

**REPORT TO:** LICENSING COMMITTEE - 14TH JUNE 2007

**REPORT ON:** HOUSES IN MULTIPLE OCCUPATION - OVERPROVISION

**REPORT BY:** DEPUTE CHIEF EXECUTIVE (SUPPORT SERVICES) AND DIRECTOR OF HOUSING

**REPORT NO:** 360-2007

## **1.0 PURPOSE OF REPORT**

- 1.1 To consider the adoption of a policy with regard to the issue of overprovision in relation to applications for Licences for Houses in Multiple Occupation (HMOs) in order to enhance consistency in the manner in which applications for licences are considered and to make applicants and prospective applicants aware of any overprovision issues which may arise in respect of individual premises.

## **2.0 RECOMMENDATIONS**

- 2.1 It is recommended that:-
- a. the Committee adopt a policy that will regard the grant of any licences for HMOs that would result in the proportion of licensed HMOs in any Census Output Area exceeding 12.5 per cent of residential properties in that area as amounting to an overprovision of HMOs for that area for the purposes of Paragraph 5(3)(d) of Schedule I to the Civic Government (Scotland) Act 1982;
  - b. such a policy be adopted City wide with the exception of the City Centre.
  - c. purpose-built HMO accommodation and non-mainstream housing should be excluded from this assessment;
  - d. to remit to the Depute Chief Executive (Support Services) and the Director of Housing to report back to the Committee regarding the details for implementation of the policy and the establishment of a suitable database for storing and making available the information required in connection with the policy.
  - e. to remit to the Depute Chief Executive (Support Services) and the Director of Housing to review the operation of the policy 12 months after implementation and report the findings and any proposed modifications to the policy to the Committee.

## **3.0 FINANCIAL IMPLICATIONS**

- 3.1 There are no financial implications arising from this report.

## **4.0 SUSTAINABILITY POLICY IMPLICATIONS**

- 4.1 To help sustain the character of existing residential areas.

## **5.0 EQUAL OPPORTUNITIES IMPLICATIONS**

- 5.1 None.

## **6.0 BACKGROUND**

- 6.1 Licensing of HMOs 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.

- 6.2 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 HMOs in particular areas. This is much more so in those parts of the City (eg West End/Perth 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.
- 6.3 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.
- 6.4 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, and virtually all are currently the subject of appeals to the Sheriff.
- 6.5 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. Where the application is in respect of a flat, the number of flats in the tenement and the number licensed in the tenement are also considered. 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.
- 6.6 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, especially if the HMOs 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 calculation described in Paragraph 6.5 above.

## 7.0 A PROPOSED APPROACH

- 7.1 As members will be aware in 2006 the Planning and Transportation Department carried out a consultation process on Supplementary Planning Guidance for controlling the concentration of HMOs. Following the process, the Planning and Transportation Committee approved the adoption of such guidance as a material consideration for planning applications.

- 7.2 The guidance provides, inter alia, the following policy with regard to HMOs:-

"Policy HMO2: Avoiding Excessive Concentration of HMOs.

Within the Central Dundee Housing Investment Focus Area as identified in the Dundee Local Plan Review 2005, planning applications for HMOs that would result in the proportion of licensed HMOs in any Census Output Area exceeding 12.5 per cent of the total residential stock will not be supported, unless there are clear material considerations which would justify permission being granted. Purpose built HMO accommodation will be excluded from this assessment. This policy will not apply to the area within the city centre or defined in the Local Plan."

- 7.3 COA boundaries are fixed at each census and in Scotland for the 2001 Census were based on frozen postcodes as at December 2000. The target COA size was 50 households with a minimum size of 20 resident households and 50 resident persons. The number of households will vary between COAs and more importantly will change over time as a result of demolition and new build. At May 2007 Dundee City Council had an average of 57 residential properties in COA.

- 7.4 In December 2006, the Committee remitted to the Depute Chief Executive (Support Services) to consult with interested parties, including licence-holders, applicants for licences, the Dundee Landlords' Association, the Universities and other higher education institutions and community councils, Council departments, elected members, MP's and MSP's, as to whether a policy should be adopted and, if so, what kind of policy that should be. An analysis of the responses to the consultation is shown at Appendix A to this report.
- 7.5 A majority of respondents favoured a policy approach, with the most-favoured option being based on the same criteria as the planning policy referred to at Paragraph 7.2 above. In light of this, and also in the interests of a consistent approach between the licensing and planning systems, it is considered that the Committee should adopt a policy as outlined at Paragraph 2.1 above. Because of the timescale and resources required to produce a model database, it is also recommended that the Committee remit to the Depute Chief Executive (Support Services) and the Director of Housing to report to the next meeting of the Committee concerning the arrangements for the implementation of the policy and the establishment of the appropriate database from which to obtain the information for members of the Committee and applicants.
- 7.6 If the Committee were to adopt a similar policy based upon Census Output Areas as being the localities against which applications will be considered in any assessment of overprovision, this would introduce more consistency into the process. The data produced would be more meaningful from the point of view of members and, if a percentage figure is adopted by the Committee as a policy guideline, applicants and prospective applicants would be better placed to judge whether or not overprovision is likely to be an issue, even in cases where there are no objections.
- 7.7 It is important to bear in mind that, as with any other of the Committee's policies, it will be open to applicants to seek to convince members that there are exceptional circumstances in their case which would justify the policy not being applied.

## **8.0 CONSULTATIONS**

- 8.1 In addition to the consultees who were contacted as part of the process referred to at Paragraph 7.5 above, the Chief Executive has been consulted in the preparation of this report.

## **9.0 BACKGROUND PAPERS**

The Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000.

Dundee City Council Supplementary Planning Guidance: Houses in Multiple Occupation, November 2006.

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