

Licensing Committee

Wednesday, 20th November, 2024

HYBRID MEETING OF THE LICENSING COMMITTEE

Members present: Alderman Rodgers (Chairperson);
Alderman McCullough;
Councillors Abernethy, Anglin, Bradley,
T. Brooks, M. Donnelly, P. Donnelly, Doran,
D. Douglas, Kelly, F. McAteer, McCann,
McDowell, McKay, McKeown, Ó Néill
and Smyth.

In attendance: Ms. K. Bentley, Director of Planning and Building Control;
Ms. N. Largey, City Solicitor;
Mr. K. Bloomfield, HMO Manager;
Mr. K. McDonnell, Solicitor (Regulatory and Planning); and
Mrs. L. McLornan, Committee Services Officer.

Apologies

No apologies were reported.

Minutes

The minutes of the meeting of 16th October, 2024 were taken as read and signed as correct. It was reported that those minutes had been adopted by the Council, at its meeting on 4th November, 2024, subject to the omission of those matters in respect of which the Council had delegated its powers to the Committee.

Declarations of Interest

No declarations of interest were recorded.

Schedule of Meetings 2025

The Committee agreed to meet on the following dates from January to December 2025, with all meetings to commence at 5.15pm:

- Wednesday, 22nd January
- Wednesday, 19th February
- Wednesday, 19th March
- Wednesday, 16th April
- Wednesday, 21st May
- Wednesday, 18th June

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- Wednesday, 20th August
- Wednesday, 17th September
- Wednesday, 15th October
- Wednesday, 19th November
- Wednesday, 10th December

Non-Delegated Matters

Airbnbs and Short Term Let Accommodation

The Director of Planning and Building Control provided the Committee with the responses which had been received from the Minister for the Economy and Tourism NI regarding the regulation of short term lets, such as Airbnbs, in Northern Ireland.

She explained that both responses had made reference to engagement with the Council through the Development Plan Working Group. The Members were advised that the next meeting of the Working Group was scheduled to take place on 12th December, 2024 and that the Acting Planning Manager (Plans and Policy) would be attending on behalf of the Council. The Committee was assured that the officers who were working on the Local Development Plan were acutely aware of the issues which had been raised by the Committee, including anti-social behaviour and rises in rent costs and house prices, and they would ensure that those views were represented at the Working Group meeting.

A Member welcomed the responses and the update which had been provided and asked that the Committee would continue to be kept informed of any developments.

The Committee noted the update.

Restricted Item

The information contained in the reports associated with the following item is restricted in accordance with Part 1 of Schedule 6 of the Local Government Act (Northern Ireland) 2014.

Resolved – That the Committee agrees to exclude the members of the press and public from the meeting during discussion of the following three items as, due to the nature of the items, there would be a disclosure of exempt information as described in Section 42(4) and Schedule 6 of the Local Government Act (Northern Ireland) 2014.

The Members were also reminded that the content of 'restricted' reports and any discussion which took place during closed session must be treated as 'confidential information' and that no such information should be disclosed to the public as per Paragraph 4.15 of the Code of Conduct.

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Legal Update - Change of Ownership applications

The City Solicitor provided the Committee with an update on the outcome of recent judicial review proceedings in relation to Change of Ownership applications.

After discussion, the Committee:

- noted the update on the outcome of the legal proceedings;
- agreed to hold a Workshop on HMO applications, specifically in relation to where a change or transfer of ownership of a property had occurred, with Senior Counsel invited to attend; and
- that a synopsis of the issues be provided to the Committee in advance of the Workshop.

Delegated Matters

**THE COMMITTEE DEALT WITH THE FOLLOWING ITEMS IN
PURSUANCE OF THE POWERS DELEGATED TO IT UNDER
STANDING ORDER 37(d)**

Licences Issued Under Delegated Authority

The Committee noted a list of applications for licences which had, since its last meeting, been approved under the Council's Scheme of Delegation.

**Houses in Multiple Occupation (HMO) Licences
Issued Under Delegated Authority**

The Committee noted a list of applications which had been approved under the Council's Scheme of Delegation during August, September and October, 2024.

**Application for a New Licence to operate a House
of Multiple Occupation for 10 Sandymount Street**

The Houses in Multiple Occupation (HMO) Manager outlined the details of the application to the Committee.

He explained that the property had had the benefit of an HMO licence issued by the Council on 11th May, 2020, to Mr. H. Curran and Ms. B. Mulholland, with an expiry date of 11th May, 2025. In February 2021, the ownership of the property had been transferred to Torrbeg Properties Limited and, in accordance with Section 28 (2) of the Houses in Multiple Occupation Act (NI) 2016, the existing license ceased to have effect on the date of transfer. The NIHMO Unit had not been informed of the change of ownership at that time. An application for a new HMO licence was received from Torrbeg properties Limited on 2nd August, 2024.

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The HMO Manager outlined that, pursuant to the 2016 Act, the Council could only grant a licence if it was satisfied that:

- 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, were fit and proper persons;
- c) the proposed management arrangements were satisfactory;
- d) the granting of the licence would not result in overprovision of HMOs in the locality;
- e) the living accommodation was fit for human habitation and—
 - i. was suitable for occupation as an HMO by the number of persons to be specified in the licence, or
 - ii. could be made so suitable by including conditions in the licence.

The Committee was advised that, as it was a new application, the Council's Planning Service was consulted. It had confirmed that a Certificate of Lawful Existing Use or Development ("CLEUD") was granted on 17th January, 2020.

It was reported that the NIHMO Unit had consulted with the Environmental Protection Unit in relation to nighttime and daytime noise; the Public Health and Housing Unit in relation to rubbish accumulation/filthy premises; and the Enforcement Unit in relation to litter and waste and all had confirmed that there had been no relevant enforcement action required in respect of any of the issues in the HMO in the last 5 years. The applicant had confirmed that they had not been convicted of any relevant offences pursuant to the 2016 Act.

For the purpose of Section 12(2) of the 2016 Act, the Council had determined the locality of the accommodation as being Housing Management Area (HMA) "2/17 Sandymount" as defined in the document Council's Local Development Plan Strategy, which was formally adopted on 2nd May, 2023. It was reported that Legal Services had advised that there was a clear requirement in section 8 of the 2016 Act upon the Council to be satisfied that the granting of a licence would not result in overprovision.

The officers had had regard to:

- a) the number and capacity of licensed HMOs in the locality; and
- b) the need for housing accommodation in the locality and the extent to which HMO accommodation was required to meet that need.

To inform the Council in its consideration of the above provisions, the Council had taken account of the 2023 Strategy given that "Nurturing sustainable and balanced

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communities was a fundamental aim of the LDP's housing policies." In particular, the Council had considered Policy HOU10, which stated:

"Within designated HMAs, planning permission will only be granted for Houses in Multiple Occupation (HMOs) and/or flats/apartments where the total number of HMOs and flats/apartments combined would not as a result exceed 20% of all dwelling units within an HMA."

The Committee was advised that, on the date of assessment, 17th October 2024, 76% of all dwelling units in policy area "HMA 2/17 Sandymount" were made up of HMOs and flats/apartments, which in turn exceeded the 20% development limit as set out in Policy HOU10. There were 109 (64%) licensed HMOs with a capacity of 469 persons in that HMA.

The Committee was advised that the fact that the use of the property as an HMO was permitted for planning purposes was a relevant consideration in determining whether the granting of the licence would result in overprovision.

The Committee was advised that, on 17th October, 2024, out of 80 premises available for rent within the BT9 area on PropertyNews.com there were 18 licensed HMOs which represented 69 bed spaces.

The Houses in Multiple Occupation Manager reminded the Committee that there was a need for intensive forms of housing and, to meet that demand, HMOs were an important component of the housing provision. HMOs, alongside other accommodation options within the private rented sector, played an important role in meeting the housing needs of people who were single, who had temporary employment, students, low income households and, more recently, migrant workers and asylum seekers.

He reported that the Ulster University Director of Campus Life, in December 2022, had advised the Council's City Growth and Regeneration Committee that there was an "increase in competition for HMOs 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 students, families and graduates looking for professional accommodation."

However, the QUB Director of Student Plus had confirmed that the current trend indicated a significant move of students to purpose-built student accommodation blocks. She had advised the Members that there were 7,000 purpose built managed student accommodation (PBMSA) rooms in the city, the majority having been built since 2018, and approximately 5,000 in the city centre.

The Committee was reminded that recent monitoring information produced by the Council's Planning Service for PBMSA indicated that 2055 bedspaces were currently under construction with an operational date of 2024, 92 bedspaces approved but where construction had not yet commenced and a further 1426 bedspaces going through the planning process.

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Therefore, with the continued expansion of the PBMSA sector and students transitioning from private rentals to PBMSAs, it was too early to tell whether the increased competition from non-students for HMOs was a temporary problem which could be managed by the contraction in students residing in existing HMO accommodation within the locality, or evidence of an emerging long-term supply issue.

The Houses in Multiple Occupation Manager explained that, in assessing the number and capacity of licensed HMOs, as well as the need for HMO accommodation in the locality, officers could not be satisfied that the granting of the HMO licence would 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.

The Committee was advised that no objections had been received in relation to the application.

It was reported that the accommodation had been certified as complying with the physical standards for an HMO for 5 persons by a technical officer from the NIHMO service, on 30th August, 2024.

On 17th October, 2024, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, officers had issued a Notice of Proposed Decision to the Applicant advising that it was proposing to refuse the licence on the grounds of overprovision.

On 6th November, 2024, representations had been received, on behalf of the applicant, from the Elliot Trainor Partnership. The correspondence details another property owned by the same applicant which had been recently approved. The Committee's attention was drawn to those representations and to the officers' response. The officer had outlined to the applicant that the application in question had been approved in error and that it should, in fact, have been brought before the Licensing Committee with a recommendation for refusal on the grounds of overprovision. The Members were assured that additional advice and training had been provided to staff to mitigate against any future recurrence.

The HMO Manager read out a statement which had been submitted by the applicant, Mr. H. Curran, who was not in attendance at the meeting. The applicant had stated that he had owned and let the property out in multiple occupation since 1990, having complied with all planning and regulatory controls. He outlined that, in consultation with his accountant, he had been advised to transfer the property to a private limited company, with he and his wife as the sole directors and shareholders. He outlined that he had been meticulous in his business dealings. He outlined that he had retired from legal practice in 2019. In his understanding of the HMO Act (NI) 2016 he had interpreted that it was unnecessary for him to apply for a new HMO licence because the ownership had been transferred to a private company essentially in his ownership and that, while he had changed managing agent, the ownership had therefore been continuous. Therefore, he felt that the granting of a licence for the property was not an addition to the area, as it was being dealt with by officers, as it had been an HMO for approximately 30 years. He stated that he felt that officers were perhaps using the refusal as a quest to reduce

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the number of HMOs in the area. He emphasised that there was a need for both students at Queen's and employees of essential services such as hospitals to live in the area.

The Chairperson thanked the HMO Manager for the information which had been provided.

Moved by Councillor McKay,
Seconded by Councillor McCann,

Resolved – that the Committee agrees to refuse the application as, in accordance with Section 12 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, it was satisfied that the granting of the HMO licence would result in overprovision of HMO accommodation in the locality of the accommodation, as determined under section 8(2)(d) of the Act.

Application for a New Licence to operate a House of Multiple Occupation for 8 Artana Street

The HMO Manager advised the Committee that correspondence had been received from the applicant requesting a deferral of the application to a future meeting.

The Committee agreed to defer consideration of the application to a future meeting, noting that the applicant had consented to an extension of time application to the Court, should it be required.

Application for a New Licence to operate a House of Multiple Occupation for 15 Agincourt Street

The Houses in Multiple Occupation (HMO) Manager outlined the details of the application to the Committee.

He explained that the property had had the benefit of an HMO licence issued by the Housing Executive, in the name of Mr. John Macauley, with an expiry date of 2nd June, 2019. On 19th April, 2019, an application was received in the name of Ms. Mary Macauley, which was subsequently granted with an expiry date of 2nd June, 2024.

On 8th May, 2024, an application was received from Mr. John Macauley. On 16th May, 2024, the HMO office had requested confirmation of ownership from Mr. Macauley and on 21st May, 2024, confirmation was received from his solicitor that he had been the sole owner of the accommodation since 29th July, 2005.

The Committee was advised that Section 8 of the Houses in Multiple Occupation Act (NI) 2016 required an application for an HMO Licence to be made to the Council by the owner of the living accommodation in question, as the application submitted on 19th April, 2019, was not in the name of the owner, the provisions of Section 8 were not fulfilled. As such, the Council was therefore obligated to consider the application submitted by Mr. Macauley on 16th May, 2024, as a new application.

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The HMO Manager outlined that, pursuant to the 2016 Act, the Council could only grant a licence if it was satisfied that:

- 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, were fit and proper persons;
- c) the proposed management arrangements were satisfactory;
- d) the granting of the licence would not result in overprovision of HMOs in the locality;
- e) the living accommodation was fit for human habitation and—
 - i. was suitable for occupation as an HMO by the number of persons to be specified in the licence, or
 - ii. could be made so suitable by including conditions in the licence.

The Committee was advised that, as it was a new application, the Council's Planning Service was consulted. It had confirmed that a Certificate of Lawful Existing Use or Development ("CLEUD") was granted on 9th September, 2019.

It was reported that the NIHMO Unit had consulted with the Environmental Protection Unit in relation to nighttime and daytime noise; the Public Health and Housing Unit in relation to rubbish accumulation/filthy premises; and the Enforcement Unit in relation to litter and waste and all had confirmed that there had been no relevant enforcement action required in respect of any of the issues in the HMO in the last 5 years. The applicant had confirmed that they had not been convicted of any relevant offences pursuant to the 2016 Act.

For the purpose of Section 12(2) of the 2016 Act, the Council had determined the locality of the accommodation as being Housing Management Area (HMA) "2/22 Botanic, Holylands, Rugby" as defined in the document Council's Local Development Plan Strategy, which was formally adopted on 2nd May, 2023. It was reported that Legal Services had advised that there was a clear requirement in section 8 of the 2016 Act upon the Council to be satisfied that the granting of a licence would not result in overprovision.

The officers had had regard to:

- a) the number and capacity of licensed HMOs in the locality; and
- b) the need for housing accommodation in the locality and the extent to which HMO accommodation was required to meet that need.

To inform the Council in its consideration of the above provisions, the Council had taken account of the 2023 Strategy given that "Nurturing sustainable and balanced

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communities was a fundamental aim of the LDP's housing policies." In particular, the Council had considered Policy HOU10, which stated:

"Within designated HMAs, planning permission will only be granted for Houses in Multiple Occupation (HMOs) and/or flats/apartments where the total number of HMOs and flats/apartments combined would not as a result exceed 20% of all dwelling units within an HMA."

The Committee was advised that, on the date of assessment, 15th October 2024, 88% of all dwelling units in policy area "HMA 2/22" were made up of HMOs and flats/apartments, which in turn exceeded the 20% development limit as set out in Policy HOU10. There were 1131 (46%) licensed HMOs with a capacity of 4784 persons in that HMA.

It was outlined that there were a total of 2476 dwelling units in HMA 2/22. The Committee was advised that the fact that the use of the property as an HMO was permitted for planning purposes was a relevant consideration in determining whether the granting of the licence would result in overprovision.

The Committee was advised that, on 15th October, 2024, out of 47 premises available for rent within the BT7 area on PropertyNews.com there were 12 licensed HMOs which represented 51 bed spaces.

The Houses in Multiple Occupation Manager reminded the Committee that there was a need for intensive forms of housing and, to meet that demand, HMOs were an important component of the housing provision. HMOs, alongside other accommodation options within the private rented sector, played an important role in meeting the housing needs of people who were single, who had temporary employment, students, low income households and, more recently, migrant workers and asylum seekers.

He reported that the Ulster University Director of Campus Life, in December 2022, had advised the Council's City Growth and Regeneration Committee that there was an "increase in competition for HMOs 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 students, families and graduates looking for professional accommodation."

However, the QUB Director of Student Plus had confirmed that the current trend indicated a significant move of students to purpose-built student accommodation blocks. She had advised the Members that there were 7,000 purpose built managed student accommodation (PBMSA) rooms in the city, the majority having been built since 2018, and approximately 5,000 in the city centre.

The Committee was reminded that recent monitoring information produced by the Council's Planning Service for PBMSA indicated that 2055 bedspaces were currently under construction with an operational date of 2024, 92 bedspaces approved but where construction had not yet commenced and a further 1426 bedspaces going through the planning process.

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Therefore, with the continued expansion of the PBMSA sector and students transitioning from private rentals to PBMSAs, it was too early to tell whether the increased competition from non-students for HMOs was a temporary problem which could be managed by the contraction in students residing in existing HMO accommodation within the locality, or evidence of an emerging long-term supply issue.

The Houses in Multiple Occupation Manager explained that, in assessing the number and capacity of licensed HMOs, as well as the need for HMO accommodation in the locality, officers could not be satisfied that the granting of the HMO licence would 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.

The Committee was advised that no objections had been received in relation to the application.

On 12th August, 2024, the accommodation had been certified as complying with the physical standards for an HMO for 5 persons by a technical officer from the NIHMO service.

On 15th October, 2024, pursuant to Paragraph 9 of Schedule 2 of the Houses in Multiple Occupation Act (Northern Ireland) 2016, officers had issued a Notice of Proposed Decision to the Applicant advising that it was proposing to refuse the licence on the grounds of overprovision.

On 6th November, 2024, representations were received on behalf of the applicant from McCann & McCann Solicitors. The correspondence stated that Mr. J. Macaulay had been the sole owner of the property since 29th July, 2005 and that the original HMO registration had been taken out in Mr Macaulay's name and had been renewed by the Council in that name. Mr Macaulay had used an Agent to run the HMO, that Agent being Property People, and they were involved in the applications. Property People also acted for Mr Macaulay's mother, Mary McAulay, in relation to a number of different properties. When the new HMO Act 2016 had come into effect in 2019, a Certificate was issued for 15 Agincourt Street in the name of Mary Macaulay. Mr Macaulay was unclear as to how the Council had managed to issue a licence in the name of Mary Macaulay when he was always the owner and the HMO Applications were always in his name. He had asked the Council to check their records to confirm how the issue had arisen but it had been unable to do so.

Mr. Macaulay applied to renew his HMO Licence for the above property in 2024 and his application was accepted. The HMO Unit had then indicated a Notice of Intention to Refuse a Licence on the basis that it was treating the application as a new application rather than a renewal. Mr. Macaulay submits that the HMO Unit should treat the application as a renewal rather than a fresh application as clearly an administrative error had taken place while the HMO regime was being operated by the Northern Ireland Housing Executive, which had led to his mother's name being placed on the registration, and subsequently the Licence, through no fault of his own.

The basis of the refusal was over provision whereas, if it was treated as a renewal, then the issue of over provision would not arise. Mr. Macaulay maintained that the Council

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would be acting unreasonably if they refused to treat the Application as a renewal, given the administrative error that had occurred through no fault of his own.

The Chairperson welcomed the applicant, Mr. J. Macauley, to the meeting. He reiterated a number of the points which had been made through the correspondence from his solicitor. He also advised the Committee that he had spent a considerable amount of money investing in the upkeep and maintenance of the property. He stated that he kept the rent at an affordable rate and that he had complied with all legislative and regulatory requirements for HMOs since 2006.

He queried how someone who did not own a property could submit an application for an HMO licence and be approved. In response the HMO Manager explained that they were aware of the issue and that officers were considering imposing a new requirement for applicants to provide a proof of title letter as part of the process.

After hearing from the applicant and following some queries from some Members, the City Solicitor confirmed that officers would be content to reconsider the details of the application, if the Committee agreed.

The Committee agreed that officers should reconsider the details of the application, in light of the issues which had been raised.

Chairperson