



Subject:	Application for a New Licence to operate a House of Multiple Occupation for 5 Riverview Street, Belfast, BT9 5FD
Date:	16 March 2022
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	To consider an application for a Licence permitting the use of premises as a House in Multiple Occupation (HMO). <table border="1" data-bbox="260 1216 1468 1355"> <thead> <tr> <th>Premises</th> <th>Application No.</th> <th>Applicant(s)</th> <th>Managing Agents</th> </tr> </thead> <tbody> <tr> <td>5 Riverview Street Belfast BT9 5FD</td> <td>8908</td> <td>Mr Che Gill</td> <td>Hampton Estate Agency Limited T/A Hampton Estates</td> </tr> </tbody> </table>	Premises	Application No.	Applicant(s)	Managing Agents	5 Riverview Street Belfast BT9 5FD	8908	Mr Che Gill	Hampton Estate Agency Limited T/A Hampton Estates
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5 Riverview Street Belfast BT9 5FD	8908	Mr Che Gill	Hampton Estate Agency Limited T/A Hampton Estates						
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. <u>Background</u>								
1.3	The property had the benefit of an HMO licence granted by the Northern Ireland Housing Executive (“NIHE”) which expired on the 16 March 2021 for 4 persons.								
1.4	A reminder letter was sent to the owner on the 28 January 2021 informing him that his licence would be expiring on the 16 March 2021 and informing him that, “if you do not submit the application before the existing licence expires any future application will be treated as a <u>New Application</u> and the council may only grant the licence if it is satisfied that the occupation of the accommodation as an HMO would not constitute a breach of planning control or would result in overprovision of HMOs in the locality.” (Appendix 3)								
1.5	The owner applied for a temporary exemption notice “TEN” on the 14 May 2021 and specified the following steps with a view to securing that the HMO ceases to be an HMO - “We intend to serve a 12 week notice to quit to the tenants at the property in line with the current Covid-								

<p>1.6</p> <p>1.7</p>	<p>19 regulations informing the tenants that the house cannot be occupied as an HMO whilst the licence has expired”. The TEN was granted on the 17 May 2021.</p> <p>On the 14 May 2021 an HMO licence application was received from the owner of the accommodation. The NIHMO Unit subsequently rejected the application on the 1 June 2021 as the granting of the new licence would constitute a breach of planning control.</p> <p>On the 17 November 2021 an HMO licence application was received from the owner of the accommodation.</p>
<p>2.0</p>	<p>Recommendations</p>
<p>2.1</p> <p>2.2</p>	<p>Taking into account the information presented Committee is asked to hear from the Applicant and make a decision to either:</p> <ul style="list-style-type: none"> (i) Grant the application, with or without any special conditions; or (ii) Refuse the application. <p>If the application is refused, the Applicants have a right of appeal to the County Court. Such an appeal must be lodged within 28 days of formal notification of the decision.</p>
<p>3.0</p>	<p>Main report</p>
<p>3.1</p> <p>3.2</p> <p>3.3</p> <p>3.4</p>	<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. <p><u>Planning</u></p> <p>As this is a new application the NIHMO Unit consulted with the Council’s Planning Service who on the 19 November 2021 confirmed that a Certificate of Lawful Existing Use or Development (“CLEUD”) was granted with the planning reference LA04/2021/1905/LDE.</p> <p><u>Fitness</u></p> <p>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.</p> <p>The NIHMO Unit has consulted with the following units within the Council’s City and Neighbourhood Services Department –</p>

	<p>(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,</p> <p>(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,</p> <p>(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,</p> <p>(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,</p>
3.5	The Applicants 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.
3.6	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.
3.7	Officers are not aware of any other issues relevant to the Applicant’s fitness.
	<u>Overprovision</u>
3.8	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 2/19 Stranmillis” as defined in the document “Houses in Multiple Occupation (HMOs) Subject Plan for Belfast City Council Area 2015.
3.9	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.
3.10	On the date of assessment, 17 January 2022 there were a total of 342 licensed HMOs in HMO policy area “HMO 2/19 Stranmillis” which equates to 45% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 342 licensed HMOs have a capacity of 1466 persons.
3.11	The total number of dwelling units in a Policy Area is measured by Ordnance Survey’s Pointer database.
3.12	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.
3.13	The council recognises that there is a need for intensive forms of housing and to meet this demand, Houses in Multiple Occupation (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.
3.14	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.”
3.15	On the <i>21 January 2022</i> there were 5 licensed HMOs advertised for let on the website Property News in BT9, <i>from the information provided on the website this represented 16 bed spaces, although not all of these may have been available for immediate occupancy.</i>
3.16	<i>A survey of 45 properties undertaken on 21 January 2022 determined there was accommodation available in 5 licensed HMOs advertised on the website Property News in BT9. From the information provided on the website this represented 16 bed spaces, although not all of these may have been available for immediate occupancy.</i>
3.17	Anecdotal evidence from conversations with HMO managing agents suggest that that there is currently a lack of HMO accommodation available in the locality. It is too early to tell whether this is a temporary problem or evidence of an emerging long-term supply issue.
3.18	The fact 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. There is an argument that it may not do so as the premises are already being used as an HMO.
3.19	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.
	<u>Objections</u>
3.20	No objections have been received in relation to this application.
	<u>Attendance</u>
3.21	The applicant and/or their representatives will be available to discuss any matters relating to the licence application should they arise during your meeting.
	<u>Suitability of the premises</u>
3.22	The accommodation was certified as complying with the physical standards for an HMO by a technical officer from the NIHMO service on the 14 January 2022
	<u>Notice of proposed decision</u>
3.23	On the 27 January 2022, 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 4
3.24	The Notice of Proposed Decision stated that the council proposed to refuse the licence as The Council is not satisfied that-

(a) the granting of the licence will not result in overprovision of HMOs in the locality in which the living accommodation is situated.

A statement of reasons for the proposal was included in the Notice of Proposed Decision.

3.25

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

Overprovision

In accordance with 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 2016 Act. The Council has determined the locality of the accommodation as being HMO Policy Area "HMO 2/19 Stranmillis" 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*

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.

The total number of dwelling units in a Policy Area is measured by Ordnance Survey's Pointer database.

In regard to Section 12(2)(a) the number and capacity of licensed HMOs in the locality.

On the date of assessment, 17 January 2022 there were a total of 342 licensed HMOs in HMO policy area "HMO 2/19 Stranmillis" which equates to 45% of the total dwelling units, which in turn exceeds the 30% development limit as set out at Policy HMO 1. The 342 licensed HMOs have a capacity of 1466 persons.

In regard to Section 12(2)(b) the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need.

A survey of 45 properties undertaken on 21 January 2022 determined there was accommodation available in 5 licensed HMOs advertised on the website Property News in BT9. From the information provided on the website this represented 16 bed spaces, although not all of these may have been available for immediate occupancy.

Anecdotal evidence from conversations with HMO managing agents suggest that there is currently a lack of HMO accommodation available in the locality. It is too early to tell whether this is a temporary problem or evidence of an emerging long-term supply issue.

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.

	<u>Applicant's response to the notice of proposed decision</u>
3.26	On the 3 February 2022 the applicant submitted a written response to the notice of proposed decision (Appendix 4).
3.27	The applicant suggests that his application would have been renewed if the deadline for renewal had not been missed which was caused by, and at the height of the coronavirus pandemic when inspections were unable to proceed due to government guidance.
3.28	The applicant goes on to suggest that the proposed decision is procedurally unfair and unreasonable given the circumstances that were presented at the time. He refers to a letter from the HMO Unit in August 2020 which states, "Belfast City Council, Housing in Multiple Occupation (HMO) are operating a reduced service," and that ..., Council officers are currently unable to undertake HMO inspections, in respect of applications submitted in view of Covid-19 government guidance.
3.29	The letter of August 2020 also states "You can make an application for a licence and payment only at this time. Existing licence holders should submit their renewal application online before the expiry of their existing licence (including the required payment). If the renewal application is received before the expiry date the existing licence will, pursuant to the provisions of Section 21 of the Houses in Multiple Occupations Act (Northern Ireland) 2016, continue to have effect until the application is determined.
3.30	The applicant refers in his response to the statement made to this committee in May 2021 by David Polley, the DfC Director of Housing Supply "The legislation is quite explicit that it was not intended to reduce the number of HMOs which were already there. The explanatory memorandum for Section 20 does say that an application to renew cannot be refused on the grounds of overprovision."
3.31	As this application was submitted after the existing licence expired, this is a new licence application and Section 20 does not apply.
	Financial and Resource Implications
3.32	None. The cost of assessing the application and officer inspections are provided for within existing budgets.
	Equality and Good Relations Implications
3.33	There are no equality or good relations issues associated with this report.
	Appendices – Documents Attached
	<ul style="list-style-type: none"> • Appendix 1 – Location Map • Appendix 2 – Reminder letter dated 28 January 2021 • Appendix 3 – Notice of Proposed Decision dated 27 January 2022 • Appendix 4 - Applicant appealing proposed decision