

3 HOUSES IN MULTIPLE OCCUPATION - OVERPROVISION (AN411-2006)

Licensing of HMO's was introduced from 1st October, 2000 by the Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000. From 1st October, 2003, a licence has been required for use of a house where it is the only or principal residence of three or more qualifying persons from three or more families.

As with any other type of licence governed by the 1982 Act, any person may object or lodge representations to an application for an HMO licence. It is becoming increasingly common for such objections to raise the issue of the overprovision of HMO's in particular areas. This is all the more so in those parts of the City (eg West End/Perth Road/Blackness Road) which are located close to higher education institutions. However, overprovision can become an issue in other areas of the city and also in cases where there are no objections or representations.

Due to the increasing number of objections which were received and which referred to potential overprovision in individual cases, the Committee in March 2006 instructed that all applicants for licences be cited to appear at the meeting at which their application is to be considered. Up until then, only those applicants to whose applications there were objections, representations, or any other observations were required to attend.

Since February 2006, a number of applications have been refused by the Committee on the basis of overprovision, being an "other good reason" for refusal of an application, in terms of Paragraph 5(3)(d) of Schedule I to the said 1982 Act. The majority of such refusals have been in cases where there were no objections. In the absence of a general policy, the manner in which the question of overprovision is dealt with in each individual application is as follows. Firstly, the number of residences in the road or street where the application premises are situated is calculated. Secondly, the number of HMO Licences in that road or street is made available to the Committee. It is then for the members to decide if to grant the application would amount to overprovision, after hearing from the applicant and any objectors.

This approach has proved unsatisfactory for members of the Committee and applicants/prospective applicants for licences. Where the premises are located in a particularly long road or street, eg Blackness Avenue or Perth Road, the ratio of licences to residences can be extremely misleading for the members who have to decide this issue, especially if the HMO's are located in only one small part of the street. From the applicants' point of view, they claim that they do not know beforehand which locality will be chosen for the purpose of the assessment of overprovision. It is therefore recommended that a policy approach be considered based on fixed localities in order to enhance the consistency with which applications are dealt and also to highlight particular localities where applicants (and prospective applicants) may encounter difficulties with overprovision.

On 13th November, 2006, the Planning and Transportation Committee adopted a policy on avoiding excessive concentrations of HMO's based upon the percentage of such properties by Census Output Area. A similar approach may be the most appropriate method for the Licensing Committee to follow should it wish to adopt a policy on overprovision. It is, therefore, recommended that the Committee remit to the Depute Chief Executive (Support Services) and the Director of Housing to prepare a report on this issue after consulting with interested parties. This should include all current licence-holders and applicants for licences, The Dundee Landlords' Association, the Universities and other higher education institutions, community councils and the general public.