

Licensing Committee

Wednesday, 16th October, 2024

MEETING OF THE LICENSING COMMITTEE HELD IN THE LAVERY ROOM

Members present: Alderman Rodgers (Chairperson);
Alderman McCullough;
Councillors Abernethy, Anglin, Bradley,
T. Brooks, M. Donnelly, P. Donnelly, Doran,
D. Douglas, Kelly, F. McAteer, McCann,
McDowell, McKay, McKeown, Ó Néill
and Smyth.

In attendance: Ms. K. Bentley, Director of Planning and Building Control;
Mr. S. Hewitt, Building Control Manager;
Mr. C. McLaughlin, Solicitor;
Ms. C. Naylor, HMO Assistant Manager; and
Mrs. L. McLornan, Committee Services Officer.

Apologies

No apologies for inability to attend were reported.

Minutes

The minutes of the meeting of 21st August, 2024 were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council, at its meeting on 2nd September, 2024, 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 recorded.

Delegated Matters

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

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

The Committee was advised that officers had withdrawn this item due to an administrative issue.

Noted.

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Licences Issued Under Delegated Authority

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

Application for the Variation of 7-Day Annual Entertainments Licence for The Flint Hotel

The Building Control Manager outlined that the Hotel was currently licensed to provide indoor entertainment and the maximum occupancy was in "Amelia Hall" (445 persons).

He outlined that the days and hours during which entertainment may be provided within Amelia Hall, under the terms of its current Entertainments Licence, were:

Monday – Saturday 11.30 am to 1.00am the following morning
Sunday 12.30 pm to 12.00 midnight.

The Committee was advised that the application related to a proposed extension to the hours during which entertainment could be provided to 2.00 am the following morning, every night of the week.

The applicant had stated that the extension was sought to allow more flexibility to provide late night music entertainment and that it would be used in conjunction with the Article 44a extension to Liquor Licensing hours.

The Building Control Manager outlined that public notice of the application had been placed in a newspaper and no written representations had been received. He also confirmed that the Police and the Fire and Rescue Services of Northern Ireland had been consulted and they had no objection to the variation application.

The Committee was also advised that no noise complaints had been received in respect of the premises to date.

The Committee approved the application for the extension of the 7-Day Annual Entertainments Licence to vary the hours during which entertainment could be provided until 2.00am the following morning, every night of the week.

Application for a New Licence to operate a House of Multiple Occupation for 6 Rugby Parade

The Houses in Multiple Occupation (HMO) Assistant Manager presented the details of the application to the Committee.

The Committee was advised that the property had had the benefit of an HMO licence issued to the previous owner, by the Housing Executive, which had expired on 24th December, 2022. Reminder letters had been sent to the licence holder on 25th July, 2022, and 14th November, 2022, informing them of the need to renew the HMO licence

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before the expiry of the existing licence. However, it had subsequently transpired that ownership had transferred to the applicant in February 2019.

On 7th March, 2023, an application for a Temporary Exemption Notice (TEN) was received and was subsequently approved on 15th March, 2023. An extension to the TEN was approved on 15th June, 2023, which expired on 15th September, 2023. No further extensions were permitted under the 2016 Act.

On 25th May, 2023, an HMO Licence application was received from the owner of the accommodation, which was rejected on 2nd June, 2023, for a breach of planning control. A further application was received on 7th July, 2024.

The HMO Assistant Manager outlined that, pursuant to the 2016 Act, the Council could only grant a licence if it was satisfied that:

- 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, were fit and proper persons;
- c) the proposed management arrangements were satisfactory;
- d) the granting of the licence would not result in overprovision of HMOs in the locality;
- e) the living accommodation was fit for human habitation and—
 - i. was suitable for occupation as an HMO by the number of persons to be specified in the licence, or
 - ii. could be made so suitable by including conditions in the licence.

The Committee was advised that, as it was a new application, the Council's Planning Service was consulted. It had confirmed that a Certificate of Lawful Existing Use of Development "CLEUD" was granted on 18th June, 2024.

It was reported that the NIHMO Unit had consulted with the Environmental Protection Unit in relation to daytime noise; the Public Health and Housing Unit in relation to rubbish accumulation/filthy premises; and the Enforcement Unit in relation to litter and waste and all had confirmed that there had been no relevant enforcement action required in respect of any of the issues in the HMO in the last 5 years. The applicant had confirmed that they had not been convicted of any relevant offences under the 2016 Act.

For the purpose of Section 12(2) of the 2016 Act, the Council had determined the locality of the accommodation as being Housing Management Area (HMA) "2/22 Botanic, Holylands, Rugby" as defined in the document Council's Local Development Plan Strategy, which was formally adopted on 2nd May, 2023. It was reported that Legal Services had advised that there was a clear requirement in section 8 of the 2016 Act upon the Council to be satisfied that the granting of a licence would not result in overprovision.

The officers had had regard to:

- a) the number and capacity of licensed HMOs in the locality; and

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- b) the need for housing accommodation in the locality and the extent to which HMO accommodation was required to meet that need.

To inform the Council in its consideration of the above provisions, the Council had taken account of the 2023 Strategy given that “Nurturing sustainable and balanced communities was a fundamental aim of the LDP’s housing policies.” In particular, the Council had considered Policy HOU10, which stated:

“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.”

The Committee was advised that, on the date of assessment, 18th September 2024, 88% of all dwelling units in policy area HMA 2/22 were made up of HMOs and flats/apartments, which in turn exceeded the 20% development limit as set out in Policy HOU10. There were 1131 (46%) licensed HMOs with a capacity of 4784 persons in that HMA.

It was outlined that there were a total of 2476 dwelling units in HMA 2/22. The Committee was advised that the fact that the use of the property as an HMO was permitted for planning purposes was a relevant consideration in determining whether the granting of the licence would result in overprovision.

The HMO Assistant Manager reminded the Committee that there was a need for intensive forms of housing and, to meet that demand, HMOs were an important component of the housing provision. HMOs, alongside other accommodation options within the private rented sector, played an important role in meeting the housing needs of people who were single, who had temporary employment, students, low income households and, more recently, migrant workers and asylum seekers.

She explained that, in assessing the number and capacity of licensed HMOs, as well as the need for HMO accommodation in the locality, officers could not be satisfied that the granting of the HMO licence would 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.

The Committee was advised that no objections had been received in relation to the application. It was also reported that the accommodation had been inspected by a technical officer from the NIHMO service, on 11th July, 2024, at which time it was established that additional ventilation was required to the living room and, if a licence was granted, officers would propose that that would be a condition to be attached.

On 18th September, 2024, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, officers had issued a Notice of Proposed Decision to the Applicant advising that it was proposing to refuse the licence on the grounds of overprovision.

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The Chairperson advised the Committee that the applicant, Mr. P. Stewart, was in attendance to address the Committee and he was welcomed to the meeting.

Mr. Stewart advised the Committee that he felt that he had been misled by Council officers in respect of applying for an HMO licence, in that an officer had advised him that they saw no reason why he wouldn't get a licence for the property. He outlined that he had had to apply twice and that he had spent over £2,500 in fees as part of his application. He stated that he had forgotten to apply for a new HMO licence before the deadline but that he had been a fit and proper landlord and that he had a good relationship with the neighbouring properties. He also highlighted that, as demonstrated within the report, there was a high demand for HMO properties within the area. He reiterated that he felt that Council officers should have advised him early on in the process that his application was unlikely to be approved due to an overprovision of HMOs in the area.

During discussion, a number of Members sought clarity from the Assistant HMO Manager as to what conversations had taken place and what advice had been given by Council officers to the applicant. She confirmed to the Members that HMO officers could not make a pre-determination on an application.

A Member stated that the overprovision of HMOs in the Holylands/Rugby area was well documented within the press and through the work of the Licensing Committee.

After discussion, it was

Moved by Councillor Kelly,
Seconded by Councillor Smyth and

Resolved – that the Committee agrees to refuse the application as, in accordance with Section 12 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, it was satisfied that the granting of the HMO licence would result in overprovision of HMO accommodation in the locality of the accommodation, as determined under section 8(2)(d) of the Act.

Non-Delegated Matters

Notices of Motion - Annual Update

The Building Control Manager provided an annual update on the motions which the Licensing Committee was responsible for, in line with the agreement of the Strategic Policy and Resources Committee that all standing committees would receive regular updates.

He outlined that, as agreed by the Strategic Policy and Resources Committees, motions could be closed for one of two reasons:

- **Category 1 – Notice of Motion contained an action that has been completed.**

All Notices of Motion within this category contained a specific task

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that has since been complete. It is worth noting that, when Committee agree to action a Notice of Motion, there are sometimes additional actions agreed alongside the Motion. As these are not technically part of the Notice of Motion, they are taken forward through normal committee decision making processes. The Notice of Motion can therefore be closed, but additional actions related to it will continue to be progressed and reported to the committee.

- **Category 2 - Notice of Motion has become Council policy or absorbed into a strategic programme of work.**

These Notices of Motion did not contain a specific task that could be complete but rather they are more strategic in nature and require changes in Council policy and/ or strategy for long term outcomes. Those listed within this category have all been agreed by Committee and are now either Council policy or are currently being implemented through a Council strategy that is managed by a Standing Committee through the corporate planning process.

The Members were advised that there were four Motions and Issues Raised in Advance for which the Licensing Committee was responsible.

After discussion the Committee agreed that the following two motions be closed:

- Request to receive a delegation re: the new Pavement Cafe Guidelines (ID = 382); and
- Street Closures (ID = 398)

The Committee also noted the status updates for the remaining two motions which remained open, namely, Drink Spike Testing Kits in Licensed Premises and AirBnB Accommodation.

Road Closures - Oral update

The Building Control Manager advised the Committee that, due to staff illness, an update on Road Closures would be provided in due course.

Chairperson