

**Democratic Services Section  
Legal and Civic Services Department  
Belfast City Council  
City Hall  
Belfast  
BT1 5GS**



**Belfast  
City Council**

8th April, 2022

**MEETING OF LICENSING COMMITTEE**

Dear Alderman/Councillor,

The above-named Committee will meet in hybrid format, both in the Council Chamber and via Microsoft Team, on Wednesday, 13th April, 2022 at 5.00 pm, for the transaction of the business noted below.

You are requested to attend.

Yours faithfully,

JOHN WALSH

Chief Executive

**AGENDA:**

- (i) Applications for a New Licence to operate a House of Multiple Occupation for 13 Fitzroy Avenue, Belfast. BT7 1HS (Pages 1 - 38)

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<b>Subject:</b>	<b>Applications for a New Licence to operate a House of Multiple Occupation for 13 Fitzroy Avenue, Belfast. BT7 1HS</b>
<b>Date:</b>	13 April 2022
<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" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th style="width: 25%;">Premises</th> <th style="width: 25%;">Application No.</th> <th style="width: 25%;">Applicant(s)</th> <th style="width: 25%;">Managing Agents</th> </tr> </thead> <tbody> <tr> <td>13 Fitzroy Avenue, Belfast, BT7 1HS</td> <td>8836</td> <td>Mr Jack Kennedy</td> <td>Property People Belfast Ltd T/A Property People</td> </tr> </tbody> </table>	Premises	Application No.	Applicant(s)	Managing Agents	13 Fitzroy Avenue, Belfast, BT7 1HS	8836	Mr Jack Kennedy	Property People Belfast Ltd T/A Property People
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13 Fitzroy Avenue, Belfast, BT7 1HS	8836	Mr Jack Kennedy	Property People Belfast Ltd T/A Property People						
1.2	<p>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> <p><b><u>Background</u></b></p>								
1.3	<p>The property was previously licensed as an HMO in the name of the previous owner who sold the property on the 4 August 2021 at which time the licence in accordance with Section 28 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 ceased to have effect.</p>								
1.4	<p>On the 15 October 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 Planning Service who on the 15 October 2021 confirmed that a Certificate</p>								

<p>1.5</p> <p>1.6</p>	<p>of Lawful Use or Development was granted with the planning reference <b>LA04/2021/1732/LDE</b></p> <p>Following the publication of this application, an objection was received in relation to the application. The objection raises concerns regarding overprovision of HMOs in the locality.</p> <p>On the 15 October 2021 the applicant submitted an application for a Temporary Exemption Notice “TEN” and following clarification from the managing agent the TEN was granted on the 20 October 2021.</p>
<p><b>2.0</b></p>	<p><b>Recommendations</b></p>
<p>2.1</p> <p>2.2</p>	<p>Taking into account the information presented Committee is asked to hear from the applicant and the objector 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><b>3.0</b></p>	<p><b>Main report</b></p>
<p>3.1</p> <p>3.2</p> <p>3.3</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> <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> <p><b><u>Planning</u></b></p> <p>As this is a new application the HMO Unit consulted with the Council’s Planning Service who on the 15 October 2021 confirmed that a Certificate of Lawful Use or Development was granted with the planning reference <b>LA04/2021/1732/LDE</b></p> <p><b><u>Fitness</u></b></p> <p>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</p>

law. It also permits the Council to take into account any other matter which the council considers to be relevant.

The NIHMO Unit has consulted with the 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) Enforcement Unit ("EU") - 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,

3.4 The Applicants and Managing Agent have confirmed that they have not been convicted of any relevant offences as set out at paragraph 3.3 of this report.

3.5 The Applicant or Managing Agent have not been convicted of any HMO related offences by the Council. The EPU, PHHU and EU, 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 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.

3.6 Officers are not aware of any other issues relevant to the Applicant's fitness.

### **Overprovision**

3.7 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.

3.8 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.

3.9 On the date of assessment, 14 February 2022 there were a total of 1100 licensed HMOs in HMO policy area "HMO 2/22 Botanic, Holylands, Rugby" which equates to just over 45% of the total dwelling units, which in turn exceeds the 30% development

	limit as set out at Policy HMO 1. The 1100 licensed HMOs have a capacity of 5022 persons.
3.10	The total number of dwelling units in a Policy Area is measured by Ordnance Survey's Pointer database.
3.11	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.
3.12	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, subject to the TEN issued on 20 <sup>th</sup> October 2021 was has been further extended until 26 April 2022.
3.13	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.
3.14	The Council recognises that there is a need for intensive forms of housing and to meet this demand, HMOs are an important component of this housing provision. HMOs, alongside other accommodation options within the private rented sector, play an important role in meeting the housing needs of people who are single, who have temporary employment, students, low-income households and, more recently, migrant workers.
3.15	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."
3.16	On 2 March 2022 there were 27 licensed HMOs advertised for let on the website Property News in BT7, from the information provided on the website this represented 92 bed spaces, although most of the accommodation is not available for immediate occupancy.
3.17	Anecdotal evidence from conversations with HMO managing agents suggest that that there is currently a lack of HMO accommodation available in the locality. It is officers' view that it is too early to tell whether this is a temporary problem or evidence of an emerging long-term supply issue.
	<b><u>Objections</u></b>
3.18	One valid objection has been received in relation to this application on the grounds of over provision of HMOs in the local area. <b>(Appendix 3)</b>

**Attendance**

3.19 The applicant and/or their representatives will be available to discuss any matters relating to the licence application should they arise during your meeting. The objector will also be in attendance if members want to hear from them.

**Suitability of the premises**

3.20 An inspection of the premises was carried out by Officers from the Service on 17 December 2022 at which time it was established that an emergency escape window was required to the first floor of the property.

**Notice of proposed decision**

3.21 On the 3 March 2022, 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. **(Appendix 4)**

3.22 The notice of proposed decision stated that the council proposed to refuse the licence as the council is not satisfied that the granting of the licence will not result in overprovision of HMOs in the locality in which the living accommodation is situated.

3.23 A statement of reasons for the proposal was included in the notice of proposed decision.

**Statement of reasons for the proposed decision**

3.24 **Overprovision:**

In accordance with 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 2016 Act. The Council has determined the locality of the accommodation as being HMO Policy Area "HMO 2/22 Botanic, Holylands, 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.

The total number of dwelling units in a Policy Area is measured by Ordnance Survey's Pointer database.

	<p>Regarding Section 12(2)(a) the number and capacity of licensed HMOs in the locality.</p> <p>On the date of assessment, 14 February 2022 there were a total of 1100 licensed HMOs in HMO policy area “HMO 2/22 Botanic, Holylands, Rugby” which equates to just over 45% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 1100 licensed HMOs have a capacity of 5022 persons.</p> <p>Regarding Section 12(2)(b) the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need. A survey of 50 properties advertised on the website Property News in the postcode area BT7 which includes policy area HMO 2/22 was undertaken on 2 March 2022.</p> <p>This determined available accommodation was advertised in 27 licensed HMOs. From the information provided on the website this represented up to 92 bed spaces, although most of the accommodation is not available for immediate occupancy. Anecdotal evidence from previous conversations with HMO managing agents suggest that there is currently a lack of HMO accommodation available in this locality. It is too early to tell whether this is a temporary problem or evidence of an emerging long-term supply issue.</p> <p>Officers cannot be satisfied that the granting of the HMO licence will 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.</p> <p><b><u>Applicant’s response to the notice of proposed decision</u></b></p> <p>3.27 On the 16 March 2022 the applicant submitted a written response to the notice of proposed decision in which he provides representations and commentary on the statement of reasons included in the notice of proposed decision.</p> <p>3.28 Additionally, the applicant provides commentary on the subject premises, his capacity as a fit and proper person and the objection received.</p> <p><b><u>Financial and Resource Implications</u></b></p> <p>3.29 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>3.30 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> </ul>

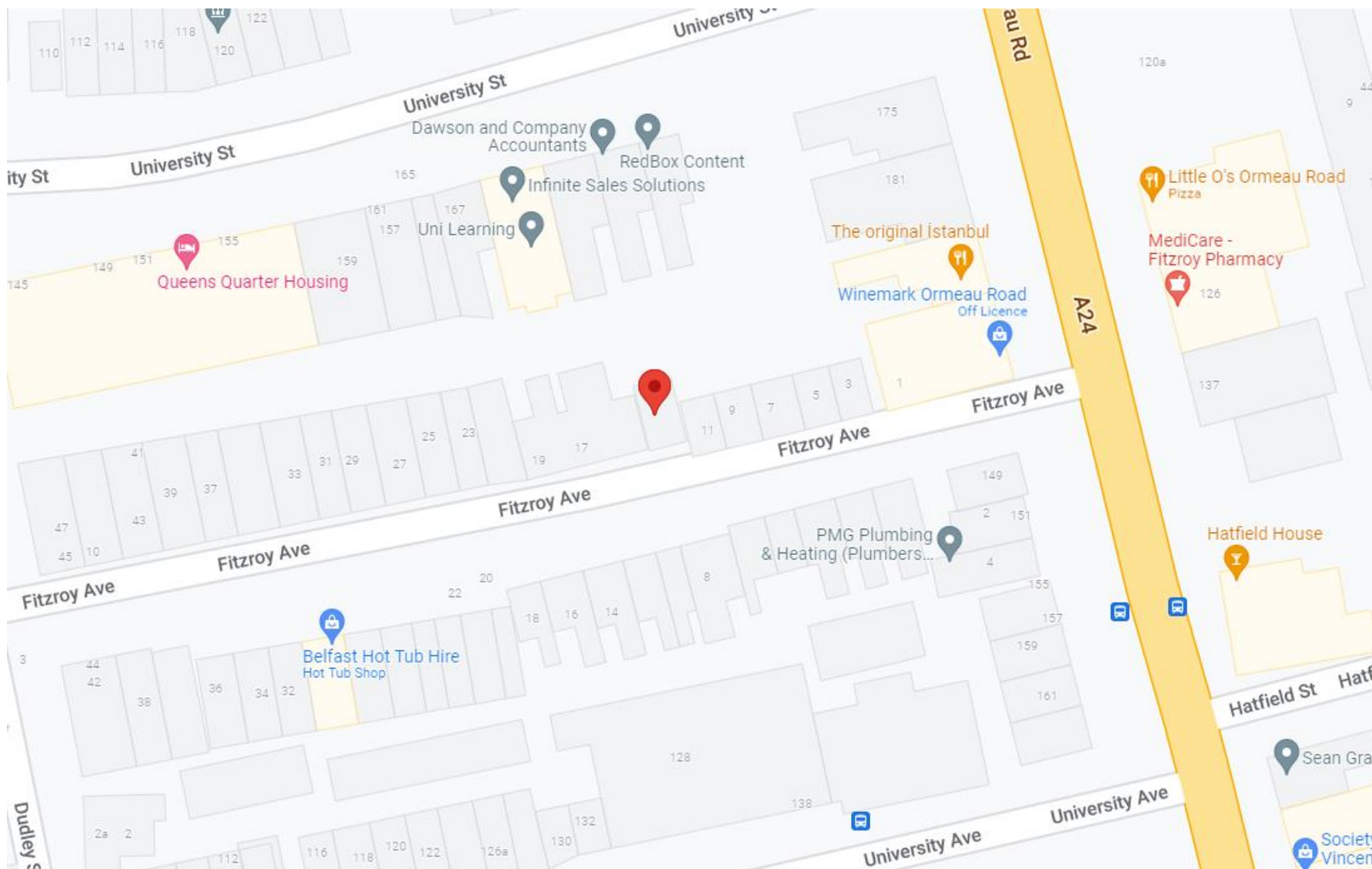


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|  | <ul style="list-style-type: none"><li>• Appendix 2 – Map of HMO Policy Area “HMO 2/22 Botanic, Holylands and Rugby”</li><li>• Appendix 3 – Objection</li><li>• Appendix 4 – Notice of proposed decision</li><li>• Appendix 5 – Applicant’s response to the notice of proposed decision.</li></ul> |
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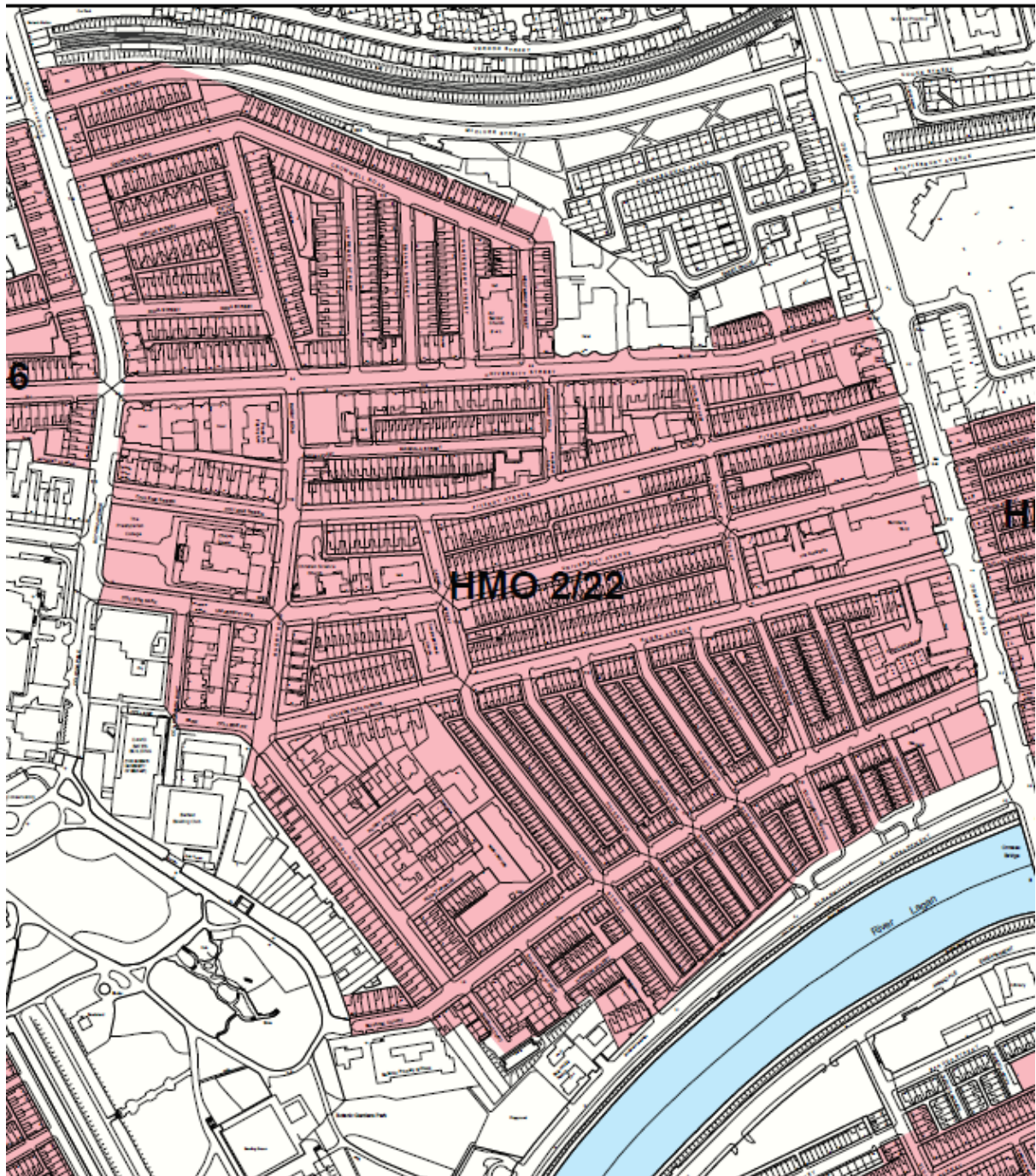
# Appendix 1 – Location Map – 13 Fitzroy Avenue, Belfast. BT7 1HS

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**Appendix 2 - HMO 2/22 Botanic, Holylands and Rugby**



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of the Local Government Act (Northern Ireland) 2014.

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