



Subject:	Application for a New Licence to operate a House of Multiple Occupation for 43 Stranmillis Park, Belfast, BT9 5AU
Date:	30 May 2022
Reporting Officer:	Kevin Bloomfield, HMO Unit Manager, Ext. 5910
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 checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues								
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"><thead><tr><th>Premises</th><th>Application No.</th><th>Applicant(s)</th><th>Managing Agents</th></tr></thead><tbody><tr><td>43 Stranmillis Park, Belfast, BT9 5AU</td><td>8972</td><td>Mr Declan Magennis & Mr Elizabeth Magennis</td><td>Ballygowan Limited T/A Belvoir Belfast South</td></tr></tbody></table>	Premises	Application No.	Applicant(s)	Managing Agents	43 Stranmillis Park, Belfast, BT9 5AU	8972	Mr Declan Magennis & Mr Elizabeth Magennis	Ballygowan Limited T/A Belvoir Belfast South
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43 Stranmillis Park, Belfast, BT9 5AU	8972	Mr Declan Magennis & Mr Elizabeth Magennis	Ballygowan Limited T/A Belvoir Belfast South						
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><u>Background</u></p>								
1.3	<p>The property had the benefit of an HMO licence granted by the Northern Ireland Housing Executive ("NIHE") which expired on the 26 August 2020 for 3 persons.</p>								
1.4	<p>The property was purchased by the existing owners in January 2018.</p>								
1.5	<p>On the 04 March 2022, an HMO licence application was received from the owner of the accommodation. The NIHMO Unit subsequently rejected the application on the 05 March 2021 as the granting of the new licence would constitute a breach of planning control.</p>								
1.6	<p>On the 07 January 2022 an HMO licence application was received from the owners of the accommodation.</p>								

2.0	Recommendations
2.1	<p>Taking into account the information presented Committee is asked to hear from the Applicant and make a decision to either:</p> <ul style="list-style-type: none"> (i) Grant the application, with or without any special conditions; or (ii) Refuse the application.
2.2	<p>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.</p>
3.0	Main report
3.1	<p><u>Key Issues</u></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"> 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— <ul style="list-style-type: none"> (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. <p><u>Planning</u></p> <p>3.2 As this is a new application the NIHMO Unit consulted with the Council’s Planning Service who on the 11 January 2022 confirmed that a Certificate of Lawful Existing Use or Development (“CLEUD”) was granted with the planning reference LA04/2021/2390/LDE.</p> <p><u>Fitness</u></p> <p>3.3 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.</p> <p>3.4 The NIHMO Unit has consulted with the following units within the Council’s City and Neighbourhood Services Department –</p> <ul style="list-style-type: none"> (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,

	<p>(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,</p> <p>(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,</p>
3.5	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.
3.6	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 recently 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.
3.7	Officers are not aware of any other issues relevant to the Applicant’s fitness.
	<u>Overprovision</u>
3.8	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 2/19 Stranmillis” as defined in the document “Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015.
3.9	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.
3.10	On the date of assessment, 11 April 2022 there were a total of 342 licensed HMOs in HMO policy area “HMO 2/19 Stranmillis” which equates to 45% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 345 licensed HMOs have a capacity of 1481 persons.
3.11	The total number of dwelling units in a Policy Area is measured by Ordnance Survey’s Pointer database.
3.12	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.
3.13	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.
3.14	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.”

3.15	On the <i>05 May 2022</i> there were 11 licensed HMOs advertised for let on the website Property News in BT9, <i>from the information provided on the website this represented 49 bed spaces, although not all of these may have been available for immediate occupancy.</i>
3.16	Of the 11 HMOs, 4 licensed HMOs were advertised as for rent in HMO policy area “HMO 2/19 Stranmillis”. From the information provided on the website this represented 19 bed spaces within the policy area. The advertisements indicated that availability of the accommodation for occupation started in early August through to late September 2022.
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 too early to tell whether this is a temporary problem or evidence of an emerging long-term supply issue.
3.18	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.
3.19	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.
<u>Objections</u>	
3.20	No objections have been received in relation to this application.
<u>Attendance</u>	
3.21	The applicant and/or their representatives will be available to discuss any matters relating to the licence application should they arise during your meeting.
<u>Suitability of the premises</u>	
3.22	The accommodation was certified as complying with the physical standards for an HMO by a technical officer from the NIHMO service on the 15 April 2022
<u>Notice of proposed decision</u>	
3.23	On the 06 May 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 3
3.24	The Notice of Proposed Decision stated that the council proposed to refuse the licence as The Council is not satisfied that- (a) the granting of the licence will not result in overprovision of HMOs in the locality in which the living accommodation is situated.
3.25	A statement of reasons for the proposal was included in the Notice of Proposed Decision. <u>The statement of reasons outlined the following as the Council’s basis for refusal:-</u>

3.26 **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 2/19 Stranmillis" 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, 11 April 2022 there were a total of 345 licensed HMOs in HMO policy area "HMO 2/19 Stranmillis" which equates to over 45% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 345 licensed HMOs have a capacity of 1481 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:

On the 5 May 2022 out of 69 premises within the BT9 area surveyed on the website PropertyNews.com. A total of 11 licensed HMOs were advertised for rent, which from the information presented on the website represented 49 bed spaces. Only 1 premise representing 7 bed spaces was available for immediate occupation. With the rest being available from June through to the end of September 2022.

Of the 11 HMOs, 4 licensed HMOs were advertised as for rent in HMO policy area "HMO 2/19 Stranmillis". From the information provided on the website this represented 19 bed spaces within the policy area. The advertisements indicated that availability of the accommodation for occupation started in early August through to late September 2022.

Anecdotal evidence from previous conversations with HMO managing agents suggest that 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.

In assessing the number and capacity of licenced 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.

Applicant's response to the notice of proposed decision

3.27 On the 19 May 2022 the applicant submitted a written response to the notice of proposed decision (**Appendix 4**).

3.28 Mr Declan Magennis provided historical leases going back eight years showing that the property has been let as an HMO, a copy of the CLEUD and the previous registration certificate. He acknowledged the licence expired on the 26 August 2020 and the failure to apply was an oversight on his behalf and he further states that can be attributed to two particular circumstances:

- a) "I am self-employed and employ a staff of six people. As a result of the COVID19 pandemic in March 2020, every last bit of my energy was focused on saving my business and protecting the livelihoods of my staff while also continuing to support my clients through an absolutely horrendous time for their business, staff and families. I completely missed that I needed to renew the HMO credentials for the property."
- b) "Added to the pressure I was experiencing above I was also experiencing medical issues of my own."

3.29 The applicant stated that it is his intention to let the property to young professionals and he indicated that he was keen to renew the HMO credentials of the property as such keeps rented accommodation compliant to all safety standards.

Officers' comments further to the applicant's response

3.30 As the current application was received after the expiry of the previous licence this application is a new licence application and, in accordance with Section 8(2)(d) of the 2016 Act, the Council **may grant the licence only** if it is satisfied that the granting of the licence will not result in over provision of HMOs in the locality in which the living accommodation is situated.

3.31 When considering over provision the council **must** have 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; and (c) such other matters as the Department may by regulations specify.

3.32 Counsel's advice has been sought on whether it is possible to grant a licence notwithstanding concerns about overprovision due to the person circumstances of the applicant. Counsel has advised that the obligations set out in Section 8 of the 2016 Act cannot be disregarded for those reasons. The Committee can, however, take into account the submissions made by the Applicant on the issue of overprovision and then decide after considering these submissions whether it is satisfied that the granting of the licence will not result in over provision of HMOs in the locality in which the living accommodation is situated.

Financial and Resource Implications

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

Equality and Good Relations Implications

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

4.0	Appendices – Documents Attached
	<ul style="list-style-type: none">• Appendix 1 – Location Map• Appendix 2 – Notice of Proposed Decision dated 06 May 2022• Appendix 3 – Applicant's response to proposed decision