



Subject:	Application for a New Licence to operate a House of Multiple Occupation for 8 Jerusalem Street, Belfast. BT7 1QN
Date:	29th October 2021
Reporting Officer:	Nora Largey, Divisional Solicitor, Ext. 6049
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 update Committee following its decision to defer consideration of the above application to allow time to consider representations which were received by the applicant's solicitor on 20 th October 2021.
1.2	As consideration of the application was deferred it was necessary apply for an extension of time within which to determine the application. This was because time within which the application was to be determined expired on 29 th October 2021.
1.3	An application to extend time was made at Belfast Magistrates Court on 27 th October 2021. The applicant objected to the application. However, that application was refused as the Council had previously been granted an extension of time and felt that the ample time had been provided to the Council to determine the application.
1.4	Given the issues involved in this application relate to fitness and overprovision it was considered necessary to convene a special meeting of the Licensing Committee to determine the application rather than simply allow a deemed licence to be issued.
2.0	Recommendations
2.1	Taking into account the information presented Committee is asked to hear from the Applicant and make a decision to either: (i) Grant the application, with or without any special conditions; or (ii) Refuse the application.

2.2	If the application is refused, the Applicants have a right of appeal to the County Court. Such an appeal must be lodged within 28 days of formal notification of the decision.
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	Members will recall that his application was before Committee on 20 th October 2021. A copy of the Case Officer Report is attached an Appendix 1.
3.2	As appears from that report, this is a new application although the property has operated as a HMO previously under the old NIHE Registration Scheme and also has the benefit of a CLEUD which was granted last year (LA07/2020/1277/LDE).
3.3	The issue in short is that from information submitted in support of the application for a CLEUD, it would appear that the property was let as a HMO from 7 th October 2018 (when the previous registration expired) until 31 st March 2019, without registering it with NIHE as an HMO, in accordance with the Statutory Registration Scheme for Houses in Multiple Occupation in Northern Ireland.
3.4	Furthermore, the documentation submitted with the CLEUD application would appear to suggest that the property was let as an unlicensed HMO from the 1 April 2019 to the 31 August 2020 contrary to section 7(1) of the 2016 Act, which is an offence under the 2016 Act.
3.5	The Council were granted an order at Belfast Magistrates' Court on 27 th July 2021 to extend the time afforded to it, to determine the Applicants' licence application. The Application was made on the basis that the Council required time to write to the Applicant seeking its comments on the evidence that was provided in support of their application for a CLEUD and the implication that the subject premises had been operating as an unlicensed HMO for a significant period of time.
3.6	Unfortunately, due to an administrative oversight, officers overlooked writing to the Applicant in this regard and a Notice of Proposed Decision to refuse the application on the grounds of overprovision and fitness was only issued on 6 th October 2021.
3.7	The Applicant was afforded 14 days within which to respond and a response was duly received on 20 th October 2021, the day of Committee, at approximately 2.30pm. These representations were circulated to Committee but upon Officer advice it was considered inappropriate to proceed without having properly considered the representations and being able to formally report back to Committee in respect of same. For those reasons the application was deferred.
3.8	As the period within which the application could be determined was due to expire on 29 th October 2021, an application to extend time was made to the Magistrates Court and was listed for hearing on 27 th October 2021. The Applicant objected to the application and ultimately the Court refused the application to extend time.
3.9	Whilst the Court accepted that both parties had acted in good faith it was of the view that the Applicant was prejudiced by the Council's failure to determine the application and furthermore that it would be unfair to further delay the application until an appeal was heard given the ample time the council had to deal with the application . This was despite the Council's representation that the issues of fitness and overprovision were matters of general public importance which should properly be dealt with by the Committee rather than by default.

3.10	Initially, officers were of a view that it would not be possible to determine the application before 29 th October 2021 due to the recent developments in relation to call-in and the proposed amendments to Standing Orders which are due to be ratified on Monday 1st November 2021.
3.11	However, upon reviewing the matter, Officers are of the view that the extant Standing Orders are applicable until such times as they are amended and given the particular circumstances in relation to this application and the legal duties placed upon the Council by the 2016 Act, that call-in should be suspended in relation to this application in any event.
3.12	A copy of the Applicant's representations dated 20 th October 2021 are attached to their report at Appendix 2 and the Officer response to that correspondence is attached at Appendix 3.
	Financial and Resource Implications
3.13	None.
	Equality and Good Relations Implications
3.14	There are no equality or good relations issues associated with this report.
	Appendices – Documents Attached
	<ul style="list-style-type: none"> • Appendix 1 – Case Officer Report dated 20th October 2021 • Appendix 2 – Representations on behalf of the Applicant dated 20th October 2021 • Appendix 3 – Officer Response to Applicant dated 28th October 2021