

HMO Licence – Remitted Appeal – 2 Laichpark Place, Edinburgh

Licensing Sub-Committee

19 August 2011

Purpose of report

- 1 To advise the Committee of the outcome of an appeal against refusal of HMO licence in respect of which the application for renewal of HMO licence has been remitted to the committee for consideration.

Main report

- 2 On 15 March 2011 an application for HMO licence in the name of Norman and Lynn MacLeod (“the applicants”) in respect of a property at 2 Laichpark Place, Edinburgh (“the property”) was refused by the Director of Corporate Services in terms of the Council’s scheme of Delegation to Officers. The application was refused in terms of paragraph 5(3)(c)(i) of schedule 1 to the Civic Government (Scotland) Act 1982 on the grounds that the property was not suitable for the intended purpose with regard to its condition following a recommendation of refusal from the Council’s Joint Inspection Team. The Joint Inspection Team recommendation was made following inspections of the property on 16 November 2010 and 14 February 2011. The second visit identified a number of works which remained outstanding including the provision of all gas and electrical safety certificates.
- 3 Copies of the Joint Inspection Team report and recommendation were forwarded to the applicant’s agents on 17 February 2011. The agents were invited to provide a written response on behalf of the applicants prior to the determination of the application. A copy of the Council’s letter with enclosures of 17 February 2011 is attached as appendix one to this report. No response to this letter was received and the application was accordingly refused.
- 4 During the appeal process it was established that the main issue of dispute was whether or not the Council received an email from the applicants’ agents on 24 February 2011 confirming that all outstanding matters had been addressed. The applicants’ agents submitted that the email had been forwarded to the Council’s general licensing email address however the Council had no record of having received the email. As there is no system to archive incoming emails to the general Licensing email address it was not possible to confirm absolutely whether or not the email had been received. It was therefore agreed that the application should be remitted back to the Committee for reconsideration on the

basis of no expenses being due to or by either party. A copy of the Sheriff's interlocutor in this respect is attached as appendix two to this report.

Financial Implications

- 5 There are no financial implications arising from the report at this stage. The appeal has been remitted to committee on the basis that no court expenses are due to or by either party to the action.
- 6 The application for licence is a new application therefore there is currently no HMO licence in place in respect of the property.

Environmental Impact

- 7 There are no environmental implications arising from this report.

Recommendations

Having been remitted to the Committee by the Sheriff Court, the Committee is required to reconsider the application for grant of an HMO licence.

David Jack
Acting Director of Corporate Services

Appendices	1. Copy letter from City of Edinburgh Council to applicants dated 17 February 2011. 2. Copy interlocutor dated 17 May 2011
Contact/tel/Email	Caitlin Tilbury, Solicitor (Licensing) / 0131 529 4424 / caitlin.tilbury@edinburgh.gov.uk
Wards affected	citywide
Single Outcome Agreement	Not applicable
Background Papers	none