

ANGUS COUNCIL

CIVIC LICENSING COMMITTEE – 12 MAY 2016

APPLICATION TO LICENCE A HOUSE IN MULTIPLE OCCUPATION

REPORT BY SHEONA C HUNTER, HEAD OF LEGAL AND DEMOCRATIC SERVICES

ABSTRACT

The purpose of this report is to present a new application to licence a House in Multiple Occupation under the Housing (Scotland) Act 2006, by Andrew Gray, Balhousie Farm, Muirdrum, Carnoustie in respect of property at Coffee Lodge, Balhousie Farm, Muirdrum, Carnoustie which requires to be determined by the Committee.

1. RECOMMENDATION

It is recommended that the Committee consider and determine the application for a new licence in terms of one of the following options:-

- (i) to grant the application subject to standard conditions;
- (ii) to grant the application subject to additional conditions;
- (iii) to refuse the application on one or more of the grounds referred to in Paragraph 3.

2. ALIGNMENT TO THE ANGUS COMMUNITY PLAN/SINGLE OUTCOME AGREEMENT/CORPORATE PLAN

This report aligns with the Local Outcome – Communities that are prosperous and fair.

We have a sustainable economy with good employment opportunities.

3. BACKGROUND

The Council has received an application to licence a House in Multiple Occupation under the Housing (Scotland) Act 2006, by Andrew Gray, Balhousie Farm, Muirdrum, Carnoustie in respect of property at Coffee Lodge, Balhousie Farm, Muirdrum, Carnoustie. Applications for new licence(s) under the Housing (Scotland) Act 2006 require to be determined by the Committee because one or more of the following apply:-

- (i) there has been an objection or a representation received in respect of the application; or
- (ii) the application does not comply with the policy adopted by Angus Council; or
- (iii) the function is not delegated to Officers; or
- (iv) the applicant has a conviction(s), a spent conviction(s) or a pending case.

If an application to licence a House in Multiple Occupation is not determined within one year then it shall be deemed to have been granted or, as the case may be, renewed unconditionally on the date of such expiry and shall remain in force for one year.

The Committee is asked to note that the application was lodged on 29 May 2015 in respect of 8 persons.

COMMENTS HAVE BEEN RECEIVED FROM:-

The Applicant, Andrew Gray – **APPENDIX 1 to the Report**;
Michael Miller, Senior Building Standards Manager, **APPENDIX 2 to the Report**; AND
Robert Perry, Planning Enforcement Officer, **APPENDIX 3 to the Report**.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

5. LEGAL IMPLICATIONS

The Committee must refuse to grant an HMO licence if 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:-

- (a) is disqualified from holding an HMO licence by the Court; or
- (b) the Committee considers that they are not a fit and proper person to be authorised to permit persons to occupy any living accommodation as an HMO.

In addition, 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 Committee 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) whether any rooms within it have been subdivided,
- (f) whether any rooms within it have been adapted and that has resulted in an alteration to the situation of the water and drainage pipes within it,
- (g) the safety and security of persons likely to occupy it, and
- (h) the possibility of undue public nuisance.

NOTE: No background papers as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing this report.

REPORT AUTHOR: Dawn Smeaton, Licensing & Litigation Assistant

EMAIL DETAILS: LEGDEM@angus.gov.uk

**APPENDIX 1 TO REPORT NO 196/16
CIVIC LICENSING COMMITTEE – 12 MAY 2016**

From: Andrew
Sent: 22 April 2016 09:17
Subject: RE: HMO Coffee Lodge, Balhousie Farm, Muirdrum

Hi

To clarify I would like to proceed to apply for 6 people for the application of an HMO at the property.

Supporting Statement

Andrew Gray lives next to the property who is ultimately responsible for the people living in the property and keeping the necessary standards of it.

We are applying for 1 more occupant to live in the property over the current standards. If we put the extra sink in it would reduce the work top surface area and also the size of one of the units.

The nature of the occupants work will mean that there is differing finishing times which allows less pressure on the use of the sink.

There is a large living space in the property and also two showers in two different bathrooms which offers a good living space.

We hope this is satisfactory and I will send supporting pictures of the above.

Regards

Andrew Gray

**APPENDIX 2 TO REPORT NO 196/16
CIVIC LICENSING COMMITTEE – 12 MAY 2016**

From: MillarM
Sent: 21 April 2016 11:35
Subject: RE: HMO Coffee Lodge, Balhousie Farm, Muirdrum

Morning Andrew,

I have just come off the phone with Nanette Page re the timescale of this and we need a response from you today regarding the options that were outlined in my E mail of the 02 February 2016. The options previously outlined were

1 As the application stands and the building stands, I will have to report to Licensing that your building fails to comply with the current guidance; namely there is only 1 kitchen sink, section 4.6.6 states that you need 1 kitchen sink per 5 persons, bedroom sizes also fail to comply with section 4.3 (Annex A), a bedroom for 2 adults requires to be 10.5m² in floor area, your bedroom 3 and 4 was measure as being 9m² and 9.3m² respectively, as such they are only compliant for single occupancy.

Please note that we are already giving some leniency with regards the physical standards, regards bedrooms 1-3 just under size by 0.2- 0.3m², the use of a microwave as the secondary cooking facility, actual length of work top etc.

2 If you change the application to 6 persons the room sizes will be compliant, however the kitchen sink provision will fail by 1, as above I will have to state this to Licensing however if you wish to pursue this option it will be up to you to state your case for their being a reduction in the standard provision. I am not at liberty to advise the Licensing committee.

3, As the building stands if you change the number of persons to 5, I can report to committee that your property complies with the Licensing Guidance and based on this the application, unless there are any outstanding issues, should go forward to the Licensing Board for approval.

I thought I was clear in my E mail of the 02 February 2016 in that I cannot advise you how to proceed and that you have to let us know what way you wish us to go forward.

You may wish to consult an agent in this regards.

Failure to respond will require me to advise the Licensing Board that as in option 1 your application currently fails to meet the standards set out in the Statutory Guidance for Local Authorities Licensing of Houses in Multiple Occupation.

regards

Michael Millar, Senior Building Standards Officer, Angus Council, Communities, Planning & Place, County Buildings, Market Street, Forfar, DD8 3LG; Tel: 01307 473245; e-mail: MillarM@angus.gov.uk

**APPENDIX 3 TO REPORT NO 196/16
CIVIC LICENSING COMMITTEE – 12 MAY 2016**

From: ParryR
Sent: 21 April 2016 09:03
To: SmeatonD; MillarM
Subject: RE: HMO

I wrote to Mr Gray on 25 June 2015 on receipt of the original Licence Application on 29 May 2015 advising that at that time the most recent planning application was 10/01354/FULL for Conversion of Farm Shop to Holiday Cottage. The use as an HMO would require the benefit of planning permission and should they wish to use the building for this purpose then the required planning permission should be obtained. No planning permission has been applied for but until the premises are used as an HMO (or for any other unauthorised use) no breach of planning has occurred.

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