

ABERDEEN CITY COUNCIL

COMMITTEE	Communities, Housing & Infrastructure
DATE	24 January 2017
DIRECTOR	Pete Leonard
TITLE OF REPORT	Houses in Multiple Occupation Overprovision
REPORT NUMBER	CHI/16/121
CHECKLIST COMPLETED	Yes

1. PURPOSE OF REPORT

The purpose of this report is to determine whether the Council should introduce a Houses in Multiple Occupation Overprovision Policy in the city.

2. RECOMMENDATIONS

It is recommended that Committee:

- a) Notes the information on the number and capacity of licensed Houses in Multiple occupation in all 13 wards and the 37 neighbourhoods;
- b) Notes the general and limited assessment of the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need as is required to be undertaken in forming an HMO overprovision policy.
- c) Does not progress a policy on HMO overprovision at this time.
- d) Notes that the Council's HMO online register is being enhanced to make it easier to access information about HMO licences and application.

3. FINANCIAL IMPLICATIONS

No immediate financial implications, however the cost of a system upgrade for managing HMO administration would require to be met.

4. OTHER IMPLICATIONS

The introduction of an HMO overprovision policy would lead to additional work for the HMO unit in providing information regarding the number of HMOs licensed in the designated area and by officers in licensing and committee services in view of the increase in applications that will be placed before the Committee.

The current ICT application used to manage HMO related administration requires to be replaced and a new system would be required in order to efficiently administer any overprovision policy.

5. BACKGROUND/MAIN ISSUES

5.1 Background

In 2011 the Housing (Scotland) Act 2006 (“the 2006 Act”) was amended to introduce provision for licensing authorities to refuse applications for HMO licences on the grounds of overprovision. In order to utilise this ground of refusal, a licensing authority must have a policy on overprovision in place and having regard to the relevant provisions of the 2006 Act.

Section 131A of the Housing (Scotland) Act 2006 (see Appendix 1) states that in considering whether there is overprovision of HMOs the local authority must have regard to:

- i. the number and capacity of licensed HMOs in any locality; and,
- ii. the need for housing accommodation in the locality together with the extent to which HMO accommodation is required to meet that need.

Accordingly the local authority must carry out an assessment of housing need in each locality. It is for the local authorities determine its localities as it sees fit.

Appendix 2 sets out the Scottish Government’s Statutory Guidance on the legislation. Officers have sought further guidance from the Scottish Government particularly in respect of the requirement to have regard to ‘the need for housing accommodation in the locality together with the extent to which HMO accommodation is required to meet that need’ in light of limitations of the guidance.

The most recent of a number of reports to committee was made on 15 March 2016 and committee requested the following:

- i. the number and capacity of licensed Houses in Multiple Occupation in all 13 wards and broken down to proposed localities within each ward;
- ii. the need for housing accommodation in each proposed locality and the extent to which HMO’s are required to meet that need;
- iii. a recommendation on whether or not the Council ought to set a threshold for overprovision of HMO’s in the relevant localities, including proposals for the levels of thresholds for each locality; and,
- iv. advice from the Council’s legal officers on the issues which need to be addressed before Committee should consider the introduction of a HMO overprovision policy.

The need to consider the introduction of an overprovision policy is in response to representation from a relatively low number of community groups in the City that there has been an excessive number of HMOs authorised within their community. There has been particularly strong representation from Old Aberdeen Community Council who assert that this has been harmful to the appearance of their home environment and the cohesiveness of their community.

5.2 House in Multiple Occupation by Electoral Ward

Appendix 3a details the number of granted HMOs, current applications and the total number of properties in each of the current electoral wards. Appendix 3b sets out the bedspaces within each electoral ward.

At the date this information was extracted there were 1,185 granted HMOs and a further 191 applications. There are 115,529 residential properties in the city.

Therefore over the city 1.02% of properties are HMOs with a further 0.17% having a current application. If all applications were licenced then 1.19% of the properties in the city would be HMOs.

Four wards have a higher percentage of HMOs to total residences than the city average of 1.19%:

Ward	Percentage of HMOs
George Street/Harbour	3.70%
Tillydrone/Seaton/Old Aberdeen	3.30%
Airyhall/Broomhill/Garthdee	2.08%
Hilton/Woodside/Stockethill	1.46%

5.3 House in Multiple Occupation by Census Output Areas (COAs)

COAs are defined by the General Register Office for Scotland for the purposes of producing and publishing census results and are the smallest area for which census data is freely available. In Aberdeen City COAs vary in size between 22-105 households per area. There are 1,992 COAs in Aberdeen City and as can be seen from the table below, 93% (1,854) have 2 or less HMOs per COA.

No of HMOs within COA	No of COAs	%age of COAs within each banding
0	1572	78.9%
1-2	282	14.2%
3-4	73	3.7%
5-8	49	2.4%
9-13	13	0.6%
14-26	3	0.2%
Total	1992	100%

Appendix 4 details the COAs in the city 10% or above HMOs compared against total residential properties in the COA. There are 50 COAs with ratios at 10% or above. The greatest concentration of COAs at 10% or higher are in the vicinity of the University of Aberdeen. Of the 50 COAs with levels at 10% or above, 43 are at 20% or under concentration. 7 are above 20% with the highest concentrations in the following streets/areas:

Criagievar Crescent	22.2%
Great Northern Road/Lilybank Place	25%
University Road	26.8%
Orchard Road	31.5%
Orchard Street	41.4%
Elmfield Avenue	42.6%
Willowbank Road	42.6%

Reviewing HMOs by COA we can see that most of the City has a low density of HMO provision whilst a relatively small number of COAs have a disproportionately high density of HMO. The HMO Overprovision Consultation of 2015 found that 59.18% of respondents did not wish COAs to form the basis for determining HMO provision. However this majority view may be more reflective that the most respondents were against the introduction of an overprovision policy rather than the COA was not a suitable locality definition. The COAs

comprise a very low number of households and it is not possible to accurately determine housing need at such a level. With the COA comprising a very low number of properties a policy formed using COA as the locality would be effective in dealing with the localised high concentrations of HMOs.

5.4 House in Multiple Occupation by Neighbourhood

Alternative localities for consideration is by the city's 37 neighbourhoods. The draft community empowerment guidance sets out criteria on localities for locality planning purposes. It states that a locality should be either an electoral ward or a geographic area with a population which does not exceed 30,000. Further, the locality area constitutes a natural community. For these purposes a natural community will reflect a sense of local community identity and promote community cohesion, as these can be important factors for encouraging communities to participate in locality planning. The community planning partnership has earlier undertaken extensive analysis and community engagement to identify 37 neighbourhoods within the city for locality planning purposes. Neighbourhoods are far larger than COAs and generally smaller than wards.

Appendix 5 sets out the information on HMOs at a neighbourhood level.

Eleven neighbourhoods have a higher ratio of HMOs than the city average of 1.19%:

Neighbourhood	Percentage of HMOs
Froghall, Powis and Sunnybank	10.1%
Garthdee	5.1%
Hanover	3.2%
Old Aberdeen	3%
City Centre	2.9%
Woodside	2.8%
Seaton	1.8%
George Street	1.8%
Ashgrove	1.3%
Hilton	1.3%
Tillydrone	1.2%

Combining the number of households within the Froghall, Powis and Sunnybank and Old Aberdeen neighbourhoods together the percentage of HMOs is 7.8%.

Appendices 6 – 9 show the location of HMOs on maps of the 4 Neighbourhoods with highest concentrations of HMOs.

Formulating a policy based on neighbourhoods is likely to be less effective in addressing high concentrations of HMOs, for example in a single or small number of streets within a neighbourhood.

5.5 Assessment of Need

As earlier stated section 131A of the 2006 Act requires that “the need for housing accommodation in the locality and the extent to which HMO accommodation is required to meet that need” should be assessed at the same locality at which the threshold would be applied. Officers assess that further guidance is required to robustly undertake this assessment. However, taking into account the purpose of the legislation, namely to allow local authorities to refuse to grant a HMO licence if this would result in overprovision of HMOs in the locality, if the Committee wishes to introduce an overprovision policy under

section 131A of the 2006 Act legal advice is that the best option is to base such a policy on facts and local knowledge alongside a general assessment of housing need across the city and the extent to which HMOs may be required to meet that need with the proposed localities.

Aberdeen's Local Housing Strategy 2012 – 2017 informed by a comprehensive Housing Demand Needs Assessment set out a shortage of affordable housing in the city which required 415 new affordable houses per annum over the ten year period from 2012. The priority is for affordable 1 or 2 bedroom property throughout the city.

Presently there are 6513 applicants waiting for housing from Aberdeen City Council across all lists (Discretion/Committee, Support, Transfer, Urgent Rehousing and Waiting list) and 4120 require a one bedroomed property. 3332 applicants are on the mainstream waiting list and of these applicants 1891 are waiting for 1 bedroomed property, which has very low availability compared with demand.

Provision of temporary accommodation for people being assisted under homeless legislation remains relatively high with around 560 temporary accommodations provided at any time.

Appendix 10 sets out the Council's housing waiting list for 1 bedroomed properties by area for the letting areas identified as being in the same or similar vicinity to the neighbourhoods with higher concentrations of HMOs. The table shows the number of properties let in those areas during the year to October 2016 and the extent to which demand is met by ACC alone.

It should be noted that applicants can apply for multiple areas and property types but it is possible to consider the impact at a neighbourhood level by assimilating the demand for the above letting areas to the neighbourhood most closely identified with them (Appendix 11). By using the mean score of number of applicants to demonstrate the level of demand in each neighbourhood it is clear that demand cannot be met by Council housing alone and that the private market must play a significant role in housing provision.

The neighbourhoods with highest concentrations of HMOs are predictably close to the city's two Universities, the University of Aberdeen and the Robert Gordon University and our reasonable assessment is that students are the main occupants of HMOs in these neighbourhoods. Appendix 12 sets out student numbers. This shows that overall the number of students has not varied significantly over the five year period.

This year has seen a change in occupancy rates of HMOs. Aberdeen University Student Advice Centre, who deal with students within the private rented sector, confirmed that rental charges overall have been more reasonable for students this year and have allowed greater choice in how they choose to live. They advised that students would previously have expected to pay £400+ for a room in a shared flat and this year the price is on average £300-£350. Although, they advise, that students prefer to live in shared private housing as opposed to purpose build student accommodation due to cost.

This is also confirmed by the Aberdeen Student Accommodation Service that they have adequate provision for students this year within their own halls or through arrangements with partners. They have empty rooms available and currently have no waiting lists.

Within the private rental sector, leasing agents Aberdeen Property Leasing confirmed they have 11 unlet HMOs available within the Aberdeen University area which has not been the case, in their experience, in recent years. They advised that the properties are primarily in the Bedford Road, Bedford Place, King Street and Linksfield areas.

There are a considerable number of purpose built student accommodation residences either currently under construction, or in the development pipeline, which will result in additional student bed spaces across the City.

At Causewayend there are 2 developments recently completed with HMO licences giving a combined 668 bed spaces.

A third development on Powis Place has just commenced which will provide a further 173 bed spaces which as self contained rooms will not require a HMO licence. There is also a development of 123 self contained rooms recently completion on St Peter's Street. This is targeted at the student market and is not a HMO property.

By way of an explanation, an HMO licence is required if the occupants are sharing kitchen and/or bathroom facilities. Most purpose-built student accommodation is based on the model of a 5 or 6 en-suite bedroom flat with a shared kitchen/living area, for which an HMO licence is required. Newer 'up-market' student accommodation is based on the model of individual bed-sit type accommodation, ie. Each room includes a shower-room, kitchenette & living/bed space, for which no HMO licence is required. Thus it can be seen that not all student accommodation requires an HMO licence.

The developments at Causewayend and Powis Place are located directly on the boundary of the Froghall, Powis and Sunnybank and George Street neighbourhoods and the St Peter's Street development is within the Froghall, Powis and Sunnybank neighbourhood itself. These areas have some of the highest density of HMO accommodation given their close proximity to Aberdeen University.

In Garthdee, approval was granted in November 2016 for a development of student accommodation on the site of the former Caledon Public House in Auchinyell Road. This will provide up to 200 bedspaces in self contained rooms for which no HMO licence is required.

Although HMO accommodation is not solely occupied by students, they do form a large part of the HMO clientele. Therefore, it is anticipated that the number of additional spaces coming onto the market may impact on the smaller HMO provider.

The changes in the local economy are having a knock-on effect on the private rented housing market in Aberdeen. For the first time in several years, there is a reduction in demand resulting in a reduction in rents. It is unknown what impact this may have on landlords investing in the market. It has however meant that access to the private rented sector has become easier given the reduced demand and lower rentals and it could therefore be said that there will be an increase in availability in accommodation to meet any future housing need.

The table below compares the number of new and renewal HMO applications from June to November 2015 to the same period in 2016. There has been a reduction of 23.3% in the total number of new applications, a reduction of 25% in the total number of renewal applications. When the total number of applications are compared, the overall reduction of 24.4%

Month	2015			2016		
	New	Renewal	Total	New	Renewal	Total
June	11	25	36	23	35	58
July	34	32	66	22	28	50
August	22	37	59	9	9	18
September	10	23	33	2	11	13

October	6	39	45	4	29	33
November	7	20	27	9	20	29
Total	90	176	266	69	132	201

Commentary re trends in high concentration areas.

Summary of key findings

- 16 COAs have highest concentrations of HMOs
- 11 neighbourhoods have rates of HMOs above the city average
- Powis, Froghall and Sunnybank and Garthdee are neighbourhoods considered to have considerably higher rates of HMOs compared with all other neighbourhoods in the city.
- Combining Powis, Froghall and Sunnybank and Old Aberdeen also shows a considerably higher rate of HMOs compared with all other neighbourhoods in the city.
- There remains a shortage of low cost housing in the city.
- HMOs provide a critical supply of accommodation in the city, particularly for our student population.
- The economic downturn is impacting on the housing market in the city resulting in lower private rents and house prices.
- A significant number of purpose built student accommodation has been or will soon be delivered.
- Overall demand for HMOs in the city is likely to continue to decline in the short term however it is not anticipated that HMOs will decline significantly in the areas with highest concentrations.

5.6 Overprovision Policy

Should committee wish to introduce a policy then Appendix 13 sets out a draft policy for consideration and potential consultation. The draft policy is based on the policy operating in Dundee. NB the Dundee policy was formed prior to the implementation of the 2006 Act.

Prior to consulting on the policy committee would need to determine the localities where a policy would apply and the threshold.

Should committee determine that it wishes to progress an HMO overprovision policy then officers would undertake community consultation and report the outcome to Committee in May 2017.

5.7 Consultation responses

The following were consulted on a draft version of this report.

Community Councils	Scottish Association of Landlords
Old Aberdeen Heritage Society	The Robert Gordon University
University of Aberdeen	Aberdeen University Students Association
Robert Gordons Students Association	

Fourteen responses were received and these are included at Appendix 14

Points relating to accuracy of information and data have been reviewed and amended. The most significant amendment arising from consultation was to highlight COAs would be the

most appropriate localities to apply in any policy to address the concentrations of HMOs in localised areas.

5.8 Notification of HMO applications to Community Councils

During the consultation a request was made by George Street Community Council for them to receive notification of HMO applications submitted to the Council.

The legislation governing HMO licensing obliges the applicant to notify the public of his application being made by displaying a Notice of HMO Application outside the property for a statutory 21-day period. The legislation also includes a discretionary provision for the local authority to advertise the HMO licence application in a local newspaper. The legal advice is that there is no power within these prescriptions entitling the licensing authority to make other disclosures such as the one requested by the Community Council, and we would regard it as prohibitively expensive to take out a newspaper advertisement for each licence application.

We do however acknowledge that it would be helpful for community councils and other individuals/organisations to be able to readily access information regarding HMO applications and existing licences. In this regard, the legislation obliges the Council to maintain a register of HMO licence applications and granted HMO licences. Our HMO register is a real-time online register found on the Council's website, however it has a basic functionality and we will seek to upgrade it to offer an ability to view licences chronologically as well as providing enhanced search functionality. This will enable interested parties to monitor new licence applications as they are submitted, as well as making it easier to retrieve information about existing licences.

6. IMPACT

Improving Customer Experience –

If an HMO Overprovision policy is implemented it is clear from the responses to the earlier survey that this this would be seen as a positive decision by some members of our communities and a negative decision by others. Families and long term residents of areas with high HMO density are likely to consider the non-implementation of a policy as a negative outcome whilst single people, low-income workers and the student community are more likely to support non-implementation.

Improving Staff Experience –

An HMO Overprovision policy would require reviews of existing processes for managing HMO licence applications and for the Licensing Committee. Additional steps would have to be implemented particularly in relation to advising on the current number of HMOs in a locality and any 'capacity' issues.

Improving our use of Resources –

In terms of practical implementation, Aberdeen City Council would have to be able to provide information to prospective HMO applicants on the threshold level in that particular neighbourhood. Currently, Dundee City uses an IT system which allows for this information to be generated but Aberdeen City Council does not. This would have to be explored prior to implementation.

Corporate –

If an Overprovision policy is to be introduced it is likely that this would increase the demands on licensing and committee services.

Public –

The previous consultation was covered by local and national media and received a good response from a range of individuals and organisations. The range of very strongly held views expressed shows the high level of interest in this issue.

7. MANAGEMENT OF RISK

Any HMO Overprovision policy implemented and decisions made by the Licensing Committee based on this policy, may leave the Council open to the risk of legal challenge. If the policy is not formed in accordance with the provisions of the 2006 Act it is highly likely that a refusal of an HMO licence on the grounds of overprovision would be appealed to the Sheriff Court and considered by the Sheriff.

8. BACKGROUND PAPERS

Previous committee reports in relation to this issue are detailed below:

H&E/12/031 - 28th August 2012

H&E/13/050 - 27th August 2013

H&E/14/55 - 28th October 2014

CHI/15/156 - 19th May 2015

CHI/15/208 - 27th August 2015

CHI/15/335 - 15th March 2016

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