



Subject:	Applications for a New Licence to operate a House of Multiple Occupation for 11 Penrose Street, Belfast. BT7 1QX
Date:	20 January 2021
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	The Committee, at its December 2020 meeting, was asked to consider whether it would grant or refuse the application for a new HMO licence at 11 Penrose Street, Belfast, BT7 1QX. However based on advice from legal services the report was deferred to allow member to further consider at the January meeting the paper presented on “Proposed process for dealing with new licence applications for premises which previously operated as a HMO” which would have a direct impact on this case.								
1.2	Application details <table border="1" data-bbox="260 1451 1466 1592"> <thead> <tr> <th>Premises</th> <th>Application No.</th> <th>Applicant(s)</th> <th>Managing Agents</th> </tr> </thead> <tbody> <tr> <td>11 Penrose Street Belfast BT7 1QX</td> <td>7621</td> <td>Mr Michael McQuillan & Ms Nicola McQuillan</td> <td>M & M Property Services</td> </tr> </tbody> </table>	Premises	Application No.	Applicant(s)	Managing Agents	11 Penrose Street Belfast BT7 1QX	7621	Mr Michael McQuillan & Ms Nicola McQuillan	M & M Property Services
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11 Penrose Street Belfast BT7 1QX	7621	Mr Michael McQuillan & Ms Nicola McQuillan	M & M Property Services						
1.3	Members will be aware that responsibility for HMO’s was transferred to local district councils in April 2019 with the introduction of a new licensing regime. Any existing registrations under the old NIHE Registration Scheme operated were deemed to be licences at the point of transfer. 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.								
1.4	Background The property was previously licensed as an HMO up and until the 01 August 2019, at which time the licence expired. Prior to the expiry of the licence the NIHMO Unit wrote to the owner on the 11 April 2019 reminding her that the licence on the property was about to expire.								

1.5	On the 04 October 2019 a HMO licence application was received from the owners of the accommodation. As this was a new application the HMO Unit consulted with the Council's Planning Service who on the 7 October 2019 confirmed "that Planning Service has no record of permission for an HMO at this address"
1.6	The council subsequently rejected the application on the 22 October 2019 pursuant to section 8.(2)(a) of the Houses in Multiple Occupation Act (Northern Ireland) 2016 as the occupation of the living accommodation as an HMO would constitute a breach of planning control.
1.7	On the 30 June 2020 a further HMO licence application was received As this is a new application the HMO Unit consulted with the Council's Planning Service who on the 6 July 2020 confirmed that a Certificate of Lawful Use or Development was granted with the planning reference LA04/2019/2931/LDE
2.0	Recommendations
2.1	Taking into account the information presented Committee is asked to hear from the applicant and make a decision to either: <ul style="list-style-type: none"> (i) Grant the application, with or without any special conditions; or (ii) Refuse the application.
2.2	If the application is refused, the applicant has a right of appeal to the County Court. Such an appeal must be lodged within 28 days of formal notification of the decision. The licence will remain in place pending the appeal.
3.0	Main report
3.1	<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.
3.2	As this is a new application the HMO Unit consulted with the Council's Planning Service who on the 6 July 2020 confirmed that a Certificate of Lawful Use or Development was granted with the planning reference LA04/2019/2931/LDE
3.3	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.
3.4	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.

3.5	On the date of assessment, 9 October 2020 there were a total of 1250 licensed HMOs out of 2595 dwelling units in HMO policy area “HMO 2/22 Botanic, Holylands and Rugby” which equates to 52% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 1250 licensed HMOs have a capacity of 6024 persons. The total number of dwelling units in a Policy Area is measured by Ordnance Survey’s Pointer database.
3.6	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.
3.7	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.”
3.8	At the time of writing this report there were 62 properties advertised for let as student houses on the website Property News in BT7 with a capacity of 253 bed spaces. It would therefore appear that there is sufficient supply of HMO accommodation in the area.
3.9	The fact the use of the property as a 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 a HMO.
3.10	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.
3.11	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.
3.12	<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) Cleansing Enforcement (“CE”) - 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,

Fitness

- 3.13 The applicants and managing agent have confirmed that they have not been convicted of any relevant offences as set out at paragraph 3.4 of this report.
- 3.14 The applicant or managing agent have not been convicted of any HMO related offences by the Council. The EPU, PHHU and CE, 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.
- 3.15 Officers are not aware of any other issue relevant to the Applicant's fitness.

Attendance

- 3.16 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

- 3.17 An inspection of the premises was carried out by Officers from the Service on 17 July 2020 at which time it was established that the property meet the physical standards for an HMO.

Notice of proposed decision

- 3.18 On the 13 October 2020, 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.

The notice of proposed decision stated that the council proposed to refuse the licence.

- 3.19 A statement of reasons for the proposal was included in the notice of proposed decision.

Statement of reasons for the proposed decision

The statement of reasons outlined the following as the Council's basis for refusal:-

Pursuant to section 12 of the Houses in Multiple Occupation Act (Northern Ireland) 2016 "2016 Act" the Council is satisfied that the granting of the HMO licence will result in overprovision of HMO accommodation in the locality of the accommodation for the purpose of section 8(2)(d) of the 2016 Act.

For the purpose of section 12(2) of the Act the Council has determined the locality 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 (the "2015 Plan")

In making this decision the Council has had regard to –

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

<p>3.20</p> <p>3.21</p> <p>3.22</p>	<p>To inform the Council in its consideration of the above provisions, the Council has taken account of the 2015 Plan and in particular, Policy HMO 1 and Policy HMO 2.</p> <p>On the date of assessment, 9 October 2020 there were a total of 1250 licensed HMOs out of 2595 dwelling units in HMO policy area “HMO 2/22 Botanic, Holylands and Rugby” which equates to 52% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 1250 licensed HMOs have a capacity of 6024 persons. The total number of dwelling units in a Policy Area is measured by Ordnance Survey’s Pointer database.</p> <p>Consequently, Officers are satisfied that the granting of the HMO licence will result in overprovision of HMO accommodation in the locality of the accommodation for the purpose of section 8(2)(d) of the 2016 Act.</p> <p><u>Financial and Resource Implications</u></p> <p>None. The cost of assessing the application and officer inspections are provided for within existing budgets.</p> <p><u>Equality and Good Relations Implications</u></p> <p>There are no equality or good relations issues associated with this report.</p>
	<p>Appendices – Documents Attached</p>
	<ul style="list-style-type: none"> • Appendix 1 – Location Map • Appendix 2 – Map of HMO Policy Area “HMO 2/22 Botanic, Holylands and Rugby” • Appendix 3 – Notice of proposed decision • Appendix 4 – Applicants response to the notice of proposed decision.