

## Evaluation of Live Appeal following adoption of the Plan Strategy

<b>Officer Assessment</b>	
<b>Committee Meeting Date:</b> 29 <sup>th</sup> June 2023	
<b>Application ID:</b> LA04/2022/1839/F	<b>Appeal Ref:</b> 2022/A0197
<b>Proposal:</b> Change of use to house in multiple occupancy.	<b>Location:</b> 51 Glandore Avenue Skegoniell Belfast BT15 3FD
<b>Referral Route:</b> Paragraph 3.8.7 of the Scheme of Delegation – referred at the discretion of the Director for Planning and Building Control.	
<b>Applicant Name and Address:</b> Mr Seamus Goodwin 26 Fintona Road Dromore BT78 3EF	<b>Agent Name and Address:</b> Raymond Goodwin 18 Fintona Road Dromore BT78 3EF
<p><b>Executive Summary:</b></p> <p>This appealed application was submitted on 29<sup>th</sup> September 2022, seeking full planning permission for a change of use to a house in multiple occupancy (HMO). Two Councillors requested that the application is referred to Planning Committee but agreed for it to be delegated if it was to be recommended for refusal by officers.</p> <p>At the time of the assessment, the primary policy consideration was the HMO Subject Plan, which employed a methodology which relied (in part) on a data source derived from data developed by NIHE in 2004 (which now no longer applies). The previous methodology showed the number of HMOs in Glandore Avenue to already be exceeded, therefore, the proposal was contrary to Policy HMO 5 of the HMO Subject Plan. The Council refused the application under delegated authority on 10<sup>th</sup> February 2023 for the following refusal reason:</p> <ol style="list-style-type: none"> <li>1. 'The proposed development is contrary to HMO 5 of the Houses in Multiple Occupancy (HMOs) Subject Plan for Belfast City Council Area 2015 in that the number of HMO dwelling units exceed 10% of dwellings within Glandore Avenue.'</li> </ol> <p>Since this decision, the Belfast Local Development Plan: Plan Strategy has been adopted (02 May 2023). This provides a new policy framework for decision-making. Section 6(4) of the Planning Act (Northern Ireland) 2011 requires planning applications and appeals to be determined in accordance with the Plan Strategy unless material considerations indicate otherwise.</p> <p>The Planning Appeals Commission has sought the Council's comments on live appeals following adoption of the Plan Strategy.</p> <p>There is now a new policy (Policy HOU10) for HMO development and whilst the threshold remains the same as 10% outside Housing Management Areas (HMA's), the methodology to calculate this figure has now changed. The justification and amplification text to Policy HOU10 confirms at paragraph 7.1.66 that the level of HMOs outside a HMA will be measured by adding together:</p>	


1. The number of HMOs recorded under the HMO Licensing scheme; and
2. The number of planning approvals for HMOs not yet licensed.

with the total then divided by the total number of dwelling units within the street. If a street is longer than 600m, the total number of dwellings in the street will relate to the total properties within 300m either side of the property on the street.

The assessment under Policy HOU10 finds that there is capacity for HMOs on Glandore Avenue and therefore it is the opinion of officer's that the previous refusal reason could no longer be sustained under the new policy approach. The full consideration of this issue is set out below and the assessment reconsidered having regard to the adopted Plan Strategy.

Whilst the original decision to refuse planning permission was delegated, it is considered prudent to refer this matter to the Committee on the basis that the original application may have been referred if the recommendation had been to grant planning permission.

Delegated authority is sought for the Director of Planning and Building Control to provide comments to the Planning Appeals Commission in relation to the live appeal against the refusal of application LA04/2022/1839/F, following adoption of the Plan Strategy.

<b>Main Assessment</b>	
<b>1.0</b>	<b>Site Location Plan</b>
1.1	
<b>2.0</b>	<b>Characteristics of the Site and Area</b>
2.1	The appeal site is located at 51 Glandore Avenue, a corner plot that adjoins Ashdene Drive. The building is two storey dwelling finished in red brick. There is a small amount of paved amenity space to the front, side and rear of the site.
2.2	The site does not fall within any land-use zoned designations.
<b>3.0</b>	<b>Description of Proposal</b>
3.1	The appeal is against the Council's decision to refuse planning permission for a change of use to house in multiple occupancy (HMO).
<b>4.0</b>	<b>Planning Policy and Other Material Considerations</b>
4.1	<b>Development Plan – operational policies</b> Belfast Local Development Plan, Plan Strategy 2035 – Policy HOU10 (Housing Management Areas)
4.2	<b>Development Plan – zoning, designations and proposals maps</b> Belfast Urban Area Plan (2001) BUAP Draft Belfast Metropolitan Area Plan 2015 (v2004) Draft Belfast Metropolitan Area Plan 2015 (v2014)
4.3	<b>Regional Planning Policy</b> Regional Development Strategy 2035 (RDS) Strategic Planning Policy Statement for Northern Ireland (SPPS)

4.4	<p><b>Relevant Planning History</b> Non-Relevant</p>
5.0	<p><b>Consultations and Representations</b></p>
5.1	<p><b>Statutory Consultations</b> DfI Roads – No objections</p>
5.2	<p><b>Non-Statutory Consultations</b> Planning Service, Plans and Policy Unit</p> <p>Pre-May 23: Objection as the proposal exceeds the 10% threshold in the HMO Subject Plan</p> <p>Post May 23: No objections as there is capacity for HMOs on Glandore Avenue and therefore the previous refusal reason could no longer be sustained under the new policy approach.</p> <p><b>Representations</b></p>
5.3	<p>The original application was advertised and neighbour notified. There were 32 objections submitted, summarised as follows:</p> <ul style="list-style-type: none"> <li>Over intensification of site / cramming with loss of quality family sized accommodation – converting 4-bedroom dwelling to a 6 bed HMO. In recent times there have been a number of conversions in the area (apartments) and some refusals (references provided) <u>Original Case Officer Response: The thresholds set out in the HMO Subject Plan (HMO 5) are in place to protect amenity; in exceeding these thresholds the development may have an impact on the residential area. The thresholds are in place to ensure an area does not become over-concentrated. The area is oversaturated (set out in the assessment below) therefore would negatively impact on amenity of area.</u> <u>Any other applications in the area are subject to their own assessment.</u></li> </ul> <p>Update: The threshold is no longer exceeded ensuring no adverse impact on residential amenity. The Plan Strategy (par. 7.1.63) advises that HMO's make an important contribution to the private rented sector, providing choice and assisting with meeting a range of community needs and are carefully managed with these thresholds.</p> <ul style="list-style-type: none"> <li>Impact on Area of Townscape Character <u>Case Officer Response: This site is not within an ATC draft or adopted. It sits adjacent to the boundary of the draft Glandore ATC. PPS 6 relates to adopted ATCs only.</u></li> </ul> <p>Update: The site is not within an ATC draft or adopted. It sits adjacent to the boundary of the draft Glandore ATC. Policy BH3 is not applicable.</p> <ul style="list-style-type: none"> <li>Traffic Concerns / Parking – Busy Area <u>Case Officer Response: DFI Roads had no objections to the proposal.</u></li> </ul> <p>Update: No objections from DFI Roads, no re-consultation required.</p> <ul style="list-style-type: none"> <li>Contrary to policy – PPS6 / PPS7 (addendum) i.e., LC1 / LC 2 Local Development Plan</li> </ul>

	<p><u>Case Officer Response: The application is assessed under the relevant policy as set out in the policy framework above. Policy LC1/2 are not applicable – relates to redevelopment of sites for housing.</u></p> <p>Update: The application has been re-assessed under the new relevant policy.</p> <ul style="list-style-type: none"> <li>• Anti-social behaviour / noise / nuisance with site located in an ‘Interface Area’. <u>Case Officer Response: There is no evidence that the change of use would lead to antisocial behaviour in this situation. This would be a policing matter. The proposal would remain a residential use – there is no reason this would result in any unacceptable noise or nuisance impact.</u></li> </ul> <p>Update: This remains as previous.</p> <ul style="list-style-type: none"> <li>• Loss of Amenity Space i.e. living, kitchen, garden space etc. and additional pressures i.e. sewage, water, bin storage etc <u>Case Officer Response: There is no increase in services provided internally i.e. kitchen and bathrooms. There would be sufficient space externally for bin storage.</u></li> </ul> <p>Update: This remains as previous.</p> <ul style="list-style-type: none"> <li>• Query of Neighbour Notification Procedure <u>Case Officer Response: Two neighbours were neighbour notified – the neighbour attached and to the rear, satisfying the legal requirements.</u></li> </ul> <p>Update: This remains as previous.</p> <ul style="list-style-type: none"> <li>• Loss of privacy <u>Case Officer Response: There would be no more of an impact on privacy that the existing use – there are no external changes proposed.</u></li> </ul> <p>Update: This remains as previous.</p> <ul style="list-style-type: none"> <li>• Comments regarding the potential tenants / transient style of tenancy / impact on sense of community and maintenance of home. <u>Case Officer Response: The proposed tenants and maintenance are not a planning consideration.</u></li> </ul> <p>Update: This remains as previous.</p>
<b>6.0</b>	<b>UPDATED PLANNING ASSESSMENT</b>
	<p><b>Development Plan Context</b></p> <p>6.1 Section 6(4) of the Planning (Northern Ireland) Act 2011 states that in making any determinations under the Act, regard is to be had to the local development plan, and the determination must be made in accordance with the plan unless material considerations indicate otherwise.</p> <p>6.2 Section 45(1) of the Act states that in determining planning applications, the Council must have regard to the local development plan, so far as material to the application, and to any other material considerations.</p>

6.3	The Belfast Local Development Plan (LDP), when fully completed, will replace the Belfast Urban Area Plan 2001 as the statutory Development Plan for the city. The Belfast LDP will comprise two parts. Part 1 is the Plan Strategy, which contains strategic and operational policies and was adopted on 02 May 2023. Part 2 is the Local Policies Plan, which will provide the zonings and proposals maps for Belfast and has not yet been published. The zonings and proposals maps in the Belfast Urban Area Plan 2001 remain part of the statutory local development plan until the Local Policies Plan is adopted.
6.4	<b>Operational policies</b> – the Plan Strategy contains a range of operational policies relevant to consideration of the application. These are listed in the report.
6.5	<b>Proposals Maps</b> – until such time as the Local Policies Plan is adopted, the Council must have regard to the land-use zonings, designations and proposals maps in the Belfast Urban Area Plan 2001, both versions of the draft Belfast Metropolitan Area Plan (v2004 and v2014) (draft BMAP 2015) and other relevant area plans. The weight to be afforded to these proposals maps is a matter for the decision maker. It is considered that significant weight should be given to the proposals map in draft BMAP 2015 (v2014) given its advanced stage in the development process, save for retail policies that relate to Sprucefield which remain contentious.
	<u>Principle of an HMO in this location</u>
6.6	Under the transitional arrangements, relevant provisions of existing development plans will remain in effect until the Council adopts the Local Policies Plan (LPP). Consequently, in advance of Housing Management Areas (HMAs) and Intensive Housing Nodes (IHNs) being designated in the Local Policies Plan, Policies HOU10 and HOU11 of the Plan Strategy will be applied to the existing designations outlined in the HMO Subject Plan. Policy HOU10 will also be applied to areas outside of designations
6.7	Glandore Avenue does not fall within an existing HMO Policy Area or HMO Development Node as designated in the HMO Subject Plan. In respect of areas outside of designations, Policy HOU10 states that:  <i>‘...planning permission will only be granted for HMOs where the number of HMOs would not as a result exceed 10% of all dwelling units on that road or street. Where such a street is in excess of 600 metres in length, the 10% threshold will be calculated on the basis of existing residential units within 300 metres of either side of the proposal on that street.’</i>
6.8	The justification and amplification text to Policy HOU10 confirms at paragraph 7.1.66 that the level of HMOs outside a HMA will be measured by adding together:  1. The number of HMOs recorded under the HMO Licensing scheme; and 2. The number of planning approvals for HMOs not yet licensed, with the total then divided by the total number of dwelling units within the street. If a street is longer than 600, the total number of dwellings in the street will relate to the total properties within 300m either side of the property on the street.
6.9	As Glandore Avenue is less than 600m in length it will be considered in its entirety. According to the LPS Pointer Address database there are 80 domestic properties on Glandore Avenue. The HMO Licence Register and planning history records show there are no HMOs on the street. Taking account of the number of dwelling units within Glandore Avenue, eight HMOs would be permitted before the 10% threshold would be exceeded therefore complying with Policy HOU10.

6.10	The previous assessment under the HMO Subject Plan employed a methodology which relied (in part) on a data source derived from data developed by NIHE in 2004, which now no longer applies under Policy HOU10. Owing to the change in methodology there is a change in relation to the capacity for HMOs on Glandore Avenue.
<b>7.0</b>	<b>Recommendation</b>
7.1	Owing to the change in methodology under Policy HOU10 of the Plan Strategy, there is a change in relation to the capacity for HMOs on Glandore Avenue. The assessment under Policy HOU10 finds that there is capacity for HMOs on Glandore Avenue and therefore it is officer's opinion that the previous refusal reason can no longer be sustained under the new policy approach.
7.2	Delegated authority is sought for the Director of Planning and Building Control to provide comments to the Planning Appeals Commission to this effect in relation to the live appeal against the refusal of application LA04/2022/1839/F.