



<b>Subject:</b>	<b>Application for a New Licence to operate a House of Multiple Occupation for 20 Stranmillis Gardens, Belfast, BT9 5AS</b>
<b>Date:</b>	15 June 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 checked="" type="checkbox"/>	No <input 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"><thead><tr><th>Premises</th><th>Application No.</th><th>Applicant(s)</th><th>Managing Agents</th></tr></thead><tbody><tr><td>20 Stranmillis Gardens, Belfast, BT9 5AS</td><td>9193</td><td>Mr Ross Little</td><td>Giant Property Limited</td></tr></tbody></table>	Premises	Application No.	Applicant(s)	Managing Agents	20 Stranmillis Gardens, Belfast, BT9 5AS	9193	Mr Ross Little	Giant Property Limited
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20 Stranmillis Gardens, Belfast, BT9 5AS	9193	Mr Ross Little	Giant Property Limited						
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 had the benefit of an HMO licence in the name of the previous owner granted on 09 December 2020.</p>								
1.4	<p>The property was purchased by the existing owner on 29 March 2021.</p>								
1.5	<p>On the 28 March 2022 an HMO licence application was received from the owner of the accommodation.</p>								
<b>2.0</b>	<b>Recommendations</b>								
2.1	<p>Taking into account the information presented Committee is asked to hear from the Applicant and make a decision to either:</p>								

2.2	<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 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>
<b>3.0</b>	<b>Main report</b>
3.1	<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>3.2 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 with the planning reference LA04/2021/2755/LDE.</p> <p><b><u>Fitness</u></b></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"> <li>(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;</li> <li>(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;</li> <li>(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 and;</li> <li>(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.</li> </ul>

3.5	The Applicant 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 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.
	<b><u>Overprovision</u></b>
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, 12 May 2022 there were a total of 343 licensed HMOs in HMO policy area "HMO 2/19 Stranmillis" 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 343 licensed HMOs have a capacity of 1471 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 05 May 2022, 11 licensed HMOs were advertised as for rent on the website PropertyNews.com in BT9, of those which represented 49 bedspaces. Of those 4 were within 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.

3.16	Anecdotal evidence from conversations with HMO managing agents suggest 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.
3.17	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. There is an argument that it may not do so as the premises are already being used as an HMO.
3.18	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.
<b><u>Objections</u></b>	
3.19	No objections have been received in relation to this application.
<b><u>Attendance</u></b>	
3.20	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>	
3.21	The accommodation was certified as complying with the physical standards for an HMO by a technical officer from the NIHMO service on the 27 April 2022
<b><u>Notice of proposed decision</u></b>	
3.22	On the 20 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. <b>Appendix 2</b>
3.23	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>Response from McCann &amp; McCann Solicitors on behalf of the owner to the notice of proposed decision</u></b>	
3.24	On the 27 May 2022 McCann & McCann Solicitors on behalf of the licence applicant submitted a written response to the notice of proposed decision. <b>Appendix 3</b>
3.25	McCann & McCann reference section 12 of the 2016 Act which requires the Council to have regard to: - <ul style="list-style-type: none"> <li data-bbox="355 1765 1236 1809">a. The number and capacity of Licensed HMOs in the locality, and</li> <li data-bbox="355 1798 1460 1877">b. The need for housing accommodation in the locality and its extent to which HMO accommodation is required to meet that need.</li> </ul>
3.26	They note that the property at 20 Stranmillis Gardens was previously registered as an HMO and was recorded in the 2015 subject plan and was therefore taken into account at the time the subject plan was drawn up, as an existing HMO in the area. As a matter of logic, the

<p>3.27</p> <p>3.28</p> <p>3.29</p> <p>3.30</p>	<p>reinstatement of an HMO Licence in respect of a property that already existed as an HMO in the area cannot be deemed to increase HMO accommodation in that area.</p> <p>They conclude by says that they believe that the Council must bear in mind the need for housing accommodation in the locality as per Section 12(1)(b), and it is quite clear from any survey of the area that there is a rising need for HMO accommodation in this area for students, nurses, part time workers and migrants. The need for housing accommodation as a criterion, is as important as the number and capacity of licensed HMOs in the locality and therefore they are of the opinion that the Council should exercise its discretion in favour of granting an HMO in this location.</p> <p><b><u>Officers' comments further to McCann &amp; McCann's response</u></b></p> <p>The property does not have the benefit of a valid HMO licence and Officers believe the argument that it was registered previously is misconceived. The Council must have regard to the number of currently licensed HMOs in the area at the time of the application. The relevant test is not whether the property previously operated as an HMO.</p> <p>Officers accept there is high demand for HMO accommodation in this area but that has to be balanced against the Council's obligation to be satisfied that the grant of the licence would not result in the overprovision of HMO accommodation in a particular area.</p> <p><b>Financial and Resource Implications</b></p> <p>None. The cost of assessing the application and officer inspections are provided for within existing budgets.</p> <p><b>Equality and Good Relations Implications</b></p> <p>There are no equality or good relations issues associated with this report.</p>
<p><b>4.0</b></p>	<p><b>Appendices – Documents Attached</b></p>
	<ul style="list-style-type: none"> <li>• Appendix 1 – Location Map</li> <li>• Appendix 2 – Notice of Proposed Decision dated 20 May 2022</li> <li>• Appendix 3 – McCann &amp; McCann Solicitors response to the proposed decision.</li> </ul>