

# Public Document Pack

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

15th February, 2024

## **MEETING OF LICENSING COMMITTEE**

Dear Alderman/Councillor,

In addition to those matters previously notified to you, the following item(s) will also be considered at the meeting to be held at 5.15 pm on Wednesday, 21st February, 2024.

Yours faithfully,

JOHN WALSH

Chief Executive

### **AGENDA:**

- 2 (d) Application for a New Licence to operate a House of Multiple Occupation for 71 Eglantine Avenue (Pages 1 - 22)

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<b>Subject:</b>	<b>Application for a New Licence to operate a House of Multiple Occupation for 71 Eglantine Avenue, Belfast, BT9 6EW</b>
<b>Date:</b>	21 February 2024
<b>Reporting Officer:</b>	Kevin Bloomfield, HMO Unit Manager, Ext. 5910
<b>Contact Officer:</b>	Kevin Bloomfield, HMO Unit Manager, Ext. 5910 Nora Largey, City 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 checked="" type="checkbox"/> No <input type="checkbox"/>

<b>1.0</b>	<b>Purpose of Report or Summary of main Issues</b>								
1.1	To consider an application for a Licence permitting the use of premises as a House in Multiple Occupation (HMO). <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th style="width: 30%;">Premises</th> <th style="width: 20%;">Application No.</th> <th style="width: 30%;">Applicant(s)</th> <th style="width: 20%;">Managing Agents</th> </tr> </thead> <tbody> <tr> <td>71 Eglantine Avenue, Belfast, BT9 6EW</td> <td>10707</td> <td>S &amp; B Properties (N.I.) Ltd</td> <td>Mr Brian Hallihan</td> </tr> </tbody> </table>	Premises	Application No.	Applicant(s)	Managing Agents	71 Eglantine Avenue, Belfast, BT9 6EW	10707	S & B Properties (N.I.) Ltd	Mr Brian Hallihan
Premises	Application No.	Applicant(s)	Managing Agents						
71 Eglantine Avenue, Belfast, BT9 6EW	10707	S & B Properties (N.I.) Ltd	Mr Brian Hallihan						
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.								
<b>2.0</b>	<b>Recommendations</b>								
2.1	Taking into account the information presented Committee is asked to hear from the Applicants and make a decision 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> <p><b><u>Notice of proposed decision</u></b></p>								
2.2	On the 1 February 2024, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 (“the 2016 Act”), Officers issued a Notice of								

	Proposed Decision. <b>Appendix 2</b>
2.3	The Notice of Proposed Decision stated that the council proposed to <b>refuse</b> the licence on the grounds of <b>overprovision</b> . A statement of reasons for the proposal was included in the Notice of Proposed Decision.
2.4	If the application is refused, the Applicant has a right of appeal to the County Court. An appeal must be lodged within 28 days of formal notification of the Council's decision.
<b>3.0</b>	<b>Main report</b>
	<b><u>Background</u></b>
3.1	The property had the benefit of an HMO licence issued by the Housing Executive in the name of the previous owner (who is a director of S & B Properties (N.I.) Ltd) and was scheduled to expire on 10 June 2023.
3.2	On the 2 October 2020, the applicant purchased the property and in accordance with section 28(2) of the Houses in Multiple Occupation Act (NI) 2016, the existing licence ceased to have effect on the date ownership transferred.
3.3	On the 24 April 2023, an application for a new HMO licence was received from S & B Properties (N.I.) Ltd which was subsequently rejected on 05 May 2023 as the Council could not be satisfied that the occupation of the living accommodation as an HMO would not constitute a breach of planning control.
3.4	As application for a temporary exemption notice was granted on the 30 August 2023 and subsequently extended until 1 March 2024
3.5	On the 14 November 2023, an HMO licence application was received from the owner of the accommodation. If the new owner had of applied for a licence before the change of ownership took place, the licence which was already in effect in respect of the HMO would have been treated as being held by the new owner until such time as their application had of been determined.
	<b><u>Key Issues</u></b>
3.6	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>
	<b><u>Planning</u></b>
3.7	As this is a new application the Council's Planning Service was consulted. It confirmed that a Certificate of Lawful Existing Use or Development ("CLEUD") was granted on 10 November 2023 with the planning reference <b>LA04/2023/3222/CLUED</b>

	<p><b><u>Fitness</u></b></p>
3.8	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.
3.9	The NIHMO Unit has consulted with the following units within the Council's City and Neighbourhood Services Department –
3.10	(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,
3.11	(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,
3.12	(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,
3.13	(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,
3.14	The directors of S & B Properties (N.I.) Ltd have confirmed that they have not been convicted of any relevant offences as set out at paragraph 3.3 of this report.
3.15	S & B Properties (N.I.) Ltd or the directors thereof 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.
	<p><b><u>Overprovision</u></b></p>
3.16	For the purpose of section 12(2) of the 2016 Act. The Council has determined the locality of the accommodation, <b>71 Eglantine Avenue, Belfast, BT9 6EW</b> as being Housing Management Areas (HMA) “HMA 2/09 Eglantine” as defined in the document Belfast City Council's Local Development Plan Strategy “2023 Strategy” which was formally adopted on the 2 May 2023.
3.17	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.
3.18	In making this decision the Council has had regard to: <ul style="list-style-type: none"> <li>(a) the number and capacity of licensed 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>
3.19	To inform the Council in its consideration of the above provisions, the Council has taken account of the 2023 Strategy given that <i>“Nurturing sustainable and balanced communities is</i>

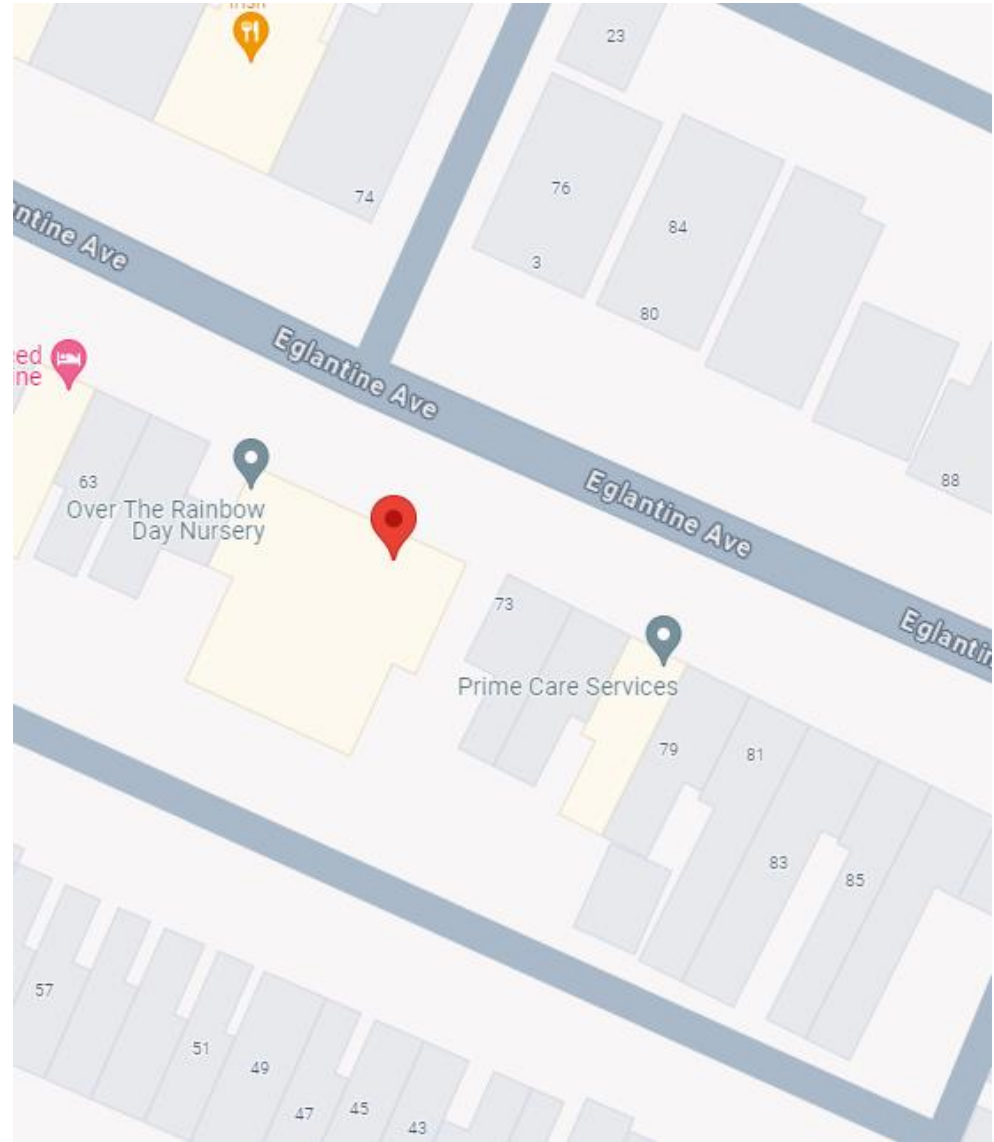
	<i>a fundamental aim of the LDP's housing policies.”</i>
3.20	In particular, the Council has considered Policy HOU10:-  HOU10 states – <i>“Within designated HMAs, planning permission will only be granted for Houses in Multiple Occupation (HMOs) and/or flats/apartments where the total number of HMOs and flats/apartments combined would not as a result exceed 20% of all dwelling units within an HMA.”</i>
	<b>(a) The number and capacity of licensed HMOs in the locality</b>
3.21	On the date of assessment, 1 February 2024, 95% of all dwelling units in policy area “HMA 2/09 Eglantine” were made up of HMOs and flats/apartments, which in turn exceeds the 20% development limit as set out at Policy HOU10.
3.22	There are 259 (22%) licensed HMOs with a capacity of 1297 persons in “HMA 2/09 Eglantine”.
	<b>(b) The need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need.</b>
3.23	The total number of dwelling units in a HMA is measured by Ordnance Survey’s Pointer database. There are a total of 1175 dwelling units “HMA 2/09 Eglantine”.
3.24	On the 1 February 2024 out of 69 premises available for rent within the BT9 area on the website PropertyNews.com there was 9 licensed HMOs which from the information presented on the website represented 40 bed spaces. The HMO accommodation was available immediately until September 2024
3.25	The fact that 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.
3.26	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.
3.27	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.”
3.29	Anecdotal evidence from previous conversations with HMO managing agents suggest that that there is currently a lack of HMO accommodation available in this locality.
	<b>Students moving out of HMO accommodation.</b>
3.30	On the 7 December 2022 Ulster University Director of Campus Life told members of the Council’s City Growth and Regeneration Committee that there was an “increase in competition for HMO’s particularly from NIHE, Immigration Services and statutory agencies and there were increasing accommodation issues across the housing sector which required a holistic view and should include the consideration of international students, families and graduates looking for professional accommodation.”

3.31	However, QUB Director of Student Plus confirmed to members that the current trend indicated a significant move of students to purpose-built student accommodation blocks. She told members that there were 7,000 purpose built managed student accommodation (PBMSA) rooms in the city – the majority built since 2018 and approximately 5,000 in the city centre.
3.32	November 2023 monitoring information produced by the Council's Planning Services for PBMSA indicates that 2055 bedspaces are currently under construction with an operational date of 2024, 92 bedspaces approved but construction hasn't commenced and 1426 bedspaces going through the planning process.
3.33	With the continued expansion of the PBMSA sector and students transitioning from private rentals to PBMSAs, it is too early to tell whether the increased competition from non-students for HMOs is a temporary problem (which can be managed by the contraction in students residing in existing HMO accommodation within the locality) or evidence of an emerging long-term supply issue.
<b>Section 8(2)(d) of the 2016 Act</b>	
3.34	In assessing the number and capacity of licensed HMOs as well as the need for HMO accommodation in the locality, 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.
<b><u>Objections</u></b>	
3.35	No objections were received in relation to this application.
<b><u>Attendance</u></b>	
3.36	The applicant and/or their representatives will be available to discuss any matters relating to the licence application should they arise during your meeting.
<b><u>Suitability of the premises</u></b>	
3.37	The accommodation was inspected by a technical officer from the NIHMO service on the 24 November 2023 and was broadly compliant, some minor works remained to be completed.
<b><u>Notice of proposed decision</u></b>	
3.38	On the 1 February 2024, 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. <b>Appendix 2</b>
3.39	The Notice of Proposed Decision stated that the council proposed to refuse the licence on the grounds of overprovision. A statement of reasons for the proposal was included in the Notice of Proposed Decision.
<b><u>Applicant's response to the notice of proposed decision</u></b>	
3.40	The applicant provided a response to the notice of proposed decision on the 14 February 2024. <b>Appendix 3</b>

3.41	<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>
3.42	<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>Appendices – Documents Attached</b></p>
	<p><b>Appendix 1</b> – Location Map  <b>Appendix 2</b> – Notice of Proposed Decision.  <b>Appendix 3</b> – Applicants response to the notice of proposed decision.</p>



**Appendix 1 – External Photograph and Location Map – 71 Eglantine Avenue, Belfast, BT9 6EW**



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of the Local Government Act (Northern Ireland) 2014.

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