



Subject:	Applications for the renewal of a Licence to operate a House of Multiple Occupation for 85 Dunluce Avenue, Belfast
Date:	22 nd January 2020
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 type="checkbox"/>	No <input checked="" type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues		
1.1	To consider an application for the renewal of a Licence permitting the use of premises as a House in Multiple Occupation (HMO).		
	Premises and Location 85 Dunluce Avenue Belfast BT9 7AW	Ref. No.	Applicant Gavin Fong
1.2	Members will be aware that responsibility for HMO's was transferred to local district councils in April 2019 with the introduction of a new licensing regime. Any existing registrations under the old NIHE Registration Scheme operated were deemed to be licences at the point of transfer. 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.		
1.3	The purpose of the Houses in Multiple Occupation Act (Northern Ireland) 2016 ('the 2016 Act') is to enable better regulation of Houses in Multiple Occupation (HMO), by introducing a system of licensing, a fitness test for applicants and new provisions about standards of housing.		
1.4	Following the publication of this application, an objection was received in relation to the application. This objection raises general concerns about the overprovision of HMO's, the anti-social behaviour associated with HMO's, their effect on communities and issues around planning permission. None of these issues raise concerns specific to the applicant's premises.		

1.5	As a valid objection has been received, the application must be considered by Committee which must, after hearing from the objector and the applicant, decide whether to grant the renewal application.
2.0	Recommendations
2.1	<p>Taking into account the information presented Committee is asked to hear from the objectors and 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	If the application is refused, the applicant has a right of appeal to the Magistrates Court. Such an appeal must be lodged within 28 days of formal notification of the decision. The licence will remain in place pending the appeal.
2.3	Objectors have no right of appeal but may be able to judicially review the Council's decision
3.0	Main report
	<u>Key Issues</u>
3.1	<p>Pursuant to the 2016 Act, the Council may only grant a licence if it is satisfied of the following:</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 of the living accommodation, and any managing agent of it, are fit and proper persons; c) the proposed management arrangements for the living accommodation are satisfactory; d) the granting of the licence will not result in overprovision of HMOs in the locality in which the living accommodation is situated; 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.
3.2	The issues which can be taken into account when considering the fitness of an applicant are set out at Section 10 of the 2016 Act and includes 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.
3.3	Section 20 of the 2016 Act states where the holder of an HMO licence makes an application for renewal, the council must apply the above provisions except for (a) and (d); namely whether the use is a breach of planning control or would result in overprovision.
3.4	Members will recall that counsel has advised that councils cannot taken into account the absence of planning permission through the prism of fitness. On the basis of this advice, Legal Services have confirmed that this also applies to issues around overprovision.

	<p><u>Objections</u></p> <p>3.5 Following publication of notice of the application, an objection was received in relation to the renewal application. A copy of that objection is appended to this report. As appears from the objection, the issues raised are as follows:</p> <ul style="list-style-type: none"> a) Over provision of HMOs in this area, leading to densification of the neighbourhood and reducing living quality; b) Over densification has produced excess household rubbish emanating from HMOs; c) Over provision of HMOs has created problems of excess car parking, noise and anti-social behaviour; d) Problems associated with HMOs cause settled families to move out, destroying community cohesion in previously strongly bonded neighbourhoods; e) A plan should be put in place to reduce current HMO levels to that set out in the HMO Subject Plan. <p>3.6 The objector also raises issues in relation to new HMO licence applications and premises which do not have the benefit of planning permission, which are not relevant to this application.</p> <p>3.7 As none of these objections are specific to the premises in question, and some of the issues cannot be taken into account, the advice of Legal Services was sought. They advised that as these objections are not specific to the premises and/or irrelevant due to the legislative provisions a decision to refuse the application would not be sustainable upon appeal. In those circumstances it was considered in the interests of fairness to write to the objector raising this advice and inviting her to either amend the objections or withdraw same. The Objector declined to do so.</p> <p>3.8 Members will be aware that on 29th October 2019 the Council's City Growth & Regeneration Committee agreed to designate the Wider University and Lower Ormeau area as a Special Action Area under Community Planning and to develop a long term vision and development plan to include a housing plan, a spatial planning approach and a regeneration programme. This intended to comprehensively tackle the general issues which the objector has raised.</p> <p><u>Applicant</u></p> <p>3.9 The applicant and/or his representatives will be available to discuss any matters relating to the renewal of the licence should they arise during your meeting.</p> <p><u>Suitability of the premises</u></p> <p>3.10 An inspection of the premises was carried out by Officers from the Service on 29 July 2019. The inspections revealed that the applicant was continuing to adhere to the terms and conditions of the existing license and no contraventions were discovered.</p> <p><u>Notice of proposed decision</u></p> <p>3.11 On the 20th December 2019, 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.</p> <p><u>Financial and Resource Implications</u></p>
--	---

3.12	None. The cost of assessing the application and officer inspections are provided for within existing budgets.
	<u>Equality and Good Relations Implications</u>
3.13	There are no equality or good relations issues associated with this report.
4.0	Appendices – Documents Attached
	<ul style="list-style-type: none"> • Appendix 1 – Location Map • Appendix 2 – Objection • Appendix 3 – Correspondence with objector • Appendix 4 – Notice of proposed decision