



<b>Subject:</b>	<b>Applications for a New Licence to operate a House of Multiple Occupation for Apartment 2, 14 Fitzroy Avenue, Belfast, BT7 1HW</b>
<b>Date:</b>	15 February 2023
<b>Reporting Officer:</b>	Kevin Bloomfield, HMO Unit Manager, Ext. 5910
<b>Contact Officer:</b>	Kevin Bloomfield, HMO Unit Manager, Ext. 5910 Nora Largey, City 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 type="checkbox"/>	No <input checked="" 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>Apartment 2, 14 Fitzroy Avenue, Belfast, BT7 1HW</td><td>9628</td><td>Mr Arthur Dodds</td><td>Ballygowan Limited t/a Belvoir Belfast South</td></tr></tbody></table>	Premises	Application No.	Applicant(s)	Managing Agents	Apartment 2, 14 Fitzroy Avenue, Belfast, BT7 1HW	9628	Mr Arthur Dodds	Ballygowan Limited t/a Belvoir Belfast South
Premises	Application No.	Applicant(s)	Managing Agents						
Apartment 2, 14 Fitzroy Avenue, Belfast, BT7 1HW	9628	Mr Arthur Dodds	Ballygowan Limited t/a Belvoir Belfast South						
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.								
<b>2.0</b>	<b>Recommendations</b>								
2.1	<p>Taking into account the information presented Committee is asked to hear from the Applicants and make a decision to either:</p> <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><b><u>Notice of proposed decision</u></b></p> <p>2.2 On the 31 January 2023, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 (“the 2016 Act”), Officers issued a Notice of Proposed Decision. <b>Appendix 2</b></p> <p>2.3 The Notice of Proposed Decision stated that the council proposed to <b>refuse</b> the licence on the grounds of <b>overprovision</b>. A statement of reasons for the proposal was included in the Notice of Proposed Decision.</p> <p>2.4 If the application is refused, the Applicants have a right of appeal to the County Court. An appeal must be lodged within 28 days of formal notification of the Council’s decision.</p>
<p><b>3.0</b></p>	<p><b>Main report</b></p>
	<p><b><u>Background</u></b></p> <p>3.1 The property had the benefit of an HMO licence in the name of the existing owner which <b>expired on the 14 August 2019</b>.</p> <p>3.2 On the 12 April 2019 a reminder letter was sent to Mr. Arthur Dodds informing him of the need to apply to renew the licence. <b>Appendix 3</b></p> <p>3.3 An inspection of the property took place on the 05 July 2019 in anticipation of an application being submitted, the managing agent was in attendance during the inspection however, the Council did not receive an application to renew the licence.</p> <p>3.4 On the 12 October 2022 an application for a Temporary Exemption Notice “TEN” was received and subsequently approved on the 19 October 2022, an extension to the TEN was approved on the 17 January 2023 which will expire on the 17 April 2023. No further extension to the TEN are permitted under the 2016 Act.</p> <p>3.5 On the 27 September 2022 an HMO licence application was received from the owner of the accommodation.</p> <p><b><u>Key Issues</u></b></p> <p>3.6 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>3.7 As this is a new application the HMO Unit consulted with the Council’s Planning Service who confirmed that on the 20 August 2007 permission was granted for “Change use from existing HMO to 2no self-contained flats (1no. HMO) and alterations” with the planning reference <b>Z/2006/2887/F</b></p>

## **Fitness**

- 3.8 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.
- 3.9 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,
- 3.10 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.
- 3.11 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.
- 3.12 Officers are not aware of any other issues relevant to the Applicant's fitness.

## **Overprovision**

- 3.13 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.
- 3.14 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.
- 3.15 On the date of assessment, 04 January 2023 there were a total of 1112 licensed HMOs in HMO policy area "HMO 2/22 Botanic, Holylands, Rugby". This equates to 46.16% of the total dwelling units of 2409 within the policy area. Which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 1112 licensed HMOs have a capacity of 4951 persons.

3.16	The total number of dwelling units in a Policy Area is measured by Ordnance Survey's Pointer database.
3.17	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.
3.18	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.
3.19	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.
3.20	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."
3.21	On the 25 January 2023 out of 39 premises available for rent within the BT7 area on the website PropertyNews.com there was 9 licensed HMOs which from the information presented on the website represented 41 bed spaces. The availability of the HMO accommodation ranged from immediately to August 2023.
3.22	Anecdotal evidence from previous conversations with HMO managing agents suggest that that there is currently a lack of HMO accommodation available in this locality
3.23	On the 7 December 2022 Ulster University Director of Campus Life told members of the Council's City Growth and Regeneration Committee that there was an "increase in competition for HMO's particularly from NIHE, Immigration Services and statutory agencies and there were increasing accommodation issues across the housing sector which required a holistic view and should include the consideration of international student families and graduates looking for professional accommodation."
3.24	However, QUB Director of Student Plus confirmed to members that the current trend indicated a significant move of students away from areas such as the Holylands, which has seen a fall in student numbers by 35 percent to purpose-built student accommodation blocks. She told members that there were 7,000 purpose built managed student accommodation (PBMSA) rooms in the city – the majority built since 2018 and approximately 5,000 in the city centre.
3.25	November 2022 monitoring information produced by the Council's Planning Services for PBMSA indicates that 2154 bedspaces are currently under construction with 646 bedspaces becoming operational in September 2023.
3.26	With the continued expansion of the PBMSA sector and students transitioning from private rentals in the HMO 2/22 Botanic, Holylands, Rugby policy area to PBMSAs, it is too early to tell whether the increased competition from non-students for HMOs is a temporary problem (which can be managed by the contraction in students residing in existing HMO accommodation within the locality) or evidence of an emerging long-term supply issue.
3.27	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.

### **Objections**

3.29 No objections were received in relation to this application.

### **Attendance**

3.30 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**

3.31 The accommodation was certified as complying with the physical standards for an HMO for 3 persons by a technical officer from the NIHMO service, on the 16 January 2023.

### **Notice of proposed decision**

3.32 On the 21 January 2023, 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 2**

3.33 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.

### **Applicant's response to the notice of proposed decision**

3.34 On the 03 February 2023 a representative of Mr Dodds submitted a written response to the notice of proposed decision in which she provides representations and commentary on the statement of reasons included in the notice of proposed decision. **Appendix 4.**

3.35 The representations refer to the Mr Dodds owning the property from 1994 and spending more than £100k converted the property to HMO standards in 2008 and the property being registered by the NIHE as an HMO since 2009.

3.36 The representative acknowledges that a reminder letter dated 12/04/2019 was received which was passed to the applicants letting agent to apply on his behalf. The representations then deal with an inspection of the property and an exchange between the letting agent and the HMO manager regarding fire safety standards.

3.37 Details of an email dated 25 September 2019 are included in which the letting agent reassured Mr Dodds representative that – *“I’ve chased BCC/HMO twice since then and again this morning, asking for the license to be verified and issued; hopefully, I’ll get a response this week but as far as I’m aware from e-mail communication between myself and HMO, you are covered.”*

3.38 Based on the email exchange with the letting agent Mr. Dodds was of the understanding that the HMO licence had been renewed in 2019 and remained valid until 2024.

3.39 The representative highlighted that there have been no issues relating to the property regarding ASB or any other issues which may cause concern. It was highlighted that the overall building consists of a two occupant non-HMO flat on the ground floor and a three

	<p>occupant HMO on the first floor and they questioned whether the extra occupants in the HMO flat will contribute to overcrowding.</p>
3.40	<p>Finally, it was highlighted that the property was finished to a very high standard.</p> <p><b><u>Officer response to the representations of the 03 February 2023</u></b></p>
3.41	<p>On the 6 February 2023 officers responded to the representations made on behalf of the applicant on the 03 February 2023 <b>Appendix 5</b></p>
3.42	<p>Officers noted the timeline regarding the purchase of the property by Mr Dodds, the upgrading of the property to HMO standards and the previous registration of the property as an HMO by the NIHE.</p>
3.43	<p>Officers confirmed the application for a temporary exemption notice and that there were no issues at the premises in relation to noise, rubbish accumulation or litter that warranted relevant enforcement action in the last 5 years.</p>
3.44	<p>Officers have examined the relevant records and have found no evidence of advice being provided to the letting agent confirming that the owner was covered regarding the HMO licensing of the accommodation</p>
3.45	<p>Further, officers confirmed that the Council only received an HMO licence application on the 27 September 2022 which is over 3 years after the previous licence expired on the 14 August 2019.</p> <p><b><u>Financial and Resource Implications</u></b></p>
3.46	<p>None. The cost of assessing the application and officer inspections are provided for within existing budgets.</p> <p><b><u>Equality and Good Relations Implications</u></b></p>
3.47	<p>There are no equality or good relations issues associated with this report.</p>
	<p><b>Appendices – Documents Attached</b></p>
	<ul style="list-style-type: none"> <li>• <b>Appendix 1</b> – Location Map</li> <li>• <b>Appendix 2</b> – Reminder letter dated 12 April 2019 sent to Mr. Arthur Dodds</li> <li>• <b>Appendix 3</b> – Notice of proposed decision</li> <li>• <b>Appendix 4</b> – Representations on behalf of the applicant dated 3 February 2023.</li> <li>• <b>Appendix 5</b> – Officers response to representations made on 3 February 2023</li> </ul>