



Subject:	Application for a New Licence to operate a House of Multiple Occupation for Flat 1, 2A India Street, Belfast, BT7 1LJ
Date:	30 May 2022
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 checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues								
1.1	<p>To consider an application for a Licence permitting the use of premises as a House in Multiple Occupation (HMO).</p> <table border="1"><thead><tr><th>Premises</th><th>Application No.</th><th>Applicant(s)</th><th>Managing Agents</th></tr></thead><tbody><tr><td>Flat 1, 2A India Street, Belfast, BT7 1LJ</td><td>8875</td><td>Cameron Stewart (Northern Ireland) Limited</td><td>Bowden Property Limited</td></tr></tbody></table>	Premises	Application No.	Applicant(s)	Managing Agents	Flat 1, 2A India Street, Belfast, BT7 1LJ	8875	Cameron Stewart (Northern Ireland) Limited	Bowden Property Limited
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Flat 1, 2A India Street, Belfast, BT7 1LJ	8875	Cameron Stewart (Northern Ireland) Limited	Bowden Property Limited						
1.2	<p>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><u>Background</u></p>								
1.3	<p>The property had the benefit of an HMO licence in the name of the previous owner granted by the Northern Ireland Housing Executive (“NIHE”) which expired on the 21 December 2020</p>								
1.4	<p>The property was purchased by the existing owner on 19 October 2018.</p>								
1.5	<p>On the 08 September 2021 an HMO licence application was received from the owner of the accommodation.</p>								
1.6	<p>The owner applied for a temporary exemption notice “TEN” on the 12 November 2021 and specified the steps to be taken with a view to securing that the HMO ceases to be an HMO. The TEN was granted on the 22 November 21 and further extended to 8 July 2022.</p>								

2.0	Recommendations
2.1	<p>Taking into account the information presented Committee is asked to hear from the 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 have a right of appeal to the County Court. Such an appeal must be lodged within 28 days of formal notification of the decision.</p>
3.0	Main report
3.1	<p><u>Key Issues</u></p> <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. <p><u>Planning</u></p> <p>3.2 As this is a new licence application the NIHMO Unit consulted with the Council’s Planning Service who on the 10 November 2021 confirmed that a Certificate of Lawful Existing Use or Development (“CLEUD”) was granted with the planning reference LA04/2021/1034/LDE.</p> <p><u>Fitness</u></p> <p>3.3 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>3.4 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;

	<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 and;</p> <p>(d) Enforcement Unit (“EU”) - 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>
3.5	The Applicant and Managing Agent have confirmed that they have not been convicted of any relevant offences as set out at paragraph 3.3 of this report.
3.6	The Applicant or Managing Agent have not been convicted of any HMO related offences by the Council. The EPU, PHHU and EU, 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.
3.7	Officers are not aware of any other issues relevant to the Applicant’s fitness.
	<u>Overprovision</u>
3.8	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, Rugby” as defined in the document “Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015.
3.9	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.
3.10	On the date of assessment, 11 April 2022 there were a total of 1109 licensed HMOs in HMO policy area “HMO 2/22 Botanic, Holylands, Rugby” which equates to just over 46% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 1109 licensed HMOs have a capacity of 5036 persons.
3.11	The total number of dwelling units in a Policy Area is measured by Ordnance Survey’s Pointer database.
3.12	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.
3.13	The Council recognises that there is a need for intensive forms of housing and to meet this demand, 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.
3.14	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.”

3.15	On the <i>04 May 2022</i> , 25 licensed HMOs were advertised as for rent on the website PropertyNews.com in HMO policy area “HMO 2/22 Botanic, Holylands, Rugby”. From the information provided on the website this represented 95 bed spaces within the policy area. The advertisements indicated that availability of the accommodation varied from 2 HMOs for immediate occupancy, representing 6 bed spaces, with the rest available for occupancy at various times until 29 September 2022
3.16	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.
3.17	The fact that 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.
3.18	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.
	<u>Objections</u>
3.19	No objections have been received in relation to this application.
	<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	The accommodation was inspected by officers from the NIHMO service on the 29 April 2022 at which time it was noted that the middle bedroom was undersize, additionally several fire safety issues remained outstanding. Appendix 2
	<u>Notice of proposed decision</u>
3.22	On the 05 May 2022, pursuant to Paragraph 9 of Schedule 2 of the 2016 Act, Officers issued a Notice of Proposed Decision to the Applicant setting out the terms of the proposed licence. Appendix 3
3.23	The Notice of Proposed Decision stated that the Council proposed to refuse the licence as the Council is not satisfied that- <ul style="list-style-type: none"> <li data-bbox="288 1697 1437 1765">i. The granting of the licence will not result in overprovision of HMOs in the locality in which the living accommodation is situated. <li data-bbox="288 1787 1437 1854">ii. The living accommodation is suitable for occupation as an HMO by the number of persons to be specified in the licence.
3.24	A statement of reasons for the proposal was included in the Notice of Proposed Decision.
3.25	<u>The statement of reasons outlined the following as the Council’s basis for refusal:-</u>

i. Overprovision

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

For the purpose of section 12(2) of the 2016 Act. The Council has determined the locality of the accommodation as being HMO Policy Area "HMO 2/22 Botanic, Holylands, Rugby" as defined in the document "Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015 (the "2015 Plan")

In making this decision the Council has had regard to:

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

To inform the Council in its consideration of the above provisions, the Council has taken account of the 2015 Plan and in particular, Policy HMO 1 and Policy HMO 2. The total number of dwelling units in a Policy Area is measured by Ordnance Survey's Pointer database.

Regarding section 12(2)(a) the number and capacity of licensed HMOs in the locality:

On the date of assessment, 11 April 2022 there were a total of 1109 licensed HMOs in HMO policy area "HMO 2/22 Botanic, Holylands, Rugby" which equates to just over 46% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 1109 licensed HMOs have a capacity of 5036 persons.

Regarding section 12(2)(b) the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need:

On the 4 May 2022 out of 44 premises surveyed on the website PropertyNews.com there were 25 licensed HMOs advertised for rent in HMO policy area "HMO 2/22 Botanic, Holylands and Rugby". From the information provided on the website this represented 95 bed spaces. The advertisements indicated that availability of the accommodation varied from 2 HMOs for immediate occupancy, representing 6 bed spaces, with the rest available for occupancy at various times until the 29 September 2022. The remaining 19 premises advertised as to rent, consisted of 1 to 3 bed units representing 31 bed spaces with availability ranging from immediate to September 2022.

Anecdotal evidence from previous conversations with HMO managing agents suggest that that there is currently a lack of HMO accommodation available in this locality. It is too early to tell whether this is a temporary problem or evidence of an emerging long-term supply issue.

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

ii. Accommodation

Regarding section 8(2)(e) the need for the living accommodation to be fit for human habitation and suitable for occupation as an HMO by the number of persons to be specified in the licence.

With reference to Table 1 “Rooms which are a bedroom (only)” of Section 43 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 the minimum floor area of a single bedroom is 6.5m². And no account is to be taken of the room if the floor area is less than 6.5m² in calculating the permitted number for the HMO.

With reference to Annex A: “Technical specification for physical standards” of the Department for Communities document titled “Guide to the licensing of Houses in Multiple Occupation in Northern Ireland: Guidance for Local Government” the minimum floor area of a single bedroom is 6.5m².

The maximum permitted number for this HMO is calculated as 2.

Managing agent’s response to the notice of proposed decision

3.26 On the 18 May 2022 Bowden Property Limited submitted a written response to the notice of proposed decision (**Appendix 4**).

3.27 Bowden Property stated that the property was listed as an HMO up until the end of its previous licence, following this they were unable to immediately renew the licence due to the property changing owners, they then applied for and were granted a CLEUD

3.28 Furthermore, they asserted that the council “*will review and revoke this decision on the grounds that this property was previously listed as an HMO ‘in HMO policy area ‘HMO 2/22 Botanic, Holylands, Rugby’ and is therefore not adding to ‘the number and capacity of licensed HMOs in the locality’ but rather that it is a renewal of a previous license held within this area and therefore isn’t adding to the growing number of new HMOs*”.

3.29 Finally, the managing agent goes on to say, “*we already have tenants living within the property under a temporary exemption notice (approved by NIHMO) and therefore the granting of an HMO license in this property will not result in ‘overprovision’ as a result of additional tenants moving into HMO properties, but rather a continuation of the figures taken in April 2022.*”

Officers’ comments further to the managing agent’s response

3.30 The manager indicates that they were unable to immediately renew the licence due to the property changing ownership, a search of land registry indicates that the transfer took place on the 19 October 2018 which was before the 2016 Act came into force on the 1 April 2019. Furthermore, there is no record of the change of ownership being notified to the NIHE.

3.31 Legal Services has confirmed that section 20(2) of the 2016 Act makes it clear that an application to renew a licence **must** be made before the licence ceases to have effect. The previous licence expired on 21 December 2020 and the current application was not submitted until almost 9 months later.

3.32 As the current application was received after the expiry of the previous licence, this application is for a new licence and, in accordance with section 8(2)(d) of the 2016 Act, the Council **may grant the licence only** if it is satisfied that, inter alia, it will not result in an overprovision of HMOs in the locality in which the living accommodation is situated.

3.33	<p>In relation to the Temporary Exemption Notice “TEN” the application was approved on the grounds that the owner would take steps to secure that the HMO ceases to be an HMO, namely:</p> <p><i>“We will be asking one tenant to move out of the property. Notice to quit will be served.”</i></p> <p>Financial and Resource Implications</p>
3.34	<p>None. The cost of assessing the application and officer inspections are provided for within existing budgets.</p> <p>Equality and Good Relations Implications</p>
3.35	<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 – List of defects – dated 8 April 2022 • Appendix 3 – Notice of Proposed Decision dated 05 May 2022 • Appendix 4 – Managing agent’s response to proposed decision