

The management of Houses in Multiple Occupation

Planning Committee

Date: 13th November 2018

Author: Head of Planning, Regulatory Services and Heritage in conjunction with the Director of Public Health

Parish / Ward Affected: All

Purpose

To update the Planning Committee on measures being pursued to enhance the management of Houses in Multiple Occupation (HMOs) in Swindon Borough.

The Planning Committee is requested to:

1. Note the latest figures on the extent to which HMOs are proliferating in the Borough;
2. Note the changes to the Licensing regulations that came into force on 1st October 2018 to bring more HMOs under the Licensing regime;
3. Note the additional powers available to the Council through changes to the Licensing Regulations to enable waste to be stored and presented in line with Council guidelines; and
4. Note the additional controls available to the Council to ensure that landlords and managing agents are 'fit and proper' to manage HMOs.

1. Reasons

- 1.1 This report has been prepared at the request of Planning Committee Members, who raised concerns with the impact of HMOs on local communities, following a debate on a HMO application in the Eastcott Ward.
- 1.2 In considering the issue, the report provides an update to Councillors on the extent to which HMOs are proliferating in the Borough and details the measures that have recently been put in place by the Public Protection Team to enable the better management of HMOs. The report further details the wider powers available to the Council to manage the impacts of HMOs, and the situation regarding HMO's in Planning law.

Further information on the subject of this report can be obtained from David Dewart
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2. Detail

Context

- 2.1 The Council regulates the use and operation of larger HMOs through its Planning and Licensing regimes.

Planning

- 2.2 Through the planning application process, the Council can manage external impacts of larger HMOs. Only larger HMOs require planning permission (defined in Planning legislation as dwelling houses occupied by more than six unrelated residents). HMOs with six or less unrelated residents are deemed 'permitted development' and would not require planning consent. In determining whether a proposal is likely to give rise to more than six unrelated residents, the Local Planning Authority assesses the number of individual rooms proposed at the property.

Licensing (Public Protection)

- 2.3 The HMO Licensing regime seeks to keep residents safe by ensuring that landlords follow certain standards when renting out a property to multiple persons. HMOs require a Licence where five or more people from two or more separate households are living in the property.
- 2.4 Since 1st October 2018 any landlord who lets a property to five or more people from two or more separate households must be licenced by the Council. Prior to 1st October, a Licence was only required for HMOs of over 2 stories. This change means that a higher proportion of the Borough's HMOs now require a Licence. The Council's HMO Licensing Team are applying this change in law to properties both when they come forward and retrospectively when Licences are renewed.
- 2.5 Legislative changes have also introduced new conditions that must be included in licences. These new conditions relate to mandatory national minimum sleeping room sizes and waste disposal provision requirements.

Managing the Proliferation of HMOs

- 2.6 The proliferation of larger HMOs is managed through the planning process.
- 2.7 Policy HA4 of the Swindon Borough Local Plan 2026 acknowledges the need to consider the number and impact of HMOs on an area to prevent harm to local communities. Part b) of the policy states:

In order to support mixed and balanced communities, and to ensure that a range of household needs continue to be accommodated throughout the Borough, applications for changes of use to a House in Multiple

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Occupation (HMO) shall only be permitted where the proposal would not adversely affect the character of the surrounding area or lead to an unacceptable concentration of Houses in Multiple Occupation within a given area.

- 2.8 Most HMOs fall under the threshold below which planning permission is required. To enable the Council to manage their proliferation, we would need to implement an “Article 4 Direction” to bring smaller HMOs under planning control.
- 2.9 The Secretary of State is required to confirm and Article 4 Direction. It is clear from his decisions that this agreement to do so requires clear evidence of the nature of the harm experienced and not all requests have been agreed. Swindon does not experience the same pressures as, for example, the university towns where HMOs predominate in an area.
- 2.10 Previous consideration has been given to this issue. In December 2012 Cabinet resolved to authorise the Head of Planning, to make a submission under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) to the Secretary of State once local evidence indicated that 10% of dwellings in the Ward (Eastcott) are classed as HMOs. In 2011/12, the known HMOs amounted to some 3% of properties in the Central Wards.
- 2.11 The 10% threshold has not been breached. Currently 0.7% of the Borough’s housing stock comprises HMO accommodation (as defined under HMO Licensing regime). In Eastcott Ward, the Ward with the highest number of HMOs, 3.5% of the housing stock now comprises HMOs.
- 2.12 It remains the case that Swindon does not have the numbers or concentration of HMOs experienced in other towns and cities, in particular those with high proportions of students or those with a significant transient migrant workforce. Further, whilst the numbers of HMOs have grown over time, evidence points to a significant reduction in the number of new HMOs being created in recent months. The more stringent regulatory system set out in this report will likely lead to consolidation in the sector.
- 2.13 Whilst the number of HMOs in Swindon has not reached a level that justifies introducing an Article 4 Direction, (as agreed by Cabinet) the impact of HMOs are nonetheless of concern to residents.
- 2.14 Overgrown gardens, unsightly waste storage, anti-social behaviour and overall poor presentation of the exterior of the property are all concerns. Subsequent sections of this report considers how the Council is able to respond to ensure that these matters do not escalate.

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Managing Waste

- 2.15 HMOs will usually generate more waste than single family homes. The manner in which this waste is stored and presented is often unsightly and also potentially unsanitary.
- 2.16 HMOs are residential properties, and as such, the Council is required to provide a waste collection service to them which is free at the point of use. However, there is scope to manage the particular waste storage concerns arising from HMO properties.
- 2.17 Recent legislative changes enable the Council to more proactively manage waste disposal provision in HMO properties. All HMO licences issued since 1st October 2018 include a condition requiring the compliance with the Council's storage and waste disposal scheme. A licence holder's failure to comply with the scheme is a breach of the licence and a criminal offence.
- 2.18 The emerging waste strategy proposes to give landlords the opportunity to purchase additional waste receptacles. The waste strategy will also set out the Council's storage and waste disposal scheme, with which HMO properties will need to adhere.

Managing presentation of property

- 2.19 Poorly managed HMOs may result in overgrown gardens and general dilapidation.
- 2.20 The Council has the power to issue 'Untidy Site Notices' under Section 215 of the Town and Country Planning Act 1990 or 'Community Protection Notices' under the Anti-social Behaviour, Crime and Policing Act 2014 so as to ensure that properties are maintained and presented to an adequate standard. The process for dealing with untidy sites through a S215 Notice was endorsed at Planning Committee on 10th September 2013, and is available to view at:
<http://sbcvpwmmgv02:9070/ieListDocuments.aspx?CId=281&MID=6195>

Ensuring Landlords and Managing Agents are fit and proper

- 2.21 The HMO Licence application stage is used to assess whether a landlord is deemed 'fit and proper' to manage a HMO.
- 2.22 The Council has previously required prospective HMO landlords and managing agents to submit to CRN/DBS checks on whether the landlord has any relevant convictions in tribunal or court.
- 2.23 However, the Council, like many authorities, moved away from this due to resourcing issues and backlogs at the checking bureau. The Government

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has recently published a “Rogue Landlords Database” and is issuing Banning Orders to rogue landlords, which should make the requirement for HMO landlords to submit to CRN/DBS checks redundant as a blanket approach. However, we will retain the discretion to do so on a case by case basis where we have concerns.

Parking Control

- 2.24 Much of Central Swindon, including most of the Eastcott Ward is covered by residents’ parking zones. Residents are able to apply for up to two permits per household in the relevant zone. A change of use to a HMO will not entitle the residents to more than two permits regardless of the number of occupants. This means that whether the property is a dwelling or a HMO, no more than two permits will be issued.
- 2.25 The Council recognises that, in some cases, conversions of existing properties into premises that create multiple occupation are likely to result in increased demand for on street parking.
- 2.26 In order to keep the ratio of spaces and permits to its current level, the Council considers all applications for permits against the original circumstances of the parking zone at the time it was created.
- 2.27 No additional permits will be granted as a result of a property becoming a HMO. ‘Non-permit’ parking will only be available within the zones outside of the controlled hours. This approach by parking services reflects the adopted Car Parking Standards (currently undergoing review) and is reinforced by conditions on planning permissions.

3. Alternative Options

- 3.1 This report has been prepared to update Members on the powers available to manage HMOs in the Borough. The report contains no recommendations.

Financial and Procurement Implications

- There are no financial or procurement implications directly arising from this report.

Legal / Human Rights Implications

- There are no human rights issues directly arising from this report.
- The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order (‘the Prescribed Description Order 2018’) has the effect of extending the scope of section 55(2)(a) of the Housing Act 2004 (‘the Act’), so that mandatory HMO licensing also applies to HMO properties which are less

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than three storeys high.

- A second statutory instrument, the Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018 ('the Mandatory Conditions Regulations 2018') amends Schedule 4 of the Act, introducing new conditions that must be included in licences that have been granted under Part 2 of the Act to consider mandatory national minimum sleeping room sizes and waste disposal provision requirements.

Links to Council Plan 2016-2020, Strategic Objectives, Plans and Policies

- This report is aligned with the vision for Swindon which seeks to ensure Swindon has all the positive characteristics of a British city with one of the UK's most successful economies and a model of well managed housing growth which supports new and existing communities.

Diversity Impact Assessment

- The Council's policy position is based on the overarching Planning Framework based on the adopted Local Plan 2026. The adopted Local Plan has been subject to a Diversity Impact Assessment and therefore potential equality implications have also been assessed through this process too.

Risk Management

- A Risk Assessment has not been prepared to accompany this report.

Consultees

- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

Background Papers

- The Swindon Borough Local Plan 2026
- House in Multiple Occupation and residential property licensing reform – Guidance for Local Housing Authorities MHCLG 2018
- December 2012 Cabinet Report on Houses in Multiple Occupation