Walsh, Council Secretariat, Midlothian House

From: Moira Malcolm, Environmental Health, Communities and Economy

Our Ref: HMO/07/01100, 0111, 0112

Date: 5 November 2014

Subject: Application for renewal of a House in Multiple Occupation Licence
1, 2 & 3 Bilston Cottages, Roslin

I refer to the HMO licence applications for the above properties submitted by Neil Brown.

An inspection of the properties was carried out on 10 September 2014 at which time they were generally found to be clean and in a good state of repair, with the exception of the points raised below which require attention.

Ventilation

The extract fans in the bathrooms and kitchens of all three properties require to be cleaned.

Small Repairs

One item of disrepair was noted and requires to be repaired:

No 3 The varnish around the wash hand basin in the downstairs bathroom is damaged and requires to be repaired to prevent further water damage.

Certification

Satisfactory certification has been received in respect of electrical safety for Nos 1 & 2. No PAT certification has been received for any of the properties, nor any certification for No 3, including gas safety.

Carbon Monoxide Detectors

Cottage no 3 is provided with gas, and the boiler is located in the kitchen of this property however it does not have a carbon monoxide detector.

Electrical Outlets

Since the last licence inspection, Statutory Guidance for HMOs has been introduced and all bedrooms must be provided with 6 electrical socket outlets. The guidance permits upgrading work to be undertaken within an appropriate time frame during the period of the licence. All rooms currently have a minimum of 6 sockets with the exception of rooms 2 and 3 in No 2 Bilston Cottages, one of which has four and one has five working sockets.

Taking into account the provision of a common living area in cottages 1 & 2, the maximum potential occupancy of the bedrooms, as marked on the plans, are given in the following table:

Bedroom No.	Maximum potential occupancy
1 Bilston Cottages	
1	1
2	2
3	2
2 Bilston Cottages	
1	1
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3 Bilston Cottages	
2	2
3	1
4	2
5	2
6	2
7	2

In no circumstances should any bedroom contain a greater number of persons than that listed in the maximum potential occupancy column.

This Division therefore has no objections to the granting of the HMO licence applications for the following number of residents, detailed on the licence application forms:-

- 5 residents for 1 Bilston Cottages;
- 5 residents for 2 Bilston Cottages; and
- 8 residents for 3 Bilston Cottages

subject to the following conditions:-

1. The mechanical ventilation (including all extract fans and cooker hoods) are cleaned throughout the properties;
2. The small repair as detailed above to cottages 3 is actioned;
3. The programme of regular inspection, maintenance and repair implemented to ensure that a good standard is maintained within each of the properties is continued and extended to include the outdoor area;
4. Bedrooms 2 & 3 in No 2 Bilston Cottages are provided with 6 electrical outlet sockets within three months;
5. A CO detector is provided in the kitchen of No 3;
6. Satisfactory gas safety and electrical installation reports are provided for No 3, and PAT reports are provided for all three properties.

Bilston Gardens
Roslin
EH25 9RR

5th Aug 2014

Miss Walsh / Mr Blair

I write regarding the request for multiple occupancy at Bilston Cottages by Mr Neil Brown.

I am totally against this from past experiences with this situation.

My property is to the side and across from the above named cottages.

I have had innumerable carrier bags full of domestic rubbish tied up & thrown in my fields. Personal documents pertaining to the owners & previous tenants strewn around the same area. A prison visiting card included!

Cutlery, crockery, food waste, supposedly blown from the kitchen window to land in my field!!

My field gate (wooden) was hacked beyond repair resulting in my having to replace it with a metal one all at my expense. The police were involved on this occasion as others.

Entrance to my field across from the cottages is in use constantly as free parking bay negating access when the field needs cutting. No one has ever asked my permission. This field too has been used as a refuse disposal unit.

My fields have been used as a bike playground, as a golf course and verbal abuse profuse from the youths involved who definitely came from the cottages.

Having lived here for 35 years in a problematic conditions I have no desire to repeat past situations from inconsiderate tenants and owners who take no control or responsibility for any situation arising from those ensconced on their properties.

No one should have to live in situations like this and consideration for the quality of life for neighbours should be paramount.

Yours sincerely

E. MacKinlay (Mrs)

Initially when notification for licenses was displayed in cottage windows it was only displayed at COTTAGES 1 AND 2, there was no notice of renewal displayed at No 3 Bilston cottages Therefore when we submitted our objections we did not include 3 Bilston Cottages.

We did phone your office at that time and asked why this was not displayed and was told that this license comes up at a later date. But a few days after the objection time had lapsed, the notice from window No 2 Bilston Cottages was removed and placed in the window at 3 Bilston Cottages. All very confusing. Again I did consult your office, but was assured it was alright.

We can only go by the information we are given, so hopefully this will still be taken into consideration

Yours sincerely

Sarah Reynolds and
Peter McVie

5th November 2014

Mr Bob Attack
Resources Directorate
H.M.O
Midlothian Council
Midlothian House
Buccleuch Street
Dalkeith
EH22 1DN

Mrs Sarah Reynolds &
Mr Peter McVie
Rose Cottage
4 Bilston Cottages
Roslin
Midlothian
EH25 9SS

Dear Sirs

HMO Licence

Mr Neil Brown 3 Bilston Cottages Roslin Midlothian

I would like it to be noted that this HMO licence that has been applied for is totally out of order.... **PLEASE NOTE OUR OBJECTIONS.**

For almost a year we have not had much bother with our neighbours, things going along just nicely.....Now we are about to have our life and well being **grind to an abrupt halt again!!**

You may think that this is an exaggeration, but we know from past experience the whole area ends up in turmoil.

Sleep deprivation, (from us) rubbish and mattresses lying about, residence from next door banging our door to get in, they always seemed very confused??????

All residents doing anything they wanted any time of the day and night. Cars at various times of the night banging doors and revving their cars..

Shouting and swearing..

It always seems very unfair that we have worked hard all our lives, **now retired** cannot have a nice quiet life with some peace and tranquillity - the reason that we bought this lovely wee cottage in the first place.

Absolutely no respect for neighbours.

I hope this will all be considered when the decision is made.

Yours sincerely



Edwyndale Cottage
Bilston
Roslin
Midlothian
EH25 9SQ
05/11/14

Resources Directorate HMO
Midlothian House
Buccleuch Street
Dalkeith
EH22 1DN

H.M.O – 3 Bilston Cottages

Dear Mr Attack,

My husband and I wish to object to Mr Neil Brown's application to convert 3 Bilston Cottages, Bilston into a house of multiple occupation.

The last time Mr Brown ran the premises as such, there was a constant police presence at the buildings, a lot of noise by day and night and a lot of unsavoury characters hanging about the area with nothing being done by the owners to alleviate the problem.

The Browns blatantly ignored a direct order from the Council to have a warden on the premises overnight. Despite many objections from local people and the police at a meeting in December 2012, their last application was granted because of the "they might sue us if we don't" attitude of one of the committee members. My husband actually heard this being said to the convenor of the meeting by one of the committee members before the application was granted. This does not instil much confidence in the decision making process if this is an example of how decisions are made.

We would strongly urge you not to grant an HMO licence for the premises in Bilston to Mr Brown. We do not want a repeat of the problems, as mentioned in paragraph two.

We apologise for the late submission of this objection but we were only informed of the addition of number 3 Bilston Cottages today.



John S. Innes



Joy Innes-Greig