

**Democratic Services Section
Legal and Civic Services Department
Belfast City Council
City Hall
Belfast
BT1 5GS**



**Belfast
City Council**

15th December, 2020

MEETING OF LICENSING COMMITTEE

Dear Alderman/Councillor,

The above-named Committee will meet in the Lavery Room - City Hall on Wednesday, 16th December, 2020 at 5.00 pm, for the transaction of the business noted below.

You are requested to attend.

Yours faithfully,

SUZANNE WYLIE

Chief Executive

AGENDA:

1. **Routine Matters**

- (a) Apologies
- (b) Minutes
- (c) Declarations of Interest

2. **Presentations**

- (a) Mr. D. Boyle
- (b) Mr. M. McMahon
- (c) Mr. S. Magill - LANI

3. **Delegated Matters**

- (a) Licenses Issued Under Delegated Authority (Pages 1 - 4)
- (b) Designation of Street Trading Sites (Pages 5 - 22)

- (c) Houses in Multiple Occupation (HMO) Licences Issued Under Delegated Authority (Pages 23 - 26)
- (d) Applications for the renewal of a Licence to operate a House of Multiple Occupation for 2 St Albans Gardens (Pages 27 - 46)
- (e) Applications for the renewal of a Licence to operate a House of Multiple Occupation for 7 Sandymount Street (Pages 47 - 66)
- (f) Applications for the renewal of a Licence to operate a House of Multiple Occupation for 61 Sandhurst Gardens (Pages 67 - 86)
- (g) Applications for a New Licence to operate a House of Multiple Occupation for 11 Penrose Street (Pages 87 - 110)
- (h) Addendum report in respect of an application for a New Licence to operate a House of Multiple Occupation for 32 Stranmillis Gardens (Pages 111 - 144)

4. **Non-Delegated Matters**

- (a) Licence Fees for Sex Establishments (Pages 145 - 146)
- (b) Pavement Café Licence Hours of Operation (Pages 147 - 150)
- (c) Amendment of Standard Terms and Conditions to include an Emergency Out of Hours Contact Number (Pages 151 - 168)
- (d) Amendment of the Scheme of Delegation to Delegate Authority to determine Some Renewal Applications with Objections (Pages 169 - 180)
- (e) Proposed process for dealing with new licence applications for premises which previously operated as a HMO (Pages 181 - 186)



Subject:	Licences Issued Under Delegated Authority
Date:	16 December 2020
Reporting Officer:	Stephen Hewitt, Building Control Manager, Ext. 2435
Contact Officer:	James Cunningham, Regulatory Services Manager, Ext. 3375

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	Under the Scheme of Delegation, the Director of Planning and Building Control is responsible for exercising all powers in relation to the issue, but not refusal, of Permits and Licences, excluding provisions relating to the issue of Licences where adverse representations have been made.
2.0	Recommendations
2.1	The Committee is requested to note the applications that have been issued under the Scheme of Delegation.

3.0Main report

Key Issues

3.1Under the terms of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 the following Entertainments Licences were issued since your last meeting.

Premises and Location	Type of Application	Applicant
Allen Memorial Hall, 102-104 Cregagh Road, Belfast, BT6 9ER.	Renewal	Mr Jim Mc Curry
Andersonstown Social Club, 8e South Link, Belfast, BT11 8GX.	Renewal	Mr Gerard Hawkins
Belfast Waterfront Hall, 2 Lanyon Place, Belfast, BT1 3WH.	Renewal	Mr John Griffin, Belfast Waterfront & Ulster Hall Ltd.
Boucher Road Playing Fields, Boucher Road, Belfast, BT12 6E.	Renewal (Outdoor)	Mr Ryan Black, Belfast City Council
Boucher Road Playing Fields, Boucher Road, Belfast, BT12 6E.	Renewal (Marquee)	Mr Ryan Black, Belfast City Council
Brantwood Football & Recreation Club, Jellicoe Avenue, Belfast, BT15 3FZ.	Renewal	Mr Noel Holmes
Cafe on the Square, 6-8 Ulster Street, Belfast, BT1.	New Application	Mr Shane Corr, Custom House Cafe Ltd
Dundela F C & Social Club, Wilgar Street, Belfast, BT4 3BL.	Renewal	Ms Susan Gilmore
Lagan Village Rangers Supporters Club, 36-40 Castlereagh Place, Belfast, BT5 4NN.	Renewal	Mr William Robert Ferguson
Newforge Country Club, 18b Newforge Lane, Belfast, BT9.	Renewal	Mr Alistair McGowan
The Dirty Onion & Yard Bird, 42 Waring Street, Belfast, BT1	Renewal (Outdoor)	Mr James Sinton, Cathedral Leisure Ltd
The Dirty Onion & Yard Bird, 42 Waring Street, Belfast, BT1.	Renewal (Indoor)	Mr James Sinton, Cathedral Leisure Ltd
The Stadium Bar, 346-348 Shankill Road, Belfast, BT13 3AB.	Renewal	Mr Steven Harrison
The Stokers Halt, 195-199 Upper Newtownards Road, Belfast, BT4 3JB.	Renewal	Mr Philip Patterson, Approachable Group Ltd

3.2Under the terms of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 the following Entertainments Licences were issued since your last meeting. In each case the Licence holder has been convicted of an offence under the Order within five years of the application for a Licence being submitted to the Council, however each conviction has previously been considered by the Committee and delegated authority has only been exercised on the basis that:

- a) All safety, technical and managerial matters have been maintained in accordance with the terms, conditions and restrictions of the Entertainments Licence,
- b) There has been no recurrence of the breach for which the applicant was convicted, or any other offences have been committed,
- c) There are no representations in respect of the application.

Premises and Location	Type of Application	Applicant
Thompsons Garage, 3 Pattersons Place, Belfast, BT1 4GW.	Renewal	Mr Stephen Boyd, Endless Music Ltd

- 3.3 Under the terms of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 the following Amusement Permits were issued since your last meeting.

Premises and Location	Type of Application	Applicant
Oasis Gaming Centre, 19 North Street, Belfast, BT1 1NA.	Renewal	Mr Martin Trimble, Oasis Retail Service Ltd

- 3.4 Under the terms of the Street Trading Act (Northern Ireland) 2001 there were no Street Trading Licences issued since your last meeting.

- 3.5 Under the terms of the Road Traffic Regulation (Northern Ireland) Order 1997 the following Road Closure Orders were made since your last meeting.

Location	Type of Activity	Date and Hours permitted	Applicant
Donegall St, Union St, Little Donegall St, Library St, Kent St, Library St.	Filming	15:00 & 19:00 – 04:00 9th & 10 th November 2020	Mr David Cooke

Financial & Resource Implications

- 3.6 None

Equality or Good Relations Implications/Rural Needs Assessment

- 3.7 There are no issues associated with this report.

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Subject:	Designation of street trading sites
Date:	16 December 2020
Reporting Officer:	Stephen Hewitt, Building Control Manager, Ext. 2435
Contact Officer:	James Cunningham, Regulatory Services Manager, Ext. 3375

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	Committee will recall that, at your meeting in November, you agreed that the statutory consultation process in relation to the consideration of the designation of a number of proposed new street trading sites should commence.
1.2	Arising from the meeting Members had asked for further details to be provided of the proposed sites and these are included in appendix 1 to this report.
2.0	Recommendations
2.1	The Committee is requested to note the additional information provided.

2.2	Members are reminded that the outcome of the consultation process which has now been initiated will be brought before you for consideration in due course to determine those sites, if any, which will be designated for street trading purposes.
3.0	Main report
	<u>Key Issues</u>
3.1	Since your meeting in November, the statutory notice has been published and any representations relating to the proposed designation which are received will be brought before you for consideration.
3.2	Consultation with the PSNI, the Department for Infrastructure and others has also been initiated and these responses will form the basis of the future report that will be presented for consideration.
3.3	At that stage Members will also be able to determine any restriction on the commodities to be sold and to make any recommendations regarding the restriction on the times of trading.
3.4	Committee are also advised that written notification has been received from the applicant withdrawing the application to designate the site at 123 Miltown Road in the car park of Shaw's Bridge Sports Association. That application therefore no longer forms part of the consultation process.
	<u>Financial & Resource Implications</u>
3.5	None
	<u>Equality or Good Relations Implications/Rural Needs Assessment</u>
3.6	There are no issues associated with this report.
4.0	Appendices – Documents Attached
	Appendix1 – Details of proposed sites for designation.

Appendix 1



Belfast Boat Club, Lockview Road

Belfast Boat Club

Proposed
Location
of Site

Ri

FB

Weir

HP to which MTs flow

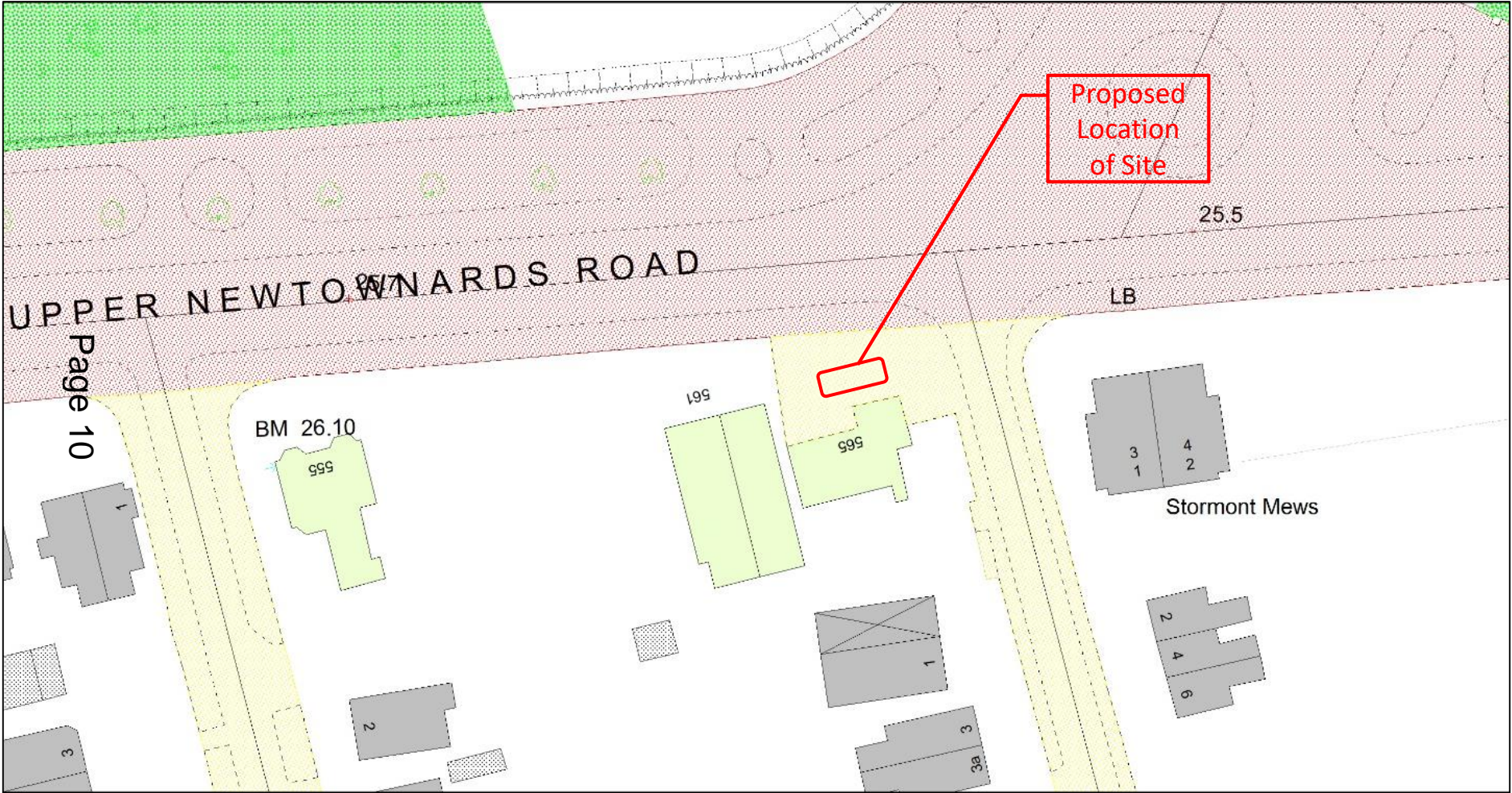
Fish Pass



Belfast
City Council

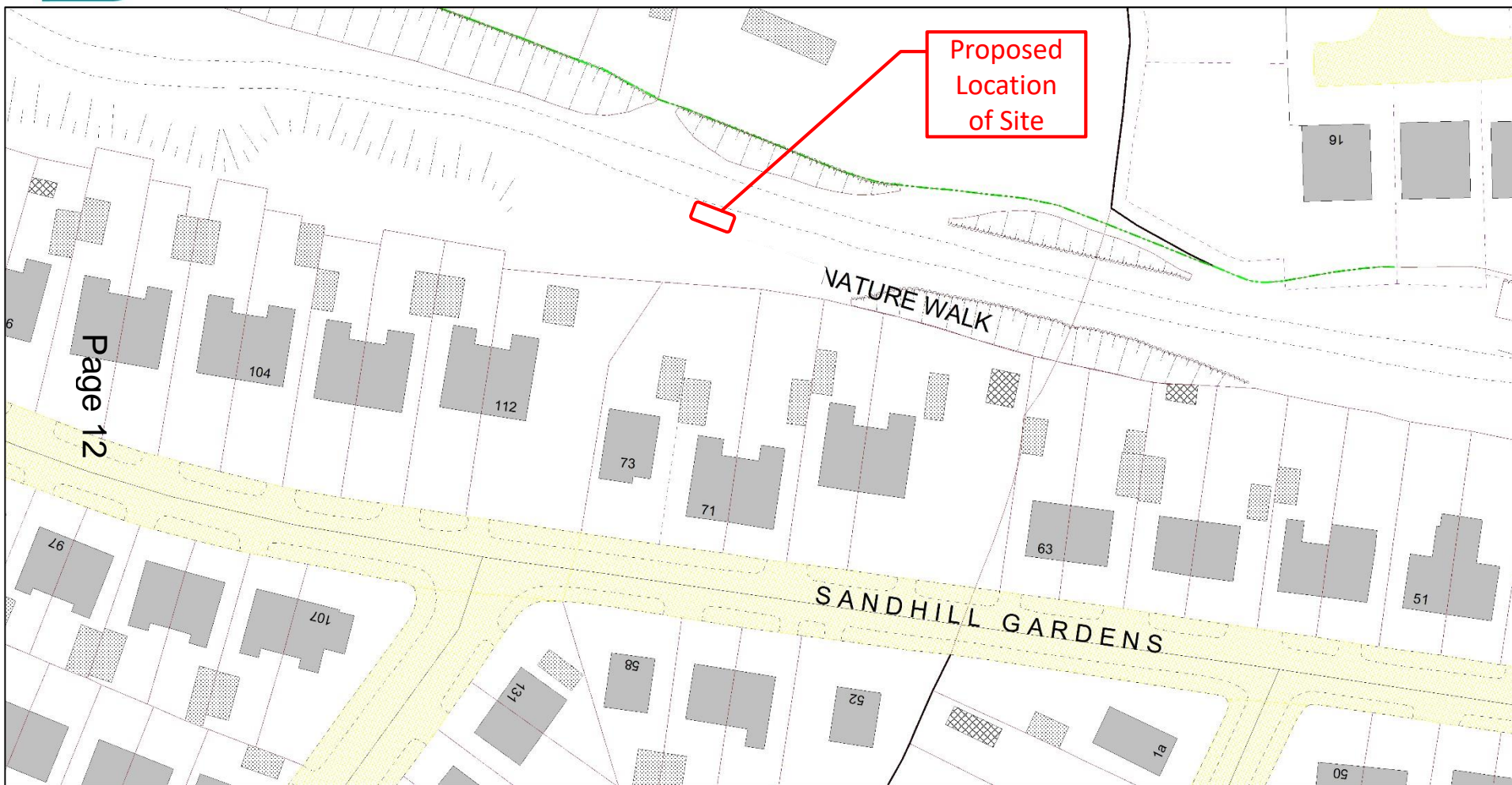


Upper Newtownards Road





Comber Greenway



Page 12

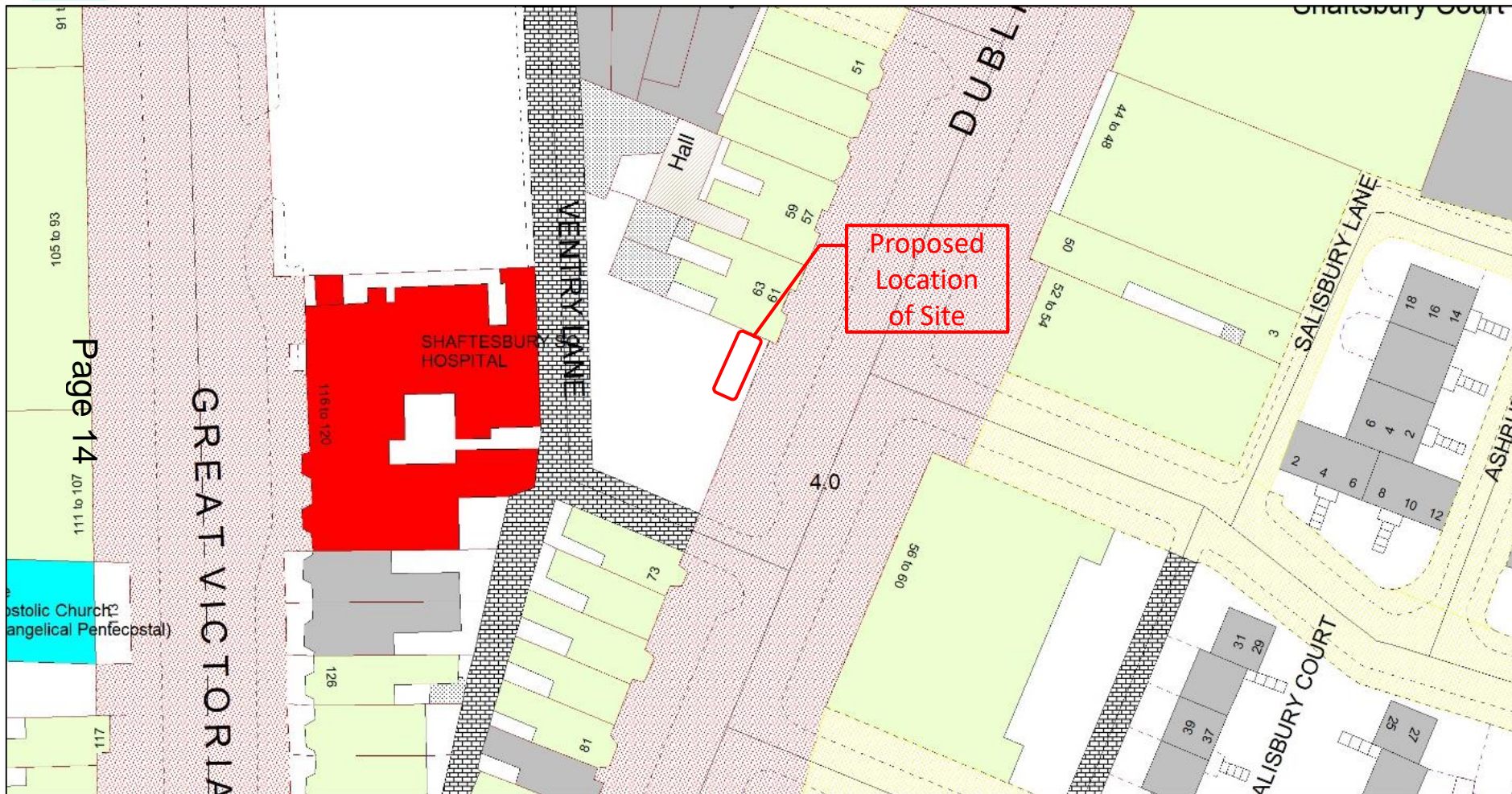


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City Council



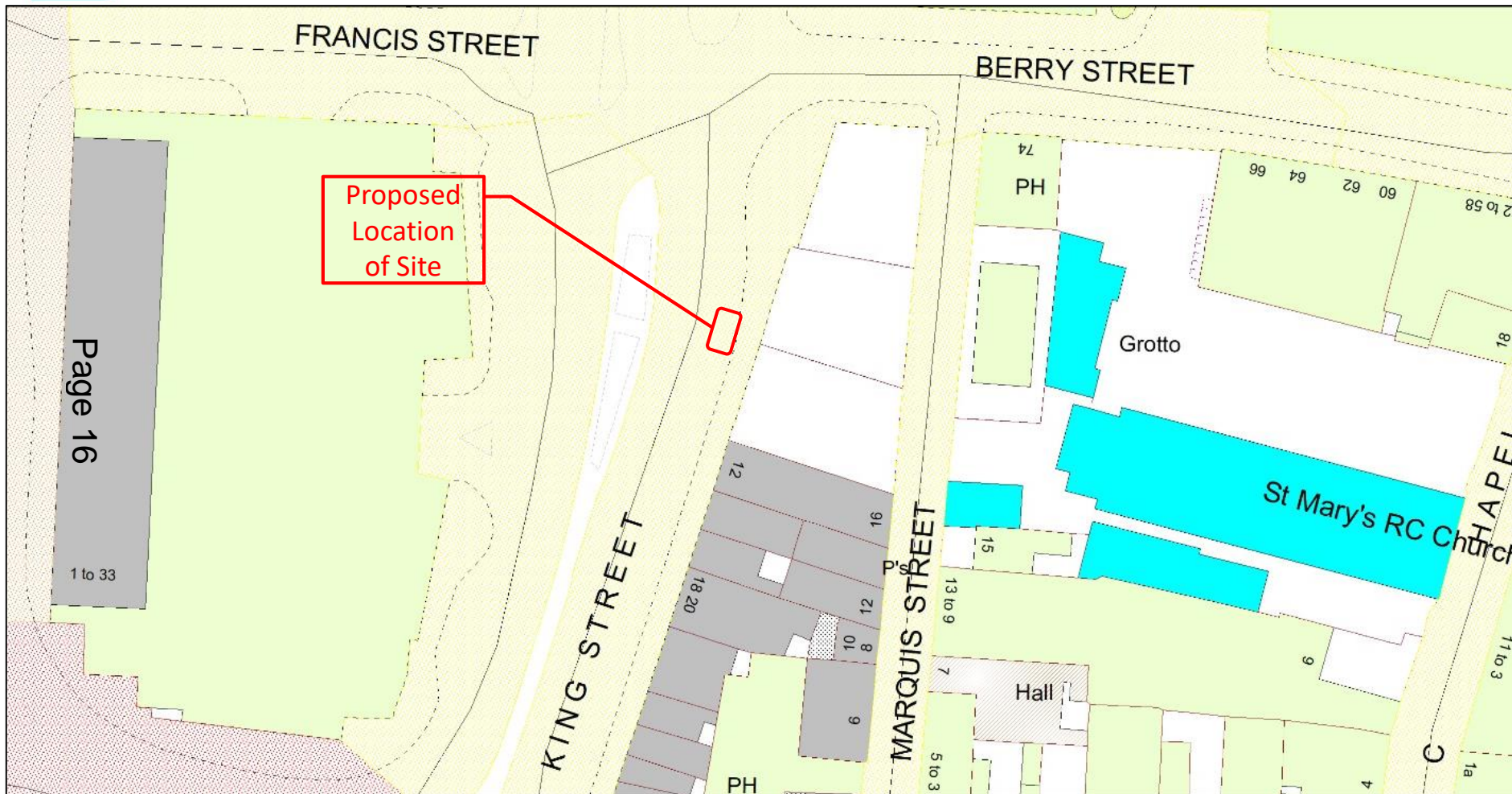
Belfast
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Dublin Road





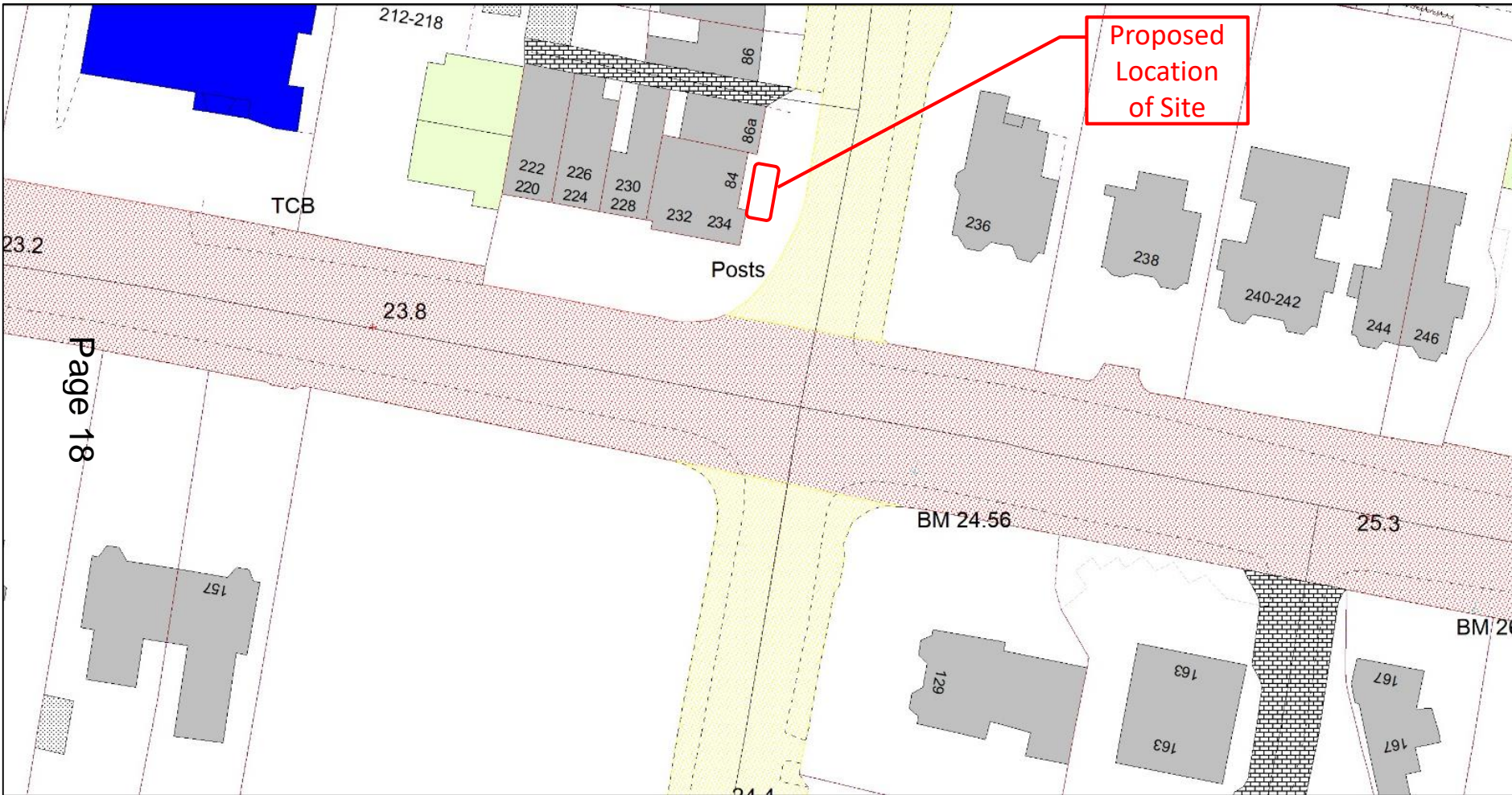
King Street





Belfast
City Council

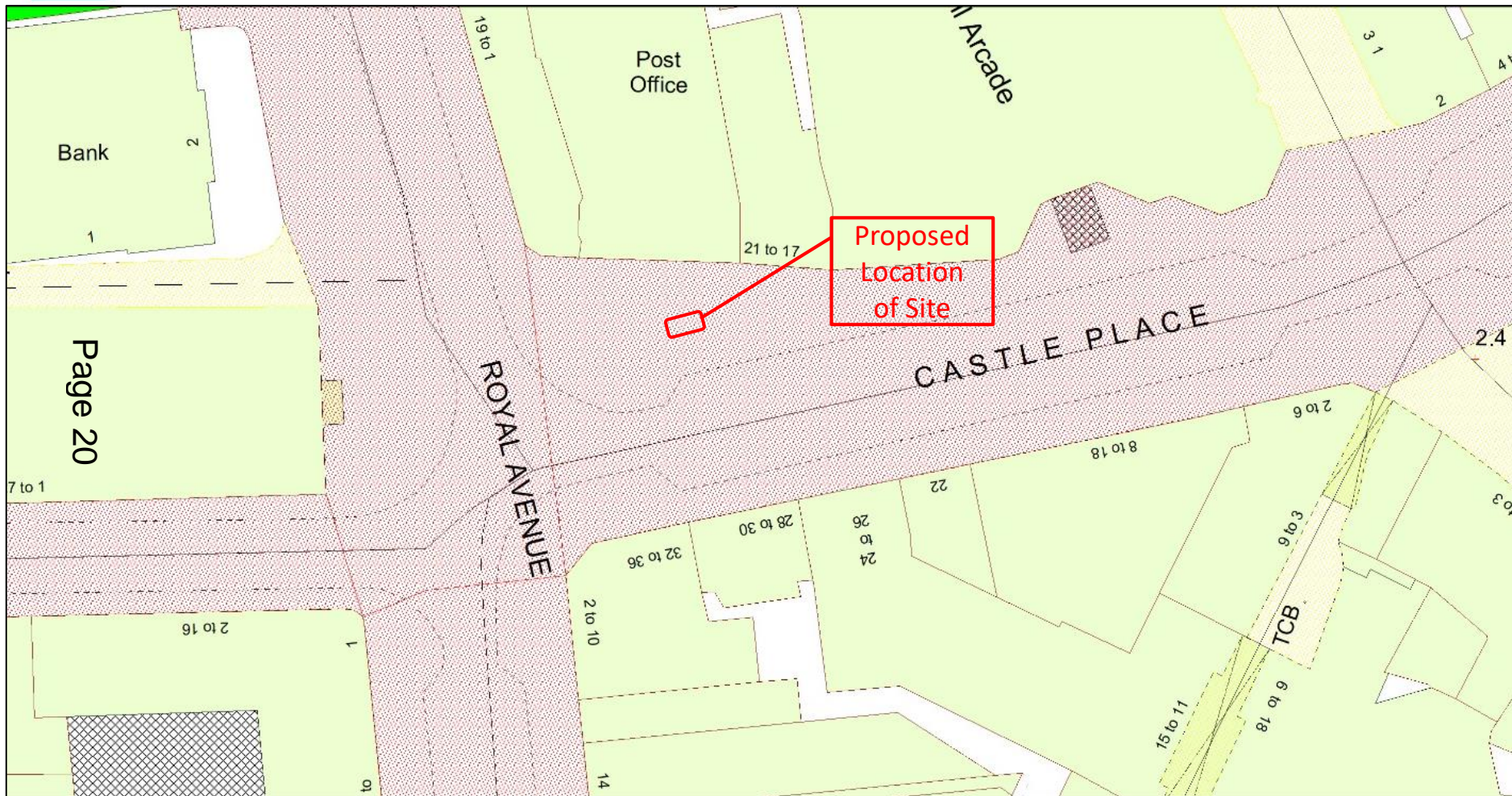
North Road





Belfast
City Council

VARIATION – Castle Junction





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Subject:	Houses in Multiple Occupation (HMO) Licences Issued Under Delegated Authority
Date:	16 December 2020
Reporting Officer:	Kevin Bloomfield, NIHMO Manager, 07584 270820
Contact Officer:	Valerie Brown, City Services Manager, tel. 9027 0668 Kevin Bloomfield, NIHMO Manager, 07584 270820

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	Under the Scheme of Delegation, the Director of City & Neighbourhood Services Department is responsible for exercising all powers in relation to the issue and variation, but not refusal, of HMO Licences, excluding provisions relating to the issue of HMO Licences where adverse representations have been made. Those applications which were dealt with under the Scheme are listed below.
2.0	Recommendations
2.1	The Committee is requested to note the applications that have been issued under the Scheme of Delegation.

3.0	Main report																																																																																												
	<p><u>Key Issues</u></p> <p>3.1 Under the terms of the Houses in Multiple Occupation Act (Northern Ireland) 2016 the following HMO Licences were issued during November 2020.</p> <table border="1"> <thead> <tr> <th>Address</th><th>Licensee</th></tr> </thead> <tbody> <tr><td>20 Sandhurst Gardens</td><td>Mr Kieran Greene</td></tr> <tr><td>13 Sandymount Street</td><td>Mr Brendan McCourt</td></tr> <tr><td>64 Sandhurst Gardens</td><td>Mr Shane Gilmore</td></tr> <tr><td>24 Mount Prospect Park</td><td>Mrs Jillian McGrath</td></tr> <tr><td>12 Ulsterville Gardens</td><td>Mr Eddie Fung</td></tr> <tr><td>Flat C, 39 Dunluce Avenue</td><td>Mr John Montgomery</td></tr> <tr><td>5 Sandhurst Gardens</td><td>Mr Eamonn O'Loingsigh</td></tr> <tr><td>Flat A, 6 Tate Avenue</td><td>Mr Robert Carlisle Greer</td></tr> <tr><td>31 Elaine Street</td><td>Mr John Francis Martin</td></tr> <tr><td>14a Chlorine Gardens</td><td>Mr Mark Michael McGarry</td></tr> <tr><td>Flat B, 39 Dunluce Avenue</td><td>Mr John Montgomery</td></tr> <tr><td>Apartment 3, 18 Cromwell Road Belfast Antrim BT7 1JW</td><td>University Area Properties Limited</td></tr> <tr><td>Flat 2, 6 Tate Avenue</td><td>Mr Robert Carlisle Greer</td></tr> <tr><td>28 Stranmillis Park</td><td>Mr Conal Treacy</td></tr> <tr><td>135 Dunluce Avenue</td><td>Mr Richard Stack</td></tr> <tr><td>37 Elaine Street</td><td>Mr Desmond McGovern</td></tr> <tr><td>31 Palestine Street</td><td>Mr Peter O'Hare</td></tr> <tr><td>Flat 3, 6 Tate Avenue</td><td>Mr Robert Carlisle Greer</td></tr> <tr><td>116 Cavendish Street</td><td>Mr Peter Canavan</td></tr> <tr><td>38 Springfield Road</td><td>Mr Francis McVeigh</td></tr> <tr><td>56 The Boulevard</td><td>Mrs Wendy Mae Millar</td></tr> <tr><td>23 Melrose Street</td><td>Mrs Patricia Collins</td></tr> <tr><td>Flat 2, 16 Belgravia Avenue</td><td>Mr Denis Currie</td></tr> <tr><td>23 Cairo Street</td><td>Mr David Humphreys</td></tr> <tr><td>49 Dunluce Avenue</td><td>Mrs Mairead Mulligan</td></tr> <tr><td>93 Bloomfield Avenue</td><td>Ms Janet Downing</td></tr> <tr><td>Flat 2, 4 Eblana Street</td><td>Mr John Shane McKeever</td></tr> <tr><td>Apartment 113, The Bass Buildings, 38 Alfred Street</td><td>Mr Emmett McKeown</td></tr> <tr><td>Apartment 2, 58 - 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Apartment 1, 50 - 52 Cromwell Road	SOBE Developments Limited
62 Sandhurst Gardens	Ms Jessica Magnier
103 University Avenue	Mr Rodney Woods
Flat 1, 14 Ireton Street	Botanic Avenue Properties Limited
Flat 2, 5 Fountainville Avenue	Methodist Church in Ireland
Flat 3, 14 Ireton Street	Botanic Avenue Properties Limited
Flat 2, 14 Ireton Street	Botanic Avenue Properties Limited
31 Fitzwilliam Street	Mr Stephen Gunning
94 Ulsterville Avenue	Mr David Humphreys
18 Carmel Street	Mr Kieran Campbell
Flat 2 19 Ulsterville Avenue	Douglas Huston
Flat 3, 51 Cromwell Road	Mr Diarmuid Phelan
Flat 1, 15 Malone Avenue	Mr Stephen Hagan
Apartment 3, 50 - 52 Cromwell Road	SOBE Developments Limited
Apartment 8, 54 - 56 Cromwell Road	SOBE Developments Limited
Flat 1, 66 Rugby Avenue	GO2BSA Limited
Flat 2, 66 Rugby Avenue	GO2BSA Limited
Flat 3, 66 Rugby Avenue	GO2BSA Limited
15 St Albans Gardens	Mr Paul McKeever
45 Fitzroy Avenue	Mr Paul O'Hare
42 Surrey Street	Ms Avril Bruce
Flat 2, 15 Malone Avenue	Mr Stephen Hagan
243 Donegall Road	Mr Justen Patrick Gill
62 Fitzroy Avenue	Mr Christopher Og McCann
Flat 3, 25 India Street	Croob Properties Limited
Flat 2, 25 India Street	Croob Properties Limited
Flat 2, 7 Fountainville Avenue	Methodist Church in Ireland
114 Ulsterville Avenue	Mr Ben Robinson
9 Canterbury Street	Mr Ronan Daly
36 Tates Avenue	Mr Trevor Breadon
50 Melrose Street	Mr Trevor Breadon
26 Sandhurst Gardens	Ms Jessica Magnier
9 Sandymount Street	Mr David Moore
Flat 3, 23 Camden Street Belfast Antrim BT9 6AT	Croob Properties Limited
Flat 2, 23 Camden Street Belfast Antrim BT9 6AT	Croob Properties Limited
Flat 1, 23 Camden Street Belfast Antrim BT9 6AT	Croob Properties Limited
29 Sandhurst Gardens	Mr Edwin Adams
96 Dunraven Avenue	Hollyhill Ltd
Apartment 8, 50 - 52 Cromwell Road	SOBE Developments Limited
Apartment 7, 50 - 52 Cromwell Road	SOBE Developments Limited
Apartment 6, 50 - 52 Cromwell Road	SOBE Developments Limited
Apartment 2, 54 - 56 Cromwell Road	SOBE Developments Limited
Apartment 5, 50 - 52 Cromwell Road	SOBE Developments Limited
Apartment 5, 54 - 56 Cromwell Road	SOBE Developments Limited
Apartment 2, 50 - 52 Cromwell Road	SOBE Developments Limited
21 Rossmore Avenue	Mr Raymond Quinn
Flat 2, 21 Camden Street Belfast Antrim BT9 6AT	Mr John McGrane
Flat 1, 21 Camden Street Belfast Antrim BT9 6AT	Mr John McGrane
94 Edinburgh Street	Mr Trevor Breadon

	59 Lower Windsor Avenue	Mr Trevor Breadon
	21 Colenso Parade	SOBE Developments Limited
	48 Melrose Street	Silk and Swallow
	117 Melrose Street	Mr William George Conn
	79 Agincourt Avenue	University Area Properties Limited
	Flat 2, 20 Canterbury Street	Ms Geraldine Davey
	40 Mount Prospect Park	Mr Tony Nicholas
	Flat 3, 129 Fitzroy Avenue	Croob Properties Limited
	Flat 2, 129 Fitzroy Avenue	Croob Properties Limited
	Flat 1, 129 Fitzroy Avenue	Croob Properties Limited
	28 Sandhurst Drive	Mrs Patricia Byrne
	9 Riverview Street	Piney Developments Ltd
	30 Sandhurst Drive	Mrs Patricia Byrne
	155 Dunluce Avenue	Mr Sean Johnston
	<u>Financial & Resource Implications</u>	
3.2	None	
	<u>Equality or Good Relations Implications/Rural Needs Assessment</u>	
3.3	There are no issues associated with this report.	



Subject:	Applications for the renewal of a Licence to operate a House of Multiple Occupation for 2 St Albans Gardens, Belfast. BT9 5DR
Date:	16 December 2020
Reporting Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910
Contact Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910 Nora Largey, Divisional Solicitor, Ext. 6049

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

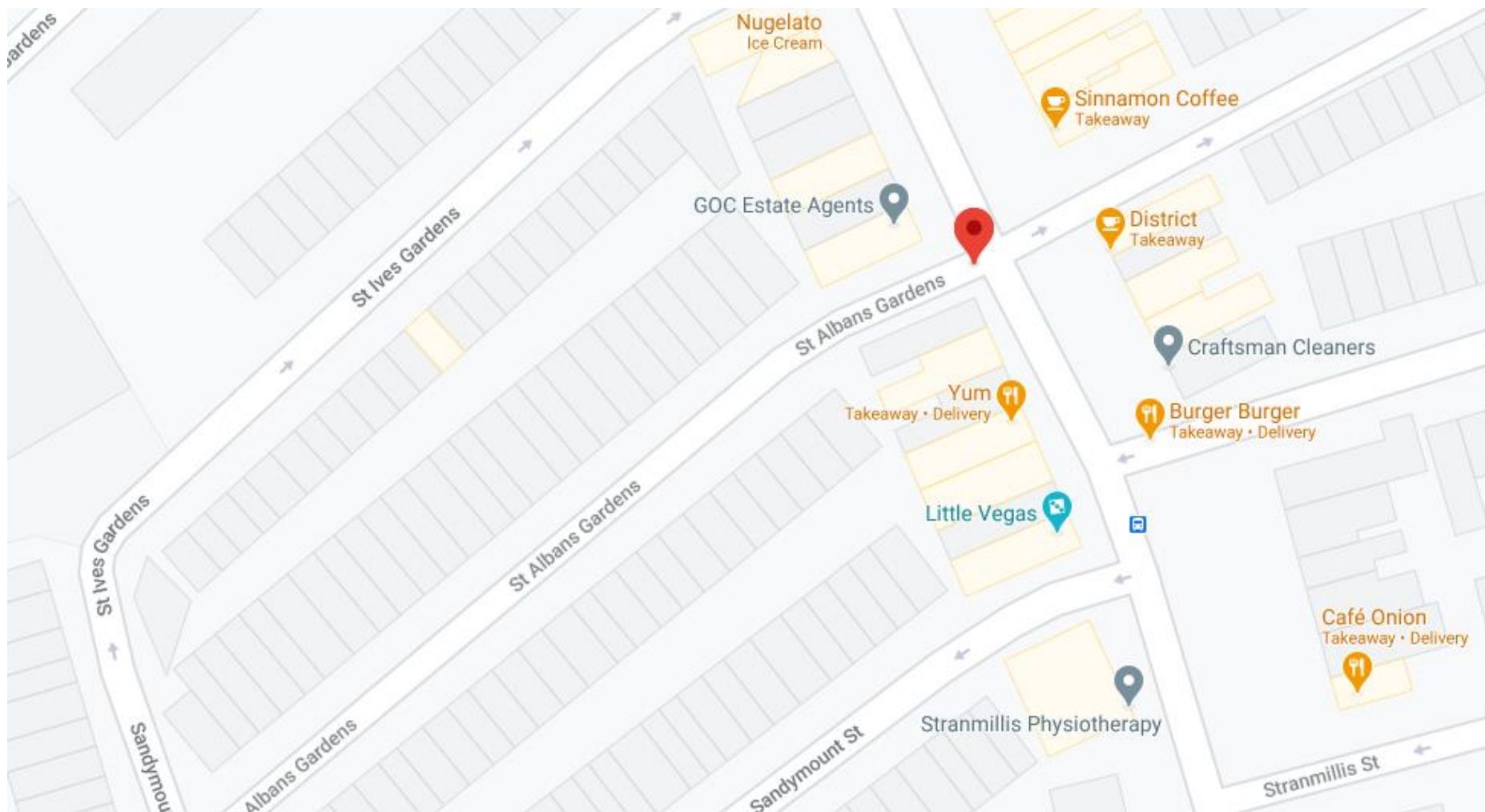
1.0	Purpose of Report or Summary of main Issues			
1.1	To consider an application for the renewal of a Licence permitting the use of premises as a House in Multiple Occupation (HMO).			
	Premises	Application No.	Applicant(s)	Managing Agents
	2 St Albans Gardens Belfast BT9 5DR	7059	Mr Mark Kilgore, Mr David Kilgore, Mr Harry Kilgore and Ms Una McNeill.	None
1.2	Members will be aware that responsibility for HMO's was transferred to local district councils in April 2019 with the introduction of a new licensing regime. Any existing registrations under the old NIHE Registration Scheme operated were deemed to be licences at the point of transfer. Members are reminded that licences are issued for a 5 year period with standard conditions. Where it is considered necessary to do so, the Committee can also impose special conditions.			
1.3	Following the publication of this application, an objection was received in relation to the application. This objection raises general concerns about the overprovision of HMOs, balanced communities, infrastructure and safety checks.			
1.4	As a valid objection has been received, the application must be considered by Committee which must, after hearing from the objector and the applicant, decide whether to grant the renewal application.			

2.0	Recommendations
2.1	<p>Taking into account the information presented Committee is asked to hear from the objectors and applicant and make a decision to either:</p> <ul style="list-style-type: none"> (i) Grant the application, with or without any special conditions; or (ii) Refuse the application.
2.2	If the application is refused, the applicant has a right of appeal to the County Court. Such an appeal must be lodged within 28 days of formal notification of the decision. The licence will remain in place pending the appeal.
2.3	Objectors have no right of appeal but may be able to judicially review the Council's decision
3.0	Main report
	<u>Key Issues</u>
3.1	<p>Pursuant to the 2016 Act, the Council may only grant a licence if it is satisfied that:</p> <ul style="list-style-type: none"> 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, are fit and proper persons; c) the proposed management arrangements are satisfactory); d) the granting of the licence will not result in overprovision of HMOs in the locality; e) the living accommodation is fit for human habitation and— <ul style="list-style-type: none"> (i) is suitable for occupation as an HMO by the number of persons to be specified in the licence, or (ii) can be made so suitable by including conditions in the licence.
3.2	When considering the fitness of an applicant the Council must have regard to any offences concerning fraud/ dishonesty, violence, drugs, human trafficking, firearms, sexual offences, unlawful discrimination in, or in connection with, the carrying on of any business; or any provision of the law relating to housing or of landlord and tenant law. It also permits the Council to take into account any other matter which the council considers to be relevant.
3.3	Section 20 of the 2016 Act states where the holder of an HMO licence makes an application for renewal, the council must apply the above provisions except for (a) and (d); namely whether the use is a breach of planning control or would result in overprovision.
3.4	Members will recall that counsel has advised that councils cannot taken into account the absence of planning permission through the prism of fitness. On the basis of this advice, Legal Services have confirmed that this also applies to issues around overprovision.
	<u>Objections</u>
3.5	<p>Following publication of notice of the application, an objection was received in relation to the renewal application. A copy of that objection is appended to this report. As appears from the objection, the issues raised are as follows:</p> <ul style="list-style-type: none"> a) Over provision of HMOs in this area, leading to densification of the neighbourhood and reducing living quality; b) Room sizes; c) The need for safety checks

3.6	Points a), b) and c) are not specific to the premises. Officers can however confirm that the room sizes comply with the requirements of The Houses in Multiple Occupation (Space Standard) Regulations (Northern Ireland) 2019. The property also complies with the safety checks required under the terms and conditions of licence.
3.7	<p>As this is a renewal application Section 20 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 prohibits the Council from taking into account issues around overprovision.</p> <p>The NIHMO Unit has consulted with following units within the Council's City and Neighbourhood Services Department -</p> <ul style="list-style-type: none"> (a) Environmental Protection Unit ("EPU") - who have confirmed that in relation to night-time noise there has been no relevant enforcement action required in respect of the HMO in the last 5 years, (b) Environmental Protection Unit ("EPU") - who have confirmed that in relation to day-time noise there has been no relevant enforcement action required in respect of the HMO in the last 5 years, (c) Public Health and Housing Unit ("PHHU") - who have confirmed that in relation to rubbish accumulation/filthy premises, there has been no relevant enforcement action required in respect of the HMO in the last 5 years, (d) Cleansing Enforcement ("CE") - who have confirmed that in relation to litter and waste, there has been no relevant enforcement action required in respect of the HMO in the last 5 years, <p><u>Fitness</u></p>
3.8	The applicant has confirmed that they have not been convicted of any relevant offences as set out at paragraph 3.2 of this report.
3.9	<p>The applicant has not been convicted of any HMO related offences by the Council. The EPU, PHHU and CE, solely in respect of their statutory functions, have confirmed that there are no relevant, previous convictions in respect of the applicant, managing agent or occupants. Due to data protection issues which have recently arisen, PSNI have not been accepting or responding to notification of these applications. Officers are continuing to engage with PSNI to find a resolution to this issue. Officers are not aware of any issues relevant to the applicant's fitness.</p> <p><u>Attendance</u></p>
3.10	<p>The applicant and/or their representatives will be available to discuss any matters relating to the renewal of the licence should they arise during your meeting.</p> <p><u>Suitability of the premises</u></p>
3.11	An inspection of the premises was carried out by Officers from the Service on 2 November 2020. The inspections revealed that the applicant was continuing to adhere to the terms and conditions of the existing licence and no contraventions were discovered.

<p>3.12</p> <p>3.13</p> <p>3.14</p>	<p><u>Notice of proposed decision</u></p> <p>On the 30 November 2020, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, Officers issued a notice of proposed decision to the applicant setting out the terms of the proposed licence.</p> <p>The notice of proposed decision stated that the council proposed to grant the licence in the terms applied for.</p> <p><u>Financial and Resource Implications</u></p> <p>None. The cost of assessing the application and officer inspections are provided for within existing budgets.</p> <p><u>Equality and Good Relations Implications</u></p> <p>There are no equality or good relations issues associated with this report.</p>
<p>4.0</p>	<p>Appendices – Documents Attached</p>
	<p>Appendix 1 – Location Map</p> <p>Appendix 2 – Objection</p> <p>Appendix 3 – Notice of proposed decision</p>

Appendix 1 – Location Map – 2 St Albans Gardens



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By virtue of paragraph(s) 2, 3, 5 of Part 1 of Schedule 6
of the Local Government Act (Northern Ireland) 2014.

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Subject:	Applications for the renewal of a Licence to operate a House of Multiple Occupation for 7 Sandymount Street, Belfast, BT9 5DP
Date:	6 December 2020
Reporting Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910
Contact Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910 Nora Largey, Divisional Solicitor, Ext. 6049

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

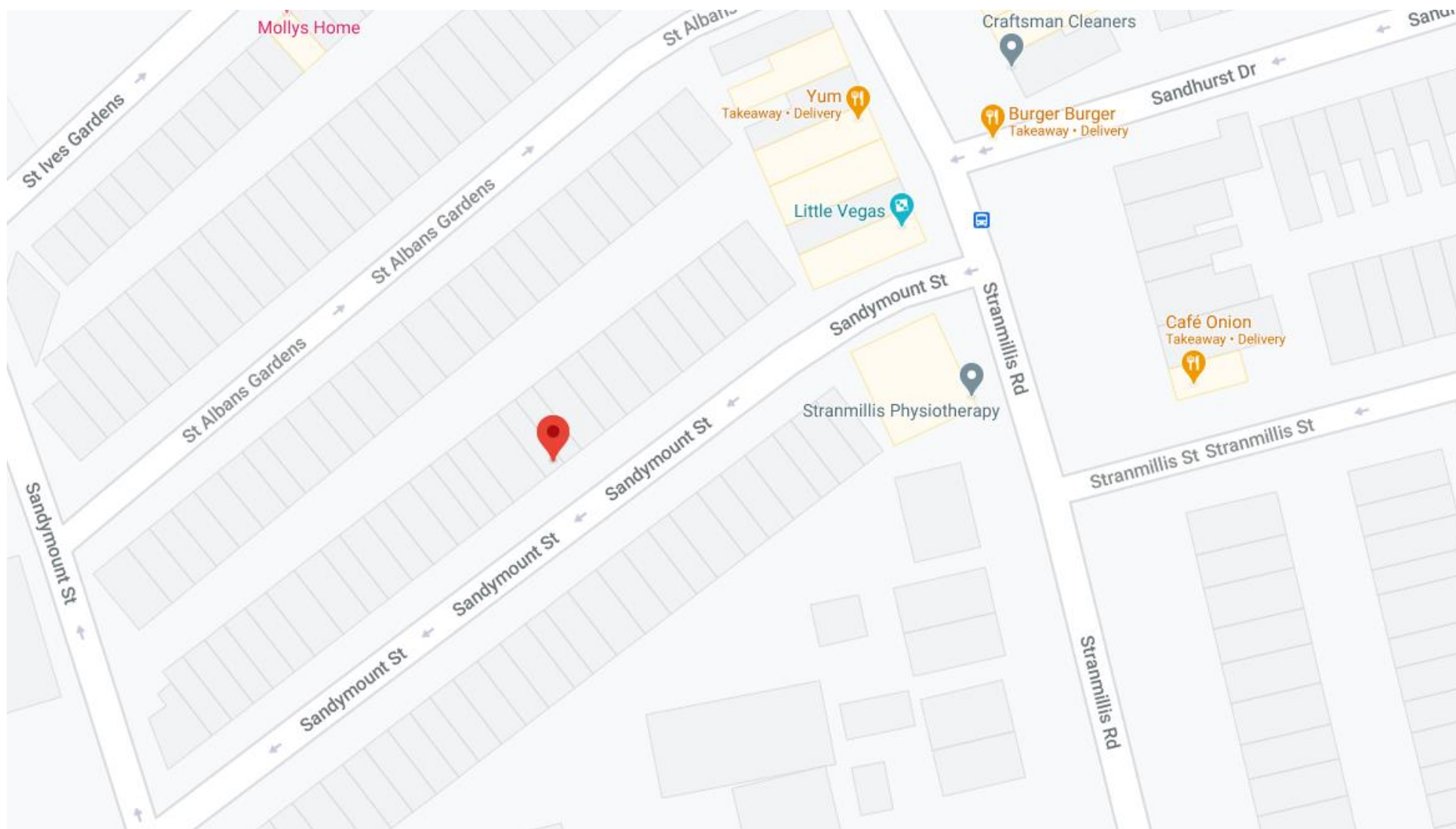
1.0	Purpose of Report or Summary of main Issues			
1.1	To consider an application for the renewal of a Licence permitting the use of premises as a House in Multiple Occupation (HMO).			
	Premises	Application No.	Applicant(s)	Managing Agents
	7 Sandymount St Belfast BT9 5DP	7594	Mr David Moore & Mrs Heather Moore	None
1.2	Members will be aware that responsibility for HMO's was transferred to local district councils in April 2019 with the introduction of a new licensing regime. Any existing registrations under the old NIHE Registration Scheme operated were deemed to be licences at the point of transfer. Members are reminded that licences are issued for a 5 year period with standard conditions. Where it is considered necessary to do so, the Committee can also impose special conditions.			
1.3	Following the publication of this application, an objection was received in relation to the application. This objection raises general concerns about the overprovision of HMOs in Stranmillis HMO Policy Area.			
1.4	As a valid objection has been received, the application must be considered by Committee which must, after hearing from the objector and the applicant, decide whether to grant the renewal application.			

2.0	Recommendations
2.1	<p>Taking into account the information presented Committee is asked to hear from the objectors and applicant and make a decision to either:</p> <ul style="list-style-type: none"> (i) Grant the application, with or without any special conditions; or (ii) Refuse the application.
2.2	If the application is refused, the applicant has a right of appeal to the County Court. Such an appeal must be lodged within 28 days of formal notification of the decision. The licence will remain in place pending the appeal.
2.3	Objectors have no right of appeal but may be able to judicially review the Council's decision
3.0	Main report
	<u>Key Issues</u>
3.1	<p>Pursuant to the 2016 Act, the Council may only grant a licence if it is satisfied that:</p> <ul style="list-style-type: none"> 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, are fit and proper persons; c) the proposed management arrangements are satisfactory); d) the granting of the licence will not result in overprovision of HMOs in the locality; e) the living accommodation is fit for human habitation and— <ul style="list-style-type: none"> (i) is suitable for occupation as an HMO by the number of persons to be specified in the licence, or (ii) can be made so suitable by including conditions in the licence.
3.2	When considering the fitness of an applicant the Council must have regard to any offences concerning fraud/ dishonesty, violence, drugs, human trafficking, firearms, sexual offences, unlawful discrimination in, or in connection with, the carrying on of any business; or any provision of the law relating to housing or of landlord and tenant law. It also permits the Council to take into account any other matter which the council considers to be relevant.
3.3	Section 20 of the 2016 Act states where the holder of an HMO licence makes an application for renewal, the council must apply the above provisions except for (a) and (d); namely whether the use is a breach of planning control or would result in overprovision.
3.4	Members will recall that counsel has advised that councils cannot taken into account the absence of planning permission through the prism of fitness. On the basis of this advice, Legal Services have confirmed that this also applies to issues around overprovision.
	<u>Objections</u>
3.5	<p>Following publication of notice of the application, an objection was received in relation to the renewal application. It should be noted that the objector believes this is a new HMO licence application and not a renewal which is not the case. A copy of that objection is appended to this report. As appears from the objection, the issues raised are as follows:</p> <ul style="list-style-type: none"> a) Over provision of HMOs in the Stranmillis HMO Policy Area. <p>As this is a renewal application Section 20 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 prohibits the Council from taking into account issues around overprovision.</p>

3.6	<p>The NIHMO Unit has consulted with following units within the Council's City and Neighbourhood Services Department -</p> <ul style="list-style-type: none"> (a) Environmental Protection Unit ("EPU") - who have confirmed that in relation to night-time noise there was a warning notice issued on 07 September 2016. (b) Environmental Protection Unit ("EPU") - who have confirmed that in relation to day-time noise there has been no relevant enforcement action required in respect of the HMO in the last 5 years, (c) Public Health and Housing Unit ("PHHU") - who have confirmed that in relation to rubbish accumulation/filthy premises, there has been no relevant enforcement action required in respect of the HMO in the last 5 years, (d) Cleansing Enforcement ("CE") - who have confirmed that in relation to litter and waste there was a Fixed Penalty Notice issued in August 2018 <p><u>Fitness</u></p>
3.7	<p>The applicant has confirmed that they have not been convicted of any relevant offences as set out at paragraph 3.2 of this report.</p>
3.8	<p>The applicant has not been convicted of any HMO related offences by the Council. The EPU, PHHU and CE, solely in respect of their statutory functions, have confirmed that there are no relevant, previous convictions in respect of the applicant, managing agent or occupants. Due to data protection issues which have recently arisen, PSNI have not been accepting or responding to notification of these applications. Officers are continuing to engage with PSNI to find a resolution to this issue. Officers are not aware of any issues relevant to the applicant's fitness.</p> <p><u>Attendance</u></p>
3.9	<p>The applicant and/or their representatives will be available to discuss any matters relating to the renewal of the licence should they arise during your meeting.</p> <p><u>Suitability of the premises</u></p>
3.10	<p>An inspection of the premises was carried out by Officers from the Service on 29 October 2020. The inspections revealed that the applicant was continuing to adhere to the terms and conditions of the existing licence and no contraventions were discovered.</p> <p><u>Notice of proposed decision</u></p>
3.11	<p>On the 25 November 2020, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, Officers issued a notice of proposed decision to the applicant setting out the terms of the proposed licence.</p>
3.12	<p>The notice of proposed decision stated that the council proposed to grant the licence in terms different from those applied for.</p> <p><u>Additional condition</u></p>
3.13	<p>The owner shall provide an out of hours contact number to council officers to contact the owner, or their managing agent (if any), in the event that there are incidents of anti-social</p>

	behaviour emanating from within the curtilage of the HMO in respect of which it is considered necessary to contact the owner.
3.14	The owner contacted the HMO Unit on 26 November 2020 and provided the out of hours contact number. <u>Financial and Resource Implications</u>
3.15	None. The cost of assessing the application and officer inspections are provided for within existing budgets. <u>Equality and Good Relations Implications</u>
3.16	There are no equality or good relations issues associated with this report.
4.0	Appendices – Documents Attached
	Appendix 1 – Location Map Appendix 2 – Objection Appendix 3 – Notice of proposed decision

Appendix 1 – Location Map – 7 Sandymount Street, Belfast. BT9 5DP



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Subject:	Applications for the renewal of a Licence to operate a House of Multiple Occupation for 61 Sandhurst Gardens, Belfast, BT9 5AX
Date:	16 December 2020
Reporting Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910
Contact Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910 Nora Largey, Divisional Solicitor, Ext. 6049

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

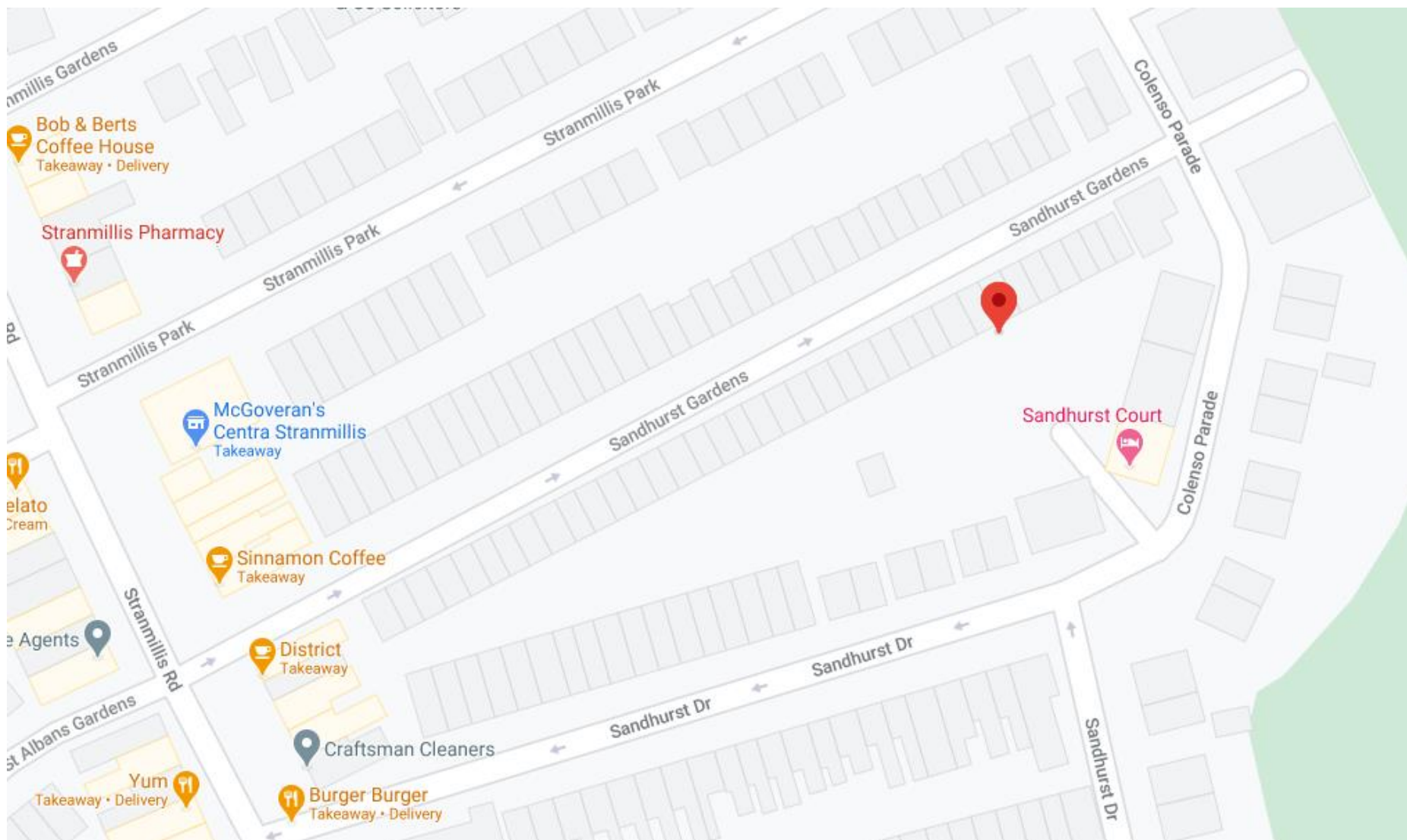
1.0	Purpose of Report or Summary of main Issues			
1.1	To consider an application for the renewal of a Licence permitting the use of premises as a House in Multiple Occupation (HMO).			
	Premises	Application No.	Applicant(s)	Managing Agents
	61 Sandhurst Gdns Belfast BT9 5AX	7534	Mr Terry McManus & Erne Forestry Services Limited	None
1.2	Members will be aware that responsibility for HMO's was transferred to local district councils in April 2019 with the introduction of a new licensing regime. Any existing registrations under the old NIHE Registration Scheme operated were deemed to be licences at the point of transfer. Members are reminded that licences are issued for a 5 year period with standard conditions. Where it is considered necessary to do so, the Committee can also impose special conditions.			
1.3	Following the publication of this application, an objection was received in relation to the application. This objection raises general concerns about the overprovision of HMOs in Stranmillis HMO Policy Area.			
1.4	As a valid objection has been received, the application must be considered by Committee which must, after hearing from the objector and the applicant, decide whether to grant the renewal application.			

2.0	Recommendations
2.1	<p>Taking into account the information presented Committee is asked to hear from the objectors and applicant and make a decision to either:</p> <ul style="list-style-type: none"> (i) Grant the application, with or without any special conditions; or (ii) Refuse the application.
2.2	If the application is refused, the applicant has a right of appeal to the County Court. Such an appeal must be lodged within 28 days of formal notification of the decision. The licence will remain in place pending the appeal.
2.3	Objectors have no right of appeal but may be able to judicially review the Council's decision
3.0	Main report
	<u>Key Issues</u>
3.1	<p>Pursuant to the 2016 Act, the Council may only grant a licence if it is satisfied that:</p> <ul style="list-style-type: none"> 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, are fit and proper persons; c) the proposed management arrangements are satisfactory); d) the granting of the licence will not result in overprovision of HMOs in the locality; e) the living accommodation is fit for human habitation and— <ul style="list-style-type: none"> (i) is suitable for occupation as an HMO by the number of persons to be specified in the licence, or (ii) can be made so suitable by including conditions in the licence.
3.2	When considering the fitness of an applicant the Council must have regard to any offences concerning fraud/ dishonesty, violence, drugs, human trafficking, firearms, sexual offences, unlawful discrimination in, or in connection with, the carrying on of any business; or any provision of the law relating to housing or of landlord and tenant law. It also permits the Council to take into account any other matter which the council considers to be relevant.
3.3	Section 20 of the 2016 Act states where the holder of an HMO licence makes an application for renewal, the council must apply the above provisions except for (a) and (d); namely whether the use is a breach of planning control or would result in overprovision.
3.4	Members will recall that counsel has advised that councils cannot taken into account the absence of planning permission through the prism of fitness. On the basis of this advice, Legal Services have confirmed that this also applies to issues around overprovision.
	<u>Objections</u>
3.5	<p>Following publication of notice of the application, an objection was received in relation to the renewal application. It should be noted that the objector believes this is a new HMO licence application and not a renewal which is not the case. A copy of that objection is appended to this report. As appears from the objection, the issues raised are as follows:</p> <ul style="list-style-type: none"> a) Over provision of HMOs in the Stranmillis HMO Policy Area. <p>As this is a renewal application Section 20 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 prohibits the Council from taking into account issues around overprovision.</p>

3.6	<p>The NIHMO Unit has consulted with following units within the Council's City and Neighbourhood Services Department -</p> <ul style="list-style-type: none"> (a) Environmental Protection Unit ("EPU") - who have confirmed that in relation to night-time noise there has been no relevant enforcement action required in respect of the HMO in the last 5 years, (b) Environmental Protection Unit ("EPU") - who have confirmed that in relation to day-time noise there has been no relevant enforcement action required in respect of the HMO in the last 5 years, (c) Public Health and Housing Unit ("PHHU") - who have confirmed that in relation to rubbish accumulation/filthy premises, there has been no relevant enforcement action required in respect of the HMO in the last 5 years, (d) Cleansing Enforcement ("CE") - who have confirmed that in relation to litter and waste there has been no relevant enforcement action required in respect of the HMO in the last 5 years. <p><u>Fitness</u></p> <p>3.7 The applicant has confirmed that they have not been convicted of any relevant offences as set out at paragraph 3.2 of this report.</p> <p>3.8 The applicant has not been convicted of any HMO related offences by the Council. The EPU, PHHU and CE, solely in respect of their statutory functions, have confirmed that there are no relevant, previous convictions in respect of the applicant, managing agent or occupants. Due to data protection issues which have recently arisen, PSNI have not been accepting or responding to notification of these applications. Officers are continuing to engage with PSNI to find a resolution to this issue. Officers are not aware of any issues relevant to the applicant's fitness.</p> <p><u>Attendance</u></p> <p>3.9 The applicant and/or their representatives will be available to discuss any matters relating to the renewal of the licence should they arise during your meeting.</p> <p><u>Suitability of the premises</u></p> <p>3.10 An inspection of the premises was carried out by Officers from the Service on 28 October 2020. The inspections revealed that the applicant was continuing to adhere to the terms and conditions of the existing licence and no contraventions were discovered.</p> <p><u>Notice of proposed decision</u></p> <p>3.11 On the 29 November 2020, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, Officers issued a notice of proposed decision to the applicant setting out the terms of the proposed licence.</p> <p>3.12 The notice of proposed decision stated that the council proposed to grant the licence in terms applied for.</p>
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3.13	<p><u>Financial and Resource Implications</u></p> <p>None. The cost of assessing the application and officer inspections are provided for within existing budgets.</p>
	<p><u>Equality and Good Relations Implications</u></p>
3.14	<p>There are no equality or good relations issues associated with this report.</p>
4.0	<p>Appendices – Documents Attached</p>
	<p>Appendix 1 – Location Map</p>
	<p>Appendix 2 – Objection</p>
	<p>Appendix 3 – Notice of proposed decision</p>

Appendix 1 – Location Map – 61 Sandhurst Gardens, Belfast. BT9 5AX



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Subject:	Applications for a New Licence to operate a House of Multiple Occupation for 11 Penrose Street, Belfast. BT7 1QX
Date:	16 December 2020
Reporting Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910
Contact Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910 Nora Largey, Divisional Solicitor, Ext. 6049

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues			
1.1	To consider an application for a Licence permitting the use of premises as a House in Multiple Occupation (HMO).			
	Premises	Application No.	Applicant(s)	Managing Agents
	11 Penrose Street Belfast BT7 1QX	7621	Mr Michael McQuillan & Ms Nicola McQuillan	M & M Property Services
1.2	<p>Members will be aware that responsibility for HMO's was transferred to local district councils in April 2019 with the introduction of a new licensing regime. Any existing registrations under the old NIHE Registration Scheme operated were deemed to be licences at the point of transfer. Members are reminded that licences are issued for a 5 year period with standard conditions. Where it is considered necessary to do so, the Committee can also impose special conditions.</p> <p>Background</p>			
1.3	<p>The property was previously licensed as an HMO up and until the 01 August 2019, at which time the licence expired. Prior to the expiry of the licence the NIHMO Unit wrote to the owner on the 11 April 2019 reminding her that the licence on the property was about to expire.</p>			
1.4	<p>On the 04 October 2019 a HMO licence application was received from the owners of the accommodation. As this was a new application the HMO Unit consulted with the Council's Planning Service who on the 7 October 2019 confirmed "that Planning Service has no record of permission for an HMO at this address"</p>			

1.5	The council subsequently rejected the application on the 22 October 2019 pursuant to section 8.(2)(a) of the Houses in Multiple Occupation Act (Northern Ireland) 2016 as the occupation of the living accommodation as an HMO would constitute a breach of planning control.
1.6	On the 30 June 2020 a further HMO licence application was received. As this is a new application the HMO Unit consulted with the Council's Planning Service who on the 6 July 2020 confirmed that a Certificate of Lawful Use or Development was granted with the planning reference LA04/2019/2931/LDE
2.0	Recommendations
2.1	Taking into account the information presented Committee is asked to hear from the applicant and make a decision to either: <ul style="list-style-type: none"> (i) Grant the application, with or without any special conditions; or (ii) Refuse the application.
2.2	If the application is refused, the applicant has a right of appeal to the County Court. Such an appeal must be lodged within 28 days of formal notification of the decision. The licence will remain in place pending the appeal.
3.0	Main report
	<u>Key Issues</u>
3.1	Pursuant to the 2016 Act, the Council may only grant a licence if it is satisfied that: <ul style="list-style-type: none"> 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, are fit and proper persons; c) the proposed management arrangements are satisfactory; d) the granting of the licence will not result in overprovision of HMOs in the locality; e) the living accommodation is fit for human habitation and— <ul style="list-style-type: none"> (i) is suitable for occupation as an HMO by the number of persons to be specified in the licence, or (ii) can be made so suitable by including conditions in the licence.
3.2	As this is a new application the HMO Unit consulted with the Council's Planning Service who on the 6 July 2020 confirmed that a Certificate of Lawful Use or Development was granted with the planning reference LA04/2019/2931/LDE
3.3	For the purpose of determining whether or not the granting of a licence would result in an overprovision of HMOs in the locality of the accommodation, and in order to ensure consistency as both a planning and licensing authority the locality was defined as being HMO Policy Area "HMO 2/22 Botanic, Holylands and Rugby" as defined in the document "Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015.
3.4	Legal Services has advised that there is a clear requirement in Section 8 of the 2016 Act upon the Council to be satisfied that the granting of a licence will not result in overprovision.
3.5	On the date of assessment, 9 October 2020 there were a total of 1250 licensed HMOs out of 2595 dwelling units in HMO policy area "HMO 2/22 Botanic, Holylands and Rugby" which equates to 52% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 1250 licensed HMOs have a capacity of 6024 persons. The

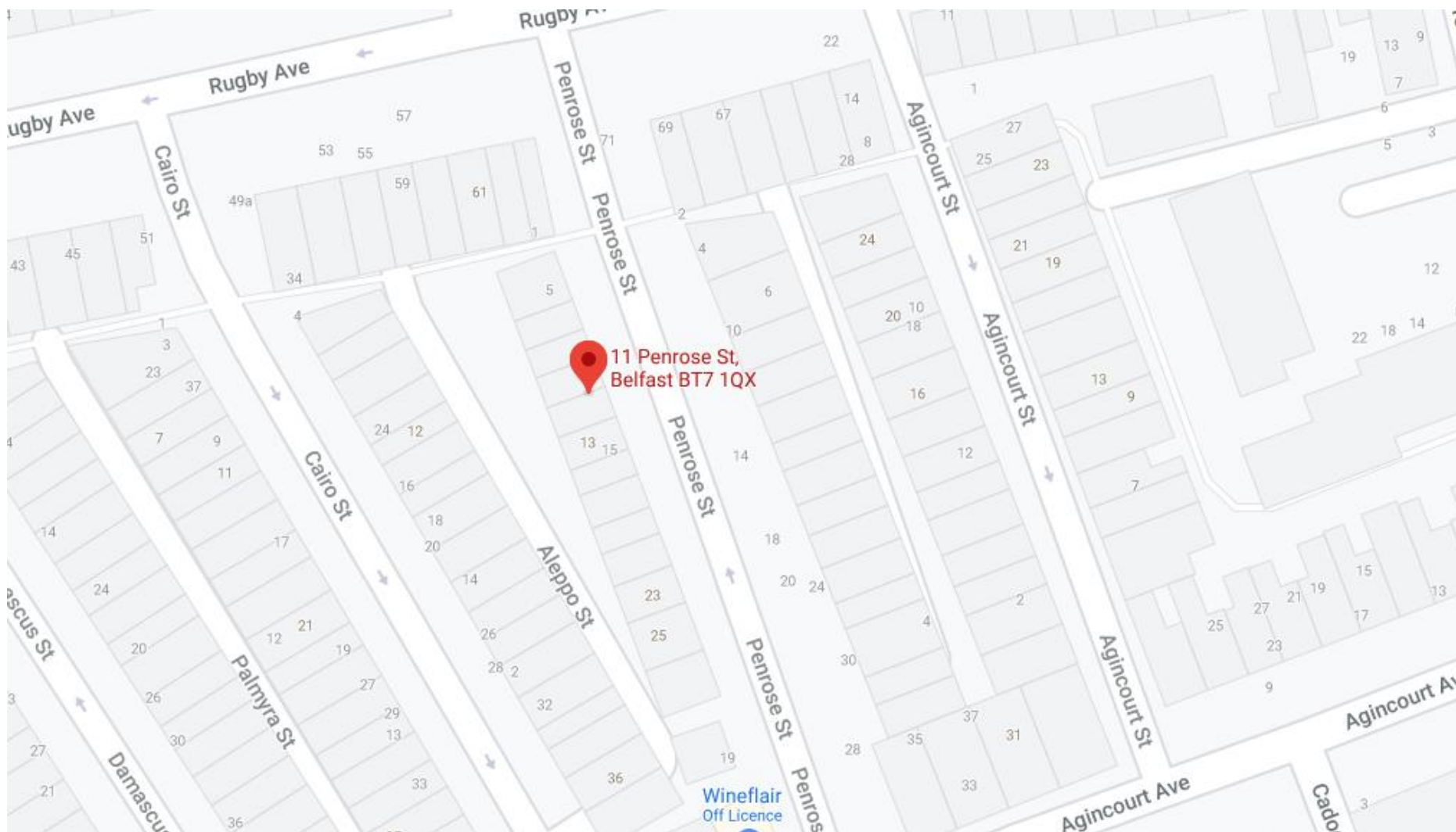
	total number of dwelling units in a Policy Area is measured by Ordnance Survey's Pointer database.
3.6	The Council must also consider the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need.
3.7	In September 2017 The Housing Executive published the document "Housing Market Analysis Update – Belfast City Council Area" which states "HMOs form an important element of the PRS, particularly for younger people on low incomes and for single people, under the age of 35, affected by the limitation of housing benefit to the shared room rate. Anecdotal evidence also indicates that this has been a popular sector with migrant workers."
3.8	At the time of writing this report there were 62 properties advertised for let as student houses on the website Property News in BT7 with a capacity of 253 bed spaces. It would therefore appear that there is sufficient supply of HMO accommodation in the area.
3.9	The fact the use of the property as a HMO is permitted for planning purposes is a relevant consideration in determining whether the grant of this licence will result in overprovision. There is an argument that it may not do so as the premises are already being used as a HMO.
3.10	However it should be borne in mind that planning permission was granted on the basis that the use had been established for 5 or more years and was therefore immune to enforcement. No assessment of overprovision was made at that time. Given the level of licensed HMO properties in this locality as set out above it would be highly unlikely that a planning application for a new HMO in the area would be successful as the thresholds in the 2015 Plan have been significantly exceeded.
3.11	When considering the fitness of an applicant the Council must have regard to any offences concerning fraud/ dishonesty, violence, drugs, human trafficking, firearms, sexual offences, unlawful discrimination in, or in connection with, the carrying on of any business; or any provision of the law relating to housing or of landlord and tenant law. It also permits the Council to take into account any other matter which the council considers to be relevant.
3.12	<p>The NIHMO Unit has consulted with the following units within the Council's City and Neighbourhood Services Department -</p> <ul style="list-style-type: none"> (a) Environmental Protection Unit ("EPU") - who have confirmed that in relation to night-time noise there has been no relevant enforcement action required in respect of the HMO in the last 5 years, (b) Environmental Protection Unit ("EPU") - who have confirmed that in relation to day-time noise there has been no relevant enforcement action required in respect of the HMO in the last 5 years, (c) Public Health and Housing Unit ("PHHU") - who have confirmed that in relation to rubbish accumulation/filthy premises, there has been no relevant enforcement action required in respect of the HMO in the last 5 years, (d) Cleansing Enforcement ("CE") - who have confirmed that in relation to litter and waste , there has been no relevant enforcement action required in respect of the HMO in the last 5 years, <p><u>Fitness</u></p>
3.13	The applicants and managing agent have confirmed that they have not been convicted of any relevant offences as set out at paragraph 3.4 of this report.

	<p>The applicant or managing agent have not been convicted of any HMO related offences by the Council. The EPU, PHHU and CE, solely in respect of their statutory functions, have confirmed that there are no relevant, previous convictions in respect of the applicant, managing agent or occupants. Due to data protection issues which have recently arisen, PSNI have not been accepting or responding to notification of these applications. Officers are continuing to engage with PSNI to find a resolution to this issue.</p>
3.14	<p>Officers are not aware of any other issue relevant to the Applicant's fitness.</p> <p><u>Attendance</u></p>
3.15	<p>The applicant and/or their representatives will be available to discuss any matters relating to the licence application should they arise during your meeting.</p> <p><u>Suitability of the premises</u></p>
3.16	<p>An inspection of the premises was carried out by Officers from the Service on 17 July 2020 at which time it was established that the property meet the physical standards for an HMO.</p> <p><u>Notice of proposed decision</u></p>
3.17	<p>On the 13 October 2020, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, Officers issued a notice of proposed decision to the applicant setting out the terms of the proposed licence.</p>
3.18	<p>The notice of proposed decision stated that the council proposed to refuse the licence.</p>
3.19	<p>A statement of reasons for the proposal was included in the notice of proposed decision.</p> <p><u>Statement of reasons for the proposed decision</u></p> <p><u>The statement of reasons outlined the following as the Council's basis for refusal:-</u></p> <p>Pursuant to 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.</p> <p>For the purpose of section 12(2) of the Act the Council has determined the locality as being HMO Policy Area "HMO 2/22 Botanic, Holylands and Rugby" as defined in the document "Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015 (the "2015 Plan")</p> <p>In making this decision the Council has had regard to –</p> <ul style="list-style-type: none"> (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 <p>To inform the Council in its consideration of the above provisions, the Council has taken account of the 2015 Plan and in particular, Policy HMO 1 and Policy HMO 2.</p>

	<p>On the date of assessment, 9 October 2020 there were a total of 1250 licensed HMOs out of 2595 dwelling units in HMO policy area “HMO 2/22 Botanic, Holylands and Rugby” which equates to 52% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 1250 licensed HMOs have a capacity of 6024 persons. The total number of dwelling units in a Policy Area is measured by Ordnance Survey’s Pointer database.</p> <p>Consequently, Officers are 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.</p> <p><u>Financial and Resource Implications</u></p>
3.20	<p>None. The cost of assessing the application and officer inspections are provided for within existing budgets.</p> <p><u>Equality and Good Relations Implications</u></p>
3.21	<p>There are no equality or good relations issues associated with this report.</p>
	<p>Appendices – Documents Attached</p>
	<ul style="list-style-type: none"> • Appendix 1 – Location Map • Appendix 2 – Map of HMO Policy Area “HMO 2/22 Botanic, Holylands and Rugby” • Appendix 3 – Notice of proposed decision • Appendix 4 – Applicants response to the notice of proposed decision.

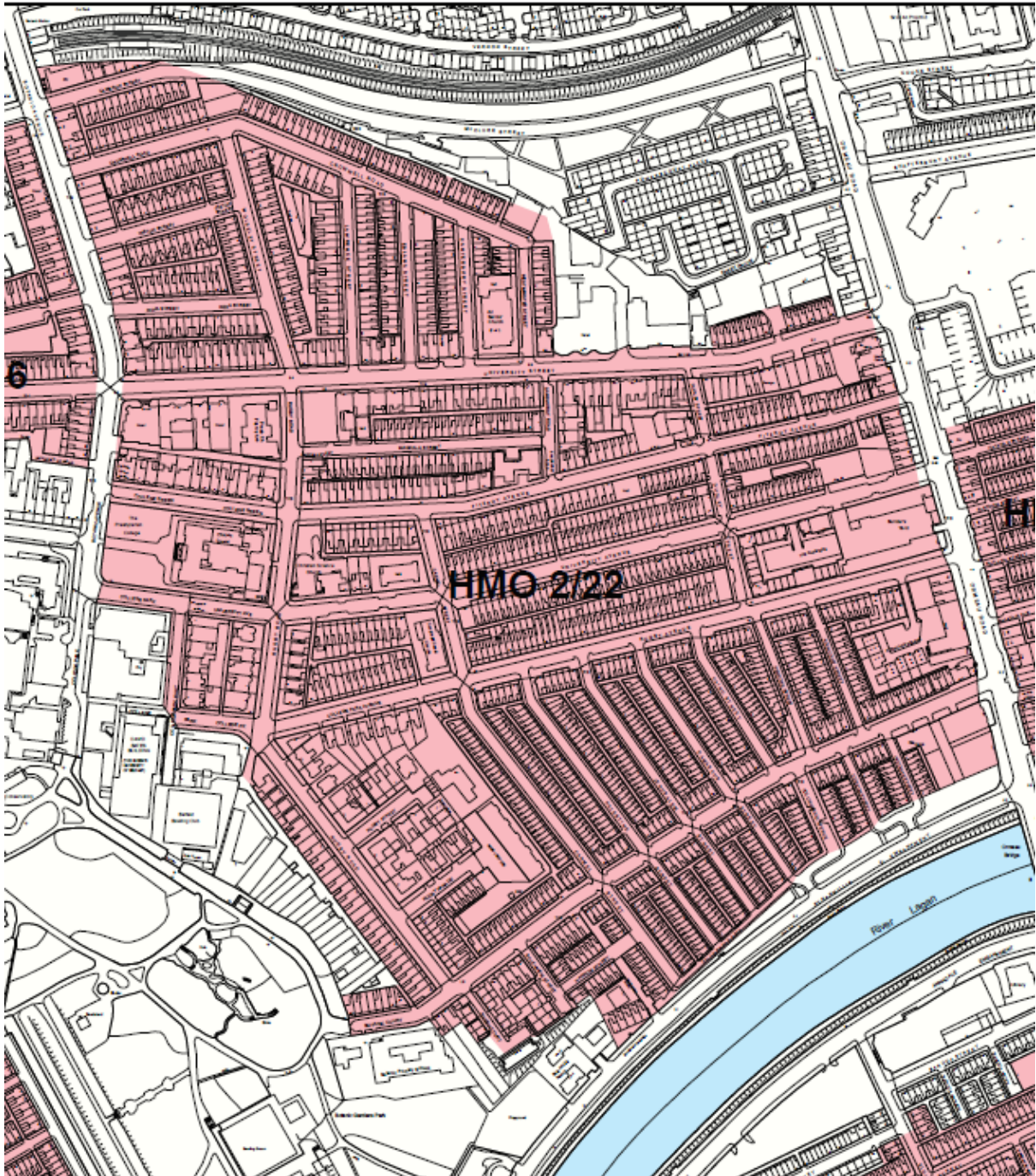
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Appendix 1 – Location Map – 11 Penrose Street, Belfast, BT7 1QX



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Appendix 2 - HMO 2/22 Botanic, Holylands and Rugby



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Subject:	Addendum report in respect of an application for a New Licence to operate a House of Multiple Occupation for 32 Stranmillis Gardens, Belfast. BT9 5AS
Date:	18 November 2020
Reporting Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910
Contact Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910 Nora Largey, Divisional Solicitor, Ext. 6049

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	The Committee, at its October meeting, was asked to consider whether it would grant or refuse the application for a new HMO licence at 32 Stranmillis Gardens, Belfast. BT9 5AS. Following a presentation and a written submission on behalf of the owner of the accommodation, members deferred the application until the committee meeting on 18 November 2020 for officers to provide additional clarification to the points raised. A copy of the written correspondence provided by the applicant, setting out further representations is included at Appendix One to this report. For the purposes of this report the issues are abbreviated and the officer response is detailed below.
1.2	This report should be read in conjunction with the report presented to Committee at its October meeting which is at Appendix Two.
1.3	That the HMO Subject Plan does not present a true socioeconomic picture of the area and should not be used to assess over provision
1.4	Pursuant to section 12 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 ("the 2016 Act") the Council can refuse an application where it is satisfied that the granting of the HMO licence will result in overprovision of HMO accommodation in the locality of the accommodation.
1.5	In order to ensure consistency as both a planning and licensing authority, the same area was used to determine the locality. This is HMO Policy Area "HMO 2/19 Stranmillis" as defined in the document "Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015 (the "2015 Plan").

1.6	<p>In assessing whether the grant of a new licence in this locality would result in overprovision officers had regard to –</p> <p>(a) the number and capacity of <u>licensed</u> HMOs in the locality; and</p> <p>(b) the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need.</p>
1.7	<p>On the date of assessment, 29 September 2020 there were a total of 366 licensed HMOs out of 761 dwelling units in HMO policy area “HMO 2/19 Stranmillis” which equates to 48% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 366 licensed HMOs have a capacity of 1548 persons. The total number of dwelling units in a Policy Area is measured by Ordnance Survey’s Pointer database.</p>
1.8	<p>The Council must also consider the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need.</p>
1.9	<p>In September 2017 The Housing Executive published the document “Housing Market Analysis Update – Belfast City Council Area” which states “HMOs form an important element of the PRS, particularly for younger people on low incomes and for single people, under the age of 35, affected by the limitation of housing benefit to the shared room rate. Anecdotal evidence also indicates that this has been a popular sector with migrant workers.”</p>
1.10	<p>At the time of writing this report there were 10 HMO properties advertised for let as student houses on the website Property News in BT9 with a capacity of 40 bed spaces. It would therefore appear that there is sufficient supply of HMO accommodation in the area.</p>
1.11	<p>Consequently, officers were of the view that the granting of the HMO licence will result in overprovision of HMO accommodation in the locality.</p>
1.12	<p>Legal Services has advised that there is a clear requirement in Section 8 of the 2016 Act upon the Council to be satisfied that the granting of a licence will not result in overprovision.</p>
1.13	<p>The fact the use of the property as a HMO is permitted for planning purposes is a relevant consideration in determining whether the grant of this licence will result in overprovision. There is an argument that it may not do so as the premises are already being used as a HMO.</p>
1.14	<p>However it should be borne in mind that planning permission was granted on the basis that the use had been established for 5 or more years and was therefore immune to enforcement. No assessment of overprovision was made at that time. Given the level of licensed HMO properties in this locality as set out above it would be highly unlikely that a planning application for a new HMO in the area would be successful as the thresholds in the 2015 Plan have been significantly exceeded.</p>
1.15	<p>Reminder letter about renewal only sent one week before the licence was due to expire</p>
1.16	<p>Prior to the date of transfer the NIHE took the decision based on legal advice that it could not issue reminder letters relating to a regulatory process it would not be responsible for administering. The NIHE did however in November 2018 write to all HMO owners on behalf of the Department of Communities (DfC) informing them of the upcoming changes to the legislation.</p>
1.17	<p>In this case a reminder letter was issued by both post and email 7 days prior to the expiry of the existing licence. An application was not received until 13th February 2020.</p>

1.18	It is a matter of good practice that reminder letters should be sent and in this case one was sent. However, there is no legislative requirement for the council to do so and it is ultimately the responsibility of the owner of the HMO to bring forward the application for renewal. Whilst a reminder was not sent in the same manner that NIHE would have done, one was sent a week before the application was due to expire. Members will be aware that an application can be made online.
1.19	The applicant acknowledges in his written response that he let the licence lapse but cites a number of factors for the lapse which included some health concerns and he was in the process of changing the managing agent for the property due to misconduct and bad management by the previous agent. he was in the process
1.20	That he was required to have planning permission before submitting his application
1.21	Up to September 2019, applicants for renewal were advised that a failure to have planning permission for use of the property as an HMO would be considered when assessing whether the applicant is a fit and proper person. Applicants were furthered instructed that while it did not mean that an application would automatically be refused, they should ensure that they had the necessary permission or certificate of lawful use in place before applying for renewal of their licence.
1.22	Furthermore, at that time the advice given verbally by staff to applicants was that the application could be submitted without all the documentation being completed prior to the licence expiring. Whilst applicants were advised to ensure that they had the necessary planning permission or certificate of lawful use in place prior to making the required renewal application, you will note that applicants were also advised that not having said permission "...does not mean that an application will automatically be refused...". Furthermore, at that time the advice given verbally by staff to applicants was that the application could be submitted without all the documentation being completed prior to the licence expiring.
1.23	Officers have no record of the applicant seeking advice regarding the application process, prior to the expiry of his existing licence. Had he done so officers would have advised him to submit his application.
1.24	Not provided with details of the objection.
1.25	Details of the objection were included in the notice of proposed decision issue to Mr Rafferty on 30 September 2020.
1.26	The agenda seems to be in issuing the fixed penalty notice
1.27	The Fixed Penalty Notice issued on the 14 October 2019 offered Mr Rafferty the opportunity to discharge any liability to conviction by the payment of the FPN. The serving of the FPN followed an inspection of the property on the 2 October 2019 at which time it was identified that the property was occupied as an HMO by 5 unrelated individuals. Mr Rafferty took independent legal advice regarding the FPN at the time and subsequently chose to pay the FPN on the 28 October 2020.
1.28	The level of fixed penalty is within the range permitted in the Houses of Multiple Occupation Act (NI) 2016.
1.29	Why could we not of been advised of the temporary exemption notice before being issued us with the £5000 fine?

1.30	On the 2 October 2019 an authorised officer from the HMO Unit inspected the property and established that the property was occupied as an HMO by 5 individuals from more than 2 households which was an offence pursuant to section 30(1) of the 2016 Act. Prior to the 2 October 2019 the HMO Unit was not aware that the property was continuing to be used as an HMO and as such was not in a position to provide advice regarding Temporary Exemption Notices.
1.31	A temporary exemption notice applies where the owner of an unlicensed HMO makes an application to the council explaining the steps to be taken to stop the premises from being an HMO (such as ensuring that the number of occupants reduces below 3, or that sufficient basic amenities for exclusive use are installed so that occupants do not have to share them), and the council must be satisfied that these steps will be successful.
1.32	Threat of another £5000 fine
1.33	The advice provided to Mr Rafferty on the 21 October 2019 was that if he intended to take steps to remove the property from HMO usage he could apply for a temporary exemption notice. We further advised that if the property remained an unlicensed HMO and no such temporary exemption notice was in place the Council would have to consider taking further action pursuant to section 30 "Unlicensed HMO" of the Houses in Multiple Occupation Act (Northern Ireland) 2016.
1.34	Mr Rafferty in his application for a temporary exemption notice dated the 24 October 2019 give an undertaking that he would remove the accommodation from HMO usage by "Eviction of three or all five of tenants".
1.35	Subject Access Request (SAR)
1.36	Mr Rafferty submitted a SAR in relation to this licence application on the 4 October 2020, the council responded with the requested information on the 5 November 2020.
	Appendices – Documents Attached
	<ul style="list-style-type: none"> • Appendix 1 – Applicant's correspondence in response to notice of proposed decision • Appendix 2 – Original Committee Report • Appendix 3 – Minutes of the Licensing Committee meeting on 14 October 2020 • Appendix 4 – Applicants correspondence of the 3 November 2020 • Appendix 5 – Officers response to the correspondence of 3 November 2020

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Subject:	Applications for a New Licence to operate a House of Multiple Occupation for 32 Stranmillis Gardens, Belfast. BT9 5AS
Date:	14 October 2020
Reporting Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910
Contact Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910 Nora Largey, Divisional Solicitor, Ext. 6049

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues			
1.1	To consider an application for a Licence permitting the use of premises as a House in Multiple Occupation (HMO).			
	Premises	Application No.	Applicant(s)	Managing Agents
	32 Stranmillis Gdns Belfast BT9 5AA	7222	Mr Neil Rafferty	Key Lets NI
1.2	Members will be aware that responsibility for HMO's was transferred to local district councils in April 2019 with the introduction of a new licensing regime. Any existing registrations under the old NIHE Registration Scheme operated were deemed to be licences at the point of transfer. Members are reminded that licences are issued for a 5 year period with standard conditions. Where it is considered necessary to do so, the Committee can also impose special conditions.			
1.3	Following the publication of this application, an objection was received in relation to the application. This objection raises general concerns about the overprovision of HMOs in the Stranmillis HMO Policy Area			
1.4	As a valid objection has been received, the application must be considered by Committee which must, after hearing from the objector and the applicant, decide whether to grant the licence application.			

1.5	<p>Background</p> <p>The property was previously licensed as an HMO up and until the 20 August 2019, at which time the licence expired. Prior to the expiry of the licence the NIHMO Unit wrote to the owner on the 13 August 2019 reminding him that the licence on the property was about to expire.</p>
1.6	<p>On the 02 October 2019 an authorised officer from the HMO Unit inspected the property and established that the property was occupied as an HMO by 5 individuals from more than 2 households.</p>
1.6	<p>Officers wrote to Mr. Rafferty on the 2 October 2019 asking him if he had a reasonable excuse for operating the accommodation without it being licensed. As no such reasonable excuse was forthcoming the council issued a Fixed Penalty Notice (“FPN”) on the 14 October 2019 for the sum of £5000.00, offering Mr. Rafferty the opportunity of discharging any liability to conviction for the alleged offence, by paying the fixed penalty. Mr. Rafferty accepted the opportunity and paid the FPN on the 28 October 2019. Correspondence exchanged between the applicant, the applicant’s solicitor and the NIHMO Unit, in this regard, are appended to this report.</p>
1.7	<p>On the 28 November 2019 pursuant to Section 15 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 a Temporary Exemption Notice (TEN) was granted until 28 February 2020 after the owner specified the steps he would be taking with a view to securing the accommodation ceases to be an HMO. The TEN was subsequently extended until 28 May 2020. On the 17 July 2020 officers confirmed the property was no longer in HMO usage.</p>
1.8	<p>On the 13 February 2020 an application for a new HMO licence was submitted to the NIHMO Unit.</p>
2.0	Recommendations
2.1	<p>Taking into account the information presented Committee is asked to hear from the objectors and applicant and make a decision to either:</p> <ul style="list-style-type: none"> (i) Grant the application, with or without any special conditions; or (ii) Refuse the application.
2.2	<p>If the application is refused, the applicant has a right of appeal to the County Court. Such an appeal must be lodged within 28 days of formal notification of the decision. The licence will remain in place pending the appeal.</p>
2.3	<p>Objectors have no right of appeal but may be able to judicially review the Council’s decision</p>
3.0	Main report
	<u>Key Issues</u>
3.1	<p>Pursuant to the 2016 Act, the Council may only grant a licence if it is satisfied that:</p> <ul style="list-style-type: none"> 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, are fit and proper persons; c) the proposed management arrangements are satisfactory); d) the granting of the licence will not result in overprovision of HMOs in the locality;

	<p>e) the living accommodation is fit for human habitation and—</p> <p>(i) is suitable for occupation as an HMO by the number of persons to be specified in the licence, or</p> <p>(ii) can be made so suitable by including conditions in the licence.</p>
3.2	<p>As this is a new application the HMO Unit consulted with the Council's Planning Service who confirmed that on 17 January 2020 a Certificate of Lawful Use or Development was granted with the planning reference LA04/2019/2946/Idc</p>
3.3	<p>For the purpose of determining whether or not the granting of a licence would result in an overprovision of HMOs in the locality of the accommodation, the locality was defined as being HMO Policy Area "HMO 2/19 Stranmillis" as defined in the document "Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015.</p>
3.4	<p>When considering the fitness of an applicant the Council must have regard to any offences concerning fraud/ dishonesty, violence, drugs, human trafficking, firearms, sexual offences, unlawful discrimination in, or in connection with, the carrying on of any business; or any provision of the law relating to housing or of landlord and tenant law. It also permits the Council to take into account any other matter which the council considers to be relevant.</p>
	<p><u>Objections</u></p>
3.5	<p>Following publication of notice of the application, an objection was received in relation to the licence application. A copy of that objection is appended to this report. As appears from the objection, the issues raised are as follows:</p> <p>a) Over provision of HMOs in the Stranmillis HMO Policy Area.</p>
3.6	<p>The NIHMO Unit has consulted with following units within the Council's City and Neighbourhood Services Department -</p> <p>(a) Environmental Protection Unit ("EPU") - who have confirmed that in relation to night-time noise there has been no relevant enforcement action required in respect of the HMO in the last 5 years,</p> <p>(b) Environmental Protection Unit ("EPU") - who have confirmed that in relation to day-time noise there has been no relevant enforcement action required in respect of the HMO in the last 5 years,</p> <p>(c) Public Health and Housing Unit ("PHHU") - who have confirmed that in relation to rubbish accumulation/filthy premises, there has been no relevant enforcement action required in respect of the HMO in the last 5 years,</p> <p>(d) Cleansing Enforcement ("CE") - who have confirmed that in relation to litter and waste , there has been no relevant enforcement action required in respect of the HMO in the last 5 years,</p>
	<p><u>Fitness</u></p>
3.7	<p>The applicants and managing agent have confirmed that they have not been convicted of any relevant offences as set out at paragraph 3.4 of this report.</p>

3.8	The applicant or managing agent have not been convicted of any HMO related offences by the Council. The EPU, PHHU and CE, solely in respect of their statutory functions, have confirmed that there are no relevant, previous convictions in respect of the applicant, managing agent or occupants. Due to data protection issues which have recently arisen, PSNI have not been accepting or responding to notification of these applications. Officers are continuing to engage with PSNI to find a resolution to this issue.
3.9	As set out at paragraph 1.6 of this report, the NIHMO Unit issued a FPN on the applicant, for operating the accommodation as an HMO without a licence.
3.10	Officers are not aware of any other issue relevant to the Applicant's fitness.
	<u>Attendance</u>
3.11	The applicant and/or their representatives will be available to discuss any matters relating to the renewal of the licence should they arise during your meeting.
	<u>Suitability of the premises</u>
3.12	An inspection of the premises was carried out by Officers from the Service on 17 July 2020 at which time it was established that the property meet the physical standards for an HMO.
	<u>Notice of proposed decision</u>
3.13	On the 30 September 2020, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, Officers issued a notice of proposed decision to the applicant setting out the terms of the proposed licence.
	The notice of proposed decision stated that the council proposed to refuse the licence.
	A statement of reasons for the proposal was included in the notice of proposed decision.
	<u>Statement of reasons for the proposed decision</u>
3.14	<p><u>The statement of reasons outlined the following as the Council's basis for refusal:-</u></p> <p>"Pursuant to 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.</p> <p>For the purpose of section 12(2) of the Act the Council has determined the locality as being HMO Policy Area "HMO 2/19 Stranmillis" as defined in the document "Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015 (the "2015 Plan")</p> <p>In making this decision the Council has had regard to –</p> <ul style="list-style-type: none"> (a) the number and capacity of <u>licensed</u> 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 <p>To inform the Council in its consideration of the above provisions, the Council has taken account of the 2015 Plan and in particular, Policy HMO 1 and Policy HMO 2.</p>

3.15	<p>On the date of assessment, 29 September 2020 there were a total of 366 licensed HMOs out of 761 dwelling units in HMO policy area “HMO 2/19 Stranmillis” which equates to 48% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 366 licensed HMOs have a capacity of 1548 persons. The total number of dwelling units in a Policy Area is measured by Ordnance Survey’s Pointer database.</p> <p>Consequently, 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.”</p> <p><u>Financial and Resource Implications</u></p> <p>None. The cost of assessing the application and officer inspections are provided for within existing budgets.</p> <p><u>Equality and Good Relations Implications</u></p> <p>There are no equality or good relations issues associated with this report.</p>
4.0	Appendices – Documents Attached
	<ul style="list-style-type: none"> • Appendix 1 – Location Map • Appendix 2 – Objection • Appendix 3 – Notice of proposed decision • Appendix 4 – Correspondence with applicant regarding the FPN • Appendix 5 – Correspondence with applicant’s solicitor regarding the FPN • Appendix 6 – Map of HMO Policy Area “HMO 2/19 Stranmillis”

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Licensing Committee

Wednesday, 14th October, 2020

MEETING OF LICENSING COMMITTEE HELD REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor Donnelly (Chairperson);
Aldermen Copeland and Sandford; and
Councillors Bradley, Bunting, Groves,
Hussey, Hutchinson, M. Kelly, T. Kelly, Magee,
Magennis, McAteer, McKeown, Nicholl and Smyth.

In attendance: Mr. A. Thatcher, Director of Planning
and Building Control;
Mr. S. Hewitt, Building Control Manager;
Ms. N. Largey, Divisional Solicitor;
Mr. J. Cunningham, Regulatory Services Manager;
Mr. K. Bloomfield, HMO Unit Manager;
Mrs. E. McGoldrick, Democratic Services Officer; and
Ms. C. Donnelly, Democratic Services Officer.

Apologies

Apologies for inability to attend were received from Councillors Howard, McCullough and McCusker.

Minutes

The minutes of the meeting of 16th September 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 October, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

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 the applications that had been issued under the Scheme of Delegation.

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

The Committee noted the applications that had been issued under the Scheme of Delegation.

**Applications for the renewal of a Licence to operate a
House of Multiple Occupation for 4 Landseer Street**

The HMO Unit Manager provided an overview of the application and explained that, as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

He advised that no noise complaints had been received in relation to the property.

The Committee approved the application for the Grant of the renewal of a Licence to Operate a House of Multiple Occupation for 4 Landseer Street.

**Applications for the renewal of a Licence to operate a
House of Multiple Occupation for 7 Pretoria Street**

The HMO Unit Manager provided an overview of the application and explained that, as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

He advised that no noise complaints had been received in relation to the property.

The Committee approved the application for the Grant of the renewal of a Licence to Operate a House of Multiple Occupation for 7 Pretoria Street.

**Applications for the renewal of a Licence to operate a
House of Multiple Occupation for 29 St Ives Gardens**

The HMO Unit Manager provided an overview of the application and explained that, as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

He advised that no noise complaints had been received in relation to the property.

The Committee approved the application for the Grant of the renewal of a Licence to Operate a House of Multiple Occupation for 29 St Ives Gardens.

**Applications for the renewal of a Licence to operate a
House of Multiple Occupation for 4 Stranmillis Park**

The HMO Unit Manager provided an overview of the application and explained that, as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

He advised that no noise complaints had been received in relation to the property.

The Committee approved the application for the Grant of the renewal of a Licence to Operate a House of Multiple Occupation for 4 Stranmillis Park.

Applications for the renewal of a Licence to operate a House of Multiple Occupation for 4 Stranmillis Gardens

The HMO Unit Manager provided an overview of the application and explained that, as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

He advised that no noise complaints had been received in relation to the property.

The Committee approved the application for the Grant of the renewal of a Licence to Operate a House of Multiple Occupation for 4 Stranmillis Gardens.

Applications for the renewal of a Licence to operate a House of Multiple Occupation for 50 Stranmillis Gardens

The HMO Unit Manager provided an overview of the application and explained that, as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

He advised that no noise complaints had been received in relation to the property.

The Committee approved the application for the Grant of the renewal of a Licence to Operate a House of Multiple Occupation for 50 Stranmillis Gardens.

Applications for a new Licence to operate a House of Multiple Occupation for 32 Stranmillis Park

The HMO Unit Manager provided an overview of the application and explained that as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

He advised that no noise complaints had been received in relation to the property.

He pointed out that the property was previously licensed as an HMO up and until 20th August 2019, at which time the licence had expired. Prior to the expiry of the licence, the NIHMO Unit had written to the owner on 13th August 2019 reminding him that the licence on the property was about to expire. On 2nd October 2019, an authorised officer from the HMO Unit had inspected the property and established that the property was occupied as an HMO by 5 individuals from more than 2 households.

He further advised that officers had written to Mr. Rafferty on 2nd October 2019 asking him if he had a reasonable excuse for operating the accommodation without it being licensed. As no such reasonable excuse was forthcoming, a Fixed Penalty Notice ("FPN") was issued on 14th October 2019 for the sum of £5000.00, offering Mr. Rafferty the opportunity of discharging any liability to conviction for the alleged offence, by

paying the fixed penalty. Mr. Rafferty accepted the opportunity and paid the FPN on the 28th October 2019.

On 28th November 2019, pursuant to Section 15 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, a Temporary Exemption Notice (TEN) was granted until 28th February 2020 after the owner specified the steps he would be taking, with a view to securing the accommodation ceases to be an HMO. The TEN was subsequently extended until 28th May 2020. On 17th July 2020 officers had confirmed that the property was no longer in HMO usage. On 13th February 2020 an application for a new HMO licence was submitted to the NIHMO Unit.

Following the publication of the application, an objection was received in relation to the application. The objection raised general concerns about the overprovision of HMOs in the Stranmillis HMO Policy Area.

The HMO Unit Manager informed the Committee that as it was a new application, the HMO Unit had consulted with the Council's Planning Service which confirmed that on 17th January 2020, a Certificate of Lawful Use or Development was granted with the planning reference **LA04/2019/2946/1de**.

For the purpose of determining whether or not the granting of a licence would result in an overprovision of HMOs in the locality of the accommodation, the locality was defined as being HMO Policy Area "HMO 2/19 Stranmillis" as defined in the document "Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015.

The Committee agreed that Mr. Steven Rafferty, speaking on behalf of the applicant, Mr. Niall Rafferty, could address the Committee regarding the application for a new HMO for 32 Stranmillis Park.

Mr. Rafferty explained that because of miscommunications and inaccuracies provided by the HMO Office, the application process had been conducted extremely poorly and that it was the applicant's view that the application should have been considered by the HMO Office as a renewal and not a new application.

Mr. Rafferty advised that the applicant acknowledged that he had allowed the licence to lapse, however, there were several contributing factors, which included some health concerns and changes in the administration process undertaken by Belfast City Council after the Northern Ireland Housing Executive (NIHE) transferred its Statutory Registration Scheme. He added that at the time of the renewal, he was in the process of changing the managing agent for the property due to misconduct and bad management by the previous agent, however, this had not been accepted as a reasonable excuse for failing to renew the licence within the specified timeframe.

He further advised that the applicant had held a HMO licence for the property for the previous ten years without issue and that, previously, the NIHE would have provided many months' notice for renewal and that an NIHE officer would have made contact by telephone when a licence was due for renewal, a process not undertaken by Belfast City Council, which provided one week's notice before the licence was due to expire.

Mr. Rafferty further informed Members that the applicant opposed the assumption of overprovision in the Stranmillis area and that the HMO Policy Area “HMO 2/19 Stranmillis” did not represent a true socioeconomic picture of the area in 2020. He asked the Committee to take his submission into consideration and grant the HMO licence.

The Chairperson thanked Mr. Rafferty for his submission to the Committee and following discussion, the Committee agreed to defer the application for the Grant of a Licence to Operate a House of Multiple Occupation for 32 Stranmillis Gardens to its next meeting on 18th November, 2020.

Non-Delegated Matters

Houses in Multiple Occupation (HMO) Update

The HMO Unit Manager presented the Committee with an update in respect of the following report:

“1.0 Purpose of Report or Summary of main Issues

- 1.1 Members will be aware that responsibility for HMO’s was transferred to local district councils in April 2019 with the enactment of the Houses in Multiple Occupation Act (Northern Ireland) 2016 ‘2016 Act’.
- 1.2 Members expressed concern at the September’s licensing committee meeting about the ongoing issues in the Holylands and other areas associated with HMOs, particularly around ASB. It was agreed that officers would bring back a report to this meeting outlining what potential action could be taken under HMO legislation to address that and other more medium term priorities, for example amendments to the HMO legislation.
- 1.3 This paper provides Members with information regarding the action being taken by the NIHMO Unit to address ASB in HMO accommodation and details of the proposed review of the Houses in Multiple Occupation (HMO) Licensing Scheme.

2.0 Recommendations

- 2.1 The Committee is asked to note the additional measures which have been put in place to allow the NIHMO Unit to address ASB issues and the proposed review of the HMO Licensing Scheme.

3.0 Main report

Key Issues

Background

- 3.1 On the 20 February 2019 this committee approved the Standard Licensing Conditions for Houses in Multiple

Occupation (HMOs) in Northern Ireland. The conditions imposed within that document apply to all houses in multiple occupation (HMOs) in Northern Ireland, and will be attached to all licences as they are issued. They are imposed for the purpose of regulating both the management, use and occupation of the HMO, and its condition and contents.

- 3.2 Section 9 of the Standard Licensing Conditions require the licensee to have in place a policy / plan (approved in writing by the council) to deal with any anti-social behaviour linked to licensed premises, either directly or indirectly which is caused by or effects their tenants.
- 3.3 To assist owners and managing agents in the preparing of their anti-social behaviour plans, Members on the 20 February 2019 approved the guidance document 'Tackling Anti-Social Behaviour in HMO Properties, A Guide for Owners and Managing Agents'.
- 3.4 Only those properties licensed since the 1 April 2019 have the Standard Licensing Conditions and the requirement to have an ASB plan applied to them, this equates to 22% of licensed HMOs in Belfast. The remaining 78% of licensed HMOs retain the condition in place when they transferred from Statutory Registrations (granted by the NIHE) and became Licences pursuant to the provisions of The Houses in Multiple Occupation (Commencement and Transitional Provisions) Order (Northern Ireland) 2019.
- 3.5 Section 10(6) of the Houses in Multiple Occupation Act (Northern Ireland) 2016 sets out certain matters which the Council must have regard to in deciding whether an owner or managing agent is a fit and proper person. It also allows councils to take into account any other matter which it considers to be relevant. This cannot however include over provision or breach of planning control where the application is for renewal.
- 3.6 Amongst those mandatory considerations, the council must have regard to any anti-social behaviour engaged in by the owner/ manager the occupants and any anti-social behaviour which may affect their tenants. Officers are of the opinion that the Standard Licensing Conditions including the requirement for an anti-social behaviour ('ASB') Plan allows much more decisive action on the part of the Council and landlords alike when coupled with the progress that has been made on a number of issues recently which are discussed below.

Information Sharing Protocol

- 3.7 For a number of months Officers have been working on putting processes in place to ensure the proactive and managed sharing of internal data so as to effectively deal with complaints regarding HMO properties in the Belfast area. These arrangements were just recently formalised through an Information Sharing Protocol between the NIHMO Unit, Environmental Protection Unit (EPU), Public Health and Housing Unit (PHHU) and Cleansing Enforcement (CE).

Sharing Information with HMO Owners

- 3.8 The Information Sharing Protocol also regulates the arrangements for the sharing of data with HMO owners in circumstances where matters potentially affect their licence to operate the premises. This is an important development and a departure from our previous position which was based on GDPR concerns. The NIHMO unit will now share with HMO owners, where appropriate, the following information –

1. details of Warning Notices, Fixed Penalty Notices and Abatement Notices served in respect of HMO property concerning night time domestic/neighbourhood noise;
2. details of Warning Letters or Abatement Notices served in respect of HMO property concerning day time domestic/neighbourhood noise;
3. details of Abatement Notices served in respect of HMO property where a statutory nuisance has been established as a result of the accumulation of rubbish which may/has attract vermin;
4. details of Litter Clearing Notices and Fixed Penalty Notices served in respect of HMO property concerning litter and waste; and
5. details of Covid-2 Prohibition Notices which Council have been advised of by the PSNI in relation to your HMO property

- 3.9 On receipt of the aforementioned information, or on receipt of a complaint from any other source, the HMO owner must maintain a register of such complaints and advise the Council as to how the owner and/or the managing agent dealt with the problem. If a landlord fails to effectively deal with any reported ASB councils can consider varying or revoking the licence. All HMO landlords in Belfast have been advised of this development and that failure to deal with ASB may

affect their licence regardless of whether there is a condition requiring an ASB Plan to be in place.

- 3.10 A temporary resource (subject to further review) has been added to support the NIHMO unit to manage ASB complaints and communication with Landlords.

Varying HMO Licences

- 3.11 Pursuant to Section 22 of the 2016 Act the council can during the terms of an HMO licence vary the licence to remove, add or vary any conditions included in the licence.
- 3.12 Officers are considering how best to commence the process of varying the licences of those properties which are still under the old registration scheme conditions. This process can only be done on an individual case by case basis. The statutory process for varying a licence is cumbersome and any variation is subject to appeal in the Magistrates Court. Whilst courts have started sitting again, contested hearings for non-urgent cases are not proceeding so it is likely to be some time until any contested appeals would be concluded. It is not therefore considered that this is an immediately effective tool to deal with ASB presently occurring in some areas.
- 3.13 Officers are continuing to explore with the DfC the possibility of amending The Houses in Multiple Occupation (Commencement and Transitional Provisions) Order (Northern Ireland) 2019 to apply the standard conditions around ASB to all deemed licences.

Review of the Houses in Multiple Occupation (HMO) Licensing Scheme.

- 3.14 Officers have been liaising with officials from the Department for Communities (DfC) to finalise the terms of reference for the review of the HMO Licensing Scheme and the legislative framework underpinning the Scheme.
- 3.15 The review will relate to the operation of the licensing of houses in multiple occupation in accordance with the Houses in Multiple Occupation Act (Northern Ireland) 2016 and the Houses in Multiple Occupation (Northern Ireland) Regulations 2019 which dictate how the licensing scheme should operate.
- 3.16 Officers have put forward suggestions that the review should include a detailed assessment of the resources necessary to meet the demands and expectations of the Departments and

relevant stakeholders. Officers have also suggested that the review should assess if there are any operational / legislative omissions, difficulties or teething issues experienced implementing HMO licensing which may require further development to enhance and improve the workings of the scheme.

- 3.17 The Department has proposed a collaborate approach to the review with councils, tenants and LANI and any other stakeholders identified.
- 3.18 The vast majority of public representations received in respect of licence applications relate to general concerns about ASB, over provision and breach of planning control rather than specific properties. Officers recognise that these have also been a cause of concern for Members, as was particularly highlighted at the September meeting. ASB has been addressed above and Members will be aware the legislation specifically precludes councils from having regard to these issues in respect of renewal applications. Representations have also been received in relation to the ability to apply for Certificates of Lawful Use and how that circumvents the limits placed on the number of HMO's in certain areas.
- 3.19 Officers would welcome the views of Committee as to issues it would like to see addressed in this Review and would ask that Committee agrees to hold a workshop to explore those issues.

Financial & Resource Implications

- 3.20 None

Equality or Good Relations Implications/Rural Needs Assessment

- 3.21 There are no issues associated with this report.”

The Committee noted the additional measures which have been put in place to allow the NIHMO Unit to address ASB issues and during consideration of the proposed review of the HMO Licensing Scheme, it was

Moved by Councillor Smyth,
Seconded by Councillor McKeown,

That the Committee agrees that officers, when liaising with officials from the Department for Communities (DfC) to finalise the terms of reference for the review of

the HMO Licensing Scheme and the legislative framework, recommend that local residents associations are included as stakeholders.

The Committee agreed to the proposal.

Chairperson

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Subject:	Licence Fees for Sex Establishments
Date:	16 December 2020
Reporting Officer:	Stephen Hewitt, Building Control Manager, Ext 2435
Contact Officer:	James Cunningham, Regulatory Services Manager, Ext 3375

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	Under Article 4 and Schedule 2 of The Local Government (Miscellaneous Provisions) (NI) Order 1985 (the Order), the Council has powers relating to the Licensing of Sex Establishments. Paragraph 19, Schedule 2 provides that an applicant for the grant, renewal or transfer of a licence shall pay a reasonable fee determined by the council.
1.2	Unlike the Street Trading Act (NI) 2001 and the Licensing of Pavement Cafés Act (NI) 2014, there is no procedure prescribed in the Order that the Council must follow in determining the Licence fee.
1.3	The current Sex Establishment Licence fees were set at your meeting of June 2016 and Committee agreed that a review of the fees be conducted each year.

2.0	Recommendations														
2.1	Members are asked to: <ul style="list-style-type: none"> • Agree that our current fees, reviewed in September 2019, remain unchanged. 														
2.2	Members are advised that the Licensing Committee does not have delegated powers in relation to policy decisions concerning licensing matters and as such your recommendation as to the appropriate fees for sex establishments licences will be subject to ratification by Council.														
3.0	Main report														
	<u>Key Issues</u>														
3.1	A review of the time allocated to each task in the licensing process has been undertaken and costing estimates reviewed. This analysis has demonstrated that the current fees, as agreed by Committee in September 2019, are still proportionate to the cost of the processes associated with administering a Sex Establishment Licence.														
3.2	As there has been no change in the current costs, it is proposed that the fees set previously remain as shown below. <table border="1" data-bbox="555 958 1184 1249"> <tr> <td>Application Fee</td><td>£3,200</td></tr> <tr> <td></td><td></td></tr> <tr> <td>Renewal Fee</td><td>£1,430</td></tr> <tr> <td></td><td></td></tr> <tr> <td>Transfer Fee</td><td>£1,125</td></tr> <tr> <td></td><td></td></tr> <tr> <td>Licence Fee</td><td>£500</td></tr> </table>	Application Fee	£3,200			Renewal Fee	£1,430			Transfer Fee	£1,125			Licence Fee	£500
Application Fee	£3,200														
Renewal Fee	£1,430														
Transfer Fee	£1,125														
Licence Fee	£500														
	<u>Financial and Resource Implications</u>														
3.3	The Sex Establishment Licence fees will ensure the cost of the operational and administration processes are proportionate to the licensing scheme.														
	<u>Equality or Good Relations Implications/Rural Needs Assessment</u>														
3.4	There are no issues associated with this report.														
4.0	Appendices – Documents Attached														
	None														



Subject:	Pavement Café Licence hours of operation
Date:	16 December, 2020
Reporting Officer:	Stephen Hewitt, Building Control Manager, Ext 2435
Contact Officer:	James Cunningham, Regulatory Services Manager, Ext 3375

Restricted Reports	
Is this report restricted?	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If Yes, when will the report become unrestricted?	
After Committee Decision	<input type="checkbox"/>
After Council Decision	<input type="checkbox"/>
Some time in the future	<input type="checkbox"/>
Never	<input type="checkbox"/>

Call-in	
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	Committee are reminded that, at your meeting in December 2016, you determined a number of matters in relation to the administration of the Licensing of Pavement Cafés Act (NI) 2014.
1.2	This included setting Pavement Café Licence fees, agreeing the Standard Conditions to be attached to licences and amendments to the Scheme of Delegation to outline those matters that would be brought before the Licensing Committee for consideration.
1.3	This report is to consider and agree the standard hours of operation for licences issued under the Licensing of Pavement Cafes Act (NI) 2014.

2.0	Recommendations
2.1	<p>Members are asked to consider the information presented and:</p> <ol style="list-style-type: none"> 1. Agree that the standard hours for which a Pavement Café licence may be permitted to operate are set as 8.00am to 11.00pm, OR 2. Agree such other standard hours of operation as the Committee deems appropriate. AND 3. Agree that any application for a pavement café licence to trade earlier than the standard time of 8.00am is dealt with under the scheme of delegation, OR 4. Agree that any application for a pavement café licence to trade earlier than the standard time of 8.00am is brought before Committee to determine. AND 5. Agree that any application for a pavement café licence to trade later than the standard time of 11.00pm is brought before Committee to determine, OR 6. Agree that any application for a pavement café licence to trade later than the standard time of 11.00pm is dealt with under the scheme of delegation where no adverse representations are received.
2.2	Members are advised that the Licensing Committee does not have delegated powers in relation to policy decisions concerning licensing matters and as such your recommendation will be subject to ratification by Council.
3.0	Main report
	<u>Key Issues</u>
3.1	The Licensing of Pavement Cafes Act (NI) 2014 ("the Act") came into operation on the 1st October 2016. However, the Council did not implement the legislation at that time as the Department for Infrastructure, Roads had not, and still have not, issued their technical guidance in support of the Act.
3.2	That technical guidance was deemed crucial in that, among other matters, it was required to provide councils with the necessary information on an acceptable size and position of a pavement café such that there was clear demarcation between pedestrians and cafés to enhance health & safety regarding obstructions, tripping hazards and to provide a clear indicator for the visually impaired.
3.3	In June this year a temporary process for considering pavement café applications was introduced to assist the hospitality sector during the pandemic. This process included drafting temporary guidance for applicants, which was based on the Department for Communities guidelines and supplementary guidance from the Licensing Forum Northern Ireland produced when the Act came into force.
3.4	Council's may set the hours and days of use for the pavement café area having regard to the location, likely disturbance to local residents or other businesses and representations from interested parties.
3.5	The supplementary guidance offered general advice around the hours of operation of pavement cafés to maintain consistency across N. Ireland. It advised that pavement café should be licensed between 8am and 11pm and be reflective of the normal operating hours of the business. There was also advice that if the premises are licensed under the Licensing Order, a licence will not be issued beyond 11.30pm, regardless of the additional operating hours that may apply to the premises.

3.6	The Council's temporary guidance was issued in unusual circumstances to assist the hospitality sector during the pandemic. It was made clear that it will be subject to review and that the council may modify or dispense with such aspects of the guidance as it thinks appropriate depending upon issues which may arise, or in response to changes in the Government's guidance in relation to Covid-19.
3.7	The Council has now received a number of applications from premises with a Liquor Licence where the hours applied for are not representative of the Council's guidance document or the current requirements of the N.I. Executive. Some applicants have requested a later finishing time up to 1.00am although these applications were generally submitted before the N.I. Executive requirement that licensed premises were to be closed by 11.00pm.
3.8	Under the current liquor licensing law, normal trading hours for licensed premises are 11.30am to 11.00pm on weekdays, 12.30pm to 10.00pm on Sunday or Christmas Day.
3.9	Licensed premises providing entertainment or refreshment, can apply for an Order for additional permitted hours to open to 1.00am on weekdays and Saturday and 12 midnight on Sundays.
3.10	Members are reminded that any application for an Outdoor Entertainments Licence is issued under delegated authority with a latest finishing time of 11.00pm. For any licensee that wishes to provide outdoor entertainment later than 11.00pm such application is brought before the Licensing Committee for consideration.
3.11	<p><u>Standard hours of operation of a pavement café</u></p> <p>For both temporary licences and, in due course, those issued on a permanent basis under the scheme of delegation Members are asked to consider that the standard hours for which a Pavement Café licence may be permitted to operate are set as 8.00am to 11.00pm. As such the finishing time is consistent with the current standard finishing time for outdoor entertainment.</p> <p><u>Process for determining applications for hours outside standard pavement café hours</u></p> <p>(i) Opening earlier than 8.00am</p>
3.12	<p>Some premises, particularly coffee shops, will open earlier to trade than 8.00am. Should the situation arise that any applicant for a pavement café licence wishes to trade earlier than the standard time of 8.00am, Members are asked to consider if that is a matter they are content may be dealt with under the scheme of delegation or if this must be brought before Committee to determine.</p> <p>(ii) Opening later than 11.00pm</p>
3.13	Where an applicant for a pavement café licence wishes to trade later than the standard time of 11.00pm, Members are asked to consider if they require that these applications are brought before the Licensing Committee for consideration.
3.14	Alternatively, Committee may only wish to consider those applications for later opening hours where representations have been received and delegate that function to the Director of Planning and Building Control where no adverse representations are received.
3.15	Members are reminded that under the Scheme of Delegation the Director of Planning and Building Control is responsible for exercising all powers in relation to the issue, but not

	refusal, of Pavement Café Licences, excluding provisions relating to applications for the grant, renewal or variation of licences where adverse representations are received.
3.16	Any decision of the Committee in relation to policy and legislation concerning licensing matters must be ratified by Council.
	<u>Financial and Resource Implications</u>
3.17	None
	<u>Equality or Good Relations Implications/Rural Needs Assessment</u>
3.18	There are no issues associated with this report.
4.0	Appendices – Documents Attached
	None



Subject:	Amendment of Standard Terms and Conditions to include an emergency out of hours contact number
Date:	16 th December 2020
Reporting Officer:	Nora Largey, Divisional Solicitor, Ext. 6049
Contact Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910 Nora Largey, Divisional Solicitor, Ext. 6049

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	To consider amendment of the Standard Terms and Conditions attached to licences for the use of premises as a House in Multiple Occupation (HMO) to include a requirement to provide an emergency out of hours contact number.
2.0	Recommendations
2.1	Taking into account the information presented Committee is asked to amend the Standard Terms and Conditions attached to a HMO licence to allow the landlord or managing agent to be contacted in circumstances where there is anti-social behaviour occurring at the HMO property and the co-operation of the tenants cannot be secured.
2.2	If Committee does agree to amend the standard conditions, delegated authority is sought to grant any outstanding applications in respect of which a special condition was proposed without such condition.
3.0	Main report
	<u>Key Issues</u>
3.1	Section 10(6) of the Houses in Multiple Occupation Act (Northern Ireland) 2016 ('the 2016 Act') sets out the matters which are relevant for deciding whether an owner or managing agent is a fit and proper person for the purposes of granting a licence.

3.2	Amongst other considerations, the Council must have regard to any anti-social behaviour engaged in by the owner or manager, and the owner or manager's conduct as regards any anti-social behaviour engaged in by the occupants of any relevant living accommodation whilst in the accommodation, or adversely affecting the occupants of any such accommodation.
3.3	For the purpose of Section 10(6) "anti-social behaviour" means acting or threatening to act in a manner causing or likely to cause a nuisance or annoyance to a person residing in, visiting or otherwise engaging in a lawful activity in residential premises or in the locality of such premises, or using or threatening to use residential premises for illegal purposes.
3.4	Section 14 (1)(a) of the 2016 Act provides that the Council may include such conditions as the Council considers appropriate for regulating the management, use and occupation of the HMO. Such conditions may include the requirement to take reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the HMO.
3.5	At its meeting on 20 th February 2019 the Committee approved standard licence conditions. A copy of those conditions are attached in Appendix 1. These conditions apply to all houses in multiple occupation (HMOs) in Northern Ireland, and will be attached to all licences as they are issued. They are imposed for the purpose of regulating both the management, use and occupation of the HMO, and its condition and contents. The Council may include further special conditions as it considers necessary.
3.6	At its meeting on 20 th February 2019 the Committee also approved a guidance document entitled 'Tackling Anti-Social Behaviour in HMO Properties, A Guide for Owners and Managing Agents' which is attached in Appendix 2. This provides guidance to landlords on the remedies and preventative measures that can be taken to manage anti-social behaviour, how to best demonstrate compliance via record keeping and intervention, and the development of an anti-social behaviour plan.
3.7	It is acknowledged that responsible HMO landlords want to be good neighbours, take the behaviour of their tenants seriously and already endeavour to resolve any alleged anti-social behaviour linked to their properties. Councils will continue to support landlords in doing so.
3.8	Historically Council had considered that sharing information about alleged anti-social behaviour or any enforcement action against occupants was unlawful. However with the introduction of the new licensing scheme officers reviewed this position and determined that certain information could be provided in light of the new statutory scheme. This move was broadly welcomed by landlords.
3.9	In the course of that review it became apparent that it is very difficult for Environmental Health to effectively deal with noise and other anti-social behaviour immediately given legislative restraints and the transient nature of the occupancy of most of these properties. There will also be incidences of anti-social behaviour which are not enforceable under noise legislation but are nonetheless causing a significant disturbance.
3.10	Upon some reports being presented to Committee where there had been issues relating to noise Committee requested that a special condition be included to provide an out of hours contact number to deal with noise issues at a property. Given this indication from Committee officers have considered the imposition of such a condition for those applications where there has been a noise issue reported at the property over the lifetime of the licence.
3.11	Whilst most landlords have been content to agree to the special condition, there have been objections from some and LANI have also raised concerns. A copy of correspondence with LANI on this issue is attached at Appendix 3.

3.12	Amongst the other concerns raised some landlords have alleged that the imposition of such a condition is a breach of a landlord's rights under Article 1 Protocol 1 of the European Convention on Human Rights (the Convention'). This relates to the right to peaceful enjoyment of a person's own property. Officers have also been asked whether the Council carried out 'a human rights impact assessment' in respect of the proposed inclusion of such a condition.
3.13	Article 6 of the Human Rights Act 1998 states that "It is unlawful for a public body to act in a way which is incompatible with a Convention right." However Article 1 Protocol 1 of the Convention is not an absolute right. This means that it can be interfered with to the extent that it is considered necessary or proportionate to do so in order to achieve a legitimate aim. In this particular context the Council must also have regard to the competing rights of those affected by noise. Similarly their rights are engaged under Article 1 Protocol 1 and also under Article 8 of the Convention which relates to the right to respect for private & family life, home & correspondence. Therefore in determining whether to impose special licence conditions, the Council must strike an appropriate balance between the human rights of those who own HMOs and those who live beside them.
3.14	Officers have carefully considered the issues which have been raised and what was sought to be achieved in requiring an out of hours number. There is a clear statutory obligation upon HMO landlords to be responsible for managing anti-social behaviour at their properties. They are also likely to have the most up to date contact details for their tenants and/or their guarantors if needed and it is considered that tenants may be more likely to comply with council officer requests if they are aware their landlord could be contacted with the potential ramifications that may have on their tenancy etc.
3.15	Officers have come to the conclusion that it would be more appropriate to include a standard condition requiring all landlords to provide an emergency out of hours contact number rather than applying a special condition on an ad hoc and reactive basis upon the renewal of each individual licence.
3.16	It is envisaged that this number will only be used where the anti-social behaviour is causing an unacceptable disturbance to neighbours or in the area generally and that there has been a failure to comply with a reasonable request from an officer of the council or PSNI by the occupants. The landlord or managing agent will generally not be expected to attend the property, nor will they be expected to manage anti-social behaviour which is not directly occurring on, or connected to, their premises. In this regard it is also considered that the proposal is proportionate to the aim which is sought to be achieved.
3.17	If Committee agree to the inclusion of such a Standard Condition the Council will amend the Standard Conditions and notify all registered landlords of the change. It will also provide some general guidance as set out above to reassure landlords that this will only be used in very limited circumstances.
3.18	Furthermore, delegated authority is sought to grant any outstanding applications in respect of which it was proposed to include a special condition without same given the standard licence conditions are to be amended.
	<u>Financial and Resource Implications</u>
3.19	None.

3.20	<p><u>Equality and Good Relations Implications</u></p> <p>There are no equality or good relations issues associated with this report.</p>
4.0	<p>Appendices:</p> <p>Appendix One – Standard Conditions of Licence</p> <p>Appendix Two – ‘Tackling Anti-Social Behaviour in HMO Properties, A Guide for Owners and Managing Agents’</p>



Houses in Multiple Occupation Act (Northern Ireland) 2016

Standard Licence Conditions for Houses in Multiple Occupation (HMOs) in Northern Ireland

[Home](#) > [Standard Licence Conditions for Houses in Multiple Occupation \(HMOs\) in Northern Ireland](#)

Contents

- [Section 1 - Introduction](#)
- [Section 2 - Permitted Occupancy Section 31\(1\)](#)
- [Section 3 - Safety Certification and Declarations Confirming Compliance](#)
 - Safety of Electrical Installations Section 14(2)(d)
 - Carbon monoxide Alarms Section 14(2)(d)
 - Chimneys, Flues and Fuels Section 14(2)(c)
 - Safety of Electrical Appliances Section 14(2)(d)
 - Safety of Furniture Section 14(2)(c)
- [Section 4 - Adequate Security Arrangements Section 14\(2\)\(c\)](#)
- [Section 5 - Heating and Energy Performance](#)
 - Heating Section 14(2)(c)
 - Energy Performance Certificates (EPCs) Section 14(1)(b)
- [Section 6 - Physical Standards](#)
 - Fitness for Human Habitation Section 8(2)(e)
 - Living Accommodation Standard Section 13(3)
 - Hazard Regulations Section 54(3)
- [Section 7 - Satisfactory Management Arrangements](#)
 - Reasonable Access
 - Code of Practice for the Management of Houses in Multiple Occupation
 - Unjust fees Section 10(5)(d)
- [Section 8 - Rubbish and Environmental Considerations](#)
 - Rubbish Section 14(2)(c) & Regulation 17
 - Environmental Considerations Section 14(20)(c) & Regulation 17

- [Section 9 – Anti-Social Behaviour Section 14\(2\)\(b\)](#)
- [Section 10 – Variation of a Licence or Change of Details or Circumstances](#)
- [Section 11 – Competency Training Section 14\(2\)\(f\)](#)
- [Section 12 – Legislative Authority](#)

Section 1 – Introduction

1. The conditions imposed within this document shall apply to all houses in multiple occupation (HMOs) in Northern Ireland and are imposed for the purpose of regulating –

- a. the management, use and occupation of the HMO;
- b. its condition and contents.

The council may include further conditions in the licence in addition to the conditions contained in this document. Such conditions if imposed shall be appended to the licence certificate.

Section 2 – Permitted Occupancy

Section 31(1)

2. During the period of the licensing the licensee shall ensure that the accommodation shall be occupied by no more than the number of persons who are authorised by the licence to occupy the HMO as their only or main residence.
3. During the period of the licensing the licensee shall ensure that any specific room occupancy level in the accommodation (if so specified) in the licence shall not be exceeded.

Section 3 – Safety Certification and Declarations Confirming Compliance

4. The licensee shall ensure that during the period of the licence all safety and maintenance certificates are valid and kept up to date.

Safety of Electrical Installations Section 14(2)(d)

5. The licensee shall ensure that the electrical installation in the house is safe, maintained and in proper working order at all times. The licence holder shall ensure that a satisfactory Electrical Installation Condition Report (EICR) is produced at intervals of no more than five (5) years or more frequently if required in accordance with the previous EICR confirming compliance with the applicable edition of the I.E.E. where the property is less than 5 years old a letter or statement issued by building control confirming date of completion will be accepted instead.

6. The licensee shall within seven (7) days of any demand by the council, provide the most recent fixed wire inspection and test report. This report must be issued by a competent electrical engineer.

Carbon Monoxide Alarms Section 14(2)(d)

7. The licensee shall ensure that a carbon monoxide alarm is installed which meets the requirements of BS EN 50291:2001 in the same room as any gas appliance. Alarms should be powered by a battery designed to operate for the working life of the alarm. Such alarms must be kept in proper working order and should incorporate a warning device to alert users when the working life is due to pass.

8. The licensee shall ensure that a carbon monoxide alarm is installed which meets the requirements of BS EN 50291:2001 in any room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance. Alarms should be powered by a battery designed to operate for the working life of the alarm. Such alarms must be kept in proper working order and should incorporate a warning device to alert users when the working life is due to pass. For the purposes of this paragraph, bathrooms, lavatories, halls and landings are all treated as rooms used as living accommodation.

9. Guidance on the installation of carbon monoxide alarms is available in BS EN 50292:2002 and in the manufacturers' instructions.

10. The CO alarm must be fitted in the correct location and not have passed, or be shortly about to pass, beyond its lifetime. The licensee shall ensure that the CO alarm is replaced before it passes beyond its lifetime during the licence period.

11. The licensee shall within seven (7) days of any demand by the council provide a declaration as to the condition and position of any carbon monoxide alarms in the property.

12. The licensee shall ensure that any chimneys/flues that are in use must be cleaned annually.

13. The licensee shall within seven (7) days of any demand by the council provide a declaration as to the condition of any chimneys/flues and date they were last cleaned.

Safety of Electrical Appliances Section 14(2)(d)

14. The licensee shall ensure that any electrical appliances made available by them in the house are kept in a safe condition and proper working order at all times. The licence holder shall ensure that as soon as electrical appliance is identified as being unsafe, it is removed from the house as soon as is reasonably practicable and are properly disposed of by the licence holder.

15. The licensee shall within seven (7) days of any demand by the council, provide a declaration regarding the proper disposal of any unsafe electrical appliances.

16. The licensee shall ensure that a record of visual inspections and tests is maintained. The licence holder shall within seven (7) days of any demand by the council provide most recent records of visual inspections and tests carried out within the previous 12 months and provide a declaration as to the safety of electrical appliances made available by them at the property.

17. All portable electrical appliances provided by the landlord must be maintained in a safe condition and proper working order. The licensee shall ensure that a current Portable Appliance Testing (PAT) Certificate is held for all applicable appliances owned by the owner of the accommodation. It should show whether the item passed or failed. Records of all PAT tests are retained for five years. Any necessary maintenance or repair work must be undertaken by a competent electrical engineer.

18. The licensee shall within seven (7) days of any demand by the council provide all maintenance records and PAT testing records.

Safety of Furniture Section 14(2)(c)

19. The licensee shall ensure that any furniture made available by them in the house is kept in a safe condition and proper working order at all times. The licence holder shall ensure that as soon as any furniture is identified as being unsafe, it is removed from the house as soon as is reasonably practicable and are properly disposed of by the licence holder.

20. The licensee shall within seven (7) days of any demand by the council, provide a declaration regarding the proper disposal of any furniture.
Page 8 Houses in Multiple Occupation Act (Northern Ireland) 2016 Standard Licence Conditions for Houses in Multiple Occupation (HMOs) in Northern Ireland

Section 4 – Adequate Security Arrangements

Section 14(2)(c)

21. The licensee shall make sure that adequate security arrangements are in place and take reasonable steps to achieve property security by complying with the requirements below:

- a) So far as reasonably practicable, any emergency works necessary to protect the security of the accommodation are undertaken within 24 hours of notification e.g. damage to windows and entrance points to the property.
- b) The security provisions for access to the accommodation (locks, latches, thumb turns, deadbolts and entry systems etc.) are maintained and in good working order at all times.
- c) All ground floor and accessible windows must have secure locks. Where window locks are fitted, window keys shall be provided to the occupants of the accommodation. Emergency egress windows shall not be lockable with a key.
- d) Where a burglar alarm is fitted in the accommodation, the occupants are made aware of the code, have clear instructions on how the alarm is operated and the circumstances under which the code for the alarm can be changed.
- e) Where it is known that previous occupiers have not surrendered keys, as soon as is reasonably practicable arranging for a lock change to be undertaken, prior to new occupiers moving in.
- f) Where alley gates are installed to the side or rear of the licensed property, the licence holder shall take responsibility for holding a key and making satisfactory arrangements for the occupiers' access and egress.
- g) All final exit doors shall be fitted with a thumb turn mortice lock, or equivalent, to fivelever security level. The lock shall be operable from the inside without the use of a key.
- h) Any external store, storage box or container provided for the storage of the occupants' property shall be fitted with a lock.

22. The licensee shall within seven (7) days of any demand by the council provide a declaration confirming all security measures are in place and operational and the date they were last checked.

Section 5 – Heating and Energy Performance

Heating Section 14(2)(c)

23. All units of accommodation must be equipped with adequate means of space heating.
24. It must be capable of maintaining a temperature of 21° Centigrade when the outside temperature is minus 1° Centigrade.
25. The heating must be available at all times and must be under the control of the occupant.
26. The heating must be safe and should be efficient and affordable. Electrical heating appliances must have a dedicated socket.
27. The licensee shall within seven (7) days of any demand by the council provide a declaration as to the condition of the heating system in the accommodation.

Energy Performance Certificates (EPCs) Section 14(1)(b)

28. The licensee shall ensure that during the duration of the licence the property has an Energy Performance Certificate with a minimum E rating for energy efficiency. Tenants shall be provided with a copy EPC at the commencement of the tenancy.
29. The licensee shall within seven (7) days of any demand by the council provide an Energy Performance Certificate verifying a minimum E rating for energy efficiency.

Section 6 – Physical Standards

Fitness for Human Habitation Section 8(2)(e)

30. During the period of licence the licensee shall ensure that the accommodation meets the requirements for human habitation as set out in Article 46 of the Housing (NI) Order 1981, or any re-enactment or statutory modification.

Living Accommodation Standard Section 13(3)

31. During the period of the licence the licensee shall ensure that the accommodation meets the requirements of the Houses in Multiple Occupation (Living Accommodation Standard) Regulations (Northern Ireland) 2019

Hazard Regulations Section 54(3)

32. During the period of the licence the licensee shall ensure that the accommodation meets the requirements of the Houses in Multiple Occupation (Hazards) Regulations (Northern Ireland) 2019

Section 7 – Satisfactory Management Arrangements

Reasonable Access

33. During the period of the licence the licensee shall permit the council reasonable access to the accommodation for the purpose of exercising or considering the exercising of any of its statutory powers in accordance with the Houses in Multiple Occupation Act (Northern Ireland) 2016.

Code of Practice for the Management of Houses in Multiple Occupation

34. During the period of the licence the licensee shall ensure that the accommodation shall be managed in accordance with the “Code of Practice for the Management of Houses in Multiple Occupation”.
35. The manager must ensure that a notice containing the name, address and any telephone contact number, of the person (or each person) who is the manager of the house, describing him as manager, and where appropriate, as agent or trustee for receipt of rents. Such a notice shall be clearly displayed in a prominent position in the HMO so as to be readily visible to the occupiers.
36. The manager shall cause to be displayed a copy of “Code of Practice for the Management of Houses in Multiple Occupation” in a prominent position in the HMO so as to be readily visible to the occupiers.
37. During the period of the licence the licensee shall ensure that all reasonable and practical steps are taken to respond to repair and maintenance issues at the accommodation and that any works to deal with repairs are undertaken as soon as is reasonably practicable after they are notified.

38. The licensee shall introduce a repair categorisation system for responding to repairs, namely

- a. **Emergency Repairs** which should be actioned within 24 hours
- b. **Urgent Repairs** which should be actioned within 4 working days.
- c. **Routine Repairs** which should be actioned within 4 weeks.

Examples of **Emergency Repairs**

- escape of gas or fumes
- electrical fittings in contact with water
- live or bare electric wiring
- sewage overflowing into the home
- outside doors that need secured
- burst storage tanks, cylinders or pipes
- failure of all lights or all power
- failure of heating systems in severe weather and where no alternative is available
- failure of all communal lighting

Examples of **Urgent Repairs**

- faults at electrical fittings
- faults at water heating circuits
- faults at electrical heating systems
- ball valve faults at storage tanks or WC cisterns
- leaks in WC flush pipes, waste pipes, traps, valves or radiators.
- leaking back boiler or faults at the fire parts such as flue sets, throat plates etc.
- blockages at sewers or drains
- major water penetration at external doors or windows

Examples of **Routine Repairs**

- cleaning or repairing gutters or downpipes
- easing or re-fitting doors (excluding fire doors) or window-sashes
- plasterwork repairs
- repairs to floors or floor tiling
- repairs to internal or external doors or frames
- chimney pots, stacks, cowls or caps
- roof tiles or lead flashings
- fire hearths, surrounds and side tiles
- working kitchen fittings and work tops

39. At the beginning of a new tenancy, the licensee shall provide the occupier(s) with written information pack, including contact details, explaining how they can make a complaint about the property and the arrangements in place to deal with emergency and other repairs. The contact and telephone number details shall enable contact between 9am – 5pm Monday to Friday, and shall also include an out of hours contact number for use in emergencies. Any change in contact and/or telephone number details shall be provided to occupiers within 24 hours of the changes being made.

40. The licence holder shall provide the occupier(s) of the accommodation with an information pack containing the following details:

- a) A copy of the licence to which these conditions apply.
- b) Where appropriate, copies of the current gas certificate, electrical safety report and energy performance certificates.
- c) Details of the procedures to be followed in the reporting of and dealing with a problem (ASB).
- d) Details of the occupier(s) duties and responsibilities to enable the licensee or managing agent to comply with the licence conditions

- e) The licensee shall notify the occupier(s) of the accommodation in writing how they intend to respond to the complaint including a timescales for the steps they intend to take. The licensee shall respond to any complaint in writing as soon as is reasonably practicable. Copies of all correspondence relating to complaints shall be retained during the term of this licence.
- f) Where a deposit is taken the licence holder must provide the Occupier(s) with relevant information about the deposit scheme to which it relates.

41. The licensee shall comply with all relevant legislation relating to the termination of a tenancy or the eviction of a tenant and will ensure that all legal processes are followed when requiring occupiers to cease occupation.

42. The licensee shall demand references for new occupiers before entering into any occupancy agreement with them or allowing them to occupy the premises. Where obtained, copies of these references shall be kept for the duration of this licence.

43. The licence holder shall ensure there is suitable and sufficient landlord buildings insurance in place for the duration of this licence.

Unjust fees Section 10(5)(d)

44. The licensee and any managing agent (if appointed) shall not levy a fee on a tenant or prospective tenant in respect of the letting of a property and the licensee and any managing agent must adhere to the requirement of Commission on Disposals of Land (NI) Order 1986.

45. The licensee shall within seven (7) days of any demand by the council provide any or all of the information required by conditions contained within Section 7 of this document.

Section 8 – Rubbish and Environmental Considerations

Rubbish Section 14(2)(c) & Regulation 19

<http://www.legislation.gov.uk/nia/2016/22/section/14>

46. During the period of the licence the licensee shall ensure that sufficient bins or other suitable receptacles are provided that are adequate for the requirements of each household occupying the HMO for the storage of refuse and litter pending their disposal in accordance with the Local Government Waste Storage Guide for Northern Ireland.

47. The licensee shall ensure so far as is reasonably practicable that the occupiers make arrangements for the collection of waste in accordance with the councils refuse and recycling provisions and, when the accommodation is unoccupied, or the occupiers fails to do so the licensee adhere to these provisions themselves.

48. The licensee shall at the beginning of a tenancy, provide written information to the occupiers of the accommodation indicating:

- a) which day refuse collections will take place;
- b) what type of bins to use for household and recycling waste;
- c) details of the Council's bulky waste collection service;
- d) details of the Council's missed bin collection service;
- e) the occupiers responsibility to put bins out no earlier than 4pm on the day before collection and to return refuse containers within the boundary of the property by 8am the day after the collection;
- f) that occupiers should make arrangements for any extra rubbish that cannot fit in the bins to be collected within seven (7) days and/or disposed of as soon as is reasonably practicable and ensure that such rubbish, where possible, is stored at the rear of the property and within the boundary of the property until collection/disposal;

49. The licensee shall ensure that suitable and adequate provision for refuse storage and collection is provided at the house. This shall include a closable bin(s) are kept in good working order and of suitable capacity as specified by the Council.

50. The licensee shall ensure that trade rubbish/waste is not disposed of in the domestic household bins. Any trade rubbish/waste shall be disposed of as soon as is reasonably practicable and/or within 7 days and ensure that such rubbish/waste, where practicable, is stored at the rear of the property and within the boundary of the property. The licensee shall make adequate arrangements for the collection such rubbish/waste.

Environmental Considerations Section 14(20(c) & Regulation 17

<http://www.legislation.gov.uk/nia/2016/22/section/14>

51. During the period of the licence the licensee shall ensure that any boundary walls, hedges or fences are safe and do not obstruct a public

footpath or highway. The licensee shall during the period of the licence rectify any deficiency within 4 weeks of its appearance. Issues impacting on public safety should be rectified within 24 hours or 4 working days depending on the level of severity.

52. During the period of the licence the licensee shall ensure that any external and boundary walls of the property (regardless of whether they are shared with someone else) are retained free from graffiti. The licensee shall during the period of the licence remove any graffiti within 4 weeks of its appearance .

53. During the period of the licence the licensee shall ensure that all external gardens, yards or enclosures within the curtilage of the accommodation are kept reasonable free from litter. The licensee shall during the period of the licence remove any litter within 4 weeks of its appearance.

Section 9 – Anti Social Behaviour

Section 14(2)(b)

<http://www.legislation.gov.uk/nia/2016/22/section/14>

54. The licensee shall have in place a policy/plan (approved in writing by the council) to deal with any anti-social behaviour linked to licensed premises, either directly or indirectly which is caused by or affects their tenants.

55. The licensee shall comply at all times with the policy/plans referred to above.

56. A register of complaints shall be kept together with notes about how the licensee or managing agent tried to resolve the matter. All records held under this condition.

57. The register of complaints and associated notes must be kept until the licence either lapses or is successfully renewed.

58. The register of complaints and associated notes must be made available to the Council upon demand.

59. Where a complaint has been received but could not be resolved, the licensee or managing agent must be able to demonstrate to the satisfaction of the Council that they took all reasonable steps to try to resolve the complaint and to mitigate against any future occurrence of the same type of complaint.

60. The licensee and managing agent shall adhere to the principals contained in the council document Tackling Anti-Social Behaviour in HMO properties, A Guide for Owners and Managing Agents.

Section 10 – Variation of a Licence or Change of Details or Circumstances

61. An application to vary a licence under will only be accepted if the prescribed form is used and is accompanied by the appropriate variation fee.

62. The licensee shall ensure that whilst any variation is being considered the number of persons who are authorised by the licence or the occupancy level for any specific room if so specified in the licence is not exceeded.

63. The licence holder shall inform the Council within 7 days of any material change in circumstances including:

- a. a change of their residential address or contact details; including when they no longer reside at the address on the licence, or where the licence holder is a business, if their business address has changed.
- b. upon the manager (where it is an agent, or employee of the licence holder,) ceasing to act in that capacity or is no longer being employed by the licence holder.
- c. any offence or occurrence that would have a bearing on the Fit & Proper Person status of either the licence holder and/or the managing agent of the house or any persons associated with them;
- d. a change of managing agent, management arrangements or ownership;
- e. any proposed changes to the structure, layout or amenity provision of the property that would affect the licence or licence conditions.

Section 11 – Competency Training Section 14(2)(f)

64. The owner of the HMO or the managing agent shall attend a training course in relation to the "Code of Practice for the Management of Houses in Multiple Occupation" approved under Section 63 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 before 1st December 2020 and shall renew such training every 3 years or,

Section 12 – Legislative Authority

65. The licencing conditions imposed in this document are intended to be read in conjunction with the Houses in Multiple Occupation Act (Northern Ireland) 2016 <http://www.legislation.gov.uk/nia/2016/22> and all supporting regulations.

66. The licencing conditions imposed in this document are in accordance with Section 14 of the Houses in Multiple Occupation Act (Northern Ireland) 2016.



Belfast
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Houses in Multiple Occupation Act (Northern Ireland) 2016

Tackling Anti-Social Behaviour in HMO Properties

[Home](#) [Tackling Anti-Social Behaviour in HMO Properties](#)

A Guide for Owners and Managing Agents

Index

- [1.0 Introduction](#)
- [2.0 Remedies and preventative measures](#)
- [3.0 Demonstrating compliance](#)
- [4.0 Anti-social behaviour plan](#)
- [5.0 Conclusion](#)

1.0 Introduction

2.1 Background

The Houses in Multiple Occupation Act (Northern Ireland) 2016 was introduced to enable better regulation of Houses in Multiple Occupation (HMOs) by introducing a new licensing system to be administered by local district councils, which will replace the existing Northern Ireland Housing Executive registration scheme.

HMO legislation and regulation in Northern Ireland has remained relatively unchanged in comparison to other jurisdictions. England, Wales and Scotland currently operate mandatory HMO licensing systems and have done so for some time. The proposed licensing framework for HMOs in Northern Ireland more closely aligns with the Scottish system.

HMOs are a source of relatively inexpensive housing for a variety of groups such as students and migrant workers. They also tend to house some of the most vulnerable groups in society who have multiple needs beyond housing (e.g. people who are homeless, people with addiction problems). HMOs are becoming a more prevalent form of accommodation due to the impact of welfare reform, particularly changes to housing benefit entitlement.

If effectively implemented and sufficiently resourced, a new HMO regulatory framework for HMOs in Northern Ireland has the potential to have a positive impact on the lives of those living in HMOs, the owners of HMOs, and the residents of the communities in which HMOs are located. It is acknowledged that responsible HMO landlords want to be good neighbours, take the behaviour of their tenants seriously and already endeavour to resolve any alleged anti-social behaviour linked to their properties. Councils will continue to support landlords in doing so.

This guide sets out how anti-social behaviour is relevant to the new licensing regime and how owners and agents are expected to deal with allegations of anti-social behaviour.

2.2 Fit and Proper Person Test and anti-social behaviour

As part of the new licensing regime, councils must assess whether the applicant is a fit and proper person.

Section 8 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 states that a council may only grant a HMO licence if it is satisfied that, amongst other things, the owner and any managing agent is a fit and proper person and that the proposed management of the HMO is satisfactory.

Section 10 of the Act sets out the matters which the council must take into account when assessing whether an owner or managing agent is a fit and proper person. The Council must have regard whether a person has committed certain offences or where an associate or former associate has done so if it appears that is relevant to whether the applicant is a fit and proper person.

The council must have regard to any anti-social behaviour engaged in by the owner and managing agent and how they have dealt with anti-social behaviour caused by, or adversely affecting, their tenants.

Section 10(6) defines "anti-social behaviour" as:

- i. acting or threatening to act in a manner causing or likely to cause a nuisance or annoyance to a person residing in, visiting or otherwise engaging in a lawful activity in residential premises or in the locality of such premises, or
- ii. using or threatening to use residential premises for illegal purposes.

2.2 Types of anti-social behaviour

Anti-social behaviour covers a broad spectrum of behaviour and ranges from incidents that cause concern, stress, disquiet and/or irritation through to incidents which have a serious adverse impact on peoples quality of life. It can affect individuals or the community at large. Anti-social behaviour might include, amongst other things

- a) Violence or the threat of violence;
- b) hate behaviour that targets members of identified groups because of their perceived differences (e.g. race, religion, political affiliation, disabilities or sexual orientation);
- c) noise nuisance (rowdy parties, loud music/TVs etc.);
- d) environmental quality issues (e.g. litter, accumulation of rubbish in the curtilage of the HMO, fly tipping in alleyways);
- e) Offensive drunkenness;
- f) Using housing accommodation for selling drugs or drug abuse or other unlawful purposes; and
- g) Intimidation and harassment.

The above list includes typical types of behaviour which are likely to be relevant to the council's assessment of the fit and proper person test. It is not intended to be exhaustive or prescriptive.

3.2 Action to deal effectively with anti-social behaviour

HMO owners and managing agents have a number of powers at their disposal to tackle anti-social tenants or to assist those tenants who have been subject to anti-social behaviour.

The ultimate sanction where the anti-social behaviour is being caused by a tenant is the eviction of that tenant. However, councils recognise that most HMO owners and managing agents will seek to remedy the situation before it reaches that stage.

Whilst deciding on how to deal with anti-social behaviour is a matter of judgement for the owner and managing agent, the alleged behaviour might form the basis of an objection to their licence application or the Council may consider that the alleged behaviour is so serious as to warrant considering revocation of licence. It is therefore important that the owner or managing agent can justify the appropriateness of their action, or lack of action.

HMO owners and managing agents' are required to commit to working in partnership with residents and other agencies to ensure the following:

- a) Preventative action
- b) Early intervention
- c) Provision of support and advice for those reporting anti-social behaviour and witnesses
- d) Provision of support for perpetrators where appropriate (for example where they are vulnerable or at risk)
- e) Where appropriate and there is sufficient evidence - legal action against perpetrators.

3.3 Preventative action

The HMO owner or managing agent should have systems in place to ensure that antisocial behaviour is minimised. They should have particular regard to:

- a) Requesting references from new tenants. They may then take into account any previous inappropriate behaviour when deciding to offer accommodation.
- b) The inclusion of clauses relating to behaviour in written tenancy agreements. This will help set the parameters and boundaries for behaviour at the outset. It is then possible for an HMO owner or managing agent to consider eviction on grounds of breach of the tenancy agreement should problem behaviour arise.
- c) Brief tenants at the commencement of the tenancy what is expected of them and the possible sanctions for inappropriate behaviour.

3.4 Early intervention

Except in very serious cases, HMO owners and managing agents initial intervention will aim to stop the problem behaviour, prevent re-occurrence and achieve effective and long-lasting solutions. In many incidences, anti-social behaviour can be stopped when challenged early enough. Wherever possible, HMO owners and managing agents should use early non-legal remedy intervention measures. Some of the steps owners and managing agents can take-

a) Talk to your tenants

- i. send them a letter, explaining what you've been told and ask them to modify their behaviour
- ii. arrange a time to go and speak to them
- iii. give advice and guidance as appropriate including noise reduction
- iv. highlight tenancy conditions that may have broken
- v. agree what will change and record this, so you both have a copy

b) Write to the guarantor(s) informing them that there has been anti-social behaviour emanating from within the curtilage of the house and asking them to use their influence on the tenants.

c) Engage an independent dispute resolution and mediation service.

d) Issue a valid Notice to Quit.

3.6 Dispute resolution and mediation

Mediation can help to resolve neighbour disputes for the following reasons:

- a) as the dispute handler can devote more time to the problem occupants and impacted neighbours feel that their complaints are being taken more seriously, and it reduces the time landlords or agents may have to spend trying to resolve the problem themselves;
- b) legal remedies are not appropriate for all cases, they are expensive and can often make disputes worse before they get better;
- c) officers of an independent organisation are seen as impartial and without conflicting interests;
- d) it can prevent a dispute from escalating into a more serious disturbance that may require court action.

3.7 Legal remedies

Councils acknowledge that legal action, and in particular issuing court proceedings, is a remedy of last resort in most cases and should only be considered where informal action has failed and the problem persists or where the problems are considered sufficiently serious so as to warrant legal action.

Legal remedies can include reporting incidents to the PSNI or local authority depending on the nature of the behaviour. It also includes the possibility of evicting tenants where there has been persistent and/or serious instances of anti-social behaviour.

Where a landlord believes their tenant is being subjected to anti-social behaviour which presents a significant risk of harm, landlords are entitled to apply for an Injunction under the Housing (NI) Order 2003. The court can prohibit a person from engaging in conduct causing or likely to cause a nuisance, using the premises for immoral or illegal purposes, entering the premises or being found in the locality.

4.0 Demonstrating compliance

Good record keeping can be used by an owner or managing agent to demonstrate responsiveness to tenants and neighbours, and will assist to demonstrate that all reasonably practicable steps have been taken to minimise anti-social behaviour. As part of the standard conditions of licence, the licence holder must keep written records of complaints and how they are dealt with throughout the course of the tenancy for each

occupant.

The licence conditions also require a landlord to keep the register of complaints and associated notes until the licence either lapses or is successfully renewed and those documents must be made available to the Council upon demand.

Where a complaint has been received but could not be resolved, the licensee or managing agent must be able to demonstrate to the satisfaction of the Council that they took all reasonable steps to try to resolve the complaint and to mitigate against any future occurrence of the same type of complaint.

4.1 Intervention

The intervention(s) by the owner or managing agent will depend on the frequency and severity of any anti-social behaviour linked to their property. It is suggested that the following principles should be applied by landlords when assessing the level of intervention required:

- a) Suitability (the measure should be suitable for achieving the desired objective);
- b) Necessity (a less restrictive means should be used if it is equally effective); and
- c) Proportionality (the measure should not be disproportionate to the objective).

The diagram below represents the interventions which sets out the action which the council would expect to typically be considered depending on the prevailing circumstances:

Gravity of the Anti-Social Behaviour	Major	Legal Remedies		
	Moderate	Non-Legal Remedies	Non-Legal Remedies/ Legal Remedies	Legal Remedies
		Remind Tenants of Obligations	Non-Legal Remedies	Legal Remedies
		Once	Occasional	Frequent
	Minor	Frequency of Anti-Social Behaviour		

It is important to bear in mind that this is illustrative and not prescriptive. The actions are those which the Owner or Managing Agent is expected to consider, not the steps which must be taken.

5.0 Anti-Social Behaviour Plan

Section 14(2) (b) of the Houses in Multiple Occupation Act (Northern Ireland) 2016 allows the council to include licence conditions requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the HMO.

As an aid to owners and managing agents regarding the reasonable practical steps they need to take to tackle anti-social behaviour by the occupants of any relevant living accommodation, they should have in place an anti-social behaviour plan. Such a plan should include the following sections-

- a) Pre-Tenancy Checks – In this section you should outline your tenancy selection process.
- b) Tenancy Agreement – Your tenancy agreement should be clear and easy to understand. It should include provision in terms of how you will deal with anti-social behaviour and include a risk management plan if a high level of risk is identified.
- c) During Tenancy – In this section you should outline your procedures to deal with anti-social behaviour and how you monitor and record ASB and any remedial action taken.
- d) Post Tenancy – This section should include details of your processes for supplying references.

6.0 Conclusion

Through early intervention, HMO owners and managing agents can make a positive difference in tackling anti-social behaviour. It is recognised that each allegation of anti-social behaviour must be considered on its own facts and what works in one case may not work in another. The purpose of this document is to provide guidance as to how HMO landlords and managing agents can demonstrate that they have suitable policies and procedures in place to deal with anti-social behaviour and that those procedures are being implemented where appropriate.



Belfast
City Council

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Housing

Licences and permits

Community

Street cleaning

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A-Z of services

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Social media

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Subject:	Amendment of the Scheme of Delegation to delegate authority to determine some renewal applications with objections
Date:	9 th December 2020
Reporting Officer:	Nora Largey, Divisional Solicitor, Ext. 6049
Contact Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910 Nora Largey, Divisional Solicitor, Ext. 6049

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	To consider amendment of the Scheme of Delegation in respect of applications for renewal of a licence for the use of premises as a House in Multiple Occupation (HMO).
2.0	Recommendations
2.1	Taking into account the information presented Committee is asked to consider whether it wishes to amend the Scheme of Delegation to allow officers to grant a renewal application for a HMO licence where a valid objection has been received but where the objection relates to overprovision, either directly or indirectly.
2.2	Amendment of the Scheme of Delegation does not fall within the scope of the delegated authority for Committee and must therefore be ratified by Council.
3.0	Main report
	<u>Key Issues</u>
3.1	Members will recall that a report was brought to Committee at its last meeting seeking authority to amend the Scheme of Delegation to allow officers to grant renewal applications where a valid objection has been received but the objection relates to over provision.

3.2	Members are reminded that Section 20 of the Houses in Multiple Occupation Act (NI) 2016 states that councils cannot refuse a renewal application on the grounds of overprovision or breach of planning control.
3.3	Authority was also sought to delegate authority to officers to grant renewal applications where the objections which were raised were general in nature and not specific to the property in question. A copy of that report and the minutes are appended to this report as Appendix 1 and 2 respectively.
3.4	Members expressed some concerns about the proposed amendments to the Scheme of Delegation and it was agreed to defer making a decision until Committee's next meeting.
3.5	Paragraph 3.6.27 of the Scheme of Delegation permits officers to exercising all powers in relation to the grant (but not refusal) of HMO licences, except in certain circumstances. One of those exceptions is where material objections are received. This means that where a material objection has been received the application must be referred to Committee.
3.6	Council continues to receive objections in relation to renewal applications which raise general issues about overprovision or raise concerns about other issues in the general area which are not specific to either the property, owner or managing agent of the property. In accordance with the 2016 Act these objections are valid and whilst not dismissing the alleged issues, legal advice has consistently been that refusal of an application on the basis of such an objection would not be sustainable.
3.7	It is considered that this process is unfair to the applicants and indeed to objectors. It also brings applications to Committee unnecessarily which increases work load for both Committee and officers. However in light of concerns raised at the last meeting officers are only seeking delegated authority to determine renewal applications where there is an objection on the grounds of overprovision.
3.8	At the last Committee meeting a member suggested that officers should consider whether delegated authority should be granted in respect of all renewal applications where an objection has been received if Legal Services advise that refusal would not be sustainable.
3.9	This has been considered by officers and there is no legal impediment to such an approach. However officers recognise that the issues associated with HMO are controversial and as the licensing scheme remains relatively new it may be more appropriate for Committee to retain a higher level of decision making at this stage. There are also potentially reputational issues for the Committee in delegated such powers to the Council's Legal Services without Committee having heard the objectors.
	<u>Financial and Resource Implications</u>
4.0	None.
	<u>Equality and Good Relations Implications</u>
4.1	There are no equality or good relations issues associated with this report.
4.0	Appendices: Appendix One – Previous Committee report Appendix Two – Minutes of the Committee meeting on 18th November 2020

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Subject:	Amendment of the Scheme of Delegation to delegate authority to determine some renewal applications with objections
Date:	18 th November 2020
Reporting Officer:	Nora Largey, Divisional Solicitor, Ext. 6049
Contact Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910 Nora Largey, Divisional Solicitor, Ext. 6049

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	To consider amendment of the Scheme of Delegation in respect of applications for renewal of a licence for the use of premises as a House in Multiple Occupation (HMO).
2.0	Recommendations
2.1	<p>Taking into account the information presented Committee is asked to consider whether it wishes to amend the Scheme of Delegation to:</p> <ul style="list-style-type: none">(i) Allow officers to grant a renewal application for a HMO licence where a valid objection has been received but where the objection relates to overprovision, either directly or indirectly; and(ii) Allow officers to grant a renewal application for a HMO licence where a valid objection has been received but where the issues raised are general in nature and not specific to the relevant property, applicant or managing agent.
2.2	Amending the Scheme of Delegation does not fall within the delegated authority of Committee and must therefore be ratified by Council.

3.0	Main report
	<p><u>Key Issues</u></p> <p>3.1 Members will be aware that Section 20 of the Houses in Multiple Occupation Act (NI) 2016 states that the power to refuse an application on the grounds of overprovision or breach of planning control do not apply to renewal applications.</p> <p>3.2 Paragraph 3.6.27 of the Scheme of Delegation permits officers to exercising all powers in relation to the grant (but not refusal) of HMO licences, except in certain circumstances. One of those exceptions is where material objections are received. This means that where a material objection has been received the application must be referred to Committee.</p> <p>3.3 Council continues to receive objections in relation to renewal applications which raise general issues about overprovision or raise concerns about other issues in the general area which are not specific to either the property, owner or managing agent of the property. In accordance with the 2016 Act these objections are valid and whilst not dismissing the alleged issues, legal advice has consistently been that refusal of an application on the basis of such an objection would not be sustainable.</p> <p>3.4 It is considered that this process is unfair to the applicants and indeed to objectors. It also brings applications to Committee unnecessarily which increases work load for both Committee and officers.</p> <p>3.5 Officers therefore believe it may be appropriate to amend the Scheme of Delegation to allow officers to grant renewal applications licences in circumstances where the nature of the objection relates to overprovision, either directly or indirectly.</p> <p>3.6 Members may also wish to consider whether to grant delegated authority to officers to grant a renewal application where valid objections have been received but where the issues raised in the objection are not specific to the property in question.</p> <p>3.7 It is acknowledged that this is less straightforward as issues may arise which should be considered by Committee. In this context however members are reminded that paragraph 1.13 of the Scheme of Delegation states that Chief Officers may refer any delegated matter to Committee in any case. Furthermore, any decision which would otherwise be delegated under the Scheme should be reported to Committee if it is politically contentious, sensitive, significant or if it is otherwise in the public interest to do so.</p> <p><u>Financial and Resource Implications</u></p> <p>3.8 None.</p> <p><u>Equality and Good Relations Implications</u></p> <p>3.9 There are no equality or good relations issues associated with this report.</p>
4.0	Appendices – N/A

Licensing Committee

Wednesday, 18th November, 2020

MEETING OF LICENSING COMMITTEE HELD REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor Donnelly (Chairperson);
Aldermen Copeland and Sandford; and
Councillors Bradley, Bunting, Michael Collins, Howard,
Hussey, Hutchinson, M. Kelly, T. Kelly, Magee, McAteer,
McCabe, McCullough, McKeown, Nicholl and Smyth.

In attendance: Mr. A. Thatcher, Director of Planning
and Building Control;
Mr. S. Hewitt, Building Control Manager;
Ms. N. Largey, Divisional Solicitor;
Mr. J. Cunningham, Regulatory Services Manager;
Mr. V. Donnelly, City Protection Manager;
Mrs. S. Steele, Democratic Services Officer; and
Ms. C. Donnelly, Democratic Services Officer.

Apologies

An apology for inability to attend was received from Councillor Magennis.

Minutes

The minutes of the meeting of 14th October were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 2nd November, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

No declarations of interest were recorded.

Schedule of Meeting 2021

The Committee approved the schedule of meetings for the Licensing Committee as outlined below and agreed that all meetings would commence at 5.00 pm:

- Wednesday, 20th January
- Wednesday, 17th February
- Wednesday, 10th March
- Wednesday, 21st April
- Wednesday, 19th May
- Wednesday, 16th June
- Wednesday, 18th August

- Wednesday, 15th September
- Wednesday, 20th October
- Wednesday, 17th November
- Wednesday, 15th December

Verbal Update - Requests to Address the Licensing Committee

The Divisional Solicitor reported to the Committee that, following recent changes to how the Council administrated the licensing of Houses of Multiple Occupation, several landlords and representatives from the Landlord Association of Northern Ireland (LANI) had requested to address the Committee. She advised that a report outlining the concerns of the Landlords would be presented to Members at the December meeting of the Licensing Committee.

The Committee agreed to accede to requests from landlords and LANI to address the Licensing Committee at its meeting in December, in relation to technical issues regarding HMO applications.

The Committee further agreed to write to the Minister for the Department for Communities to request a meeting at the earliest possible date to discuss its ongoing frustrations at the ineffectiveness of the current HMO Act 2016 and around the proposed upcoming review of the legislation.

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 the applications that had been issued under the Scheme of Delegation.

Designation of New Street Trading Sites

The Committee agreed that the statutory consultation process in relation to the consideration of the designation of a number of proposed new street trading sites should commence.

**Houses in Multiple Occupation (HMO) Licences
Issued Under Delegated Authority**

**Applications for the renewal of a Licence to operate a
House of Multiple Occupation for 22 Sandymount Street**

The City Protection Manager provided an overview of the application and explained that, as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

She advised that no noise complaints had been received in relation to the property.

The Committee approved the application for the Grant of the renewal of a Licence to Operate a House of Multiple Occupation for 22 Sandymount Street.

Applications for the renewal of a Licence to operate a House of Multiple Occupation for 24 Sandymount Street

The City Protection Manager provided an overview of the application and explained that, as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

She advised that no noise complaints had been received in relation to the property.

The Committee approved the application for the Grant of the renewal of a Licence to Operate a House of Multiple Occupation for 24 Sandymount Street.

Applications for the renewal of a Licence to operate a House of Multiple Occupation for 25 Sandhurst Gardens

The City Protection Manager provided an overview of the application and explained that, as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

She advised that no noise complaints had been received in relation to the property.

The Committee approved the application for the Grant of the renewal of a Licence to Operate a House of Multiple Occupation for 25 Sandhurst Gardens.

Applications for the renewal of a Licence to operate a House of Multiple Occupation for 70 Sandhurst Drive

The City Protection Manager provided an overview of the application and explained that, as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

She advised that in relation to night-time noise, there was a warning notice issued on 20th October 2019 and that, in relation to daytime noise there has been no relevant enforcement action required in respect of the HMO in the last 5 years,

The Committee approved the application for the Grant of the renewal of a Licence to Operate a House of Multiple Occupation for 70 Sandhurst Drive, with the additional condition that the owner shall provide an out of hours contact number to Council officers to contact the owner, or their managing agent (if any), in the event that there are incidents of anti-social behaviour emanating from within the curtilage of the HMO in respect of which it is considered necessary to contact the owner.

Applications for the renewal of a Licence to operate a House of Multiple Occupation for 38 St Albans Gardens

The City Protection Manager provided an overview of the application and explained that, as a valid objection had been received, the application must be considered by the Committee, pursuant to the 2016 Act and legal advice.

She advised that no noise complaints had been received in relation to the property.

The Committee approved the application for the Grant of the renewal of a Licence to Operate a House of Multiple Occupation for 38 St. Albans Gardens.

Application for the grant of a New Licence to operate a House of Multiple Occupation at 23 Pakenham Street

The City Protection Manager provided an overview of the application and explained that, as it was a new application, it must be considered by the Committee, pursuant to the 2016 Act and legal advice.

She advised that For the purpose of determining whether or not the granting of a licence would result in overprovision of HMOs in the locality of the accommodation, the locality was defined as being Pakenham Street in accordance with HMO Policy 5 (the number of HMOs did not exceed 10% of dwelling units on that road or street) as defined in the document "Houses in Multiple Occupation Subject Plan for Belfast City Council Area 2015. On the date of assessment 15 October 2020 there were no licensed HMO in Pakenham Street out of 21 domestic units.

The Committee approved the application for the Grant of a new Licence to Operate a House of Multiple Occupation for 23 Pakenham Street, with the additional condition that the owner shall provide an out of hours contact number to Council officers to contact the owner, or their managing agent (if any), in the event that there are incidents of anti-social behaviour emanating from within the curtilage of the HMO in respect of which it is considered necessary to contact the owner.

Non-Delegated Matters

Amendment of the Scheme of Delegation to delegate authority to determine some renewal applications with objections

The Divisional Solicitor presented the Committee with an update in respect of the following report:

Purpose of Report or Summary of main Issues

To consider amendment of the Scheme of Delegation in respect of applications for renewal of a licence for the use of premises as a House in Multiple Occupation (HMO).

Recommendations

Taking into account the information presented Committee is asked to consider whether it wishes to amend the Scheme of Delegation to:

- (i) Allow officers to grant a renewal application for a HMO licence where a valid objection has been received but where the objection relates to overprovision, either directly or indirectly; and
- (ii) Allow officers to grant a renewal application for a HMO licence where a valid objection has been received but where the issues raised are general in nature and not specific to the relevant property, applicant or managing agent.

Amending the Scheme of Delegation does not fall within the delegated authority of Committee and must therefore be ratified by Council.

Main report

Key Issues

Members will be aware that Section 20 of the Houses in Multiple Occupation Act (NI) 2016 states that the power to refuse an application on the grounds of overprovision or breach of planning control do not apply to renewal applications.

Paragraph 3.6.27 of the Scheme of Delegation permits officers to exercising all powers in relation to the grant (but not refusal) of HMO licences, except in certain circumstances. One of those exceptions is where material objections are received. This means that where a material objection has been received the application must be referred to Committee.

Council continues to receive objections in relation to renewal applications which raise general issues about overprovision or raise concerns about other issues in the general area which are not specific to either the property, owner or managing agent of the property. In accordance with the 2016 Act these objections are valid and whilst not dismissing the alleged issues, legal advice has consistently been that refusal of an application on the basis of such an objection would not be sustainable.

It is considered that this process is unfair to the applicants and indeed to objectors. It also brings applications to Committee unnecessarily which increases work load for both Committee and officers.

Officers therefore believe it may be appropriate to amend the Scheme of Delegation to allow officers to grant renewal applications licences in circumstances where the nature of the objection relates to overprovision, either directly or indirectly.

Members may also wish to consider whether to grant delegated authority to officers to grant a renewal application where valid objections have been received but where the issues raised in the objection are not specific to the property in question.

It is acknowledged that this is less straightforward as issues may arise which should be considered by Committee. In this context however members are reminded that paragraph 1.13 of the Scheme of Delegation states that Chief Officers may refer any delegated matter to Committee in any case. Furthermore, any decision which would otherwise be delegated under the Scheme should be reported to Committee if it is politically contentious, sensitive, significant or if it is otherwise in the public interest to do so.

Financial and Resource Implications

None.

Equality and Good Relations Implications

There are no equality or good relations issues associated with this report.

Following discussion, the Committee agreed to defer consideration of the report until its meeting in December.

Chairperson



Subject:	Proposed process for dealing with new licence applications for premises which previously operated as a HMO
Date:	16 th December 2020
Reporting Officer:	Vivienne Donnelly, City Protection Manager, Ext. 5325
Contact Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910 Nora Largey, Divisional Solicitor, Ext. 6049

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	To consider how to address the issue of overprovision in respect of certain new applications for a licence to operate a House of Multiple Occupation ('HMO') given the requirements of the Houses of Multiple Occupation Act (NI) 2016.
2.0	Recommendations
2.1	<p>Taking into account the information presented Committee is asked to agree the following:</p> <p>That all new applications received up to and including 1st March 2021 where the premises have previously operated as a HMO and have the benefit of planning permission and/or a CLUD will not be considered to result in overprovision given there appears to have been a generally held misconception that planning permission must be obtained before an application for renewal of a licence was submitted.</p>
2.2	<p>That officers write to all HMO licence holders whose licence is due to expire before 1st March 2021 and explicitly advise that if they fail to apply to renew the application before that date the Council will, in accordance with the requirements of the 2016 Act, assess whether the grant of a licence would result in a breach of planning control or result in overprovision of HMO accommodation in the locality.</p>

3.0	Main report
	<p data-bbox="260 226 416 253"><u>Key Issues</u></p> <p data-bbox="165 293 1474 421">3.1 Sections 8 of the 2016 Act states that a council may grant a HMO licence only if it is satisfied of certain criteria. These include that the occupation of the living accommodation as an HMO would not constitute a breach of planning control and that the grant of the licence will not result in overprovision of HMOs in the locality in which the living accommodation is situated.</p> <p data-bbox="165 461 1474 857">3.2 Section 12 goes on to specifically deal with overprovision. It reads:</p> <p data-bbox="260 528 1474 595">(1) In considering whether the granting of a licence will result in overprovision in a locality for the purposes of section 8(2)(d), the council must have regard to—</p> <ul data-bbox="316 629 1474 763" style="list-style-type: none"> (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, and (c) such other matters as the Department may by regulations specify. <p data-bbox="260 797 1474 857">(2) It is for the council to determine the localities within its district for the purposes of this section.</p> <p data-bbox="165 898 1474 1025">3.3 It is clear from the wording of the 2016 Act that the Council is under a mandatory obligation to have regard to the issue of overprovision when assessing new applications. Moreover it must be satisfied that the grant of the licence will not result in overprovision of HMO accommodation in the locality.</p> <p data-bbox="165 1066 1474 1227">3.4 Up until relatively recently officers had not taken overprovision into account in respect of any new application for a HMO licence which had planning permission or a Certificate of Existing Lawful Use ('CLEUD') in place. A CLEUD is a certificate which is issued in respect of premises which have established immunity from enforcement action where it can be demonstrated that the premises has been used as a HMO for over 5 years.</p> <p data-bbox="165 1267 1474 1429">3.5 Upon review of the position it was considered that this approach was not in accordance with the 2016 Act which requires the Council to have regard to planning permission AND overprovision as two separate and distinct issues. Assessment of overprovision is based on the number of licensed HMOs, not on the number of HMOs which have planning permission or the benefit of a CLEUD.</p> <p data-bbox="165 1469 1474 1731">3.6 It was therefore recommended that overprovision should be taken into account in respect of new licences. In assessing overprovision it was considered appropriate to use the policy tests as set out in the "Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015" for consistency purposes. This is a planning policy document against which planning applications for HMOs are assessed. The HMO Subject Plan Strategy "aims to adopt a balanced approach to HMO development, by seeking to positively influence and shape the market for HMOs, while controlling and curtailing further development in areas where such accommodation is currently concentrated."</p> <p data-bbox="165 1771 1474 1865">3.7 The Plan identifies certain areas of the city in which a higher density of HMO properties is considered acceptable. In these development nodes the threshold is set at 30% subject to some limited exceptions. In all other areas the threshold is 10%.</p> <p data-bbox="165 1906 1474 1966">3.8 In determining whether these thresholds are reached officers had regard to the number of current licensed HMOs in the area as per the 2016 Act.</p>

3.8	It appears however that the position has been complicated by a common misconception that the Council would automatically refuse a renewal application where the owner did not have the benefit of planning permission or a CLEUD. This resulted in a number of HMO owners not applying to renew their licence on time. Members will recall the discussion of one such premises in Stranmillis Gardens at its September meeting where the premises had been operating as a HMO for a substantial period of time but the owner had not applied to renew his licence. A new application was lodged some 7 months after the licence had expired.
3.9	Having considered representations from those landlords who would be affected, officers would propose that all new applications received up to and including 1 st March 2021 where the premises previously operated as a HMO and have the benefit of planning permission and/or a CLUD will not be considered to result in overprovision. Officers will also write to all HMO licence holders whose licence is due to expire before 1 st March 2021 and explicitly advise that if they fail to apply to renew the application before that date the Council will, in accordance with the requirements of the 2016 Act, assess whether the grant of a licence would result in a breach of planning control or result in overprovision of HMO accommodation in the locality. They will be further advised that this may result in the refusal of the application even if the premises has planning permission or previously operated as a HMO.
3.10	It is considered that this proposed approach will resolve any concerns members, and indeed HMO owners, may have regarding fairness given the misconception as in relation to planning permission as discussed at paragraph 3.8.
3.11	LANI have raised concerns about what they allege is a policy change on the part of the Council. Officers asked that they put their concerns in writing so that officers could consider same and provide their response in this report so as to better inform members. The response from LANI is attached at Appendix One. You will note that no commentary was provided in respect of this issue although it may be linked to issues they wish to raise regarding change of ownership. As members will note LANI have asked to address the Committee at its December meeting, together with two landlords/managing agents.
3.12	With regard to the change of ownership issue it is believed that LANI's concerns relate to the Council taking into account overprovision when assessing such applications. This is not a policy change but rather the Council correctly apply the 2016 Act.
3.13	Counsel's advice was previously sought on this and has been subsequently clarified. He has confirmed that the 2016 Act requires the Council to treat such an application as a new application rather than a renewal.
3.14	However there will be no material change to the Council's position in respect of overprovision. In circumstances where an application has been received from the prospective owner before the expiry of the existing licence such licence remains in place until the prospective owner's application has been determined. In such cases this is effectively a transfer of an existing licence to another person and would not result in overprovision.
3.15	The wording of this particular provision is likely to be reviewed as part of the review being undertaken by DfC and it is acknowledged that this would provide greater clarity for those seeking to purchase HMO properties.
	<u>Financial and Resource Implications</u>
	None.
	<u>Equality and Good Relations Implications</u>

	There are no equality or good relations issues associated with this report.
4.0	Appendices: Appendix One – Submission of LANI dated 1 st December 2020

The introduction of an out of hours contact number for all HMO licence renewals.

- Lack of consultation and or advice
- Council's refuse to advise landlords of any incidents, now fortunately changed.

Recent policy change with regard to change of ownership.

- Has there been one?
- Lack of consultation and or advice to landlords, estate agents, solicitors, surveyor etc.
- legislation was not intended to have an enormous impact on the existing HMO properties, other than in connection with the anti-social behaviour regulations

Training

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