



Subject:	Application for a New Licence to operate a House of Multiple Occupation for 55 Haypark Avenue, Belfast, BT7 3FE
Date:	20 September 2023
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 type="checkbox"/>	No <input checked="" type="checkbox"/>

1.0	Purpose of Report or 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"><thead><tr><th>Premises</th><th>Application No.</th><th>Applicant(s)</th><th>Managing Agents</th></tr></thead><tbody><tr><td>55 Haypark Avenue, Belfast, BT7 3FE</td><td>10253</td><td>Ms Oonagh O'Sullivan</td><td>Giant Property Limited</td></tr></tbody></table>	Premises	Application No.	Applicant(s)	Managing Agents	55 Haypark Avenue, Belfast, BT7 3FE	10253	Ms Oonagh O'Sullivan	Giant Property Limited
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55 Haypark Avenue, Belfast, BT7 3FE	10253	Ms Oonagh O'Sullivan	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	Recommendations								
2.1	Taking into account the information presented Committee is asked to hear from the Applicants and make a decision to either: (i) Grant the application, with or without any special conditions; or (ii) Refuse the application. <u>Notice of proposed decision</u>								
2.2	On the 31 August 2023, 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								

<p>2.3</p> <p>2.4</p> <p>2.5</p>	<p>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> <p>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.</p> <p>This decision is not subject to call-in, as the call-in period would exceed the time limit for determining the application pursuant to Sch. 2 para. 2 of the 2016 Act</p>
<p>3.0</p>	<p>Main report</p>
<p>3.1</p> <p>3.2</p> <p>3.3</p> <p>3.4</p> <p>3.5</p> <p>3.6</p>	<p><u>Background</u></p> <p>The property had the benefit of an HMO licence issued by the Housing Executive in the name of the of the current owner which expired on 03 September 2022.</p> <p>On the 17 August 2022 an application to renew the licence was received from the owner of the accommodation which on the 6 September 2022 was rejected as the applicant failed to publish notice of the application in one or more newspapers circulating in the locality of the HMO in accordance with Regulation 2 of The Houses in Multiple Occupation (Notice of Application) Regulations (Northern Ireland) 2019 or provide the Council with a copy of the notice. A reminder of the requirement was sent on the 23 August 2022. Appendix 3</p> <p>On the 13 September 2022 an application for a Temporary Exemption Notice “TEN” was received and subsequently approved on the same day, an extension to the TEN was approved on the 08 December 2022 which expired on the 08 March 2023. No further extension to the TEN are permitted under the 2016 Act.</p> <p>On the 13 June 2023 an HMO licence application was received from the owner of the accommodation.</p> <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>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 on 03 April 2023 with the planning reference LA04/2022/2014/LDE</p>

Fitness

- 3.7 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.
- 3.8 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,
 - (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,
- 3.9 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.
- 3.10 The Applicant and 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.
- 3.11 Officers are not aware of any other issues relevant to the Applicant's fitness.

Overprovision

- 3.12 For the purpose of section 12(2) of the 2016 Act. The Council has determined the locality of the accommodation, 55 Haypark Avenue, Belfast, Down, BT7 3FE as being Housing Management Areas (HMA) "HMA 2/03 Ballynafeigh" as defined in the document Belfast City Council's Local Development Plan Strategy ("2023 Strategy") which was formally adopted on the 2 May 2023.
- 3.13 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.
- 3.14 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.

3.15	To inform the Council in its consideration of the above provisions, the Council has taken account of the 2023 Strategy given that <i>“Nurturing sustainable and balanced communities is a fundamental aim of the LDP’s housing policies.”</i>
3.16	<p>In particular, the Council has considered Policy HOU10:-</p> <p>HOU10 states – <i>“Within designated HMAs, planning permission will only be granted for Houses in Multiple Occupation (HMOs) and/or flats/apartments where the total number of HMOs and flats/apartments combined would not as a result exceed 20% of all dwelling units within an HMA.”</i></p>
	<p>(a) The number and capacity of licensed HMOs in the locality</p>
3.17	On the date of assessment, 16 August 2023, 24% of all dwelling units in policy area “HMA 2/03 Ballynafeigh” were made up of HMOs and flats/apartments, which in turn exceeds the 20% development limit as set out at Policy HOU10.
3.18	<p>There are 77 (4.65%) licensed HMOs with a capacity of 345 persons in HMA 2/03 Ballynafeigh</p> <p>(b) The need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need.</p>
3.19	The total number of dwelling units in a HMA is measured by Ordnance Survey’s Pointer database. There are a total of 1649 dwelling units “HMA 2/03 Ballynafeigh.
3.20	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.
3.21	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.
3.22	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.”
3.23	On the 16 August 2023 out of 30 premises available for rent within the BT7 area on the website PropertyNews.com there was 7 licensed HMOs which from the information presented on the website represented 29 bed spaces. The availability of the HMO accommodation ranged from immediately to September 2023.
3.24	<p>Anecdotal evidence from previous conversations with HMO managing agents suggest that that there is currently a lack of HMO accommodation available in this locality.</p> <p>Section 8(2)(d) of the 2016 Act</p>
3.25	In assessing the number and capacity of licensed 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.

	<p><u>Objections</u></p> <p>3.26 No objections were received in relation to this application.</p> <p><u>Attendance</u></p> <p>3.27 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><u>Suitability of the premises</u></p> <p>3.29 The accommodation was certified as complying with the physical standards for an HMO for 3 persons by a technical officer from the NIHMO service, on the 25 July 2023.</p> <p><u>Notice of proposed decision</u></p> <p>3.30 On the 31 August 2023, 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 3</p> <p>3.31 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> <p><u>Applicant's telephone call in response to the notice of proposed decision</u></p> <p>3.32 On the 13 September 2023 the Applicant phoned the NIHMO Unit seeking clarification on the notice of proposed decision, details of the call are included in Appendix 4</p> <p>3.33 During the telephone call clarification was provided on -</p> <ol style="list-style-type: none"> 1. The date the property was first registered by the Housing Executive (3 September 2012), 2. When the previous licence expired (2 September 2022) 3. Regulation 2 of the Houses in Multiple Occupation (Notice of Application) Regulations (Northern Ireland) 2019 4. The adoption of the Belfast City Council's Local Development Plan Strategy on 2 May 2023 5. The date the CLUED was granted. 6. Notice of hearing <p><u>Financial and Resource Implications</u></p> <p>3.34 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>3.35 There are no equality or good relations issues associated with this report.</p>
	Appendices – Documents Attached
	<p>Appendix 1 – Location Map</p> <p>Appendix 2 – Notice of Proposed Decision.</p>

	<p>Appendix 3 – Notice of Application Reminder</p>
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	<p>Appendix 4 – Attendance notes of telephone call received on 13 September 2023</p>
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