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

13th September, 2021

MEETING OF LICENSING COMMITTEE

Dear Alderman/Councillor,

Please find attached the outstanding report to be considered at the hybrid meeting to be held at 5.00 pm. on Wednesday, 15th September, 2021.

Yours faithfully,

SUZANNE WYLIE

Chief Executive

AGENDA:

2. Delegated Matters

- (b) Application for the Grant of an HMO Licence - 77 Palestine Street
(Pages 1 - 38)

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Subject:	Application for the Grant of a HMO Licence - 77 Palestine Street
Date:	15th August, 2021
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/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	Managing Agents
	77 Palestine Street Belfast BT7 1QL	8438	Mr Padhraig Magill	M&M Property Services.
1.2	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.			
	Background			
1.3	The property had the benefit of an HMO licence in the name of the previous owner.			
1.4	The previous licence, pursuant to Section 28(2) of the Houses in Multiple Occupation Act (Northern Ireland) 2016 (“the 2016 Act”), ceased to have effect on 10th September 2019, when the property was purchased by Mr. Padhraig Magill. Had Mr. Magill applied for a new HMO licence before the date of transfer, the existing licence, pursuant to Section 28(3) of the 2016 Act, would have been held until his new licence application was determined.			
1.5	On 10th May, 2021, an HMO licence application was received from the owner of the accommodation. As this was a new application, the HMO Unit consulted with the Council’s Planning Service, which, on 20th May, confirmed that a Certificate of Lawful Use or Development was granted, with the planning reference LA04/2019/1471/LDE			

1.6	Following an email exchange on 3rd June between officers from the HMO Unit and the applicant, Mr Magill confirmed that he has been lived in the property since September 2019 (Appendix 3). In accordance with paragraph 9 of Schedule 1 of the 2016 Act, any building which is occupied by the owner or any members of the owner's household is not a house in multiple occupation. As such, the building has not been an HMO since September 2019, when Mr Magill and his brother took up occupation.
1.7	Pursuant to Section 87(1) General notices of the 2016 Act, the Council specified a number of documents which are required under paragraph 1(1) or (1)(2)(h) of Schedule 2, before an application is considered valid, the last of those documents "Proof of suitable funding arrangements" was received on 28th June, 2021. As such the application was deemed valid on 28th June, 2021.
1.8	In accordance with paragraph 12 of Schedule 2 of the 2016 Act, the Council must decide whether to grant or refuse an application for an HMO licence before the end of a period of 3 months, that 3 month period expires on 28th September, 2021.
2.0	Recommendations
2.1	Taking into account the information presented, the 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 20 May 2021 confirmed that a Certificate of Lawful Use or Development was granted with the planning reference LA04/2019/1471/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, 22 July 2021, there were a total of 1,084 licensed HMOs in HMO policy area “HMO 2/22 Botanic, Holylands and Rugby”, which equates to 47% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 1,082 licensed HMOs have a capacity of 4,974 persons.
3.6	The total number of dwelling units in a Policy Area is measured by Ordnance Survey’s Pointer database.
3.7	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.
3.8	The Council recognises that there is a need for intensive forms of housing and to meet this demand, Houses in Multiple Occupation (HMOs) are an important component of this housing provision. HMOs, alongside other accommodation options within the private rented sector, play an important role in meeting the housing needs of people who are single, who have temporary employment, students, low income households and, more recently, migrant workers.
3.9	In September 2017, The Housing Executive published the document “Housing Market Analysis Update – Belfast City Council Area” which states that “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.”
3.10	On 10th August 2021, there were 10 licensed HMOs advertised for let on the website Property News in BT7, with a capacity of 47 bed spaces, of the 10 licensed properties 8 (38 bedspaces) were located in policy area “HMO 2/22 Botanic, Holylands and Rugby”. Additionally, it was identified on the same website that there were 12 licensed HMO properties advertised for let in BT9 with a capacity of 54 bed spaces.
3.11	Members will be aware from BBC press reports that “Queen's offers students £1,500 not to take up university accommodation”. The university said that due to "unprecedented" demand accommodation in its halls was oversubscribed. Officers followed up on the press reports by contacting other Purpose-Built Managed Student Accommodation PBMSA. Student Roost confirmed that it has no accommodation across its 3 sites in Great Patrick Street, John Bell House and Swanston Houses and is now operating a waiting list. Botanic Studios confirmed that it is also completely full and has a waiting list. LIV Student Belfast indicates on its website that it is sold out.
3.12	A subsequent search on Property News was undertaken on 10th September 2021 and no licensed HMOs were advertised for let in BT7 or BT9. Anecdotal evidence from conversations with HMO managing agents suggest that there is currently a lack of HMO accommodation available in the locality. It is too early to tell whether this is a temporary problem or evidence of an emerging long-term supply issue.
3.13	The fact the use of the property as an 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 an HMO.

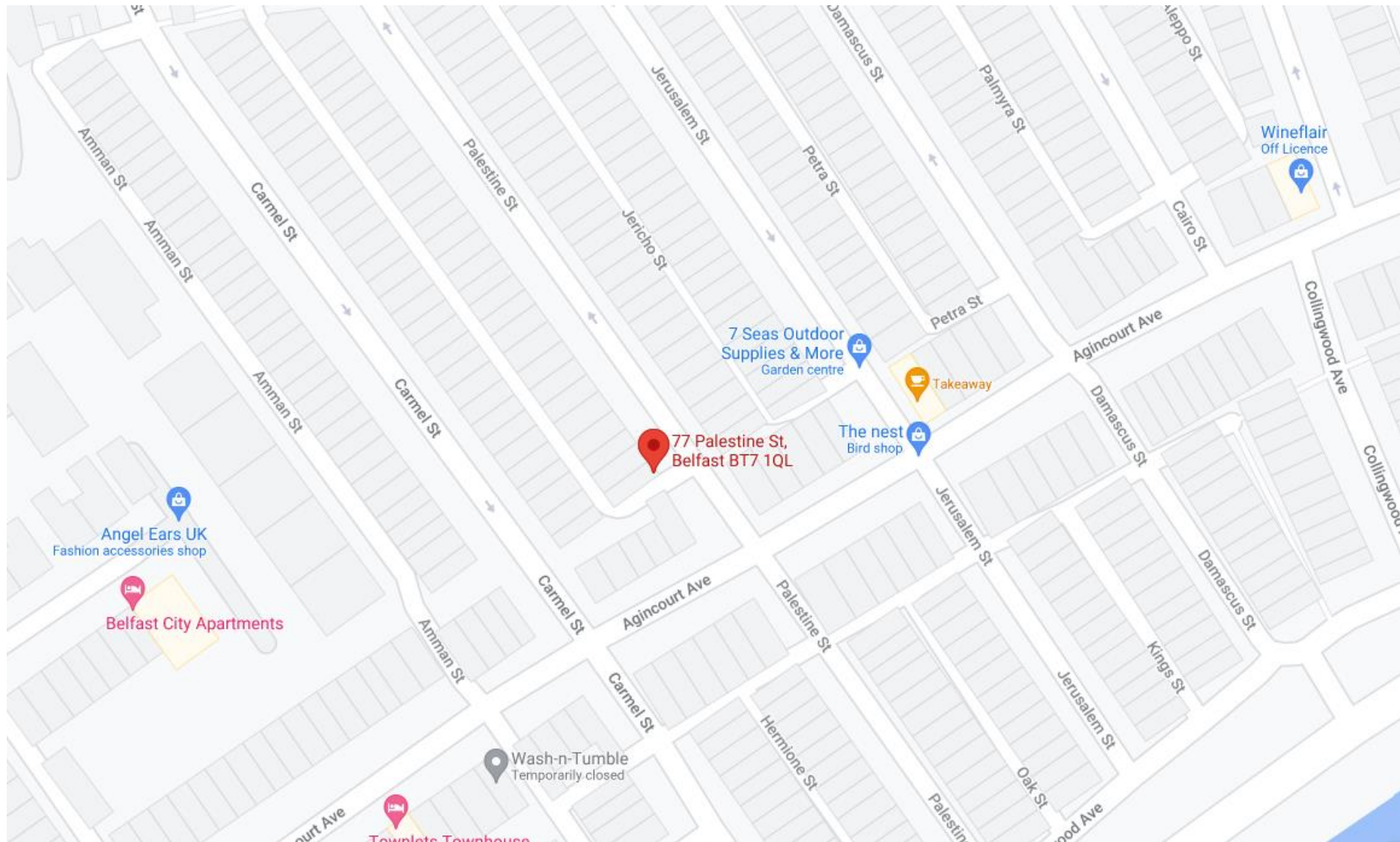
3.14	However, it should be borne in mind that planning permission was granted on the basis that the use had been established for 5 or more years and was, therefore, immune to enforcement. No assessment of overprovision was made at that time. Given the level of licensed HMO properties in this locality, 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.
3.15	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.
3.16	<p>The NIHMO Unit has consulted with the following units within the Council's City and Neighbourhood Services Department -</p> <p>(a) Environmental Protection Unit ("EPU") – which has confirmed that, in relation to night-time noise, there have been two noise warning notices issued on the 18 September 2019 and 17 March 2020 in respect of the HMO since the change of ownership on the 10 September 2019,</p> <p>(b) Environmental Protection Unit ("EPU") – which has 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") – which has 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") – which has 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>
3.17	The applicant and managing agent have confirmed that they have not been convicted of any relevant offences as set out at paragraph 3.15 of this report.
3.18	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 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.
3.19	Officers are not aware of any other issue relevant to the Applicant's fitness.
	<u>Attendance</u>
3.20	The applicant and/or their representatives will be available to discuss any matters relating to the licence application, should they arise during your meeting.
	<u>Suitability of the premises</u>
3.21	An inspection of the premises was carried out by Officers from the Service on 16th June 2021, at which time it was established that the property met the physical standards for an HMO.

	<p><u>Notice of Proposed Decision</u></p>
3.22	On 28th July 2021, 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.
3.23	The notice of proposed decision stated that the Council proposes to refuse the licence. A statement of reasons for the proposal was included in the notice of proposed decision.
	<p><u>The statement of reasons outlined the following as the Council's basis for refusal:-</u></p>
3.24	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.
3.25	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")
3.26	<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
3.27	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.
3.28	On the date of assessment, 22 July 2021, there were a total of 1,084 licensed HMOs in HMO policy area "HMO 2/22 Botanic, Holylands and Rugby", which equates to 47% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 1,082 licensed HMOs have a capacity of 4,974 persons. The total number of dwelling units in a Policy Area is measured by Ordnance Survey's Pointer database.
3.29	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><u>Analysis of Demand</u></p>
3.30	From the date of initial assessment on 22nd July 2021, the demand for HMO accommodation in the locality has surged. Paragraphs 3.7 – 3.13 of this report highlight the most up to date information available to officers on the demand for HMO accommodation in the locality and the wider city.
	<p><u>Financial and Resource Implications</u></p>
3.31	None. The cost of assessing the application and officer inspections are provided for within existing budgets.

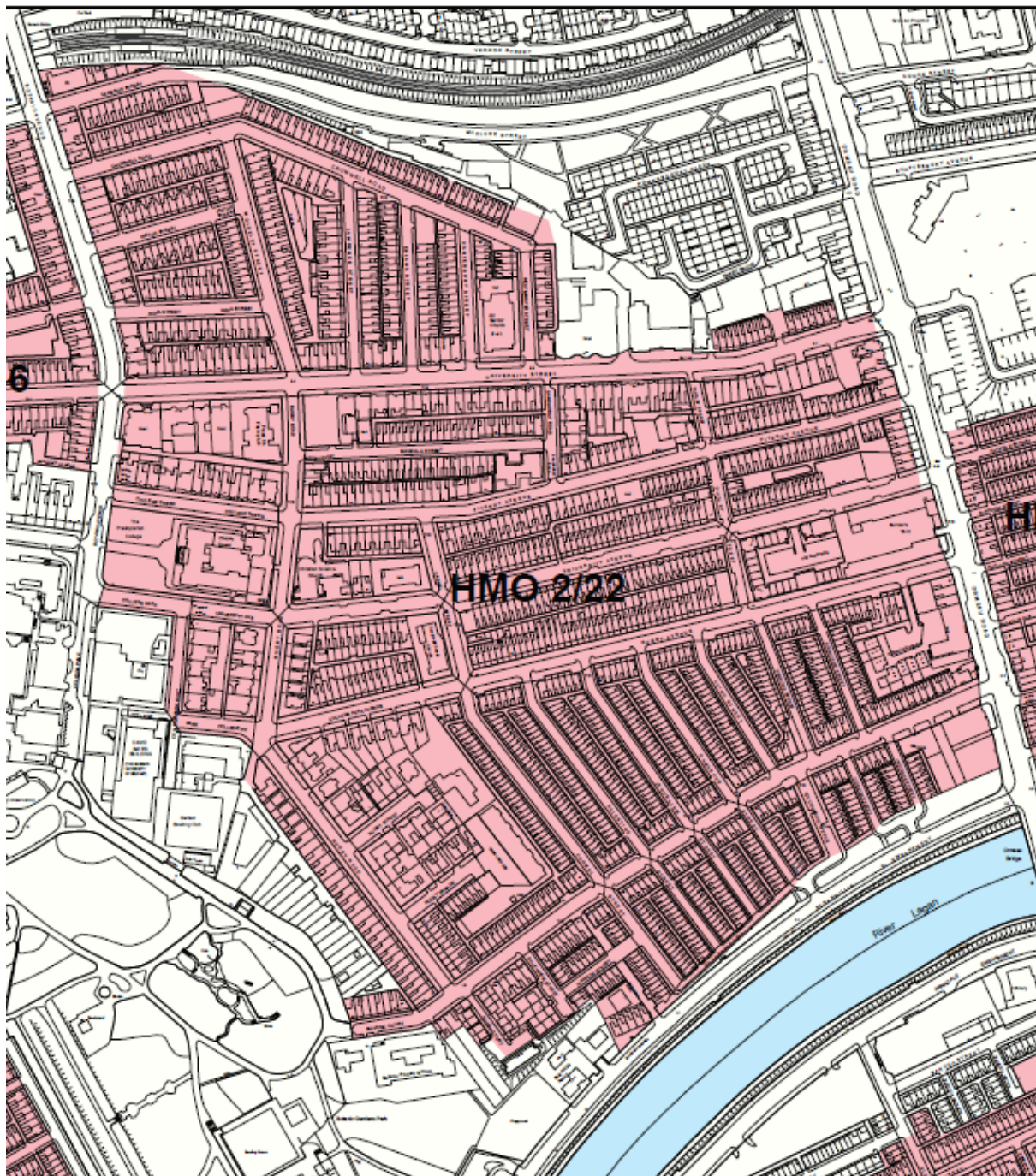
3.32	<p><u>Equality and Good Relations Implications</u></p> <p>There are no equality or good relations issues associated with this report.</p>
4.0	<p>Documents Attached</p>
	<ul style="list-style-type: none"> • Appendix 1 – Location Map • Appendix 2 – Map of HMO Policy Area “HMO 2/22 Botanic, Holylands and Rugby” • Appendix 3 – Email exchange with Mr Magill • Appendix 4 – Notice of Proposed Decision • Appendix 5 – Applicants response to the notice of proposed decision <ul style="list-style-type: none"> • 5a - McCann & McCann solicitors cover letter • 5b - McCann & McCann representations • 5c - HMO Subject Plan – HMO list of Properties • 5d – Landlords Registration Scheme Certificate • Appendix 6 – Response to McCann and McCann representations

Location Map – 77 Palestine Street, Belfast, BT7 1QL

Appendix 1



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