



Subject:	Application for a New Licence to operate a House of Multiple Occupation - 30 Eblana Street
Date:	16th November, 2022
Reporting Officer:	Kevin Bloomfield, HMO Unit Manager, ext. 5910
Contact Officer:	Kevin Bloomfield, HMO Unit Manager, ext. 5910 Vivienne Donnelly, City Protection Manager, ext. 5325

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/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). <table border="1" data-bbox="261 1216 1469 1323"> <tr> <th>Premises</th> <th>Application No.</th> <th>Applicant(s)</th> <th>Managing Agents</th> </tr> <tr> <td>30 Eblana Street, Belfast, BT7 1LD</td> <td>9399</td> <td>Mr Enda Hughes</td> <td>Boyle Properties</td> </tr> </table>	Premises	Application No.	Applicant(s)	Managing Agents	30 Eblana Street, Belfast, BT7 1LD	9399	Mr Enda Hughes	Boyle Properties
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30 Eblana Street, Belfast, BT7 1LD	9399	Mr Enda Hughes	Boyle Properties						
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. <u>Background</u>								
1.3	An individual purporting to be the owner of the accommodation submitted an HMO licence application on 22nd August, 2019 and an HMO licence was granted to that individual on 30th December, 2019.								
1.4	However, following an application to vary the managing agent of the property, officers established that the individual to whom the licence was granted was not, in fact, the legal owner of the property. Instead, he was one of two directors of a limited company who actually owned the property. Members will be aware that a limited company is a separate legal entity.								
1.5	Officers sought and obtained advice from Counsel on the validity of the licence and legal services advised that section 8(1) of the 2016 Act clearly requires that the <i>owner</i> of the accommodation must apply for a licence, which was not the case here. Therefore, officers held that the misrepresentations made by the abovementioned individual regarding the ownership of the property, invalidated the licence meaning it no longer had effect. The NIHMO Unit emailed the individual advising him of the Council's decision on 26th July, 2022								

1.6	On 23rd June 2022, the applicant, Mr. Hughes, submitted an application for a new HMO licence (He was a prospective purchaser of the property at the time).
1.7	The sale of the property was completed on 28th July, 2022.
1.8	Therefore, given that there was no valid licence in place when the applicant's purchase of the property completed, the applicant <u>could not</u> avail of section 28 of the 2016 Act.
1.9	Had the licence remained in effect and, whilst still being an application for a new licence, with overprovision being taken into account (as indeed it must be), the Council <u>would not</u> have deemed granting this application to result in overprovision, given that it would effectively have been a transfer of an existing licence.
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 applicants have a right of appeal to the County Court. Such an appeal must be lodged within 28 days of formal notification of the decision.
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.
	<u>Planning</u>
3.2	As this is a new application, the Council's Planning Service was consulted. It confirmed that a Certificate of Lawful Existing Use or Development ("CLEUD") was granted in May, 2022 with the planning reference LA04/2022/0558/LDE.
	<u>Fitness</u>
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.

3.4	<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”) – it has 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”) – it 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, (c) Public Health and Housing Unit (“PHHU”) – it 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, (d) Enforcement Unit (“EU”) – it 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,
3.5	<p>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.</p>
3.6	<p>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 recently arisen, PSNI has 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>
<p><u>Overprovision</u></p>	
3.7	<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, 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 (HMO’s) Subject Plan for Belfast City Council Area 2015”.</p>
3.8	<p>Legal Services has advised that there is a clear requirement in section 8 of the 2016 Act for the Council to be satisfied that the granting of a licence will not result in overprovision.</p>
3.9	<p>On the date of assessment, 17th October 2022, there were a total of 1087 licensed HMOs in HMO policy area “HMO 2/22 Botanic, Holylands, Rugby”. This equates to just over 45% of the total dwelling units of 2409 within the policy area. Which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 1087 licensed HMOs have a capacity of 4897 persons</p>
3.10	<p>The total number of dwelling units in a Policy Area is measured by Ordnance Survey’s Pointer database.</p>
3.11	<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>
3.12	<p>The Council recognises that there is a need for intensive forms of housing and to meet this need, 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</p>

	housing needs of people who are single, who have temporary employment, students, low-income households and, more recently, migrant workers.
3.13	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.”
3.14	On 28th October 2022, out of 19 premises available for rent within the BT7 area on the website PropertyNews.com there was 1 licensed HMO, which from the information presented on the website, represented 4 bed spaces. The HMO was available for immediate occupation. It should be borne in mind that the peak letting time for HMO accommodation in BT7 is before the commencement of the academic year.
3.15	Anecdotal evidence from conversations with HMO managing agents suggest that there is currently a lack of HMO accommodation available in the locality.
3.16	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.
3.17	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.
3.18	Officers are, therefore, of the opinion that it is too early to tell whether there is a temporary lack of HMO accommodation in the locality or evidence of an emerging long-term supply issue.
	<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 certified as complying with the physical standards for an HMO by a technical officer from the NIHMO service on 31st October, 2022
	<u>Notice of Proposed Decision</u>
3.22	On 28th October 2022, 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. (Appendix 2)
3.23	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.

<p>3.24</p> <p>3.25</p> <p>3.26</p> <p>3.27</p>	<p><u>Manager’s Query further to the Notice of Proposed Decision</u></p> <p>On 1st October 2022, Boyle Properties emailed the HMO unit seeking clarity as to why the application was not being considered as a renewal. (Appendix 3).</p> <p>Officers responded to the query on the same day (Appendix 4)</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>Documents Attached</p>
	<p>Appendix 1 – Location Map</p> <p>Appendix 2 – Notice of Proposed Decision dated 28th October, 2022</p> <p>Appendix 3 – Manager’s Query further to the Notice of Proposed Decision</p> <p>Appendix 4 – Response to Manager’s Query</p>