



<b>Subject:</b>	<b>Applications for a New Licence to operate a House of Multiple Occupation for 32 Stranmillis Gardens, Belfast. BT9 5AS</b>
<b>Date:</b>	14 October 2020
<b>Reporting Officer:</b>	Kevin Bloomfield, HMO Unit Manager, Ext. 5910
<b>Contact Officer:</b>	Kevin Bloomfield, HMO Unit Manager, Ext. 5910 Nora Largey, Divisional Solicitor, Ext. 6049

<b>Is this report restricted?</b>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
<b>Is the decision eligible for Call-in?</b>	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

<b>1.0</b>	<b>Purpose of Report or Summary of main Issues</b>								
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>32 Stranmillis Gdns Belfast BT9 5AA</td><td>7222</td><td>Mr Neil Rafferty</td><td>Key Lets NI</td></tr></tbody></table>	Premises	Application No.	Applicant(s)	Managing Agents	32 Stranmillis Gdns Belfast BT9 5AA	7222	Mr Neil Rafferty	Key Lets NI
Premises	Application No.	Applicant(s)	Managing Agents						
32 Stranmillis Gdns Belfast BT9 5AA	7222	Mr Neil Rafferty	Key Lets NI						
1.2	<p>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.</p>								
1.3	<p>Following the publication of this application, an objection was received in relation to the application. This objection raises general concerns about the overprovision of HMOs in the Stranmillis HMO Policy Area</p>								
1.4	<p>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 licence application.</p>								

<p>1.5</p> <p>1.6</p> <p>1.6</p> <p>1.7</p> <p>1.8</p>	<p><b>Background</b></p> <p>The property was previously licensed as an HMO up and until the 20 August 2019, at which time the licence expired. Prior to the expiry of the licence the NIHMO Unit wrote to the owner on the 13 August 2019 reminding him that the licence on the property was about to expire.</p> <p>On the 02 October 2019 an authorised officer from the HMO Unit inspected the property and established that the property was occupied as an HMO by 5 individuals from more than 2 households.</p> <p>Officers wrote to Mr. Rafferty on the 2 October 2019 asking him if he had a reasonable excuse for operating the accommodation without it being licensed. As no such reasonable excuse was forthcoming the council issued a Fixed Penalty Notice (“FPN”) on the 14 October 2019 for the sum of £5000.00, offering Mr. Rafferty the opportunity of discharging any liability to conviction for the alleged offence, by paying the fixed penalty. Mr. Rafferty accepted the opportunity and paid the FPN on the 28 October 2019. Correspondence exchanged between the applicant, the applicant’s solicitor and the NIHMO Unit, in this regard, are appended to this report.</p> <p>On the 28 November 2019 pursuant to Section 15 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 a Temporary Exemption Notice (TEN) was granted until 28 February 2020 after the owner specified the steps he would be taking with a view to securing the accommodation ceases to be an HMO. The TEN was subsequently extended until 28 May 2020. On the 17 July 2020 officers confirmed the property was no longer in HMO usage.</p> <p>On the 13 February 2020 an application for a new HMO licence was submitted to the NIHMO Unit.</p>
<p><b>2.0</b></p>	<p><b>Recommendations</b></p>
<p>2.1</p> <p>2.2</p> <p>2.3</p>	<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"> <li>(i) Grant the application, with or without any special conditions; or</li> <li>(ii) Refuse the application.</li> </ul> <p>If the application is refused, the applicant has a right of appeal to the County 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.</p> <p>Objectors have no right of appeal but may be able to judicially review the Council’s decision</p>
<p><b>3.0</b></p>	<p><b>Main report</b></p>
<p>3.1</p>	<p><b><u>Key Issues</u></b></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"> <li>a) the occupation of the living accommodation as an HMO would not constitute a breach of planning control;</li> <li>b) the owner, and any managing agent of it, are fit and proper persons;</li> <li>c) the proposed management arrangements are satisfactory);</li> <li>d) the granting of the licence will not result in overprovision of HMOs in the locality;</li> </ul>

- e) the living accommodation is fit for human habitation and—
  - (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 As this is a new application the HMO Unit consulted with the Council's Planning Service who confirmed that on 17 January 2020 a Certificate of Lawful Use or Development was granted with the planning reference **LA04/2019/2946/1de**

3.3 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, 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.

3.4 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.

### **Objections**

3.5 Following publication of notice of the application, an objection was received in relation to the licence application. A copy of that objection is appended to this report. As appears from the objection, the issues raised are as follows:

- a) Over provision of HMOs in the Stranmillis HMO Policy Area.

3.6 The NIHMO Unit has consulted with 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) Cleansing Enforcement ("CE") - 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,

### **Fitness**

3.7 The applicants and managing agent have confirmed that they have not been convicted of any relevant offences as set out at paragraph 3.4 of this report.

3.8	<p>The applicant or managing agent have not been convicted of any HMO related offences by the Council. The EPU, PHHU and CE, 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 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.</p>
3.9	<p>As set out at paragraph 1.6 of this report, the NIHMO Unit issued a FPN on the applicant, for operating the accommodation as an HMO without a licence.</p>
3.10	<p>Officers are not aware of any other issue relevant to the Applicant's fitness.</p>
	<p><b><u>Attendance</u></b></p>
3.11	<p>The applicant and/or their representatives will be available to discuss any matters relating to the renewal of the licence should they arise during your meeting.</p>
	<p><b><u>Suitability of the premises</u></b></p>
3.12	<p>An inspection of the premises was carried out by Officers from the Service on 17 July 2020 at which time it was established that the property meet the physical standards for an HMO.</p>
	<p><b><u>Notice of proposed decision</u></b></p>
3.13	<p>On the 30 September 2020, 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>The notice of proposed decision stated that the council proposed to refuse the licence.</p>
	<p>A statement of reasons for the proposal was included in the notice of proposed decision.</p>
	<p><b><u>Statement of reasons for the proposed decision</u></b></p>
3.14	<p><b><u>The statement of reasons outlined the following as the Council's basis for refusal:-</u></b></p> <p>"Pursuant to section 12 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 "2016 Act" the Council is satisfied that the granting of the HMO licence will 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> <p>For the purpose of section 12(2) of the Act the Council has determined the locality 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 (the "2015 Plan")</p> <p>In making this decision the Council has had regard to –</p> <ul style="list-style-type: none"> <li>(a) the number and capacity of <u>licensed</u> HMOs in the locality</li> <li>(b) the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need</li> </ul> <p>To inform the Council in its consideration of the above provisions, the Council has taken account of the 2015 Plan and in particular, Policy HMO 1 and Policy HMO 2.</p>

<p>3.15</p> <p>3.16</p>	<p>On the date of assessment, 29 September 2020 there were a total of 366 licensed HMOs out of 761 dwelling units in HMO policy area “HMO 2/19 Stranmillis” which equates to 48% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 366 licensed HMOs have a capacity of 1548 persons. The total number of dwelling units in a Policy Area is measured by Ordnance Survey’s Pointer database.</p> <p>Consequently, the council is satisfied that the granting of the HMO licence will 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> <p><b><u>Financial and Resource Implications</u></b></p> <p>None. The cost of assessing the application and officer inspections are provided for within existing budgets.</p> <p><b><u>Equality and Good Relations Implications</u></b></p> <p>There are no equality or good relations issues associated with this report.</p>
<p><b>4.0</b></p>	<p><b>Appendices – Documents Attached</b></p>
	<ul style="list-style-type: none"> <li>• Appendix 1 – Location Map</li> <li>• Appendix 2 – Objection</li> <li>• Appendix 3 – Notice of proposed decision</li> <li>• Appendix 4 – Correspondence with applicant regarding the FPN</li> <li>• Appendix 5 – Correspondence with applicant’s solicitor regarding the FPN</li> <li>• Appendix 6 – Map of HMO Policy Area “HMO 2/19 Stranmillis”</li> </ul>