



Subject:	Application for a New Licence to operate a House of Multiple Occupation for 34 Sandhurst Gardens, Belfast, BT9 5AW
Date:	17 August 2022
Reporting Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910
Contact Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910 Nora Largey, City 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>34 Sandhurst Gardens, Belfast, BT9 5AW</td><td>9262</td><td>Mr Daniel Brennan and Mr Patrick Quinn</td><td>Giant Property Limited</td></tr></tbody></table>	Premises	Application No.	Applicant(s)	Managing Agents	34 Sandhurst Gardens, Belfast, BT9 5AW	9262	Mr Daniel Brennan and Mr Patrick Quinn	Giant Property Limited
Premises	Application No.	Applicant(s)	Managing Agents						
34 Sandhurst Gardens, Belfast, BT9 5AW	9262	Mr Daniel Brennan and Mr Patrick Quinn	Giant Property Limited						
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.								
2.0	Recommendation								
2.1	<p>Taking into account the information presented Committee is asked to hear from the Applicants 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. <p><u>Notice of proposed decision</u></p>								
2.2	On the 15 June 2022, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 (“the 2016 Act”), Officers issued a Notice of Proposed Decision. Appendix 2								

2.3	The Notice of Proposed Decision stated that the council proposed to refuse the licence on the grounds of overprovision . A statement of reasons for the proposal was included in the Notice of Proposed Decision.
2.4	If the application is refused, the Applicants have a right of appeal to the County Court. An appeal must be lodged within 28 days of formal notification of the Council’s decision.
3.0	Main report
	<p data-bbox="261 528 432 562"><u>Background</u></p> <p data-bbox="165 595 1474 831">3.1 The property had the benefit of a deemed HMO licence in the name of the existing owner which expired on the 09 February 2022. A deemed licence occurs if the Council does not determine an application within 3 months of a valid application being received and the applicant is to be treated as having been granted a licence which is valid for one year in the terms applied for. In the case of this deemed licence, officers were unable to complete the application due to the temporary suspension of HMO inspections and subsequent administrative delays related to the Covid pandemic.</p> <p data-bbox="165 864 1474 931">3.2 On the 27 July 2021, 10 December 2021 and the 12 January 2022 reminder letters were sent to Mr. Daniel Brennan informing him of the need to apply to renew the licence.</p> <p data-bbox="165 965 1474 1066">3.3 On the 2 March 2022 an application for a Temporary Exemption Notice “TEN” was received. The application was subsequently refused on the 9 March 2022 as the steps specified in the application were not sufficient to secure that the property ceased to be an HMO.</p> <p data-bbox="165 1099 1474 1167">3.4 On the 11 March 2022 a further TEN application was received and granted on the 18 March 2022.</p> <p data-bbox="165 1200 1474 1267">3.5 On the 09 May 2022 an HMO licence application was received from the owners of the accommodation.</p> <p data-bbox="261 1301 416 1335"><u>Key Issues</u></p> <p data-bbox="165 1368 1334 1402">3.6 Pursuant to the 2016 Act, the Council may only grant a licence if it is satisfied that:</p> <ul style="list-style-type: none"> <li data-bbox="309 1435 1474 1503">a) the occupation of the living accommodation as an HMO would not constitute a breach of planning control; <li data-bbox="309 1503 1246 1536">b) the owner, and any managing agent of it, are fit and proper persons; <li data-bbox="309 1536 1126 1570">c) the proposed management arrangements are satisfactory); <li data-bbox="309 1570 1398 1603">d) the granting of the licence will not result in overprovision of HMOs in the locality; <li data-bbox="309 1603 1474 1738">e) the living accommodation is fit for human habitation and— <ul style="list-style-type: none"> <li data-bbox="357 1637 1474 1704">(i) is suitable for occupation as an HMO by the number of persons to be specified in the licence, or <li data-bbox="357 1704 1270 1738">(ii) can be made so suitable by including conditions in the licence. <p data-bbox="261 1771 384 1805"><u>Planning</u></p> <p data-bbox="165 1839 1474 1939">3.7 As this is a new application the Council’s Planning Service was consulted. It confirmed that a Certificate of Lawfulness of Existing Use or Development (“CLEUD”) was granted with the planning reference LA04/2019/2417/LDE.</p>

Fitness

- 3.8 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.
- 3.9 The NIHMO Unit has consulted with the following units within the Council's City and Neighbourhood Services Department –
- (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 and;
 - (d) Enforcement Unit (“EU”) - who have confirmed that in relation to litter and waste, there was a fixed penalty notice issued in November 2020.
- 3.10 The Applicants 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.
- 3.11 The Applicants 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 Applicants, 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.
- 3.12 Officers are not aware of any other issues relevant to the Applicants' fitness.

Overprovision

- 3.13 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 2/19 Stranmillis” as defined in the document “Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015.
- 3.14 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.
- 3.15 On the date of assessment, 13 June 2022 there were a total of 342 licensed HMOs in HMO policy area “HMO 2/19 Stranmillis” which equates to just over 45% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 342 licensed HMOs have a capacity of 1467 persons.

	<p>The total number of dwelling units in a Policy Area is measured by Ordnance Survey's Pointer database.</p>
3.16	<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>
3.17	<p>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.</p>
3.18	<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>
3.19	<p>On the 15 June 2022, 9 licensed HMOs were advertised as for rent on the website PropertyNews.com in BT9, of those which represented 34 bedspaces. Of those 2 were within HMO policy area "HMO 2/19 Stranmillis". From the information provided on the website this represented 8 bed spaces within the policy area. Availability was immediate through to the end of September 2022.</p>
3.20	<p>A further examination of the PropertyNew.com website took place on the 12 August 2022 at which time 10 licensed HMO were advertised in BT9 representing 41 bedspaces, 2 of which were in HMO policy area "HMO 2/19 Stranmillis" comprising 8 bedspaces.</p>
3.21	<p>Anecdotal evidence from conversations with HMO managing agents suggest that 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.</p>
3.22	<p>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.</p>
3.23	<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>
	<p><u>Objections</u></p>
3.24	<p>No objections have been received in relation to this application.</p>
	<p><u>Attendance</u></p>
3.25	<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>3.26</p> <p>3.27</p> <p>3.28</p> <p>3.29</p>	<p><u>Suitability of the premises</u></p> <p>The accommodation was certified as complying with the physical standards for an HMO for 3 persons (2 other rooms are below the minimum bedroom size of 6.5m²) by a technical officer from the NIHMO service, on the 28 February 2022. The previous deemed licence had a permitted occupancy of 5 persons.</p> <p><u>Response from the Applicants to the notice of proposed decision</u></p> <p>At the time of writing this report the licence applicants had not submitted a response to the notice of proposed decision.</p> <p>Financial and Resource Implications</p> <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> <p>There are no equality or good relations issues associated with this report.</p>
<p>4.0</p>	<p>Appendices – Documents Attached</p>
	<ul style="list-style-type: none"> • Appendix 1 – Location Map • Appendix 2 – HMO policy area “HMO 2/19 Stranmillis” • Appendix 2 – Notice of Proposed Decision dated 20 May 2022