

Civic Government (Scotland) Act 1982
Application for HMO Licence – 54 Main Street, Gorebridge

Report by Director, Corporate Resources

1 Purpose of Report

To update the Committee as regards the provision of out of hours service and other measures designed to ameliorate the effect of any anti social behaviour arising from the use of the premises at 54 Main Street Gorebridge as an HMO.

2 Background

On 13 November 2012, the Committee considered a report by the Director, Corporate Resources, concerning an application by Ms Elaine Collins, 9 Cleuch Avenue, North Middleton for an HMO licence in respect of 54 Main Street Gorebridge to accommodate a maximum of four persons.

The Committee heard:-

- (a) Mrs Walker, Mr Emmerton and Mrs Stewart, all Main Street Gorebridge during which each addressed the terms of their objections relating to fear of crime, overprovision, concerns for public order and safety, etc; and, as regards concerns expressed by the last mentioned relating to the display of the Site Notice, having received confirmation that the notice had been posted on 4 September 2012, removed by persons unknown and re-posted from 5 October 2012 to 5 November 2012, accepted that the combined effect of this met the requirements;
- (b) statements on behalf of the Service Divisions involved in the consultation, in general confirming that the applicant was a fit and proper person to be the holder of a licence and the premises were suitable for occupation as an HMO; and further advice from the Head of Housing and Community Safety that as regards the concerns that there may be overprovision of HMOs, he did not consider this to be the case; and there was a high demand for such accommodation in Gorebridge and Midlothian, generally, which was expected to grow following the introduction of the reform of welfare benefits and the potential development of Housing Policy in the future in this respect; and
- (c) the Applicant and her Agent, during which the latter explained the care that was taken to ensure adherence to the conditions of tenancy, remarked on the representations that had been made and confirmed that the Applicant intended to consider the introduction of out-of-hours contact / cover for her licensed properties.

(In relation to the concept of overprovision, the Committee had previously noted that, in considering whether to refuse to grant an HMO licence on this basis, the local authority must have regard to whether there was an existing HMO licence in effect in respect of the living accommodation; and the views (if known) of the applicant, and if applicable, any occupant of the living accommodation; and otherwise, it was for the local authority to determine the localities within its area; and in considering whether there was or would be overprovision for the purposes in any locality, the local authority must have regard to the number and capacity of licensed HMOs in the locality, and the need for housing accommodation in the locality and the extent to which HMO accommodation was required to meet that need.)

The Committee agreed:-

- (i) to defer consideration of the grant of the application pending a report back on the provision of an out-of-hours service and introduction of other measures designed to secure implementation of sound property management procedures; and
- (ii) following a statement by Councillor Milligan, to seek guidance as regards the concept of overprovision.

3 Consultations with the Applicant

The applicant has been asked to provide of out of hours service and a response is awaited. Consideration could be given to other reasonable measures designed to ameliorate the effect of any anti social behaviour arising from the use of the premises as an HMO. During the course of the Hearing, the objectors described a number of incidents, the nature of which gave rise to a fear of crime and concerns about public order and public safety following incidents involving tenants of this property who had been nominated for short term tenancies by the Homelessness Unit of Midlothian Council. The Head of Housing and Community Safety has advised that whilst care is taken by Homelessness Officers to place referrals in appropriate accommodation, it is not always possible whether through lack of accommodation, time, etc to do this. However, where problems do arise, endeavours are made as soon as possible to rectify the position.

It is intended that, following receipt of the applicant's response, consultation take place with the spokesperson for the objectors to determine their view.

4 Overprovision

Additional information has been sought about the concept of Overprovision as described in a separate report and is no longer an issue in respect of this application.

5 Options

In qualifying the grant of the licence, there are a number of options that could be considered in respect of the fixing of additional conditions, including:-

- (a) the appointment of a night warden or other out-of-hours service, to serve the property (and also another HMO at 24 Main Street, Gorebridge with care being taken to demonstrate that the Application is considered on its merits); and any other properties managed by the owner;
- (b) requesting increased Police patrols should this be considered appropriate; and
- (c) agreement for community liaison with the existing Gorebridge Community Council Committee.

6 Summary / Adapted Procedure for Considering Applications at Hearings

The Objectors and Officers have been heard. The former were opposed to the application because of a fear of crime and concern for public order and public safety. The additional measures that were envisaged could address these issues.

In the main, the Officers reported that the premises were suitable for the purpose and the applicant was a fit and proper person.

As the Objectors and the Officers have been heard, there is no need to hear them. Consultation with the Chair will clarify the approach to be taken. When the Applicant's response is received, if appropriate, Council Officers can be recalled and the Objectors' spokesperson could be invited depending on what is proposed.

The Normal Procedure for considering applications (which should be adapted to cater for the above) 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.

7 Conditions

An HMO licence may include such conditions as the Committee thinks fit. Standard conditions are generally applied. As regards the supplementary condition(s), no date may be specified which would require the measures to be put in place by such condition(s) to be confirmed, before the date by which the local authority reasonably considers that the licence holder can secure compliance with the condition(s).

The term of such licences is normally three years but can be such shorter period as the Committee may determine, save that, in any event, the period shall not be less than six months.

7 Recommendation

The Committee is asked to consider the terms of the report when reviewing the decision.

J BLAIR
Director

21 December 2012

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Background Papers: File CG 10.26(x) (RGA)
Housing (Scotland) Act 2006.