

I CIVIC GOVERNMENT (SCOTLAND) ACT 1982

(a) HMO LICENSING AND PLANNING POLICIES (AN52-2004)

Reference is made to the discussions at the January meeting of the Committee and the remit given to officers to bring back a report regarding the links between the regulation of HMOs through the licensing system and its regulation through the planning system. An HMO licence is required where permission is given to 3 or more persons to occupy a dwelling who are not all members either of the same family or of one or other of 2 families. Not every "HMO" requires planning permission since some may not involve development or a material change of use. It is therefore not appropriate to refuse to grant a licence until planning permission has been obtained. Also unlike in liquor licensing it is not a prerequisite that no further planning consents are required before an application can be considered.

It should be noted that the City Council's Finalised Dundee Local Plan Review 2003 provides that the licensing of HMOs

"....is not to be confused with the land use issues associated with properties for this purpose. Multiple occupancy intensifies pressure on amenity, particularly mutual areas and parking, and can increase the prospect of disturbance and nuisance. Notwithstanding these issues it would be unreasonable to exclude HMOs from the City where there is a variety of housing convenient for higher education establishments and where some properties are too large for modern family accommodation.....

Previous policy approaches have sought to restrict the granting of planning permission for a new HMO within a specific distance of an existing HMO. However, this approach lacks the flexibility to take account of the range of residential environments that exist in the City and is open to challenge. In essence, non-compliance with a distance restriction alone would not be a reasonable ground for the refusal of planning permission if it could be satisfied that the proposal would not significantly affect residential amenity".

Policy 11: Houses in Multiple Occupation goes on to state

"Proposals for multiple occupation of a dwelling that require planning permission will only be supported where:

- (a) it does not involve the change of use of a tenement flat or other form of flat with a common stair or a shared entrance, unless within the City Centre; and
- (b) it will not be detrimental to traffic or pedestrians safety on account of increased parking pressures; and
- (c) it will not have a detrimental input on residential amenity by virtue of increased pressure on parking, refuse areas, mutual garden ground or due to noise and nuisance; and
- (d) it will not result in an excessive concentration of such uses to the detriment of the character of the local area".

Accordingly, the relevant up to date planning policies on HMO adopted by the Council seeks to get away from an overly prescriptive area or distance approach and keep a high degree of flexibility and seeks to deal with HMOs very much on a case by case basis although it does have regard to "excessive concentrations" to the detriment of the local area.

It is recommended that the licensing of HMOs follow a similar case by case approach rather than an approach based on an area or distance policy. The competent grounds for refusal are wide enough to take into account broader issues such as the effect of concentrations of HMOs on the overall character of the local area.