



MINUTES OF THE MEETING OF LICENSING SUB-COMMITTEE

**THURSDAY 12 JUNE 2025
COUNCIL CHAMBER, TOWN HOUSE, HADDINGTON
& HYBRID MEETING FACILITY**

Committee Members Present:

Councillor C Cassini
Councillor C McFarlane
Councillor J McMillan (Depute Convener)
Councillor T Trotter

Other Councillors Present:

None

Council Officials Present:

Mr I Forrest, Solicitor
Ms S Fitzpatrick, Team Leader – Licensing and Landlord Registration
Ms A O'Reilly, Licensing Officer
Ms N Harrison, Licensing Standards Officer
Ms S O'Flaherty, Landlord Registration Officer
Ms A Smith, Planner
Mr S Robertson, Assistant Planner
Mr G Robinson, Service Development Officer
Ms E Barclay, Democratic Services Assistant

Others Present:

PC I Anderson, Police Scotland
Mr T Cramer, Watch Commander, Scottish Fire & Rescue Service

Clerk:

Ms B Crichton, Committees Officer

Apologies:

Councillor J Findlay
Councillor C McGinn

Declarations of Interest:

None

The clerk advised that the meeting was being held as a hybrid meeting, as provided for in legislation; that the meeting would be recorded and live streamed; and that it would be made available via the Council's website as a webcast, in order to allow public access to the democratic process in East Lothian. She noted that the Council

was the data controller under the Data Protection Act 2018; that data collected as part of the recording would be retained in accordance with the Council's policy on record retention; and that the webcast of the meeting would be publicly available for five years from the date of the meeting.

The clerk recorded the attendance of Committee members by roll call.

1. MINUTES FOR APPROVAL
Licensing Sub-Committee, 8 May 2025

The minutes were approved as an accurate record of the meeting.

2. APPLICATION FOR RENEWAL OF AN ANIMAL BOARDING LICENCE – DOGS BY LEIGH, THORNTONLOCH HOLDINGS, BLACKBERRY FARM, DUNBAR

An application had been received from Leigh Bisset for the renewal of a licence to operate an animal boarding establishment. It had come before the Licensing Sub-Committee because Environmental Health Officers had indicated that conditions on the site did not meet the requirements for the licence.

Ms Bisset was present to speak to her application, and was accompanied by her landlord, Donna Collins.

Ian Forrest, Solicitor, introduced the application, and highlighted emails from Lynn Slight, Environmental Health Officer. He noted that officers from Environmental Health were unable to attend. He also asked Committee members whether they wished to consider a late email submitted by the applicant, to which they agreed.

Ms Bisset provided information on the operation of her business, and described the site. She explained that a change of use for the site had been approved in 2022, and advised that only dog walking and daycare were offered. She reported that a caravan had been sited in the field, which had a generator, and kitchen and toilet facilities. She advised that the vans could be used if dogs required isolation time, and there was also sufficient storage for muzzles, leads, medication, and treats.

Ms Bisset responded to questions from Committee members. She advised that Ms Slight had provided the required conditions, and Ms Bisset considered that the caravan met the requirements for indoor space. Ms Bisset said her research had indicated that the caravan did not require planning permission because it could be easily moved. She advised that dogs could be isolated using the cages in the vans at feeding time, and cages were also available in the caravan.

Councillor Trotter asked whether Ms Bisset was satisfied that her facilities met the conditions of the licence. Ms Bisset explained that she accommodated only 10-12 dogs at a time for daycare, and was happy that the facilities were adequate for the number of dogs she looked after. She advised that her days ran between 9am and 2pm.

Responding to a question from Councillor Trotter, Sheila Fitzpatrick, Team Leader – Licensing and Landlord Registration, advised that facilities were inspected by Environmental Services when required.

Responding to a question from Councillor McMillan, Mr Forrest advised that Committee members could not grant the licence subject to updated feedback from Environmental Health; the only options were to grant or refuse the licence, or to defer making a decision pending further information.

Councillor Trotter proposed that the application be continued to allow a further site visit to be undertaken by an Environmental Health Officer to confirm that all was in order at the site. Councillor McMillan seconded this proposal.

Councillor McMillan then moved to a roll call vote, and Committee members unanimously indicated their support for the proposal to continue the application.

Decision

The Licensing Sub-Committee agreed to continue the application to allow a site visit to be conducted by Environmental Health.

2. APPLICATION FOR THE GRANT OF LICENCES TO OPERATE HOUSES IN MULTIPLE OCCUPATION 7 & 9 Hope Park, Haddington

Applications had been received from John Friel for licences to operate 7 & 9 Hope Park, Haddington, as houses in multiple occupation (HMOs). The applications would be heard by the Licensing Sub-Committee due to several objections having been made by statutory consultees. The Sub-Committee was required to focus on the suitability of the properties to operate as HMOs, and on the applicant to hold HMO licences.

Mr Friel was present to speak to the application. Representatives from statutory consultees who had made objections were also present: Amelia Smith and Scott Robertson on behalf of the Planning Authority; Sheila Fitzpatrick on behalf of Landlord Registration; and Watch Commander Torquil Cramer on behalf of the Scottish Fire and Rescue Service (SFRS).

Mr Forrest introduced the applications and highlighted the objections from statutory consultees. He also advised that Mr Friel had made several submissions by email a very short time before the meeting began; Committee members had not had time to consider these late submissions, and Mr Forrest asked the Licensing Sub-Committee whether it wished to accept these late submissions.

Members expressed feelings that the submissions had been made too late. In response, Mr Friel summarised what was contained within the submissions, which included evidence of work carried out following a visit from SFRS. He advised that this paperwork had also been sent to Mr Cramer.

The Convener moved to a roll call vote on whether the Sub-Committee would accept the late submissions, and Committee members unanimously agreed that they would not.

Mr Friel spoke in support of his applications. He advised that he had owned the properties at 7 and 9 Hope Park for around 20 years, and had moved between these addresses. He advised that seven people currently lived at no. 7, and six people lived

at no. 9. He provided the HMO licensing history of the properties. He advised that fire procedures at 7 Hope Park had been followed to bring the property up to standard after he had previously been advised that an HMO licence was required, and further work had also been required at 9 Hope Park. He explained that an application had been made two years previously, but had been missing some paperwork. He reported that the objections in 2023 had been made by antisocial neighbours, but reassured the Sub-Committee that there had been no problems at the property. He explained that someone had come to sleep under the stairs because he had had to be moved from the other property; his alcohol problem had made another resident uncomfortable, but the man had been unable to take another tenancy due to his employer owing him money. Mr Friel said he considered the previous objections to be historic and not relevant to the current applications, and reiterated that the objectors had caused him problems for a number of years. He reported that everything SFRS and Environmental Health had brought to his attention had been actioned. He advised that his tenants had stayed for a long time and there had never been any issues with, or record of, antisocial behaviour.

Mr Friel answered a number of questions from Councillor McMillan. He gave further context as to why the man had been staying under the stairs. He clarified that although he described the tenants as friends, they had been paying rent, even when no HMO licence had been in place. He advised that the smoke detector systems had been the same as were required in domestic properties, however, Mr Cramer had brought to his attention that there was a requirement that the detectors be hardwired.

Responding to further questions from Committee members, Mr Friel explained that his landlord registration had lapsed due to illness, but he had completed the required actions when the issue was brought to his attention. He was not aware of any issues of fly tipping. He reported that experts had written emergency fire action plans for the two properties; the documents had been sent over to SFRS, displayed in the properties, and new tenants would be given a fire safety induction. He said that the correct procedures had been followed for site notices for each application. He also reported that neighbours had dropped litter over the gate to one of the properties, but said he had not reported this to Police Scotland.

Mr Friel responded to concerns raised by Councillor Cassini about his lack of attention to fire regulations. Mr Friel advised that Mr Cramer had recognised that fire detectors, fire blankets, extinguishers, and rules against smoking were all in place; he reported that work to hardwire smoke detectors and add additional detectors had been commissioned as soon as he became aware of these requirements. He reiterated that all records had now been sent to SFRS.

Councillor McMillan asked whether the pods in the garden used for people to sleep in were still in place. Mr Friel explained that sheds had been in place in the back garden for 20 years, but replacement sheds had required planning permission, for which an application was being processed. He explained that mattresses had been in place when family came to visit, but only for a few days. He advised that the sheds housed tools, and the pods had been added when he had intended to breed puppies.

Mr Cramer advised that a fire safety audit had taken place on 5 June as part of the HMO application process. He acknowledged that much of the required work appeared to have been undertaken, but he had not had opportunity to properly review the submissions. Mr Cramer wanted to return to the premises for further inspection of installation certificates and to check the correct equipment had been installed. He advised that the responses to the inspection had been submitted one week following the inspection.

Councillor Trotter asked how quickly a further inspection could be organised. Ms Fitzpatrick pointed out that other colleagues would also have to be consulted because the application had been non-compliant in various areas. Committee members agreed to proceed and hear from all consultees in attendance.

PC Anderson advised that there had been no objections to the initial applications, and added that he would be unable to comment on any further matters which may come to light. He confirmed that any further concerns would be notified according to usual processes, but Police Scotland was satisfied that there were no matters currently outstanding.

Amelia Smith, Planner, provided a summary of the relevant planning history of the properties. She reported that an unauthorised change of use of 7 and 9 Hope Park was investigated, as both were operating as HMOs without grant of planning permission. She advised that the extension to the rear was also without grant of planning permission, and Mr Friel had not regularised these positions following attempted communications with him. She advised that Councillors had provided authorisation in June 2024 for planning enforcement action in relation to the unauthorised extension and HMO operation; the six-month period by which Mr Friel had to comply had expired in February 2025. As such, Ms Smith advised that the Planning Authority looked to refer to the procurator fiscal or take direct action.

Mr Friel pointed out that a retrospective planning application had been made for the conservatory to the rear of the property, and for some sheds for which he had not realised planning permission had been required; he reported that the site notice was currently on display. He said he did not understand what it meant to apply for planning permission for an HMO.

Responding to questions from Committee members, Ms Smith confirmed that a retrospective planning application for the extension to the rear of the property was pending consideration. She confirmed that the application had been received several months following the expiry of an enforcement notice. She advised that the enforcement notice and the planning application were two separate processes; the planning application would still be determined within the determination date, but the decision would be likely to reflect the fact that an enforcement notice had been served. Ms Smith confirmed that, from a planning perspective, an HMO was classed as a property in which five or more unrelated persons lived.

Mr Friel responded that his properties did not have more than five unrelated persons living in them; he advised that there was only one single person living in each property, and others were couples or siblings. Ms Smith advised that, following complaints in 2022 and 2023, Mr Friel was served with a planning contravention notice with regards to operating unauthorised HMOs, and was formally requested to apply for retrospective planning permission. Mr Friel reiterated that he was not aware that there was any proof that there had ever been more than five unrelated persons living in the properties.

Ms Fitzpatrick informed Committee members that there were different rules for HMOs in terms of licensing and planning; a licence was required to operate an HMO with three or more unrelated persons, and, in addition, planning permission was also required to operate an HMO with five or more unrelated persons. She informed the Sub-Committee of a multiagency visit in November 2023, which had found 14 tenants living between the two properties. She provided a breakdown of bedroom occupancy between the properties from that time. She also noted that single beds were found in both sheds at the rear of the property.

Ms Fitzpatrick advised that she was also a consultee in her landlord registration capacity. She reported that rent suspension orders had been served on both addresses in August 2024, following service of planning enforcement orders relating to the operation of unlawful HMOs. A further visit on 1 October 2024 found that the properties were being operated as HMOs, at least under the licensing definition of an HMO, and all occupants spoke to having paid rent throughout September. She confirmed that all tenants had the right to private residential tenancy agreements, and the landlord would have to abide by several notices to end those tenancies.

Councillor Trotter commented that it was not in anyone's interest to stop Mr Friel from being able to make a living, however, thought it was impossible to grant the application while enforcement action was ongoing. He felt there were too many matters outstanding to consider granting the licence. He was also concerned that Mr Friel had not taken action until recently, despite matters being raised a considerable time ago.

Councillor McFarlane expressed disappointment that fire safety instructions had been left so late to be implemented.

Councillor Cassini expressed concern for the residents, should the HMO licence applications be refused, however, she felt the current situation would not allow the Licensing Sub-Committee to grant the applications.

Councillor McMillan noted the pressure the Homelessness Team was under, but also took advice from officers regarding non-compliance. He felt that Mr Friel had ignored regulations and communications, despite officers being as helpful as they could be. He was minded to refuse the applications based on the evidence from consultees.

Responding to a question from Committee members, Mr Forrest advised that a licence refusal would mean that a fresh application could not be made for a year.

Mr Friel asked Committee members to defer making a decision until such time as Mr Cramer could perform a further inspection. He also questioned whether refusal of a licence would mean that he would have to evict his tenants, and said he did not know where he stood legally.

Councillor McMillan reprimanded Mr Friel submitting papers late and for ignoring communications with the Council. He said that Mr Friel ought to know where he stood legally because he had been operating in a licensed industry where he had a legal and personal responsibility for his tenants. He commented that legal advice as a landlord was something Mr Friel had lacked in the past.

Councillor Trotter wanted assurance that Mr Friel would attend to matters well in advance, as he would not be as lenient if there were further delays. Mr Friel reiterated that all requirements from SFRS had now been actioned.

Councillor McMillan said that the Sub-Committee was discussing an ultimatum, and questioned whether Committee members could have confidence that Mr Friel would manage the situation properly, given previous evidence.

Councillor Trotter proposed to defer making a decision on the application until such time as the planning applications could be determined, and to allow a follow-up site visit to be conducted by a representative of SFRS.

In terms of the timing of the deferral, Mr Forrest noted that a special meeting may be convened depending on the timing of the planning application decision, or the application might return to the next scheduled meeting of the Licensing Sub-Committee on 11 September.

Councillor McMillan then moved to a roll call vote on the proposal to defer making a decision on the application. Committee members indicated their support for this proposal, apart from Councillor McMillan, who voted against the proposal.

Councillor McMillan urged Mr Friel to think about safety and to work with officers in the coming weeks.

Decision

The Licensing Sub-Committee agreed to continue the application until such time as the planning applications could be determined, and to allow a follow-up site visit to be conducted by a representative of the Scottish Fire and Rescue Service.

Note: Summary of information

The Licensing Sub-Committee agreed to exclude the public from Item 4 in terms of paragraph 2 (information relating to individual tenants) of Schedule 7A to the Local Government (Scotland) Act 1973.

4. APPLICATION TO WAIVE THE REQUIREMENT FOR AN HMO SITE NOTICE

Members agreed to waive the requirement for HMO site notices for the properties discussed at Items 4a, 4b, and 4c.