

ABERDEEN CITY COUNCIL

COMMITTEE	Communities, Housing & Infrastructure
DATE	19 th May 2015
DIRECTOR	Pete Leonard
TITLE OF REPORT	Houses in Multiple Occupation – Old Aberdeen Community Council Area
REPORT NUMBER:	CHI/15/156
CHECKLIST RECEIVED	Yes

1. PURPOSE OF REPORT

The Communities, Housing & Infrastructure Committee on the 28th of October 2014 received a report on the current provision of HMOs in the Old Aberdeen Community Council area. Committee agreed that a meeting be set up between the Chief Executive, the Council Leader and all interested parties to identify the main problems and to try to find common ground in relation to the issues set out in the report

This report provides details on the meeting which was held on 31st March 2015.

2. RECOMMENDATION(S)

It is recommended that Committee note the contents of this report and requests that an update on the provision of HMOs in the Old Aberdeen Community Council area is included in the report instructed by Committee in August 2013 on the review of the city wide position of HMOs. This report is due to be submitted to Committee in August 2016.

3. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

4. OTHER IMPLICATIONS

There are no other implications arising from this report.

5. BACKGROUND/MAIN ISSUES

At its meeting on the 27th August 2013 the Housing & Environment Committee agreed that no policy on HMO overprovision be introduced

following analysis of the current HMO provision in the City and the responses to a public consultation.

The Director of Housing and Environment was instructed to continue to monitor policy and legal developments in HMO overprovision across Scotland and report back to Committee, as appropriate, if there were developments which required the Council's position on HMO overprovision to be reviewed.

Committee agreed that a review of the position of overprovision should be formally undertaken in 2016 (if this has not been required earlier) and to request officers monitor the HMO provision in Old Aberdeen and report back in 12 months.

On 28th October 2014 Committee received the report on the provision of HMO accommodation in the Old Aberdeen Community Council area. Committee then agreed that a meeting be set up between the Chief Executive, the Council Leader and all interested parties to identify the main problems and to try to find common ground in relation to the issues set out in the report.

This meeting with interested parties was held on 31st March 2015.

In attendance were one elected member and representatives from Old Aberdeen Community Council, Old Aberdeen Heritage Society, University of Aberdeen, Aberdeen University Student Association, planning and housing officers from the Communities, Housing & Infrastructure Service. Invitations had also been extended to landlord representatives but they were unable to attend.

During the meeting officers from the City Council took the opportunity to explain the process followed when an application for an HMO licence is received and the legislation which sits behind this. Senior officers from the Planning team took the opportunity to explain further the role played by Planning, where appropriate in the process. It was important to do this as it is sometimes not clear regarding the role of each team and the legislation they work with.

As part of the general discussion concerning the HMO and landlord licensing process an explanation was provide on the role the City Council could play in relation to any concerns regarding individual HMO or licence which is causing concern.

The City Council are active in pursuing any inappropriate behaviour by either a landlord or resident but are often dependent on receiving reports or complaints that can bed followed up. To that end everyone in attendance was encouraged to contact either the private sector housing team or the Anti - Social Behaviour Investigation Team who deal with concerns regarding any individual property who would investigate any report.

Officers agreed to follow up any suggestions that were made with regard to how we could assist in mitigating some of the issues that arise from time to time. In particular discussions will be held with the waste team to establish what if anything can be done to help with both overflowing bins and indeed issues that arise at the end of term with regard to an increase in refuse following tenancy turnover. Clearly some of the concerns expressed were shared by both Student representatives as well as community representatives. The student representatives have agreed to have an early meeting with the private sector housing team to discuss how we can improve the performance by landlords in this area through either the landlord registration or HMO process.

Finally and by no means lastly we discussed at length the issue of overprovision of HMO's and the difficulties posed by the wording of the legislation and the quality of the guidance provided by The Scottish Government. The difficulties we have in Aberdeen in defining either what constitutes overprovision or defines a locality are shared with other local authorities. Requests for further clarification from The Scottish Government have not been productive to date. The absence of clear guidance does not allow us to easily define overprovision and introduce a policy which might not lead to a challenge regarding the basis for our policy. As we explained in determining whether there is overprovision we need to consider the demand for HMO provision. Clearly within this City demand remains at the traditionally high levels, in particular within close proximity of the University. Whilst the discussion was not solely regarding students, information was provided on the proposed new purpose built student developments within the City which will provide close to 2,000 new bed spaces over the next 2 years or so. Subject to attractive pricing of this new provision this may have a significant effect on demand for individual HMO accommodation in the community, whereby the market itself will regulate supply.

The City Council will continue to monitor the impact of HMO's on communities as well as the housing sector as a whole and further reports by officers will be provided to committee regarding this.

A copy of the letter sent to the participants following the meeting is attached as Appendix 2.

6. IMPACT

Corporate – None arising from this report.

Public – This report will be of interest to the public given their interest in HMOs as a form of accommodation.
An EHRIA has not been completed.

Aberdeen- Smarter City Vision – This report provides factual information requested by a previous Committee. This report however could be linked to the Smarter City Priority below:

Smarter Economy: High Level Priority

“We will improve access to affordable housing in both the social rented and private sectors, by supporting first-time buyers, regenerating areas within the city and by working with developers to maximize the effective use of developer contributions.”

7. MANAGEMENT OF RISK

The report provides factual information on HMOs and the OACC area with a recommendation to note the report.

The Council in determining an application for an HMO licence is ultimately open to legal challenge by either an applicant or objector. Any such challenge could lead to a decision by the Licensing Committee being reviewed by a Sheriff.

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8. BACKGROUND PAPERS

9. REPORT AUTHOR DETAILS

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Private Rented Housing (Scotland) Act 2011

131A Overprovision

- (1) The local authority may refuse to grant an HMO licence if it considers that there is (or, as a result of granting the licence, would be) overprovision of HMOs in the locality in which the living accommodation concerned is situated.
- (2) In considering whether to refuse to grant an HMO licence under subsection (1), the local authority must have regard to—
 - a) whether there is an existing HMO licence in effect in respect of the living accommodation,
 - b) the views (if known) of—
 - i. the applicant, and
 - ii. if applicable, any occupant of the living accommodation,
 - c) such other matters as the Scottish Ministers may by order specify.
- (3) It is for the local authority to determine the localities within its area for the purpose of this section.
- (4) In considering whether there is or would be overprovision for the purposes of subsection (1) in any locality, the local authority must have 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,
 - c) such other matters as the Scottish Ministers may by order specify.
- (5) Before making an order under subsection (2)(c) or (4)(c), the Scottish Ministers must consult—
 - a) local authorities,
 - b) such persons or bodies as appear to them to be representative of the interests of—
 - i. landlords,
 - ii. occupiers of houses, and
 - c) such other persons or bodies (if any) as they consider appropriate (which may include landlords or occupiers of houses)”.

4.11A SECTION 131A – OVERPROVISION

4.11A.1 The local authority has the discretionary power to refuse to grant an HMO licence if it considers that there is, or that the grant of a licence would result in, overprovision of HMOs in the locality. It is for the local authority to determine the locality. In considering whether to refuse to grant a licence on this ground the local authority must have regard to whether there is an existing HMO licence in effect in respect of the living accommodation and, where known, the views of the applicant and any occupants. In considering whether there is overprovision, the authority must have regard to the number and capacity of licensed HMOs in the locality, as well as the need for HMO accommodation in the locality.

4.11A.2 Generally an HMO licence is granted for three years. Where there are large numbers of HMOs it will be open to a local authority as to how it treats applications from existing owners. If it refuses an application from an existing owner it will reduce HMO numbers, but this will have an adverse impact on existing landlords and possibly tenants.

4.11A.3 It will be for local authorities to decide whether and how to apply this power. Scottish Ministers would however expect local authorities who wished to use this power to develop, and consult on, an explicit overprovision policy. Local authorities may wish to jointly develop best practice guidance to facilitate this process.

Our Ref.
Your Ref.
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2 April 2015



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Dear ,

Old Aberdeen

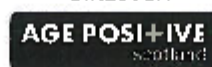
Thank you for coming to Marischal College on the 31st March 2015 to discuss concerns regarding the potential overprovision of HMO licences within your neighbourhood. It was particularly helpful to have representatives of not just local residents but also the University and Students Association. As I indicated to you I will be pulling a report of this meeting to the next Communities, Housing and Infrastructure Committee on the 19th May.

During the meeting officers from the City Council took the opportunity to explain the process followed when an application for an HMO licence is received and the legislation which sits behind this. Senior officers from our Planning team had the opportunity to explain further the role played by Planning, where appropriate in the process. I think it was important for us to do this as it is sometimes not clear regarding the role of each team and the legislation they work with.

As part of the general discussion concerning the HMO and landlord licencing process I was able to explain to everyone what role the City Council could play in relation to any concerns regarding any individual HMO or licence which is causing concern. We are active in pursuing any inappropriate behaviour by either a landlord or resident but we are often dependent on receiving reports or complaints that we can follow up. To that end I encourage anyone with concerns regarding any individual property to contact either the private sector housing team or the Anti - Social Behaviour Investigation Team who will follow up any report.

I agreed to follow up any suggestions that were made with regard to how we could assist in mitigating some of the issues that arise from time to time. In particular I will discuss with colleagues in our waste team what if anything can be done to help with both overflowing bins and indeed issues that arise at the end of term with regard to an increase in refuse following tenancy turnover. Clearly some of the concerns expressed were shared by both Student representatives as well as community representatives. I am pleased that the student representatives have agreed to have

PETE LEONARD
DIRECTOR



an early meeting with my private sector housing team to discuss how we can improve the performance by landlords in this area through either the landlord registration or HMO process.

Finally and by no means lastly we discussed at length the issue of overprovision of HMO's and the difficulties posed by the wording of the legislation and the quality of the guidance provided by The Scottish Government. The difficulties we have in Aberdeen in defining either what constitutes overprovision or defines a locality are shared with other local authorities. Requests for further clarification from The Scottish Government have not been productive to date. The absence of clear guidance does not allow us to easily define overprovision and introduce a policy which might not lead to a challenge regarding the basis for our policy. As we explained in determining whether there is overprovision we need to consider the demand for HMO provision. Clearly within this City demand remains at the traditionally high levels, in particular within close proximity of the University. Whilst I understand that the discussion we had was not solely regarding students, we were able to provide an indication of proposed new purpose built student developments within the City which will provide close to 2,000 new bed spaces over the next 2 years or so. Subject to attractive pricing of this new provision this may have a significant effect on demand for individual HMO accommodation in the community, whereby the market itself will regulate supply.

The City Council will continue to monitor the impact of HMO's on communities as well as the housing sector as a whole and further reports by officers will be provided to committee regarding this.

Thank you for attending the meeting I hope you found it helpful. I certainly did in order to understand better the issues and also the views of different interested parties.

Yours Sincerely



Donald Urquhart
Head of Communities and Housing

CC:
David Dunnie
Gale Beattie
George Wood
Ronald Leith
Gordon Mutch
Jean Morrison
Wendy Cruickshank
Emily Beevor
Dominic O'Lagan
Leith Forsyth
Doug Yeats
Graeme Stuart