

Licensing Committee

Wednesday, 15th November, 2023

MEETING OF THE LICENSING COMMITTEE

HELD IN THE LAVERY ROOM AND
REMOTELY VIA MICROSOFT TEAMS

Members present: Councillor McKeown (Chairperson);
Aldermen McCullough and Rodgers;
Councillors Anglin, Bradley, P. Donnelly, Doran,
D. Douglas, Gormley, Murray, McCann,
McMullan, Ó Néill and Smyth.

In attendance: Mr. S. Hewitt, Building Control Manager;
Mr. K. Bloomfield, HMO Manager;
Mr. C. McLaughlin, Solicitor (Regulatory and Planning); and
Mrs. L. McLornan, Democratic Services Officer.

Apologies

Apologies for inability to attend were reported from Councillors F. McAteer and McCabe.

Minutes

The minutes of the meeting of 18th October were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council, at its meeting on 1st November, 2023, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

No declarations of interest were recorded.

Schedule of Meetings 2024

The Committee noted the following dates of the meetings of the Licensing Committee between January and December, 2024, with all meetings commencing at 5.15pm:

- Wednesday, 17th January
- Wednesday, 21st February
- Wednesday, 20th March
- Wednesday, 17th April
- Wednesday, 15th May

- Wednesday, 19th June
- Wednesday, 21st August
- Wednesday, 18th September
- Wednesday, 16th October
- Wednesday, 20th November; and
- Wednesday, 11th December.

Delegated Matters

THE COMMITTEE DEALT WITH THE FOLLOWING THREE 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 licences which had, since its last meeting, been approved under the Council's Scheme of Delegation.

HMO Licences Issued Under Delegated Authority

The Committee noted a list of applications which had been approved under the Council's Scheme of Delegation during October 2023.

Application for a New Licence to operate a House of Multiple Occupation for 6 Collingwood Avenue

The Houses in Multiple Occupation (HMO) Manager provided the Committee with the details of the application which had been received for a new licence to operate an HMO at the above address by Mr and Mrs Daly.

He outlined that the property had the benefit of an HMO licence having been issued by the NI Housing Executive (NIHE) in the name of the joint applicants, which had expired on 12th November, 2022. The Committee was advised that, due to an administrative oversight, a reminder letter was not issued to the applicants informing them that their licence was about to expire. On 10th July 2023 an application for a new licence application was received from Mr. D. Daly, which was subsequently rejected on 9th August, 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. On 29th August, 2023, an HMO licence application was received from the joint owners of the accommodation.

The Houses in Multiple Occupation Manager outlined that, pursuant to the 2016 Act, the Council could only grant a licence if it was 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, were fit and proper persons;
- c) the proposed management arrangements were satisfactory;
- d) the granting of the licence would not result in overprovision of HMOs in the locality;
- e) the living accommodation was fit for human habitation and -
 - i. was suitable for occupation as an HMO by the number of persons to be specified in the licence, or
 - ii. could be made so suitable by including conditions in the licence.

The Committee was advised that, as it was a new application, the Council's Planning Service was consulted. It had confirmed that a Certificate of Lawful Existing Use or Development ("CLEUD") was granted on 24 August, 2023.

It was reported that the NIHMO Unit had consulted with Environmental Protection Unit in relation to nighttime and daytime noise; Public Health and Housing Unit in relation to rubbish accumulation/filthy premises; and the Enforcement Unit in relation to litter and waste and all had confirmed that there had been no relevant enforcement action required in respect of any of the issues in the HMO in the last 5 years. It was also confirmed that officers were not aware of any other issues relevant to the Applicants' fitness.

No objections were received in relation to the application.

The Committee was advised that, with regards to Section 12(2) of the Houses in Multiple Occupation Act 2016, the Council had determined the locality of the accommodation as being Housing Management Area (HMA) "HMA 2/22 Botanic, Holylands, Rugby", as defined in the Council's Local Development Plan Strategy, which had been formally adopted on 2nd May, 2023. Legal Services had advised that there was a clear requirement in section 8 of the Act for the Council to be satisfied that the granting of a licence would not result in overprovision.

The officers had had regard to:

- a) the number and capacity of licensed HMOs in the locality; and
- b) the need for housing accommodation in the locality and the extent to which HMO accommodation was required to meet that need.

To inform the Council in its consideration of the above provisions, the Council had taken account of the 2023 Strategy given that "Nurturing sustainable and balanced communities was a fundamental aim of the LDP's housing policies." In particular, the Council had considered Policy HOU10, which stated:

“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.”

The HMO Manager explained that, on the date of assessment, 17th October, 2023, 90% of all dwelling units in policy area “HMA 2/22 Botanic, Holylands, Rugby” were made up of HMOs and flats/apartments, which exceeded the 20% development limit as set out at Policy HOU10. There were 1095 (45%) licensed HMOs, with a capacity of 4808 persons, in HMA 2/22.

It was reported that the total number of dwelling units in an HMA was measured by Ordnance Survey’s Pointer database and there were a total of 2409 dwelling units in HMA 2/22. The Committee was advised that the fact that the use of the property as an HMO was permitted for planning purposes was a relevant consideration in determining whether the granting of the licence would result in overprovision.

The Committee was advised that there was a need for intensive forms of housing and that HMOs were an important component of meeting that demand. HMOs, alongside other accommodation options within the private rented sector, played an important role in meeting the housing needs of people who were single, who had temporary employment, students, low income households and, more recently, migrant workers.

On 17th October, 2023, out of 29 premises available for rent within the BT7 area on PropertyNews.com, there were 2 licensed HMOs which represented 9 bed spaces. It was reported that anecdotal evidence from previous conversations with HMO managing agents had suggested that there was currently a lack of HMO accommodation available in the locality.

The Committee was advised that, with the continued expansion of the Purpose Built Managed Student Accommodation (PBMSA) sector and students transitioning from private rentals to PBMSAs, it was too early to tell whether the increased competition from nonstudents for HMOs was a temporary problem, which could be managed by the reduction in students residing in existing HMO accommodation within the locality, or evidence of an emerging long-term supply issue.

In assessing the number and capacity of licensed HMOs, as well as the need for HMO accommodation in the locality, the Members were advised that officers could not be satisfied that the granting of the HMO licence would 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.

Therefore, on 27th October, 2023, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, officers had issued a Notice of Proposed Decision to the Applicant, stating that the Council proposed to refuse the licence on the grounds of overprovision.

The HMO Manager explained that, on 6th November, 2023, officers had received a response to the notice of proposed decision, in which the Applicant had provided background information regarding the initial purchase of the property and

the considerable financial impact it has had on their family. The applicant highlighted their previous compliance with the requirements of the NIHE registration scheme and that they had forgotten to renew the licence on time. The applicant also referred to the overprovision limit and how they felt that the Council's aim to reduce the number of HMO properties in the area was unrealistic.

The Chairperson welcomed Mrs. C. Daly, applicant, to the meeting. She advised the Committee that it was a joint application, from herself and her husband, and that there had been an error by the HMO Teams in relation to the names on the application. She stated that the application should be dealt with as a renewal of an existing licence. She outlined that, together with her husband, they had invested a significant amount of money into the property, ensuring it was always up to HMO standard, and that they had been responsible landlords to young professionals for over 20 years. She stated that, due to the Covid-19 pandemic and other factors, they had simply forgotten to renew the licence. She advised that a decision not to renew her licence would be devastating. She explained that they had one HMO and not a number of them, unlike other landlords. She emphasized that the HMO officer had commented on how well the property had been maintained.

She added that HMOs were not just for students. She asked that the Committee would take into consideration that the Council had not notified them of the renewal date of their HMO licence. She stated that she did not think that the Members understood the issues which persisted in the Holylands and Botanic area. She added that the Council had made up its own rule and that, by suddenly imposing a 20% limit of HMOs in any one area, the repercussions for HMO owners were very unfair. She stated that the landlords who owned multiple properties would not give up their licences and that it was unrealistic that the area would ever get down to 20% HMOs.

She advised the Committee that the safety standards within HMOs, particularly in relation to fire precautions, were much higher than regular houses and that the Council should not be seeking to reduce those standards.

She added that her own children, who were young professionals, could not live in the HMO property with their friends.

A number of Members stated that they represented the Holylands and Botanic area and that they were very familiar with the day-to-day issues in the area.

The HMO Manager clarified to the Committee that the original HMO licence, transferred from the NIHE, had been in the joint names of Mr. and Mrs. Daly. He explained that the application which had been submitted and refused on 10th July, 2023, had solely been in the name of Mr. Daly and that the subsequent application, of 29th August, 2023, was in both names.

He also advised the Committee that a family member of the applicant, such as their daughter or son, could, in fact, live in the property with their friends. He confirmed that, as defined under Schedule 1 of the HMO Act 2016, if a family member of the owner lived in the property, it therefore fell outside the definition of a House in Multiple Occupation.

In response to a Member's question, the Solicitor (Regulatory and Planning) clarified to the Committee that there was no statutory legal obligation for the Council to notify licensees of their licence renewal date and, when they were issued it was out of courtesy. The Member stated that, going forward, the Council should continue to extend that courtesy to licensees.

In response to further comments from the applicant, the Chairperson advised Mrs. Daly that the Committee was considering the information in front of it in good faith and that it would reach a decision based on the evidence and within the legal parameters surrounding the process.

Moved by Councillor McCann,
Seconded by Councillor Doran and

Resolved – that the Committee agrees to refuse the application as, in accordance with Section 12 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, it was satisfied that the granting of the HMO licence would result in overprovision of HMO accommodation in the locality of the accommodation, as determined under section 8(2)(d) of the Act.

In response to further comments from the applicant, the Solicitor advised the applicant that she did have a Right of Appeal to the County Court within 28 days of the determination being issued.

Chairperson