

NI Houses in Multiple Occupation Unit

Application number: 10792
Date: 29 May 2024



Mrs Orla Carragher



Dear Mrs Carragher

Further to an HMO licence application for **49 Atlantic Avenue, Belfast, Antrim, BT15 2HN** please review the attached documentation and action as appropriate.

Yours sincerely,

A handwritten signature in black ink that reads "K Bloomfield". The signature is written in a cursive style with a large, looping 'B'.

Kevin Bloomfield
HMO Manager

NI Houses in Multiple Occupation Unit

Belfast City Council, The Cecil Ward Building, 4-10 Linenhall Street, Belfast, BT2 8BP
Telephone: 028 9027 0414 | Text Relay for people with a hearing loss: (18001) 028 9027 0414
| SignVideo for Sign Language users: <https://www.belfastcity.gov.uk/signvideo> | Email:
nihmo@belfastcity.gov.uk | Web: www.belfastcity.gov.uk/nihmo

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HOUSES IN MULTIPLE OCCUPATION ACT (NORTHERN IRELAND) 2016

PARAGRAPH 9 OF SCHEDULE 2

APPLICATION FOR AN HMO LICENCE - NOTICE OF PROPOSED DECISION.

Belfast City Council has received an application for an HMO licence in relation to accommodation known as **49 Atlantic Avenue, Belfast, Antrim, BT15 2HN**

This notice is served by the Council under Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016.

The Council proposes to refuse the licence.

Schedule 1 of this notice sets out the main terms of the proposed licence and any terms which differ from those applied for.

Schedule 2 of this notice states the reasons for the proposed decision (including any proposed differences).

A copy of any valid representations received by the Council in response to a Notice of Application published under regulations as set out in paragraph 2 of Schedule 2 of the 2016 Act have been appended to this notice.

If you wish to make any representation in relation to this proposed decision you should do so in writing within **14 days** of the date below to:

NI HMO Manager
Belfast City Council
The Cecil Ward Building
4-10 Linenhall Street
Belfast
BT2 8BP
Email: nihmo@belfastcity.gov.uk

Date: 29 May 2024

Signed:



**Kevin Bloomfield
HMO Manager**

Schedule 1:

The reasons for the proposed decision:

The Council is not satisfied that:

- i. The granting of the licence will not result in overprovision of HMOs in the locality in which the living accommodation is situated.

Overprovision

In accordance with Section 12 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 “2016 Act” the Council is satisfied that the granting of the HMO licence will result in overprovision of HMO accommodation in the locality of the accommodation, for the purpose of section 8(2)(d) of the 2016 Act.

For the purpose of Section 12(2) of the 2016 Act. The Council has determined the locality of the accommodation, **49 Atlantic Avenue, Belfast, BT15 2HN** as being Housing Management Areas (HMA) “HMA 2/02 Atlantic” as defined in the document Belfast City Council’s Local Development Plan Strategy “2023 Strategy” which was formally adopted on the 2 May 2023.

In making this decision the Council has had regard to:

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

To inform the Council in its consideration of the above provisions, the Council has taken account of the 2023 Strategy given that *“Nurturing sustainable and balanced communities is a fundamental aim of the LDP’s housing policies.”*

In particular, the Council has considered Policy HOU10:-

HOU10 states – *“Within designated HMAs, planning permission will only be granted for Houses in Multiple Occupation (HMOs) and/or flats/apartments where the total number of HMOs and flats/apartments combined would not as a result exceed 20% of all dwelling units within an HMA.”*

(a) The number and capacity of licensed HMOs in the locality

On the date of assessment, 28 May 2024, 60% of all dwelling units in policy area HMA 2/02 Atlantic were made up of HMOs and flats/apartments, which in turn exceeds the 20% development limit as set out at Policy HOU10.

There are 2 (1%) licensed HMOs with a capacity of 10 persons in HMA 2/02 Atlantic.

(b) The need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need.

The total number of dwelling units in a HMA is measured by Ordnance Survey's Pointer database. There are a total of 161 dwelling units in HMA 2/02 Atlantic

On the 28 May 2024 out of 11 premises available for rent within the BT15 area on the website PropertyNews.com there were 2 bedspaces available within licensed. The HMO accommodation was available immediately.

Section 8(2)(d) of the 2016 Act

In assessing the number and capacity of licensed HMOs as well as the need for HMO accommodation in the locality, officers cannot be satisfied that the granting of the HMO licence will not result in overprovision of HMO accommodation in the locality of the accommodation for the purpose of section 8(2)(d) of the 2016 Act.

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Notes:

Statutory References are to the Houses in Multiple Occupation Act (Northern Ireland) 2016 unless otherwise stated

Houses in Multiple Occupation

Applications for HMO licences: requirements and procedure

SCHEDULE 2

1—(1) An application for an HMO licence must be in writing and in such form as the council may specify by general notice.

(2) The application must include the following information—

- (a) the address of the living accommodation in question,
- (b) if the owner is an individual, the owner's name and address,
- (c) if the owner is a body, the information set out in sub-paragraph (3),
- (d) if there is to be a managing agent of the HMO—
 - (i) if the agent is an individual, the agent's name and address, or
 - (ii) if the agent is a body, the information set out in sub-paragraph (3),
- (e) the name and address of any person (other than the owner) who has a relevant interest in the HMO (see sub-paragraph (4)),
- (f) the maximum number of persons who it is proposed will occupy the accommodation as their only or main residence at any one time,
- (g) any other information which the Department may by regulations require to be set out in such applications, and
- (h) any other information which the council may specify by general notice.

(3) The information referred to in sub-paragraph (2)(c) and (d)(ii) is—

- (a) the name of the body,
- (b) the address of its main office or place of business,
- (c) the name and address of each of its directors or partners, or other persons involved in its management.

(4) In sub-paragraph (2)(e), a "relevant interest" is—

- (a) a freehold estate;
- (b) a leasehold estate, unless the unexpired term of the lease is 3 years or less;
- (c) a mortgage, charge or lien.

(5) The council may require the application to be accompanied by a fee fixed by the council (see also section 84 in relation to such fees).

(6) Sub-paragraph (5) is subject to paragraph 7(2).

PUBLICATION OF APPLICATION

Regulations regarding notice of application

2—(1) The Department must make regulations providing for the giving of notice of the making of applications for an HMO licence.

(2) Regulations under sub-paragraph (1) may in particular—

(a) require the applicant to cause notice of an application to be displayed on or near the HMO in question, or to cause such notice to be published in one or more newspapers circulating in the locality of the HMO;

(b) permit or require the council to cause such notice to be displayed or published, either at the council's expense or at the applicant's expense;

(c) specify information which must be displayed or published in or together with notice of an application, which may include notice of a right to make representations about the application and of the manner and period in which such representations must be made;

(d) specify requirements as to the form and manner of notice of an application, and the period for which it must be displayed or published;

(e) provide (subject to such conditions as may be specified in the regulations) for exceptions from any requirement to display or publish notice, in particular where the council is satisfied that displaying or publishing a notice would be likely to jeopardise the safety or welfare of any persons or the security of any premises;

(f) provide for the consequences of failing to comply with requirements imposed by the regulations (and such consequences may include permitting or requiring the council to cease to consider the application in question).

Notice to statutory authorities

3 The council must send a copy of any application for an HMO licence to the statutory authorities.

Representations in response to notices

4—(1) A representation made in response to a notice under regulations under paragraph 2 is valid only if it—

(a) is made in writing,

(b) sets out the name and address of the person making the representation, and

(c) is made on or before the deadline for making written representations.

(2) The deadline for making written representations is to be set out in, or determined under, regulations made by the Department.

REFUSAL OF APPLICATION: BREACH OF PLANNING CONTROL

5 Paragraphs 6 and 7 apply where the council is not satisfied that the occupation of the living accommodation as an HMO would not constitute a breach of planning control (within the meaning given by section 131 of the Planning Act (Northern Ireland) 2011).

6—(1) The council must serve on the applicant a notice which—

- (a) states that the council has decided to refuse the application,
- (b) sets out the reason for the decision, and
- (c) sets out the effect of paragraph 7.

(2) The notice must be served on the applicant before the end of the period of 28 days beginning with the day on which the application is made.

(3) The council must send a copy of the notice to the statutory authorities.

7—(1) This paragraph applies if, after the council has refused an application under paragraph 6, the applicant obtains—

- (a) planning permission under Part 3 of the Planning Act (Northern Ireland) 2011, or
- (b) a certificate of lawfulness of use or development under section 169 or 170 of that Act,

in respect of the occupation of the living accommodation as an HMO.

(2) If—

- (a) the applicant makes a further application for an HMO licence in respect of the living accommodation, and
- (b) does so before the end of the period of 28 days beginning with the date on which the applicant obtains the permission or certificate,

no fee may be charged in respect of that application.

CONSIDERATION OF APPLICATION AND HEARINGS

8 Paragraphs 9 to 13 apply where the council does not consider that occupation of the living accommodation would constitute a breach of planning control (within the meaning given by section 131 of the Planning Act (Northern Ireland) 2011).

Notice of proposed decision

9—(1) The council must serve a notice under this paragraph on—

- (a) the applicant, and
- (b) each relevant person.

(2) A notice under this paragraph must state which of the following the council proposes to do—

- (a) grant the licence in the terms applied for;
- (b) grant the licence in terms different from those applied for;
- (c) refuse the licence.

(3) A notice under this paragraph must also—

(a) if the council proposes to grant the licence, set out the main terms of the proposed licence and any terms which differ from those applied for,

(b) state the reasons for the proposed decision (including any proposed differences), and

(c) specify the date by which written representations by the recipient of the notice must be made.

(4) The date specified under sub-paragraph (3)(c) must be not less than 14 days after the date on which the notice is served.

(5) The notice must be accompanied by a copy of any valid representations received by the council in response to a notice under regulations under paragraph 2.

(6) In this Schedule, a “relevant person” is any of the following (other than the applicant)—

(a) a person named in the application in accordance with paragraph 1(2)(d) or (e) (managing agents and persons having an estate in the HMO);

(b) a person who is not so named but who, to the knowledge of the council—

(i) is or is proposed to be a managing agent of the HMO, or

(ii) has a relevant interest in it (see sub-paragraph (7));

(c) a person who is proposed to be named in the licence as a person on whom a restriction or obligation is imposed under section 14.

(7) In sub-paragraph (6)(b), a “relevant interest” is—

(a) a freehold estate;

(b) a leasehold estate, unless the unexpired term of the lease is 3 years or less;

(c) a mortgage, charge or lien.

Hearings

10—(1) This paragraph applies if the council decides (whether on a submission by the applicant or a relevant person, or on its own initiative) to hear oral representations about the application.

(2) The council must serve notice of the hearing on—

(a) the applicant,

(b) every relevant person,

(c) every person who made valid representations in response to a notice under regulations under paragraph 2, and

(d) any other person the council considers appropriate.

(3) The notice must state the date, time and place of the hearing.

(4) The notice must be served not less than 7 days before the date of the proposed hearing.

(5) "Relevant person" has the meaning given by paragraph 9(6).

Consideration of application

11 In determining whether to grant the licence (and in what terms) the council must consider—

- (a) any valid representations made in response to a notice under regulations under paragraph 2,
- (b) any written representations made by a recipient of a notice under paragraph 9 before the date specified under paragraph 9(3)(c), and
- (c) any oral representations made at a hearing under paragraph 10.

Time limit for determining application

12—(1) The council must decide whether to grant or refuse an application for an HMO licence before the end of the period of 3 months beginning with the date on which the council received it.

(2) A court of summary jurisdiction may extend the period mentioned in sub-paragraph (1) in the case of a particular HMO application.

(3) An order under sub-paragraph (2) is to be made on an application made by the council before the end of the period mentioned in sub-paragraph (1).

(4) The applicant for the licence is entitled to be a party to any proceedings on an application under sub-paragraph (3).

(5) The decision of a court on an application under sub-paragraph (3) is to be final.

(6) If the council does not determine an application for an HMO licence before the end of the period mentioned in sub-paragraph (1) (or that period as extended), the applicant is to be treated as having been granted a licence in the terms applied for.

(7) Sub-paragraph (6) does not prevent the council from varying or revoking a licence which is treated as having been granted in accordance with that sub-paragraph.

Notice of determination

13—(1) The council must serve notice of its decision on an application for an HMO licence on—

- (a) the applicant,
- (b) each relevant person (within the meaning given by paragraph 9(6)), and
- (c) the statutory authorities.

(2) The notice must—

- (a) state the council's decision,
- (b) if the decision is to grant a licence, be accompanied by a copy of the licence,
- (c) if the licence is granted in terms different from those applied for, include a statement of the reasons for that difference, and
- (d) state the date on which the decision was made.

(3) The notice must be served before the end of the period of 7 days beginning with the day on which the decision is made.

FALSE OR MISLEADING INFORMATION

14—(1) A person commits an offence if—

- (a) the person provides information in connection with an application for an HMO licence,
- (b) the information is false or misleading in a material particular, and
- (c) the person knows that it is, or is reckless as to whether it is, false or misleading.

(2) A person guilty of an offence under sub-paragraph (1) is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

Appeals

Section 67

67—(1) This section applies to the following decisions of a council—

- (a) to issue a household notice;
- (b) to refuse to cancel a continuation notice;
- (c) to grant an HMO licence (including any decision as to its terms or any conditions included in it);
- (d) to refuse an application for an HMO licence, unless the refusal is solely because the council is not satisfied as mentioned in section 8(2)(a) (planning control);
- (e) to issue a temporary exemption notice (including any decision as to the inclusion of safety and security requirements under section 17);
- (f) to refuse an application for a temporary exemption notice;
- (g) to revoke a temporary exemption notice, or to refuse to grant an extension of one;
- (h) to renew an HMO licence (including any decision as to its terms or any conditions included in it as from its renewal);
- (i) to refuse an application to renew an HMO licence;
- (j) to vary an HMO licence, or to refuse an application to vary one;
- (k) to revoke an HMO licence;
- (l) to refuse to extend the period for which a licence has effect under section 29 (death of sole licence holder);
- (m) to issue a rectification notice (including any decision as to the terms of it), or to refuse to revoke such a notice;
- (n) to issue a Part 4 notice (including any decision as to the terms of it);
- (o) to vary or revoke a Part 4 notice, or to refuse an application to vary or revoke one;
- (p) to demand recovery of expenses under paragraph 9 of Schedule 3.

(2) An appeal may be made to the county court against any decision to which this section applies.

(3) An appeal may be made only by a person on whom notice is required to be served under the provision of this Act in question.

(4) An appeal must be made before—

(a) the end of the period of 28 days beginning with the date on which notice was served on the person, or

(b) if later, the end of the period of 7 days beginning with date on which reasons for the decision were served under section 68.

(5) But the court may allow an appeal to be made after that date, if it considers that there are special circumstances which make it just to do so.

(6) Where—

(a) a person makes an application, in accordance with this Act, for a decision to which this section applies (except an application for an HMO licence or for the renewal of one), and

(b) the council does not notify the applicant of its decision within the period of 35 days beginning with the date on which the application was made (or such further period as the applicant may in writing allow),

the applicant may make an appeal under this section as if the council had refused the application.

(7) In this section, references to the service of notice are—

(a) in the case of a decision to issue a notice, to the service of that notice;

(b) otherwise, to service of notice of the decision.

Advice:

If you want independent advice about your rights and obligations, you should go to a Citizens Advice Bureau, Housing Advice Centre, Law Centre or a Solicitor.