

Licensing Committee

Monday, 30th May, 2022

MEETING OF THE LICENSING COMMITTEE HELD REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor Donnelly (Chairperson);
Aldermen Rodgers and Sandford; and
Councillors Bradley, Bunting, Howard, Hutchinson,
M. Kelly, Magee, McAteer,
McCann, McCullough and McCusker

In attendance: Ms. K. Bentley, Director of Planning and Building Control;
Mr. S. Hewitt, Building Control Manager;
Mr. K. Bloomfield, HMO Unit Manager;
Ms. N. Largey, Divisional Solicitor; and
Ms. C. Donnelly, Democratic Services Officer.

Apologies

Apologies for inability to attend were reported for Councillors T. Kelly, McKeown and Smyth.

Minutes

The minutes of the meeting of 13th April were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 9th May, 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 reported.

Delegated Matters

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

Licences Issued Under Delegated Authority

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

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

The Committee noted a list of licences for Houses in Multiple Occupation which had, since its last meeting, been issued under the Council's Scheme of Delegation.

**Addendum report in respect of an application
for a New Licence to operate a House of
Multiple Occupation for 5 Riverview Street**

The HMO Unit Manager reminded the Committee that, at its meeting in March, having considered whether it would grant or refuse the application for a new licence to operate a house of multiple occupation for 5 Riverview Street, it had agreed to defer its decision, pending further legal advice.

He reported that advice had been sought from Counsel and that, Legal Services had confirmed that, Section 20(2) of the Houses in Multiple Occupation (Northern Ireland) Act 2016 clarified that, an application to renew a licence must be made before the licence ceases to have effect.

He informed the Committee that, as the application had been received after the expiry of the previous licence, the application was for a new licence rather than an application to renew a licence and, therefore, the Committee may grant the licence only, if it was satisfied that it would not result in an overprovision of HMO Licences in the locality in which the accommodation was situated.

He stated that, when taking into account the representations made by the Applicant concerning his personal circumstances for failing to renew his previous licence within the specified timeframe, Members must also consider overprovision, and that, the Committee must have regard to the following provisions:

- 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.

He added that, having considered the submissions of the Applicant, the views of the Members and Council officers, the Committee must make a decision, having been satisfied that the granting of the licence would not result in an overprovision of HMO licensed accommodation in the locality in which the living accommodation was situated.

The Chairperson welcomed the Applicant, Mr. C. Gill to the meeting. Mr. Gill referred to his previous representation to the Committee with regard to his reasons for inability to renew the licence on time, and he referred to a letter he had received from the Council, dated 4th August, 2020, which had stated that existing licence holders should submit their renewal applications online before the expiry of their existing licence. However, he stated that, in order for him to have completed the online application, he would have had to obtain the required gas and electric certificates, which he had been unable to do, due to the Covid-19 pandemic, in that, he had been isolating from his parents who were immunosuppressed.

He stated that he felt his actions over the previous two years had been in an effort to protect the community during the pandemic.

In response to a question from a Member regarding the Committee's ability to grant the licence with special conditions, the Divisional Solicitor informed the Committee that the licence should only be granted if the Committee was satisfied that the granting of the licence would not result in overprovision, and that, the area in which the accommodation was situated, was an area where the number of HMO licences had been in excess of the policy threshold.

She added that advice had been sought from Counsel, which had strongly corroborated that the Committee would have to conclude that, the application would not result in overprovision. She advised that the Committee had been consistent in respect of applications relying upon personal circumstances and that it would have to be fairly exceptional circumstances to depart from that approach.

The Committee agreed to refuse the application, on the basis that granting the licence would result in overprovision.

Application for a New Licence to operate a House of Multiple Occupation for 43 Stranmillis Park

The HMO Unit Manager informed the Committee that an application had been received for a new Licence to operate a House of Multiple Occupation (HMO) for 43 Stranmillis Park.

He reported that the property owners had previously obtained an HMO Licence which had expired in August 2020, and that, on 4th March, 2021, an HMO licence application had been received from the owner of the property, which had subsequently been rejected, on the basis that, the granting of the licence would have constituted a breach of planning control.

He informed the Committee that, the Applicant and Managing Agent had confirmed that they had not been convicted of any relevant offences, and that there had been no relevant enforcement action taken with regard to day or night-time noise, rubbish accumulation, litter or waste.

He outlined the assessments which had taken place on 11th April, 2022 and 5th May 2022, in order to determine the provision and availability of HMO accommodation in the HMO Policy Area, and he stated that Legal Services had advised that there was a clear requirement in Section 8 of the Houses in Multiple Occupation (Northern Ireland) Act 2016, for the Council to be satisfied that the granting of a licence would not result in overprovision.

He reported that there had been no objections received in relation to the application and that, the accommodation had been certified as having been compliant with the physical standards required for an HMO, by a technical officer from the NIHMO Service on 15th April, 2022.

He pointed out to the Committee that a notice of proposed decision had been issued on 6th May, advising the Applicant that the Council intended to refuse the application as it could not be satisfied that the granting of the licence would not result in overprovision in the locality.

The Chairperson welcomed the Applicant, Mr. D. Magennis to the meeting. Mr. Magennis informed the Members that, he had previously held an HMO licence for the property but that, due to personal circumstances, including work pressures, resulted in the oversight whereby the licence had expired and he had failed to renew it.

He added that, he believed that there was a shortage of HMO accommodation in the Stranmillis area and that, although the granting of the licence would exceed the 30 percent development limit, as set out in Policy HMO 1, it would still not constitute an overprovision in the area due to demand, and he requested that, the Committee consider his appeal and grant the licence.

The Committee agreed to refuse the application, on the basis that, granting the licence would result in overprovision.

The Committee dealt with the following four items together as they were from one applicant for multiple licences contained within one property, however consideration was given to each application separately

FLATS 1-4, 2A INDIA STREET

The HMO Unit Manager, reported that applications had been received to for a new licence to operate a House of Multiple Occupation (HMO), in respect of four units, flats 1-4, at 2A India Street. He stated that, the properties had previously held HMO licences, granted by the Northern Ireland Housing Executive, but that the licences had expired in December, 2020.

He informed the Committee that, HMO licence applications had been received from the owner of the four accommodations on 8th September, 2021, and that, a temporary exemption notices had been granted on 22nd November, 2021 and had been further extended to 8th July, 2022.

He pointed out that the four properties each had a Certificate of Lawful Existing Use or Development and that officers were not aware of any issues in relation to the fitness of the Applicant or his Managing Agent.

He outlined the assessment which had taken place on 11th April and 4th May, 2022, in order to determine the provision and availability of HMO accommodation in the HMO Policy Area and he stated that, Legal Services had advised that there was a clear requirement in Section 8 of the Houses in Multiple Occupation (Northern Ireland) Act 2016, for the Council to be satisfied that the granting of a licence would not result in overprovision.

He reported that, there had been no objections received in relation to the applications and that technical officers from the NIHMO Service had inspected the properties and had noted that, there were several outstanding fire safety issues regarding all four properties, additionally, Flat 1, had been reported as having an undersized bedroom.

The HMO Unit Manger pointed out that a notice of proposed decision had been issued to the Applicant, for each of the four applications, on 5th May, 2022. He stated that, with regard to Flats 2, 3 and 4, the notices of proposed decision advised the Applicant that, the Council intended to refuse the applications, as it could not be satisfied that the granting of the licences would not result in overprovision in the locality.

He added that, with regard to Flat 1, the notice of proposed decision outlined that the Council intended to refuse the application on the grounds of overprovision, and that it could not be satisfied that the living accommodation was suitable for occupation as an HMO, by the number of persons to be specified in the licence.

The Chairperson welcomed the Applicant, Mr. C Stewart and his Managing Agent, Ms. D. Robertson, to the meeting. Mr. Stewart stated that all issues with regard to the four properties had been addressed, and that the properties had been further inspected by the NIHMO technical officers. Ms. Robertson added that, with regard to the suitability of the accommodation at Flat 1, a previously single bedroom had been converted to a double room, and therefore, the property was suitable for occupation as an HMO, by the number of persons to be specified in the licence application.

In response to a question from a Member with regard to the conversion of the single bedroom to a double bedroom at Flat 1, the HMO Unit Manager confirmed that, subsequent to the recent inspections carried out by the NIHMO technical officers, the proposed decision to refuse the licences, would solely be on the grounds of overprovision, with regard to all four applications.

He added that, the HMO Policy area threshold was 30 percent and that it was currently, 46 percent, and that, the Council could only grant new licences where it was satisfied that, in doing so, it would not result in overprovision in the HMO Policy Area.

Application for a New Licence to operate a House of Multiple Occupation for Flat 1, 2A India Street

The Committee agreed to refuse the application, on the basis that granting the licence would result in overprovision.

Application for a New Licence to operate a House of Multiple Occupation for Flat 2, 2A India Street

The Committee agreed to refuse the application, on the basis that granting the licence would result in overprovision.

Application for a New Licence to operate a House of Multiple Occupation for Flat 3, 2A India Street

The Committee agreed to refuse the application, on the basis that granting the licence would result in overprovision.

**Application for a New Licence to operate a House
of Multiple Occupation for Flat 4, 2A India Street**

The Committee agreed to refuse the application, on the basis that granting the licence would result in overprovision.

Chairperson