



Subject:	Addendum Report - Proposed process for dealing with new licence applications for premises which previously operated as a HMO
Date:	20 th January 2021
Reporting Officer:	Nora Largey, Divisional Solicitor, Ext. 6049
Contact Officer:	Vivienne Donnelly, City Protection Manager, Ext. 5325 Kevin Bloomfield, HMO Unit Manager, Ext. 5910

Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>

1.0	Purpose of Report or Summary of main Issues
1.1	To consider how to address the issue of overprovision in respect of certain new applications for a licence to operate a House of Multiple Occupation ('HMO') given the requirements of the Houses of Multiple Occupation Act (NI) 2016.
2.0	Recommendations
2.1	The purpose of this report is to update members in respect of representations received subsequent to Committee's last meeting on 16 th December 2020.
2.2	Committee is asked to note the contents of this report and determine whether to agree the recommendation in the substantive report from December; namely:
2.3	That all new applications received up to and including 1 st March 2021 where the premises have previously operated as a HMO and have the benefit of planning permission and/or a CLUD will not be considered to result in overprovision given there appears to have been a generally held misconception that planning permission must be obtained before an application for renewal of a licence was submitted.
2.4	That officers write to all HMO licence holders whose licence is due to expire before 1 st March 2021 and explicitly advise that if they fail to apply to renew the application before that date the Council will, in accordance with the requirements of the 2016 Act, assess whether the grant

	of a licence would result in a breach of planning control or result in overprovision of HMO accommodation in the locality.
3.0	Main report
	<u>Key Issues</u>
3.1	A copy of the minutes in relation to December Licensing Committee in at Appendix One.
	Correspondence from Belfast Holyland Regeneration Association
3.2	Since Committee's last meeting correspondence has been received from Tony McGuinness on behalf of Belfast Holyland Regeneration Association. A copy of that email is appended to this report at Appendix 2.
3.3	Officers have carefully considered the representations which have been received and believe the recommendation to Committee is legally robust.
3.4	The correspondence asks why the Council does not propose to revoke those licences which were granted prior to counsel's advice being sought.
3.5	There is no proposal to revoke licences in respect of which over provision was not taken into account as a separate and distinct issue to planning permission. Legal Services have advised that any such revocation is likely to be subject to the same concerns about fairness and the ability to successfully defend any appeal. This is based upon a number of considerations, including the common misconception that the Council would automatically refuse a renewal application where the owner did not have the benefit of planning permission or a CLEUD.
3.6	It was alleged that the paper's advice that there are no equality or good relations issues which arise from the proposal 'insults residents of affected areas' due to the overprovision of HMOs. Officers acknowledge that overprovision of HMO's in certain areas of the city is controversial. However it is not considered that this limited proposal would give rise to an equality or good relations issue which would require the Council to screen the decision.
3.7	Having considered representations from those landlords who would be affected, officers would propose that all new applications received up to and including 1 st March 2021 where the premises previously operated as a HMO and have the benefit of planning permission and/or a CLUD will not be considered to result in overprovision. Officers will also write to all HMO licence holders whose licence is due to expire before 1 st March 2021 and explicitly advise that if they fail to apply to renew the application before that date the Council will, in accordance with the requirements of the 2016 Act, assess whether the grant of a licence would result in a breach of planning control or result in overprovision of HMO accommodation in the locality. They will be further advised that this may result in the refusal of the application even if the premises has planning permission or previously operated as a HMO.
3.8	In relation to the number of unlicensed HMOs, this query is specifically raised in relation to the application for Penrose Street, Belfast which is also before Committee this evening. There are no live enforcement investigations by either Planning Service or NIHMO Unit in relation to alleged HMOs in that street. Council continues to take enforcement action in respect of any unlicensed HMO properties which come to its attention or those without planning permission.

	<p>Correspondence from McCann & McCann Solicitors</p>
3.9	Correspondence has also been received from McCann & McCann solicitors asking that we extend the proposed transitional period from 1st March 2021 for a further 3 months until 30 th June 2021. This is due to the deferral of the report from December and also due to the current Covid pandemic and the current restrictions. A copy of that correspondence is attached at Appendix 3.
3.10	Officers have advised the solicitors that this request would be placed before Committee for consideration. They were however advised that it is the responsibility of landlords to apply to renew their licences before their current licence has expired.
3.11	Furthermore, officers advised that its standard HMO renewal, reminder letter has been amended, to remind licence holders that should they fail to renew their licence on time, the Council will take into account planning permission and overprovision as two distinct issues. Officers have also issued further reminder letters to those approaching the date for the renewal of their licence, and whom had already been issued with reminder letters, previously.
	<p>Other issues</p>
3.12	Officers believe it may be helpful to provide some further clarity for members following on from the discussion which took place at Committee in December.
	<p>Reference to ‘new applications’ in December Committee report</p>
3.13	It is important to clarify that the reference to ‘new’ applications should be considered in the context of this report, which is those applications which are essentially an out of time renewal application rather than a new licence. It is also limited to those properties where it is alleged that the failure to renew on time was due to the misconception that planning was required. All of these premises have planning permission/CLEUD and have previously been registered as a HMO under the old NIHE scheme.
3.14	The report is not intended to deal with all new applications and the transitional period will not apply to any licences which are due to expire after 1 st March 2021.
3.15	By way of example, in paragraphs 2.1, 3.6 and 3.14 of the report, there is reference to ‘new’ applications but this is only a reference to the limited number of applications which this proposal directly relates to, which is considered to be approximately 30-35 properties throughout the city.
	<p>Transfer of ownership</p>
3.16	Overprovision will not lead to a refusal where there is a transfer of ownership. However this is only where there is a live HMO licence held by the vendor. This remains valid until the property is transferred. Therefore the number of licences in the area remain the same.
	<p><u>Financial and Resource Implications</u></p>
3.17	None.
	<p><u>Equality and Good Relations Implications</u></p>
3.18	There are no equality or good relations issues associated with this report.
4.0	<p>Appendices:</p> <p>Appendix One – Minutes of December Licensing Committee meeting</p>

Appendix Two - Email from Tony McGuinness – 11th January 2021

Appendix Three – Letter from McCann & McCann solicitors – 8th January 2021

Appendix Four – Original report to December 2020 meeting of Licensing Committee