

Licensing Committee

Wednesday, 21st May, 2025

MEETING OF THE LICENSING COMMITTEE

Members present: Alderman Rodgers (Chairperson);
Alderman McCullough; and
Councillors Anglin, Bradley, T. Brooks,
M. Donnelly, P. Donnelly, Doran,
D. Douglas, Kelly, McCann,
McDowell, McKay, Ó Néill and Smyth.

In attendance: Ms. K. Bentley, Director of Planning and Building Control;
Mr. K. Bloomfield, HMO Manager;
Mr. K. McDonnell, Solicitor (Regulatory and Planning);
Mr. J. Cunningham, Senior Licensing Officer; and
Mrs. L. McLornan, Committee Services Officer.

Apologies

Apologies for inability to attend were reported from the High Sheriff (Councillor McAteer) and Councillors Abernethy and Collins.

Minutes

The minutes of the meeting of 16th April were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 1st May.

Declarations of Interest

No declarations of interest were recorded.

Delegated Matters

THE COMMITTEE DEALT WITH THE FOLLOWING ITEMS IN PURSUANCE OF THE POWERS DELEGATED TO IT UNDER STANDING ORDER 37(d)

Licences Issued Under Delegated Authority

The Committee noted a list of applications for licences which had, since its last meeting, been approved under the Council's Scheme of Delegation.

Houses in Multiple Occupation (HMO) Licenses Issued Under Delegated Authority

The Committee noted a list of applications which had been approved under the Council's Scheme of Delegation during April, 2025.

**Application for a New Licence to operate a
House of Multiple Occupation for Flat 3, 27
Cromwell Road**

The HMO Unit Manager provided the Committee with an overview of the application.

He outlined that the property had had the benefit of an HMO licence issued by the Council with a start date of 11th March, 2020, and an expiry date of 11th March, 2025, in the name of Mr. Derek Blundell. Mr. Blundell had died on 12th April 2023.

In accordance with Section 29 “Death of sole license holder: effect on licence” of the Houses in Multiple Occupation Act (Northern Ireland) 2016, where a sole licensee died, the HMO licence was to be treated as being held, from the date of death, by the licensee’s personal representatives, but ceased to have effect three months after that date.

The Committee was advised that the Council may, on application from the personal representatives of the licensee, extend the period for which the licence had effect beyond the three month period if the Council considered that it was reasonable to do so for the purpose of winding up the licensee’s estate.

The Council had not been made aware of Mr. Blundell’s death at the time, nor did it receive an application to extend the period for which the licence has effect and, as such, the licence ceased to have effect on 12th July, 2023. An application for a new HMO licence was received from Mrs. Barbara Blundell on 31st October, 2024.

Following the submission of the HMO licence, officers had established that ownership of the property had transferred to Mrs. Blundell via a deed of family arrangement in November 2023.

A temporary exemption notice “TEN” was applied for on 9th March, 2025, and subsequently granted on 22nd April, 2025.

The HMO Manager outlined that, pursuant to the 2016 Act, the Council could only grant a licence if it was satisfied that:

- a) the occupation of the living accommodation as an HMO would not constitute a breach of planning control;
- b) the owner, and any managing agent of it, were fit and proper persons;
- c) the proposed management arrangements were satisfactory;
- d) the granting of the licence would not result in overprovision of HMOs in the locality;
- e) the living accommodation was fit for human habitation and—

- i. was suitable for occupation as an HMO by the number of persons to be specified in the licence, or
- ii. could be made so suitable by including conditions in the licence.

The Committee was advised that, as it was a new application, the Council's Planning Service was consulted. It had confirmed that no planning permission or a Certificate of Lawful Existing Use of Development "CLEUD" had been granted for the property, however, following an assessment of tenancy agreements submitted by the applicant, officers were satisfied that the occupation of the living accommodation as an HMO would not constitute a breach of planning control.

It was reported that the NIHMO Unit had consulted with the Environmental Protection Unit in relation to daytime noise; the Public Health and Housing Unit in relation to rubbish accumulation/filthy premises; and the Enforcement Unit in relation to litter and waste and all had confirmed that there had been no relevant enforcement action required in respect of any of the issues in the HMO in the last 5 years.

For the purpose of Section 12(2) of the 2016 Act, the Council had determined the locality of the accommodation as being Housing Management Area (HMA) "2/22 Botanic, Holylands, Rugby" as defined in the document Council's Local Development Plan Strategy, which was formally adopted in May, 2023. It was reported that Legal Services had advised that there was a clear requirement in section 8 of the 2016 Act upon the Council to be satisfied that the granting of a licence would not result in overprovision.

The officers had had regard to:

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

To inform the Council in its consideration of the above provisions, the Council had taken account of the 2023 Strategy given that "Nurturing sustainable and balanced communities was a fundamental aim of the LDP's housing policies." In particular, the Council had considered Policy HOU10, which stated:

"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."

The Committee was advised that, on the date of assessment, 5th March 2025, 88% of all dwelling units in policy area HMA 2/22 were made up of HMOs and flats/apartments, which in turn exceeded the 20% development limit as set out in Policy HOU10. There were 1142 (46%) licensed HMOs with a capacity of 4795 persons in that HMA.

It was outlined that there were a total of 2476 dwelling units in HMA 2/22. The Members were advised that, on 5th March, 2025, out of 281 premises available for rent within the BT7 area, there were 162 licensed HMOs which represented 688 bed spaces.

The Committee was advised that the fact that the use of the property as an HMO was permitted for planning purposes was a relevant consideration in determining whether the granting of the licence would result in overprovision.

The Houses in Multiple Occupation Manager reminded the Committee that there was a need for intensive forms of housing and, to meet that demand, HMOs were an important component of the housing provision. HMOs, alongside other accommodation options within the private rented sector, played an important role in meeting the housing needs of people who were single, who had temporary employment, students, low income households and, more recently, migrant workers and asylum seekers.

He explained that, in assessing the number and capacity of licensed HMOs, as well as the need for HMO accommodation in the locality, officers could not be satisfied that the granting of the HMO licence would 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.

The Committee was advised that it might consider that, in the circumstances, namely that the premises had previously operated as a licensed HMO and remained occupied as an HMO until 22nd July, 2025, in accordance with the provisions of the temporary exemption notice which was in place, that the granting of the licence would not result in overprovision notwithstanding the proposed refusal by officers.

The Committee was advised that no objections had been received in relation to the application. It was also reported that the accommodation had been inspected by the NIHMO service, on 14th January, 2025, at which time it complied with the physical standards for an HMO for three persons.

On 21st March, 2025, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, officers had issued a Notice of Proposed Decision to the applicant, stating that it proposed to refuse the licence on the grounds of over provision.

The HMO Unit Manager advised the Committee that Section 29 of the 2016 Act transferred the licence of a deceased sole licence-holder to that person's executor. The licence expired three months after the date of death, unless the Council was satisfied that it was reasonable to extend it in order to wind up the holder's estate.

The restricting factor in section 29 was the requirement for the Council to be notified of the death of the sole licence-holder. Counsel's advice was sought and obtained on the issue, and Legal Services had confirmed that there might be some scope to grant an extension to the three-month period that was triggered by the death of an owner under section 29. While Section 29(3) provided that any application for an

extension “must be made within the [three-month] period”, there was authority to suggest that mandatory time-limits could be read flexibly where the balance between public and private interests merited such an approach. He advised that it was a matter for the Committee to determine where the balance was to be struck between those interests in the circumstances of the particular matter.

Mrs. Blundell’s legal representative, McCann and McCann Solicitors, had submitted correspondence citing that Mr D. Blundell’s Will could not be found and his wife, the applicant, had to go through intestacy rules with her Solicitor to obtain a Grant of Probate. The correspondence had also referenced that the Committee had taken a decision to grant an HMO licence in similar circumstances in June 2022.

The HMO Unit Manager outlined that, should the Committee consider it reasonable in the circumstances, it might be minded to exercise its discretion and extend the three-month period under section 29. In that case, the licence would remain extant and granting the application would not amount to overprovision.

He also pointed out that the Department for Communities had confirmed in its June 2023 review that it proposed to extend the three-month time period to one year.

In response to a Member’s query, the HMO Unit Manager confirmed that the application before Members had been solely in the name of Mr. Blundell, whereas the other HMO properties were all held in joint names.

The Chairperson welcomed Mrs. B. Blundell, the applicant, to the meeting.

She outlined that the matter had only been brought to her attention when she was applying to the Council for the Licence and she was asked for proof of ownership of the flat. She stated that the HMO complied with all standards and regulations. She added that she was sorry that she had not informed the Council within three months of her husband’s death but that, unfortunately, the situation had been exacerbated when his Will could not be found, thereby meaning that she had had to go through intestacy rules to obtain a Grant of Probate.

The Chairperson, on behalf of the Committee, expressed his sympathy to Mrs. Blundell on the loss of her husband.

Proposal

Moved by Councillor Doran
Seconded by Alderman McCullough

That, given the circumstances outlined regarding the death of the former HMO licensee and the difficulties associated with the intestacy rules, that the Committee agrees to extend the time period on this occasion, under Section 29, and to grant the licence to Mrs. Blundell, forming a continuation of the extant licence.

During discussion, a Member stated that, while he had sympathy for the applicant, he had concerns about the Committee exercising its discretion.

A further Member asked if the applicant owned any other licensed HMOs. The HMO Unit Manager advised the Committee that she had 12 other HMOs in her name. A Member proposed that the Committee should adhere to the original decision and not exercise its discretion in extending the time period under Section 29 stating that, as the application was not the sole HMO in her name, it would not greatly affect her livelihood.

After discussion, Councillor Doran subsequently withdrew his proposal.

Proposal

Moved by Councillor T. Brooks
Seconded by Councillor Ó Néill and

Resolved – that the Committee agrees to refuse the application as, in accordance with Section 12 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, it could not be satisfied that the granting of the HMO licence would not result in overprovision of HMO accommodation in the locality of the accommodation, as determined under section 8(2)(d) of the Act.

Competing Stationary Street Trading Licence applications for Duncrue Link 50ft from the junction with Duncrue Road

The Senior Licensing Officer advised the Committee that it was being asked to consider two competing Stationary Street Trading Licence applications to trade at a designated site in Duncrue Link. The site was designated to allow for the sale of hot food and non-alcoholic beverages and both applications complied with the designating resolution for the site.

The first application was received from Ms. Vanessa Kemp. She had applied to sell hot food and non-alcoholic beverages from a catering van measuring 5.5m by 2.15m. Her proposed hours of operation were Monday to Friday, 7.00am to 5.00pm. Miss. Kemp had not previously held a street trading licence with Belfast City Council but was registered with the Council's Environmental Health Food Safety and had a food hygiene rating of 5.

The second application was from Mr. Daniel Smith. He had applied to sell hot food and non-alcoholic beverages from a catering van measuring 7.92m by 2.44m. His proposed hours of operation were Monday to Friday, 8.00am to 2.30pm. Mr. Smith had not previously held a street trading licence with Belfast City Council. He was registered with the Council's Environmental Health Food Safety and was awaiting initial inspection.

The PSNI and DFI Roads had been consulted and had no objections to either application, subject to correct vehicle positioning.

The Chairperson advised the Committee that the two applicants were in attendance to outline their proposals for the site. He invited Ms. Kemp and her father, Mr. A. Kemp, to address the Committee first.

Mr. Kemp outlined that his daughter had been working in the catering trade for 15 years and that he had a Street Trading Licence with the Council. He queried why, after her application, which had been lodged in January 2025 and subsequently marked as “pending approval”, was a further application accepted for the same site, in March 2025.

In regards to the process, the Senior Licensing Officer explained that the Council had no power to refuse an application and it had to be considered.

In response to a further Member’s query regarding the process, he further explained that there was no time limit for a street trading licence application and, had the consultation been completed on the first application received, with no objections, it would most likely have been processed and issued. He added that officers published the term “pending” beside any live applications on the website to try and discourage additional applications from being submitted and that applicants were advised if they were the second or third applicant, for example.

The Chairperson then welcomed Mr. D. Smith to the meeting.

Mr. Smith advised the Committee that he had purchased the van off the trader who had previously operated at the site for around forty years, as the previous trader’s wife had become unwell. Mr. Smith stated that the previous trader’s niece had continued to work for him, along with the same menu offering, staff and suppliers.

A Member requested information from both traders in respect of their food receptacles and their waste products.

During discussion, some Members stated that they felt that the licence should be given to Mr. Smith, as he had stated that he would be operating at the site with the same menu and staff that had been trading in the area for 40 years.

In response to Members’ comments, the Solicitor advised the Committee that the two applications before the Committee were both new applications, as the previous business which had been operating from that site had ceased trading in December 2024.

Other Members stated that they felt that the licence should be granted to Ms. Kemp, given that her application had been lodged with the Council first.

A further Member stated that one of the applicants had a food safety rating. A further Member added that you could only get a rating when you began trading and to use that reasoning would be unfair to any new business.

A number of Members stated that they felt that the process was somewhat confusing.

The Director agreed to bring a report to a future meeting in order to further clarify and, where possible, simplify the process for the Committee's consideration of competing Street Trading Licence applications.

Proposal

Moved by Councillor Ó Néill,
Seconded by Councillor T. Kelly,

That the Committee is minded to grant and approve the licence to Mr. Smith and minded to refuse the licence application to Ms. V. Kemp under the discretionary grounds within Section 9 of the Street Trading Act (Northern Ireland) 2001.

Amendment

Moved by Councillor D. Douglas,
Seconded by Councillor Smyth,

That the Committee is minded to grant and approve the licence to Ms. V. Kemp and given the fact that there is only one designated site available, is minded to refuse the licence application to Mr. D. Smith on the grounds set out in Section 9 (a) (i) and (iv) of the Street Trading Act (Northern Ireland) 2001, namely, that the location at which the applicant wishes to trade as a stationary trader is unsuitable and there are sufficient traders trading in the street, or at premises adjoining it, in the articles, things or services in which the applicant wishes to trade.

On a vote on the Amendment, standing in the name of Councillor Douglas, eight Members voted for it and seven Members against and it was accordingly declared carried.

Competing Stationary Street Trading Licence applications for Boucher Crescent at lamp post number 16

The Senior Licensing Officer advised the Committee that it was being asked to consider two competing Stationary Street Trading Licence applications to trade at a designated site in Boucher Crescent. The site was designated to allow for the sale of hot food and non-alcoholic beverages and both applications complied with the designating resolution for the site.

The first application was received from Mr. Ajithjosedaniel Arputharaj. He had applied to sell hot food and non-alcoholic beverages from a trailer measuring 5.5m by 2.1m. His proposed hours of operation were Monday to Sunday, 7.00am to 9.00pm. He had not previously held a street trading licence with Belfast City Council. He was registered with the Council's Environmental Health Food Safety and was awaiting initial inspection.

The second application was from Mr. Aaron Smallwood. He had applied to sell hot food and non-alcoholic beverages from a trailer measuring 3m by 2m. His proposed hours of operation were Monday to Saturday, 9.00am to 3.30pm. Mr. Smith had not previously held a street trading licence with Belfast City Council. He was registered with North Down and Ards Borough Council's Environmental Health Food Safety where he had a five star food hygiene rating.

The PSNI and DFI Roads had been consulted and had no objections to either application, subject to correct vehicle positioning.

The Chairperson advised the Committee that the two applicants were in attendance to outline their proposals for the site. He invited Mr. Arputharaj and his wife Mrs. Vinoliya Sahayaraj to address the Committee first.

Mrs. Sahayaraj explained that she was the co-owner of the business and was also a nurse. She stated that a healthy gut made a healthy mind and they wanted to offer something different to the local area, including Indian dosas and fresh fruit juices.

The Chairperson then welcomed Mr. Smallwood. He advised the Committee that he had an airstream-style trailer which had been custom built for his business. He proposed to sell sourdough toasties, locally roasted coffee and locally made traybakes. He also proposed to employ people in the local area.

The Senior Licensing Officer advised the Members that the first application, from Mr. Arputharaj, was received six days before Mr. Smallwood's application.

In response to a Member's query, he clarified that a Food Hygiene rating was awarded after an inspection of the area/vehicle used for food preparation and serving, and was not awarded to a person.

A further Member stated that it was, again, hard to determine which business should be awarded the pitch as both seemed like good businesses. However, he stated that he felt that the Committee should consider awarding the licence to Mr. Smallwood, given that he had invested significant money into the trailer, that it was his intention to use local produce and that he had previously been awarded a five-star food hygiene rating by another Council.

A further Member stated that, in order to be consistent with the previous application, that the licence be granted to the application which had been received first.

Moved by Councillor Ó Néill
Seconded by Councillor T. Brooks and

Resolved - That the Committee is minded to grant and approve the licence to Mr. Arputharaj and, given the fact that there is only one designated site available, is minded to refuse the licence application to Mr. A. Smallwood on the grounds set out in Section 9 (a) (i) and (iv) of the Street Trading Act (Northern Ireland) 2001, namely, that the location at which the applicant wishes to trade as a stationary trader is unsuitable and there are sufficient traders trading in the street, or at premises

adjoining it, in the articles, things or services in which the applicant wishes to trade.

Chairperson