



<b>Subject:</b>	<b>Applications for a New Licence to operate a House of Multiple Occupation for Flat 2, 26 Lawrence Street, Belfast. BT7 1LF</b>
<b>Date:</b>	16 June 2021
<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

Is this report restricted?

Yes

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No

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Is the decision eligible for Call-in?

Yes

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No

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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).			
	Premises	Application No.	Applicant(s)	Managing Agents
	Flat 2, 26 Lawrence Street Belfast BT7 1LF	8248	Mr Jonathan Murray	CPS Property
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.			
	Background			
1.3	The property had the benefit of an HMO license in the name of the previous owner.			
1.4	The previous licence pursuant to Section 28(2) of the Houses in Multiple Occupation Act (Northern Ireland) 2016 “2016 Act” ceased to have effect on the 31 May 2019 when the property was purchased by Mr Jonathan Murray. If Mr Murray had applied for a new HMO licence before purchasing the property the existing licence would have been in place until his new licence application was determined. However he failed to do so.			
1.5	On the 12 February 2021 an HMO licence application was received from the owners of the accommodation. As this was a new application the HMO Unit consulted with the Council’s			

1.6	Planning Service who on the 19 March 2021 confirmed that a Certificate of Lawful Use or Development was granted with the planning reference <b>LA04/2019/0636/LDE</b>
1.7	The applicant applied for a Temporary Exemption Notice “TEN” pursuant to Section 15 of the 2016 Act which was granted on 23 February 2021.
1.8	Officer propose the refusal of the application on the grounds of overprovision and the applicant was advised accordingly. As the proposal is to refuse the licence application, such a determination falls outside of the scheme of delegation.
<b>2.0</b>	<b>Recommendations</b>
2.1	The Members of the Committee are asked to recommend that, in accordance with the Council decision of 4th May 2021, the Chief Executive exercise her delegated authority to either: <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>
2.2	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.
<b>3.0</b>	<b>Main report</b>
	<b><u>Key Issues</u></b>
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"> <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> <li>e) the living accommodation is fit for human habitation and— <ul style="list-style-type: none"> <li>(i) is suitable for occupation as an HMO by the number of persons to be specified in the licence, or</li> <li>(ii) can be made so suitable by including conditions in the licence.</li> </ul> </li> </ul>
3.2	As this is a new application the HMO Unit consulted with the Council’s Planning Service who on the 18 February 2021 confirmed that a Certificate of Lawful Use or Development was granted with the planning reference <b>LA04/2019/0636/LDE</b>
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, 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 and Rugby” as defined in the document “Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015.
3.4	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.
3.5	On the date of assessment, 30 April 2021 there were a total of 1120 licensed HMOs out of 2400 dwelling units in HMO policy area “HMO 2/22 Botanic, Holylands and Rugby” which equates to 47% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 1120 licensed HMOs have a capacity of 5227 persons.

3.6	The total number of dwelling units in a Policy Area is measured by Ordnance Survey's Pointer database.
3.7	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.
3.8	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."
3.9	At the time of writing this report there were 66 properties advertised for let with 3 or more bedrooms on the website Property News in BT7 with a capacity of 260 bed spaces. It would therefore appear that there is sufficient supply of HMO accommodation in the area.
3.10	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.
3.11	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.
3.12	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.
3.13	<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"> <li>(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,</li> <li>(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,</li> <li>(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,</li> <li>(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,</li> </ul>

### **Fitness**

- 3.14 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.
- 3.15 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.
- 3.16 Officers are not aware of any other issue relevant to the Applicant's fitness.

### **Attendance**

- 3.17 The applicant and/or their representatives will be available to discuss any matters relating to the licence application should they arise during your meeting.

### **Suitability of the premises**

- 3.18 An inspection of the premises was carried out by Officers from the Service on 7 April 2021 at which time it was established that the property meets the physical standards for an HMO.

### **Notice of proposed decision**

- 3.19 On the 21 May 2021, 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.
- 3.20 The notice of proposed decision stated that the council proposed to refuse the licence.
- 3.21 A statement of reasons for the proposal was included in the notice of proposed decision.

### **The statement of reasons outlined the following as the Council's basis for refusal:-**

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.

For the purpose of section 12(2) of the Act the Council has determined the locality as being HMO Policy Area "HMO 2/22 Botanic, Holylands and Rugby" as defined in the document "Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015 (the "2015 Plan")

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

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>On the date of assessment, 30 April 2021 there were a total of 1120 licensed HMOs in HMO policy area “HMO 2/22 Botanic, Holylands and Rugby” which equates to 47% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1.</p> <p>The 1120 licensed HMOs have a capacity of 5227 persons. The total number of dwelling units in a Policy Area is measured by Ordnance Survey’s Pointer database.</p> <p>Consequently, Officers believe 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>
3.22	<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>
3.23	<p>There are no equality or good relations issues associated with this report.</p>
	<p><b>Appendices – Documents Attached</b></p>
	<ul style="list-style-type: none"> <li>• Appendix 1 – Location Map</li> <li>• Appendix 2 – Map of HMO Policy Area “HMO 2/22 Botanic, Holylands and Rugby”</li> <li>• Appendix 3 – Notice of proposed decision</li> <li>• Appendix 4 – Managers response to the notice of proposed decision.</li> </ul>