

Licensing Committee

Wednesday, 13th April, 2022

MEETING OF THE LICENSING COMMITTEE HELD REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor Donnelly (Chairperson);
Aldermen Rodgers and Sandford; and
Councillors Bradley, Bunting, Howard,
M. Kelly, T. Kelly, Magee,
McAteer, McCabe, McCann, McCusker, McKeown and
Smyth.

In attendance: Ms. K. Bentley, Director of Planning and Building Control;
Mr. S. Hewitt, Building Control Manager;
Mr. K. Bloomfield, HMO Unit Manager;
Ms. N. Largey, Divisional Solicitor; and
Ms. C. Donnelly, Democratic Services Officer.

Apologies

Apologies for inability to attend were reported for Alderman McCoubrey and Councillors Hutchinson, McCullough and Mulholland.

Minutes

The minutes of the meeting of 16th March were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council at its meeting on 4th April, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

Councillor McCabe declared an interest in relation to the item under the heading 'Stationary Street Trading Licence application for Dargan Crescent' in that she had previously met with the applicant and indicated that she would leave the meeting whilst the matter was under consideration.

Councillor McKeown declared an interest in relation to the item under the heading 'Applications for the Provisional Grant of an Outdoor Entertainments Licences for Flaxx @ Linen Quarter', in that he had spoken with regard to the Planning Application at a meeting of the Planning Committee.

Delegated Matters

THE COMMITTEE DEALT WITH THE FOLLOWING ITEMS IN PURSUANCE OF THE POWERS DELEGATED TO IT UNDER STANDING ORDER 37(d)

Licences Issued Under Delegated Authority

The Committee noted a list of applications for licenses and Road Closure Orders which had, since its last meeting, been approved under the Council's Scheme of Delegation.

**Stationary Street Trading Licence
application for Dargan Crescent**

The Building Control Manager informed the Committee that, following its decision of 19th January, 2022 that was minded to refuse to grant a Stationary Street Trading Licence application for Dargan Crescent, on the grounds that, due to misconduct or some other reason relating to trading activities, it deemed the applicant unsuitable to hold a licence. The applicant, Mr David Reilly, had been notified of the decision and informed that he would be permitted to make personal and written representation to the Committee within 21 days from the date of notice.

He advised the Committee that, subsequently, the applicant had verbally informed the Senior Licensing Officer that he did not wish to appeal the decision.

The Committee agreed to uphold its initial decision of 19th January 2022 and refused the grant of the Stationary Street Trading Licence.

**Application for the Provisional Grant of an Amusement
Permit for Hollywood Bowl, Odyssey Pavilion, 2 Queens Quay**

The Building Control Manager reported that an application had been received from Hollywood Bowl for the provisional grant of an Amusement Permit which would consist of a 20-lane bowling alley, a licenced American diner style restaurant and bar and an amusement zone comprising of 12 amusement with prizes gaming machines with a maximum cash prize of £8.00, 64 amusement machines and four pool tables.

He informed the Members that, as the application did not include machines with a maximum cash prize of £25.00, admission would not be restricted to persons aged 18 years old or over and that the proposed opening hours were Monday to Saturday from 9am to 1am, and Sunday from 9am to 12am.

He pointed out that no representations had been received in response to a public notice of the application and that both the PSNI and NIFRS had no objections to the application. He added that a Building Regulations application had been submitted for alterations to the premises and that, should the Committee be minded to provisionally grant the application, the permit would not be declared final until all works had been completed and compliant with the Building Regulations.

The Building Control Manager outlined the evaluation of the application against the criteria contained within the Council's Amusement Permit Policy and stated that he did not consider the permit application to be contrary to the objectives and criteria of the policy.

The Committee agreed to grant the permit provisionally and to delegate authority to the Director of Planning and Building Control to issue the final permit on completion of all technical requirements.

**Application for the Provisional Grant of
An Outdoor Entertainments Licences for
Flaxx @ Linen Quarter**

The Building Control Manager reported that an application had been received for the provisional grant of an Outdoor Entertainments Licence for Flaxx @ Linen Quarter, a newly constructed decking area situated on Brunswick Street, between James Street South and Franklin Street, on a section of road that had been formally closed by the Department for Infrastructure Roads to allow for the creation of a new public realm space.

He pointed out that, it had been proposed that entertainment would be provided with a maximum capacity of 500 persons on Monday to Saturday from 11.30am to 11.00pm and on Sunday from 12.30pm to 11.00pm.

He stated that no representations had been received in response to a public notice of the application and that both the PSNI and NIFRS had no objections to the application. He added that a Building Regulations application had been submitted for the construction of the new outdoor area and that, should the Committee be minded to provisionally grant the application, the licence would not be declared final until all works had been completed and compliant with the Building Regulations.

The Building Control Manager highlighted that the applicant had provided an acoustic report for the outdoor area to the Environmental Protection Unit for evaluation and that any necessary acoustic measures would be required to be implemented before the grant of the licence could be confirmed.

The Committee agreed to grant the application for the provisional licence and to delegate authority to the Director of Planning and Building Control to issue the final licence on completion of all technical requirements.

**Application for the Provisional Grant of an Outdoor
Entertainments Licences for Cargo @ T13, Titanic Quarter**

The Building Control Manager informed the Committee that an application had been received for the provisional grant of an Outdoor Entertainments License for Cargo @ T13, on Queen's Road, an outdoor events space located on the hardstanding areas to the front of the T13 facility at Titanic Quarter and would include a bar facility, restaurant and live music.

He pointed out that it had been proposed that entertainment would be provided with a maximum capacity of 4000 persons on Monday to Saturday from 11.30am to 11.00pm and Sunday from 12.30pm to 11.00pm.

He stated that no representations had been received in response to a public notice of the application and that both the PSNI and NIFRS had been consulted, but that no response had yet been received from either the NIFRS or PSNI. He added that the applicant had been asked to provide an acoustic report for the outdoor area for evaluation and any necessary acoustic measures would be required to be implemented,

along with any fire safety, structural or access requirements upon completion of works, before the grant of the licence could be confirmed.

The Committee agreed to grant the application for the provisional licence and to delegate authority to the Director of Planning and Building Control to issue the final licence on completion of all technical requirements, subject to no objection being received from the PSNI.

Applications for the Variation of an Outdoor Entertainments Licence for Pug Ugly's, 21 Bedford Street

The Building Control Manager reported that an application had been received for the variation of an Outdoor Entertainments License for the carpark area to the rear of 29 Bedford Street, known as The Boneyard, affiliated to Pug Ugly's, the applicant.

He reminded the Committee that, at its meeting on 20th August, 2020, it had agreed to grant the Seven-Day Annual Outdoor Entertainments Licence for Pug Ugly's, thereby permitting entertainment to take place on Monday to Saturday from 12.00pm to 1.00am, and on Sundays from 12.30pm to midnight.

He stated that the applicant had proposed that entertainment would be provided with a maximum capacity of 800 persons on Monday to Saturday from 11.30am to 2am and on Sunday from 12.30pm to 1.00am, to allow them to compete with the majority of licensed premises in the vicinity. He added that the applicant had pointed out that, due to Covid-19, many patrons had a preference to socialising outdoors and an extension of hours would allow those patrons to socialise later into the evening without being disadvantaged.

The Building Control Manager stated that no representations had been received in response to a public notice of the application and that both the PSNI and NIFRS had been consulted and that the PSNI had had no objections to the application. However the NIFRS had not yet responded. He added that special licence conditions with regard to noise measures had been attached to the licence and that no noise complaints had been received in relation to the premises in the previous 12-month period.

The Committee agreed to approve the application for the variation of the 7-Day Annual Outdoor Entertainments Licence, subject to no objection being received from the NIFRS.

Licensing and Registration of Clubs (Amendment) Act (NI) 2021

The Committee considered the undernoted report:

"1.0 Purpose of Report or Summary of main Issues

To update Members on a three-month trial, where authority was delegated to Council officers, to deal with any Article 44A extension applications for non-City centre locations and to report on pubs and hotels in City centre locations, the operation of Bidly Duffy's and Horatio Todd's and on Police Service of Northern Ireland Authorisations for Additional Hours.

2.0 Recommendations

Given the limited uptake in Article 44A extension applications and Police Service of Northern Ireland authorisations for additional hours Members are asked to consider either:

- I. Extending the trial period whereby authority is delegated to officers to deal with all such applications in the manner previously agreed for a timeframe to be determined; OR
- II. Delegating authority to officers to deal with all such applications in the manner previously agreed until such times as there are sufficient applications made and evidence of any issues arising therefrom, if any, are such that would require those matters to be brought back to Committee for further consideration.

For either option this would be on the proviso that such applications did not relate to premises where the provision of entertainment had been subject to significant objections or prosecution in the past.

In such instances, these applications would be presented to the Committee for consideration.

3.0 Main report

Background

At your meeting of 19th January, the Committee considered a report on the Licensing and Registration of Clubs (Amendment) Act (NI) 2021 and agreed:

- i. to delegate authority to Council officers, on a three-month trial basis, to deal with any Article 44A extension applications for non-City centre locations in a similar way to that which had been agreed for Biddu Duffy's and Horatio Todd's at the meeting on 15th December, 2021, with the proviso that such applications did not relate to premises where the provision of entertainment had been subject to significant objections or prosecution in the past. In such instances those applications will be presented to the Committee for consideration;

- ii. that a report on the outcome of the aforementioned trial period be presented to the Committee for consideration; and
- iii. that the report on pubs and hotels in City centre locations, the operation of Biddu Duffy's and Horatio Todd's and on Police Service of Northern Ireland Authorisations for Additional Hours, which was due to be presented to the meeting in February, be submitted at the same time as that relating to non-City centre premises.

Summary position following January Committee

**Biddu Duffy's, 133 Andersonstown Road
Horatio Todd's, 406 – 408 Upper Newtownards Road**

The Committee agreed to offer no objection to Article 44A extension applications for Biddu Duffy's and Horatio Todd's up to 13th April 2022 and that each applicant be requested:

- i. to agree to withdraw all Article 44A extension applications beyond 13th April, to allow officers to provide at the Committee meeting in April an update on any issues which had arisen from the operation of the premises during the 3-month trial period, given that both premises were located in close proximity to residential accommodation; and
- ii. to agree not to provide entertainment after 2.00 a.m., unless an Entertainments Licence was in place which expressly permitted entertainment to take place beyond that time.

Pubs and Hotels – Non-City Centre Locations Generally

The Committee agreed that, should any further Article 44A extension applications for non-City centre locations be received between the January meeting and 13th April 2022, officers should deal with them in a similar way as those for Biddu Duffy's and Horatio Todd's, in that each applicant would be requested:

- i. to agree to withdraw all Article 44A extension applications beyond 13th April, to allow officers to provide at the Committee meeting in April an update on any issues which had arisen from the operation of the premises during the 3-month trial period, given that they were located in close proximity to residential accommodation; and

- ii. to agree not to provide entertainment after 2.00 a.m., unless an Entertainments Licence was in place which expressly permitted entertainment to take place beyond that time.

This was provided that the application did not relate to premises where the provision of entertainment had been subject to significant objections or prosecution in the past.

In such instances, the application would be presented to the Committee for consideration.

Pubs and Hotels – City Centre Locations

The Committee agreed that Article 44A extension applications for pubs and hotels in City centre locations should continue to be dealt with by Council officers under delegated authority, as follows:

- i. to offer no objection to Article 44A extension applications which have been received to serve alcohol to 2.00am for city centre venues where they are in possession of an entertainments licence which permits entertainment to 3.00am every night of the week, and
- ii. to confirm that, in principle, the Council has no objection to Article 44A extension applications which have been received to serve alcohol to 2.00 a.m. for city centre venues where they are in possession of an entertainments licence which permits entertainment to 3.00 a.m. only on specified nights of the week but advising the Council of the fact that the Entertainments Licence does not permit entertainment to 3.00am on some of the dates to which the extension applications relate.

It was noted that, in cases where Article 44A extension applications had been received for premises where the provision of entertainment had been subject to significant objections or prosecution, those would be presented to the Committee for consideration.

Police Service of Northern Ireland
Authorisations for Additional Hours

The Committee agreed that authority be delegated to Council officers to deal with Police Service of Northern Ireland authorisations for additional hours and that no representations be made unless there is reason to do so by virtue of any:

- a. restrictions placed upon the Entertainment Licence (if the premises associated with the application has an Entertainments licence),
- b. complaints regarding the operation of, or anti-social behaviour in and around, the premises, and
- c. Building Regulation or other Council statutory enforcement issues.

Key Issues

Summary of 3-month trial period

Biddy Duffy's, 133 Andersonstown Road
Horatio Todd's, 406 – 408 Upper Newtownards Road

To date neither licensee has availed of the additional hours of operation permitted by their Article 44A applications granted by the Courts. As we understand it both licensees currently only intend to use their additional hours for special occasions such as Christmas, Easter or other significant celebrations.

Given that the premises are close to residential properties the intention of the 3-month trial period was to consider whether the premises operating to the later hours, or any period immediately following their termination, led to undue inconvenience to persons residing in the vicinity.

There is therefore no evidence to provide for Committee in relation to the impact, if any, of these bars selling alcohol to 2.00am on their local neighbourhood.

Pubs and Hotels – Non-City Centre Locations Generally

Since your meeting in January no other Article 44A extension applications for non-City centre locations have been received by the Council.

There is therefore no evidence to provide for Committee in relation to the impact, if any, of pubs and hotels in other non-city centre locations selling alcohol to 2.00am on their local neighbourhood.

Pubs and Hotels – City Centre Locations

The Council has received 22 Article 44A extension applications for City centre pubs and hotels and these have been responded to as outlined in section 3.6 above.

To date we have not received any noise complaints in relation to any of these venues nor are we aware of any concerns that the PSNI have in relation to these properties.

Police Service of Northern Ireland Authorisations for Additional Hours

The Licensing and Registration of Clubs (Amendment) Act (NI) 2021 introduced new, or amended existing, powers for police authorisations for additional hours which,

1. allows pubs which have an Article 44 licence to apply to the PSNI for ad-hoc late opening (11.00pm - 1.00am) up to 20 times per year for a day not covered by the article 44 Order,
2. increases the number of occasions smaller pubs (which are not structurally adapted and therefore unable to apply for an Article 44 licence) can apply for late opening (11.00pm - 1.00am) from 20 to 104 times per year, and
3. increases the number of occasions registered clubs can apply for late opening (11.00pm - 1.00am) from 85 to 104 times per year.

The applicant must display notice of the application on or near their premises during the three weeks before the first occasion to which the application relates. The Council must also be served with a copy of the Notice three weeks before the first date to which the application relates.

The Council has not received notification of any applications in relation to the Police Service of Northern Ireland authorisation for additional hours since your meeting last December.

There is therefore no evidence to provide for Committee in relation to the impact, if any, of any applications to the Police

for authorisation for additional hours on local neighbourhoods.

Conclusions

Coronavirus has had a significant impact on the licensed trade and it would seem that the introduction of new legislation to permit longer opening hours has not had the widespread uptake that might have been expected.

As trade in the industry and tourism generally begins to pick up again it is anticipated that there will be greater interest from pubs and hotels in availing of the opportunity to serve alcohol until 2.00am.

To date the introduction of the new legislation does not appear to have had any impact on the rights of local residents not to be subject to unacceptable disturbance. This situation will be kept under review as the licensed trade recovers from the impact of the pandemic.

Financial and Resource Implications

None

Equality or Good Relations Implications/ Rural Needs Assessment

None.”

The Committee agreed to extend the trial period for a further six months and delegated authority to the Director of Planning and Building Control to deal with all such applications in the manner which had been previously agreed.

Houses in Multiple Occupation (HMO) Licenses Issued Under Delegated Authority

The Committee noted a list of licences for Houses in Multiple Occupation which had, since its last meeting, been issued under the Council’s Scheme of Delegation.

Application for a Licence to operate a House of Multiple Occupation

The HMO Unit Manager provided the Committee with an overview of the undernoted report:

“1.0 Purpose of Report or Summary of main Issues

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
13 Fitzroy Avenue, Belfast, BT7 1HS	8836	Mr Jack Kennedy	Property People Belfast Ltd T/A Property People

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

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.

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 of Lawful Use or Development was granted with the planning reference LA04/2021/1732/LDE

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.

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.

2.0 Recommendations

Taking into account the information presented Committee is asked to hear from the applicant and the objector and make a decision to either:

- (i) Grant the application, with or without any special conditions; or
- (ii) Refuse the application.

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.

3.0 Main Report

Key Issues

Pursuant to the 2016 Act, the Council may only grant a licence if it is satisfied that:

- a) the occupation of the living accommodation as an HMO would not constitute a breach of planning control;
- b) the owner, and any managing agent of it, are fit and proper persons;
- c) the proposed management arrangements are satisfactory);
- d) the granting of the licence will not result in overprovision of HMOs in the locality;
- 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.

Planning

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 LA04/2021/1732/LDE

Fitness

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.

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,

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.

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.

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

Overprovision

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.

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.

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.

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

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.

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 20th October 2021 which has been further extended until 26 April 2022.

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.

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.

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."

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.

Anecdotal evidence from conversations with HMO managing agents suggest 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.

Objections

One valid objection has been received in relation to this application on the grounds of over provision of HMOs in the local area. (Appendix 3)

Attendance

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

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

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)

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.

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

Statement of reasons for the proposed decision

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.

Regarding Section 12(2)(a) the number and capacity of licensed HMOs in the locality.

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.

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.

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.

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.

Applicant's response to the notice of proposed decision

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.

Additionally, the applicant provides commentary on the subject premises, his capacity as a fit and proper person and the objection received.

Financial and Resource Implications

None. The cost of assessing the application and officer inspections are provided for within existing budgets.

Equality or Good Relations Implications/ Rural Needs Assessment

There are no equality or good relations issues associated with this report."

The Chairperson welcomed to the meeting Ms. B. Ruddy, who had submitted an objection to the application. Ms. Ruddy explained to the Committee that, as a resident of the area for over 30 years and as Chair of the Holylands Residents' Network, she had seen the destruction of the area due to overprovision of HMO licences over the previous number of years and that the community had been decimated. She highlighted the impact of overprovision in the area, stating that it was the most densely populated area in Belfast, it had the highest rates of antisocial behaviour and constant fly tipping and open bins in the streets, due to lack of space to the rear of the properties, had caused foul smells in the area.

She reported that residents had endured noise issues, both during the day and through the night, and that car parking had caused congestion and pollution within the residential area. She added that the figure of 45% HMO provision in the area, contained within the report was not a true reflection of the area and, in any case, was far above the 30% recommendation.

She referred to the Council statement that there had been no complaints received with regard to antisocial behaviour at this property. She stated that it had not been accurate as the complaints procedure involved a number of agencies and the complexity of making a complaint discouraged many residents from doing so. She added that there was an intimidation factor with regard to making complaints due to a fear that windows would be broken or cars damaged, if a complaint were to be lodged.

She acknowledged that demographics were changing in the area and that there was a need for HMO licences as part of the housing market to provide affordable housing, but stated that the Holylands area was saturated with regard to HMO provision.

Ms. Ruddy stated that her work in the local community was aimed at reducing antisocial behaviour and promote regeneration, to make it a more welcoming area for families and young people.

The Chairperson thanked Ms. Ruddy for her presentation and welcomed Mr. J. Kennedy, the applicant, to the meeting. Mr. Kennedy explained that Ms. Ruddy had objected to the HMO application on generic grounds of overprovision and had not submitted any evidence in support of that claim. He stated that his application should not be considered to contribute to overprovision in the area and reported that there was significant underprovision in the area.

He pointed out to the Committee that the property had held an HMO licence, since 2014, prior to its recent sale and transfer of ownership, and that, had the change of ownership not occurred, the previous licence would have remained valid until November, 2023.

He referred to the Council's assessment for overprovision and stated that, in his view, the Council had a weak anecdotal commentary that was clearly not a robust assessment of housing provision in the area.

He informed the Committee that the property was an excellent example of very high quality, recently renovated, five-bedroom accommodation which was well designed and well managed and that the property met, if not exceeded, all necessary standards for the operation of an HMO licence.

He outlined the benefits of an HMO property for students, low-income households and migrant workers and stated that the private rental sector played a vital role in meeting accommodation needs. He added that there was underprovision of HMO properties in the area and that statements from two large, well-respected and established expert local agents who operated in the area, supported his assertion of underprovision, in that they stated that the volume of HMO provision in the area does not meet the demand.

Mr. Kennedy concluded by stating that he felt that his application, on a property which previously operated as an HMO, should be granted, in order to continue to help address the growing accommodation demand in the area and that his application was no different to the large number of applications that had been approved earlier in the meeting.

The Chairperson thanked Mr. Kennedy for his presentation and asked the Committee if they had any questions for the applicant or objector to the application.

A Member stated that, although the fitness of the applicant was not being contested, the inference that there was underprovision of HMO licences in the Holylands area was not an accurate statement and that, the data assessment, undertaken in February, 2022, had indicated that 45% of the total dwelling units in the Botanic, Holylands, Rugby HMO Policy Area, were licenced HMO units, which exceeded the 30% development limit, as set out at Policy HMO 1. He added that Legal Services had advised the Committee that there was a clear requirement in Section 8 of the 2016 Act that the Council may only grant a licence if it had been satisfied that the granting of the licence would not result in overprovision of HMOs in the locality.

One Member commented that she felt it had been unfair that property agents in the area, with the knowledge that, upon the transfer of ownership of a property, the owner must apply for a new licence, rather than a renewal, had not been forthcoming or transparent with regard to the application process and HMO policies in an area of overprovision, with prospective homeowners in advance of purchase.

The Committee agreed to refuse the application on the basis that granting the license would result in overprovision.

Non-Delegated Matters

Continuation of Reduced Fees for Entertainments Licences

The Building Control Manager reported that, following the decision of the Department for Communities in February, 2021, which determined that a reduced fee of £1 would apply to applications for the renewal of all categories of entertainments licence, both indoor and outdoor, received after 6th April, 2021, to alleviate the hardship that was being experienced by the hospitality industry due to Covid-19 restrictions, the Department had asked for the Council's views on whether there was a need to extend the measure beyond the 2021/22 financial year.

He referred to the Committee's decision of 16th February, 2022, where it agreed that the Council would recommend that the reduced fee should continue for the 2022/23 financial year.

He informed the Committee that the Department for Communities had subsequently written to the Council, and he highlighted the following points:

- Views received were mixed, but the majority of councils favoured extending the reduction on condition that the Department provided additional funding to cover the resulting loss of income;
- That, having considered the Councils' views and given that the Health Minister had only very recently lifted all remaining COVID-19 restrictions on hospitality venues, meaning businesses have still some way to go to get back to normal operation, the Minister had decided to continue with this easement for a further year;
- The nominal fee of £1 for renewal applications only, for all categories of entertainments licence would therefore remain as set out in Local Government Circular 4/2021 for the 2022/2023 financial year, subject to a further review later in the year;
- That DfC recognised that the continuation of the measure would result in further loss of income for councils during the year to come; and
- That additional funding of some £17m, provided by the Executive for council losses incurred as a result of the COVID-19 pandemic, would be allocated to local councils by the DfC and that the funding included provision to cover any loss of income resulting from the reduction in fees for the renewal of entertainment licences for 2022/23.

He pointed out that, under the assumption that all applications received during the 2021/22 financial year are to be renewed in the subsequent financial year, subject to the £1 renewal fee, it was estimated that the Council would lose income in the region of £180,000. He added that the Council had secured funding from the Department for Communities to cover Covid-19 recovery costs for the 2022/23 financial year which could be used to negate any loss of income as a result of extending the concessionary fee for a further year.

The Committee noted the decision of the Minister for Communities that the nominal fee of £1 for renewal applications, for all categories of entertainments licence, would remain for the 2022/23 financial year, subject to a further review later in the year.

Chairperson