



Subject:	Application for a New Licence to operate a House of Multiple Occupation for 31 Melrose Street, Belfast, Co. Antrim, BT9 7DL
Date:	15 June 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 type="checkbox"/>	No <input checked="" type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues								
1.1	To consider an application for a Licence permitting the use of premises as a House in Multiple Occupation (HMO). <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>31 Melrose Street, Belfast, Co. Antrim, BT9 7DL</td><td>8981</td><td>Mrs Anne McNabb</td><td>CPS Property Limited</td></tr></tbody></table>	Premises	Application No.	Applicant(s)	Managing Agents	31 Melrose Street, Belfast, Co. Antrim, BT9 7DL	8981	Mrs Anne McNabb	CPS Property Limited
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31 Melrose Street, Belfast, Co. Antrim, BT9 7DL	8981	Mrs Anne McNabb	CPS Property Limited						
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. <u>Background</u>								
1.3	The property was previously registered by the NIHE in the sole name of Mr. Patrick McNabb with a commencement date of the 19 June 2017 and an expiry date of the 19 June 2022.								
1.4	In accordance with the transitional provisions of the HMO legislation, that registration shall be treated as having been issued with a licence under the Houses in Multiple Occupation Act (Northern Ireland) 2016. Mr. McNabb died on the 2 June 2021.								
1.5	From a review of land registry records the property was jointly owned by Mr. Patrick McNabb and the current licence applicant Mrs. Anne McNabb since March 2006.								
1.6	Where the sole licence holder of an HMO licence has died, section 29 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 provides:								

<p>1.6</p> <p>1.7</p>	<p>(a) that a licence is to be taken as held, from the date of death, by the owner’s personal representatives,</p> <p>(b) that the licence ceases to have effect three months after that date, and</p> <p>(c) that the Council can extend the three-month period of time if it deems it reasonable to do so for the purposes of winding up the licensee’s estate and where the application for an extension has been made before the expiry of the three-month period.</p> <p>The Council was not informed of Mr McNabb’s death until January 2022 which exceeded the three-month period of time provided in section 29 of the 2016 Act. On the 12 January 2022 an HMO licence application was received from Mrs. McNabb.</p> <p>An application for a temporary exemption notice “TEN” was received on the 11 January 2022 and was granted on the 26 January 2022 with an expiry date of the 26 April 2022. The occupancy of the property has been reduced to 2 persons.</p>
<p>2.0</p>	<p>Recommendations</p>
<p>2.1</p> <p>2.2</p>	<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. <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>
<p>3.0</p>	<p>Main report</p>
<p>3.1</p> <p>3.2</p> <p>3.3</p>	<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>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 LA04/2021/0685/LDE.</p> <p><u>Fitness</u></p> <p>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</p>

	<p>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>
3.4	<p>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, (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,
3.5	<p>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.</p>
3.6	<p>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.</p>
3.7	<p>Officers are not aware of any other issues relevant to the Applicant’s fitness.</p> <p><u>Overprovision</u></p>
3.8	<p>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 2/08 Edinburgh Street” as defined in the document “Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015.</p>
3.9	<p>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.</p>
3.10	<p>On the date of assessment, 12 May 2022 there were a total of 198 licensed HMOs in HMO policy area “HMO 2/08 Edinburgh Street” which equates to over 31% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 198 licensed HMOs have a capacity of 829 persons.</p>
3.11	<p>The total number of dwelling units in a Policy Area is measured by Ordnance Survey’s Pointer database.</p>
3.12	<p>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.</p>

3.13	The council recognises that there is a need for intensive forms of housing and to meet this demand, Houses in Multiple Occupation (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>12 May 2022</i> there were 8 licensed HMOs advertised for let on the website Property News in BT9, <i>from the information provided on the website this represented 39 bed spaces, although not all of these may have been available for immediate occupancy.</i>
3.16	Of the 8 HMOs, 1 licensed HMO was advertised as for rent in HMO policy area “HMO 2/08 Edinburgh Street”. From the information provided on the website this represented 4 bed spaces within the policy area. The advertisements indicated that the accommodation for occupation was available from mid-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.
3.20	The Committee may consider that in the circumstances, namely that the premises had previously operated as an HMO and that this licence would only exceed the 30% development limit as set out at Policy HMO 1 by 1%, that the grant of this licence would not result in overprovision notwithstanding the proposed refusal by officers.
	<u>Section 29: Death of sole licence holder: effect on licence</u>
3.21	Section 29 of the 2016 Act transfers the licence of a deceased sole licence-holder to that person’s executor. The licence expires three months after the date of death, unless the council is satisfied that it is reasonable to extend it in order to wind up the holder’s estate.
3.22	The restricting factor in section 29 is the requirement for the Council to be notified of the death of the sole licence-holder. Counsel’s advice was sought and obtained on this issue, and Legal Services has confirmed that there may be some scope to grant an extension to the three-month period that is triggered by the death of an owner under section 29. Although section 29(3) provides that any application for an extension “ <i>must be made</i> within the [three-month]

period”, there is authority to suggest that mandatory time-limits can be read flexibly where the balance between public and private interests merits such an approach.

- 3.23 In this case, it is a matter for the Council to decide where the balance is to be struck between those interests in the circumstances of this particular application.

Objections

- 3.24 No objections have been received in relation to this application.

Attendance

- 3.25 The applicant and/or their representatives will be available to discuss any matters relating to the licence application should they arise during your meeting.

Suitability of the premises

- 3.26 The accommodation was certified as complying with the physical standards for an HMO by a technical officer from the NIHMO service on the 1 April 2022

Notice of proposed decision

- 3.27 On the 18 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. **Appendix 2**

- 3.28 The Notice 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.

Manager’s response to the notice of proposed decision

- 3.29 On the 23 May 2022 the manager submitted a written response to the notice of proposed decision (**Appendix 3**).

- 3.30 This cited the sudden death of her husband and trying to get his affairs in order and not being aware of the legislative requirements. They also referred to significant investment which their client has made to bring the property up to HMO standards, that is has operated as a HMO and that there are no technical issues in relation to the property itself.

Officers’ comments further to the applicant’s response

- 3.31 Section 29 of the 2016 Act provides how the Council deals with applications following the death of the sole licence holder.

- 3.32 The property has been certified as complying with the physical standards for an HMO and it is noted the costs associated with bring a property up to the required standards and providing the necessary supporting documentation can be significant.

- 3.33 The issue of overprovision is dealt with at paragraph 3.20 of this report. The Committee cannot disregard the obligation to take into account overprovision notwithstanding personal circumstances. It can however decide that, in the circumstances, the grant of the licence will not result in overprovision.

3.34	<p>Committee are also reminded that it has discretion to be flexible in relation to the mandatory time limit within which the death of a licence holder must be notified to the Council and decide it was reasonable to extend that period. This would mean that the licence remains extant and the issue of overprovision cannot be taken into account.</p> <p>Financial and Resource Implications</p>
3.35	<p>None. The cost of assessing the application and officer inspections are provided for within existing budgets.</p> <p>Equality and Good Relations Implications</p>
3.36	<p>There are no equality or good relations issues associated with this report.</p>
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