

# Communities Scrutiny Commission

## 7 December 2020

### Public Forum



#### Questions

Ref	Name	Agenda item
Q1	Suzanne Audrey - Attending	N/A (Jubilee Pool)
Q2-7	Councillor Clive Stevens - Attending	9 – HMO's and Licensing
Q8-11	Derrick Collier – Not attending	9 – HMO's and Licensing
Q12-15	Nathan Boggon – Not attending	9 – HMO's and Licensing
Q16-7	Andrew Waller - Attending	9 – HMO's and Licensing
Q18-19	Rycharde Hawkes – Not attending	9 – HMO's and Licensing
Q20-21	Caroline Dix on behalf of Action for Balanced Communities – Not attending	9 – HMO's and Licensing

#### Statements

Ref	Name	Agenda item
S1	Andrew Waller- Attending	9 – HMO's and Licensing
S2	Rob Harries – Not attending	9 – HMO's and Licensing
S3	Councillor Clive Stevens - Attending	9 – HMO's and Licensing
S4	Abigail Shepherd – Not attending	9 – HMO's and Licensing
S5	Diane Baker – Not attending	10 – Wildlife Management
S6	Caroline Dix on behalf of Action for Balanced Communities – Not attending	9 – HMO's and Licensing
S7	Daniel Goodwin – Not attending	9 – HMO's and Licensing

## **Public Forum Questions**

### **Question 1: Suzanne Audrey. Jubilee Pool.**

#### **Background**

The Jubilee Pool cross-party working group was established and, after several meetings and considering available evidence, made the unanimous decision to ask the Mayor to open the pool as soon as possible while further solutions were considered. However, in response to my question to Full Council in November, Mayor Marvin Rees stated: "Regarding Jubilee Pool, the working group has again taken an easy option and made a political point without regard to the council's stretched resources."

Ex-cabinet member Paul Smith, in common with many others in communities across the city, has expressed concerns about the future of local democracy under an elected Mayoral system if backbench and opposition councillors are treated as 'window dressing'. Unfortunately, it does seem that the councillors on the Jubilee Pool cross-party working group are being treated as 'window dressing'.

**Question 1:** What is the purpose of the group when/if their recommendations are so easily dismissed by the Mayor?

#### **Answer from Sport & Physical Activity Development:**

The Mayor proposed that a cross party working group was set up to provide the opportunity to look at community led solutions and review the reasons other options were discounted. The group have been exploring options for a community led solution and in the meantime have recommended to the mayor that the pool re-opens immediately. Unfortunately, the costs previously stated as being required to re-open the pool are no longer currently being committed to by the operator and instead they are undertaken further forecasting to be more clear on their position. Just as soon as the operator has presented realistic costs a decision can be taken based on understanding the finances involved.

### **Questions 2-7: Councillor Clive Stevens. Agenda item 9 - HMOs and Licensing**

Dear Communities Scrutiny

I read the HMOs and Licensing report with interest. It is really good to see such a joined up report. I note that you have not commented on the impact of the increase in HMOs on Bristol's Housing Market therefore I am asking some questions below to attempt to do just that. If any answers need to be estimates to the nearest 500 will do to illustrate my point (If I'm correct of course).

**Question 2:** At 3.1 you show that the number of HMOs has gone up by 4,000 over the last 9 years to 14,000. At 4.1 you say that there are 2,400 mandatory HMOs and so one would assume the remaining 11,600 would be additional HMOs (if licensed). If the former have an average number of beds of seven and the latter four beds then the average bedspaces of the 14,000 would be 4.5 (approx). Therefore could one assume that the extra 4,000 HMOs provide approximately 18,000 extra HMO bedspaces since 2011? If not what would be a reasonable estimate?

**Answer from Private Housing and Planning:** Looking at the licensed HMO data to get average bed spaces in HMOs we believe that your calculations are relatively accurate and the additional 4,000

HMOs would have perhaps provided around 20,000 to 24,000 extra bed spaces based on a very simplistic calculation with properties having approximately five or six bed spaces.

Obviously we can't know for sure what the split of the estimated extra 4,000 HMOs are (Additional or Mandatory). The figures provided by the Building Research Establishment (BRE) are only modelled estimates.

**Question 3:** There are statistics for the growth of the two Universities over that time. Perhaps you could look them up please. Given that most second, third and fourth years live in HMOs, from memory that would require an additional 20,000 bed spaces since 2011? If not what is your estimate please?

**Answer from Private Housing and Planning:** Bristol's higher education establishments have seen significant growth in recent years. In 2018/19 there were 56,000 students in total registered at the two main Bristol universities - 26,000 studying at the University of Bristol and 30,000 at the University of the West of England (UWE).

The University of Bristol have projected further growth in student numbers over the next 10 years including a major physical expansion of the university with the delivery of a new Enterprise Campus at Temple Quarter by 2022. This growth will create an additional need for some 6,400 bed spaces city-wide by 2027/28.

**Question 4:** How many HMOs have been built since 2011? (I assume not many as most of the supply has been conversions).

**Answer from Private Housing and Planning:** Most HMOs have resulted through change of use from non-residential to residential – refer to table below, which shows planning permissions that have resulted in the net loss or gain of an HMO since 2011. Conversions of a C3 dwelling to an HMO are only monitored if the change results in the loss or gain of a C3 dwelling.

#### HMO completions between 2011 and 2020 (gross)

REF	OHGL Category	PROPOSAL	Net Loss Gain	Survey Year for Gains	CASENO 1
OH_4056	E	Change of use from office to House in Multiple Occupation (HMO) with 9 bedrooms.	1	31/03/2012	10/05454/F
OH_4051	E	Change of use of 1st and 2nd floors from offices (Use Class B1) to a dwelling in multiple occupation (Use Class C4), with external alterations to amend shopfront and form new residential access.	1	31/03/2012	10/03992/F
OH_4047	E	Change of use of first, second and third floors from offices to 1 no. five bed maisonette and 1 no. two bed flat in C3 Dwelling house or C4 House in Multiple	1	31/03/2012	10/05323/F

		Occupation use. Proposed new timber framed window on rear elevation.			
OH_4048	E	Part Change of use from financial services (A2) (ground floor) with ancillary A2 offices (first, second and third floors) to mixed-use comprising financial services use (A2) on ground floor with residential uses above (comprising 4 no. studio flats (C3 us	3	31/03/2012	10/05044/F
OH_5113	E	Change of use from Use Class B1(Office) to 7 bedroom HMO (Sui-Generis) including minor infill porch extension, disabled access ramps, reconstruction of the existing rear conservatory in part, new guard railings and solar voltaic panels.	1	31/03/2013	12/01073/F
OH_5069	E	Change of use from office use (Use Class B1(a)) to a 'House in Multiple Occupation' (HMO) for 7 persons.	1	31/03/2013	12/00383/F
OH_5057	E	Change of use from office use (Use Class B1) to a House in Multiple Occupation (HMO).	1	31/03/2013	11/03953/F
OH_5207	E	Change of use of lower two floors from retail (A1) to residential maisonette for use as a House in Multiple Occupation (HMO - Use Class C4) . Repairs to windows on upper floor. Renewal of door and windows to lower floor. Removal of existing WCs and instal	1	31/03/2014	13/00003/F
OH_5170	E	Change of use from vacant offices on first, second & third floors to House in Multiple Occupation for 6 persons (C4 use) with associated refuse & cycle storage.	1	31/03/2014	12/04213/F
OH_5164	E	Demolition of old store to rear and erection of 3 no. apartments, 1no. 2 bed apartment (Use Class C3), 1no. 3 bed apartment (Use Class C4 - House in Multiple Occupation of between 3-6 people) and 1no. 6 bedroom apartment (Use Class C4 - House in Multiple	2	31/03/2014	12/03923/F
OH_5342	E	Retention of change of use from a hostel for the rehabilitation of people recovering from drug and alcohol addictions (Use Class C2) to a House in Multiple Occupation (HMO) for	1	31/03/2015	14/01145/F

		up to 9 residents (sui generis).			
OH_5210	E	Refurbishment of existing basement for Class A2 Use, change of use of the first, second and third floors from offices (Use Class A2) to a 3-bedroom apartment (Use Class C3) and a 5-bedroom House in Multiple Occupation (HMO) (Use Class C4).	1	31/03/2015	12/04633/F
OH_5304	E	Conversion of 1st to 3rd floors from ancillary retail space to multiple occupation with provision of shared access to front ground floor.	1	31/03/2015	13/00344/F
OH_5305	E	Change of use from retail storage (Use Class A1) to house in multiple occupation (Use Class C4) and insertion of door opening to rear elevation.	1	31/03/2015	13/00931/F
OH_5124	E	Conversion of upper floors to residential accommodation falling within Classes C3 or C4 of Town and Country Planning (Use Classes) Order 1987 (as amended).	1	31/03/2015	12/01853/F
OH_5061	E	Conversion of first, second and third floors from Use Class A2 (financial and professional services) to residential maisonette in multiple occupation, with associated works.	1	31/03/2015	11/05383/F
OH_5131	E	Change of use of property from an Orthodontic Practice (D1) into a single dwelling to be used as a HMO for occupation by 12 persons. Reinstatement of 3 no. storey extension, at present single storey, at rear of building.	1	31/03/2015	12/02070/F
OH_5208	E	Change of use of first and second floor offices (Use Class B1) and redundant ancillary storage to retail unit (Use Class A1) to residential accommodation (Use Class C4).	4	31/03/2015	12/05535/F
OH_5290	C	Sub-division of maisonette into 2no self-contained flats, consisting of a one bedroom flat (C3 Use Class) and a three bedroom flat (C4 Use Class).	1	31/03/2016	13/04899/F

OH_5095	E	Erection of a two storey dwelling to form a small scale House in Multiple Occupation (C4 Use Class) with associated bin and cycle storage.	1	31/03/2016	13/05360/F
OH_5219	E	Proposed use of ground floor and part of first floor for workshop/store and office use (Use Class B1), and create a three-storey section for residential accommodation (Use Class C4) by extending into the existing roof space and associated external alterati	1	31/03/2016	12/05492/F
OH_5478	E	Change of use from Care home to Sui Generis Use (House in Multiple Occupation with more than 6 occupants)	1	31/03/2016	15/02118/F
OH_5352	E	Change of use from Use Class A2 (Financial Professional Services) to Use Class C4 (House in multiple occupation).	1	31/03/2017	14/03457/F
OH_5553	E	Change of use from guest house to house in multiple occupation (sui generis) including provisions for refuse storage and cycle storage	1	31/03/2017	16/05103/F
OH_5590	E	Change of use of first floor offices (B1) to residential in the form of five studio living units with some shared facilities.	1	31/03/2017	13/00095/F
OH_5552	E	Change of Use from D1 (community use) to HMO C4 (communal living accommodation).	1	31/03/2017	16/00959/F
OH_5344	E	Change of use from B1(a) offices, training rooms and ancillary cafe to residential comprising - 2 six bedroom flats, 1 four bed flat and 1 three bed flat - each flat to be used as shared accommodation (Use Class C4).	4	31/03/2017	14/01455/F
OH_5319	C	Proposed sub-division and minor alterations and extension to existing premises to provide two ground floor retail units (Class A1) with shared residential accommodation above (Use Class C4) (comprising 1 no. 3-bed apartment; 3 no. 2-bed apartments and 2 n	1	31/03/2018	14/05987/X

OH_5318	E	Proposed sub-division and minor alterations and extension to existing premises to provide two ground floor retail units (Class A1) with shared residential accommodation above (Use Class C4) (comprising 1 no. 3-bed apartment; 3 no. 2-bed apartments and 2 n	4	31/03/2018	14/05988/F
OH_5557	E	Conversion from retail (Use Class A1) of ground floor into a House in Multiple Occupation (Use Class C4) and first floor office (Use Class B1)	1	31/03/2019	16/01791/F
OH_5675	E	Change of use to create a HMO (Sui Generis) for 8 occupants and associated works.	1	31/03/2019	17/07108/F
OH_5558	E	Change of use of the office accommodation (B1 Use Class) to one four bedroom flat (C4 Use Class) at the rear and either a Dental Practice (expansion of practice at 8 Cotham Road South - D1 Use Class) or a retail shop at the front, together with shopfront	1	31/03/2019	16/00383/F
OH_5649	E	Conversion and extension of existing hotel (Use Class C1) to 12-bed HMO (Sui Generis Use).	1	31/03/2020	17/06692/F
OH_5664	E	Change of use to an 8 bedroom, 8 person House in Multiple Occupation (HMO), internal alterations to ground floor retail unit and external alterations to rear to provide new entrance including removal of fire escape and the provision of bin storage and cyc	1	31/03/2020	17/05909/F
OH_5780	E	Change of use and conversion to a 4 bedroom, 6 person HMO.	1	31/03/2020	19/00004/F
OH_5460	E	Proposed demolition of the existing building; and replacement with a new building comprising a retail unit at ground floor (A1 Use Class) and two residential units (C4 Use Class).	2	31/03/2020	14/03936/F
OH_5631	E	Conversion of existing film studio to provide 3 No cluster flats and 1No single flat.	3	31/03/2020	16/06074/F

**TOTAL****52**

**Question 5:** How many 3+ bed homes have been built since 2011?

**Answer from Private Housing and Planning:**

Three and four bed + homes built since 2011 (excluding dwelling conversions)

Includes student accommodation and carehomes

DATE OF SURVEY	3 BED	4 BED +	TOTAL
01/04/2011	278	83	361
01/04/2012	248	53	301
01/04/2013	164	69	233
01/04/2014	117	78	195
01/04/2015	223	105	328
01/04/2016	146	72	218
01/04/2017	252	88	340
01/04/2018	190	134	324
01/04/2019	214	71	285
01/04/2020	225	50	275
TOTAL	2,057	803	2,860

**Question 6:** How many homes have been converted to HMOs since 2011? If you don't know this, it might be easier to estimate from the 4,000 extra HMOs less any HMO new builds?

**Answer from Private Housing and Planning:**

As referred to in answer to Q4, only planning applications leading to a loss or gain of an HMO are monitored. There have been no dwelling conversions leading to a loss or gain of an HMO since 2011.

**Question 7:** With the answers to the above questions you can estimate how many 3+bed homes have been taken off the market (to rent or buy) to become HMOs. How does this compare with the total



number of 3+bed houses (not HMOs) actually in Bristol? And with the building rate of 3+ bed homes (i.e. against your answer to Q5).

**Answer from Private Housing and Planning:** The table below shows 2011 Census data

DC1402EW - Household composition by number of bedrooms

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Bedrooms	All households	One person household	One family only	Other household types
1 bedroom	30,587	22,205	7,245	1,137
2 bedrooms	50,959	19,087	26,116	5,756
3 bedrooms	74,690	17,390	49,583	7,717
4 bedrooms	18,012	2,089	12,136	3,787
5 or more bedrooms	8,499	836	4,583	3,080
All households	182,747	61,607	99,663	21,477

### Questions 8-11: Derrick Collier. Agenda item 9 - HMOs and Licensing

#### Question 8

As regards Mandatory licences (first mentioned in section 4), it seems that HMOs that are awaiting licence renewal are removed from the Pinpoint map once the old licence expires and only reappear months later when a new licence is granted and the map has been updated. This seems very confusing, so I'd like to ask why are they removed from the map, especially as it seems the associated information box (click on the HMO icon) could be used to show the licence status?

#### Answer from Private Housing and Planning:

The Public Register which appears on Pinpoint must comply with certain legal restrictions on what information is made available to the public. Licensed property data held on the public register is included once the license has been issued. Application information cannot be published until then. The details of the property and ownership are permitted to be made public under the Housing Act 2004. Once the property licence has expired the data can no longer be published. This would be in breach of GDPR rules.

#### Question 9

Where HMOs disappear from the Pinpoint Map while awaiting licence renewal, are these HMOs counted in the calculations performed by Planning to satisfy the new HMO concentration test introduced by the HMO SPD, and where can the public find a list of HMOs in this category?

#### Answer from Private Housing and Planning:

Where an HMO property licence expires and is in the process of being renewed the HMO calculator will still count the planning permission for that property.

Planning did consider adding pending licensing applications to the HMO count but felt that this would not verify the likely operation of an HMO which may raise concerns with the decision-making process on planning applications. If we did include, it also raises the question of also including pending planning applications. It's also too late to amend the SPD to reflect this change.

Our decision-making has to be transparent so if we had external requests for data under-pinning the HMO tool we would be obliged to provide this. If pending applications were added to the count we could not release this data for GDPR reasons which would undermine decision-making.

### **Question 10**

Where a property's HMO licence has expired but a new licence has not yet been issued, what legislation, or procedural waiver, or other permission allows these HMOs to continue functioning as such without a current licence (bearing in mind that the operation of an HMO without a licence is supposedly a criminal offence)?

#### **Answer from Private Housing and Planning:**

There are procedures in place to contact landlords six weeks before their HMO licences expire. Once the submission date has passed we again contact the landlords who have not yet submitted their applications as a reminder. There may be a number of reasons why an application has not been submitted, including a reduction of occupants or change in ownership that excludes the HMO from licensing. However, if this cannot be established the HMO is investigated and if found to be operating as a licensable HMO enforcement action is considered, where appropriate.

If a property is deemed not to be a HMO at this stage checks are made at future dates to ensure the property remains a non-licensable HMO.

As soon as a licence application is submitted there is no criminal offence. Then there is the time taken to process this application before the new licence is issued. Once it is issued it will once again appear on the Public Register.

### **Question 11**

Would the council still be able to use HMO enforcement powers in any situation that would normally constitute a licence breach if the event occurs in the situation described—that is, the old licence has expired, the new one has yet to be issued, but the HMO is (apparently) allowed to continue operating pending renewal?

#### **Answer from Private Housing and Planning:**

Yes people can still live in the property after a licence expires and before a new licence (if required) is issued. It would cause difficulties for the occupiers and put further pressure on limited housing if that were not the case. As there is no licence there would be no licence conditions in place and therefore licence conditions could not be enforced. Action could still be taken to address whether the property was being occupied without a licence. There would also be the standard set of powers we have

available to manage HMOs and Private rented sector properties. For example the “HMO Management Regulations”; (The Management of Houses in Multiple Occupation (England) Regulations 2006).

There are other implications for landlords operating an unlicensed HMO; landlords are unable to serve “s21 notice” or no fault eviction notices until they have applied for a licence. Tenants can also apply for Rent Repayment Orders against their landlord for the period they occupy an unlicensed HMO. Up to twelve months’ rent repayment can be awarded. This all would need to be in the context of our Private Housing Enforcement Policy.

### **Questions 12-15: Nathan Boggon. Agenda item 9 - HMOs and Licensing**

**Question 12:** In relation to paragraph 34.3, which discusses changes from C3 use to C4, does a house in C4 use “lose” its HMO C4 status (i.e. automatically reverting back to Residential C3 use) when it is sold, is occupied as a family home, or under some other condition (if so, please state), such that a return to C4 use in the future would require the submission of a fresh planning application?

**Answer from Private Housing and Planning:** A change of use from a small HMO in C4 use to a dwelling house in C3 use can be carried out under permitted development. For the property to then return to a C4 use at a later date, this could either be carried out under permitted development (if located outside of an area covered by an Article 4 Direction restricting such changes of use and subject to compliance with relevant limitations and conditions), or would require planning permission if located within an area covered by an Article 4 Direction. The normal considerations in terms of whether or not planning permission would be required would apply.

Because planning use rights normally run with the land as opposed to being for the benefit of particular owner, a property could be sold and could continue to be used for its lawful planning purpose.

**Question 13:** In relation to Table 2 of the document, which shows that the council has so far received 3,191 applications for Additional HMO licences in the Central area, how many of these 3,191 applications have so far resulted in the issue of a licence? (See supplementary questions below)

**Answer from Private Housing and Planning:** As at 3<sup>rd</sup> December 2020 there have been 1,729 additional licences issued in the Central Area licensing scheme. There are 1,462 pending applications at various stages of the processing.

**Question 14:** How many of the Additional licences in the answer to “1.” above have been uploaded to the Pinpoint map, and when is the next upload?

**Answer from Private Housing and Planning:** 1,641 were recorded on the most recent Public Register of HMO licences dated 10 November 2020. The public register is usually updated every 6-8 weeks and Pinpoint is updated to match.

**Question 15:** How does the figure of 3,191 compare with the council’s expectations when it introduced the Additional licensing scheme?

**Answer from Private Housing and Planning:** Originally it was estimated that there were approximately 4,400 properties that would be required to make an Additional licensing application under the Central Area Licensing Scheme. However since the designation in February 2018, “Extended Mandatory” licensing has come into effect and this in turn resulted in 866 of those predicated additional licensable HMOs now being subject to Mandatory licensing instead. Therefore the number Additional HMO licences expected has reduced to 3,434. We have received applications for 3,191 of these and the rest are under investigation.

**Questions 16-17: Andrew Waller. Agenda item 9 - HMOs and Licensing**

**Question 16:** Are all HMO licences now using the same licensing conditions or are there some licences issued prior to the last revision of the conditions (in 2018, I believe) that are still using an old version? (Or, to put it another way, can the council amend the conditions mid-licence?)

**Answer from Private Housing and Planning:**

Currently not all HMO licences have the same conditions. It will depend when a licence was issued and the conditions in place at that time.

Once a licence has been granted, new licence conditions can only be imposed in very limited circumstances. To do so the Council would need to be able to clearly demonstrate a factual change in circumstances, which can include new information, but would not include a change of focus or priority towards a subject area. Variations if possible, would be expected to be on a case by case basis and in all likelihood would not be able to be applied wholesale for licences city wide.

As a general rule conditions therefore cannot be changed on an existing licence. Any revised conditions come into effect when the next licence is issued.

**Question 17:** When will the next review of licence conditions take place and would it be open to public consultation or input?

**Answer from Private Housing and Planning:**

Changes to the existing standard licence conditions are currently under review, following the introduction of new legislation (The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020) requiring local authorities to introduce a mandatory condition into property licensing conditions. Other changes are also being considered to improve effectiveness of current requirements. The City Council are not required to consult publically on changes to the conditions unless they are part of a consultation proposal for a new licensing scheme.

**Questions 18-19: Rycharde Hawkes. Agenda item 9 - HMOs and Licensing**

I’ve heard reports that some Mandatory HMOs are waiting long periods for licence renewals, meaning there can be significant gaps (apparently several months in some cases) between the end of a licence and a renewed licence being issued. My questions are:

**Question 18:** What is the average time for licence renewals, measured from when a renewal application is submitted?

**Answer from Private Housing and Planning:**

The average time to process a new Additional Licence application to licence issued is 141 calendar days.

As soon as a license application has been submitted the landlord will to comply with our application process, the applicant has met their legal duties. It is then for the Council to issue the licence.

**Question 19:** What is the average gap, in weeks or months, between licences expiring and renewed licences being issued, and when does the council expect to eliminate it?

**Answer from Private Housing and Planning:**

Over the last 10 years the **average** time between **expiry** of an old mandatory licence to the **issue** of the renewal licence is 213 calendar days. 28% of cases are re-licensed in less than 100 days and 63% were re-licensed in less than the average 213 days.

23 of the cases that took much longer than average to renew have had issues with leases, change of ownership or major works being undertaken for example and some we have had to chase for non-payment of the fees or receipt of application and would have been passed to our enforcement team to investigate before finally getting their licence renewed.

We had to put a hold on applications for several months in 2018 due to a high court decision (*Gaskin*) v Richmond-upon-Thames LBC 2018, where a decision was taken that property licensing fees had to be charged in two parts. As a result, a part 2 payment process had to be developed. Further delays have occurred during 2020 for four months due to the pandemic. It is not expected that this gap will be ever be completely eliminated as property licensing processing has to be undertaken in accordance with the HMO licensing guidance and Housing Act 2004 requirements.

Process wise – a reminder letter is sent about six weeks before the current licence expires, in the letter it allows 28 days from the expiry of the licence (material date) to apply. If an application is not submitted by the material date investigations will commence.

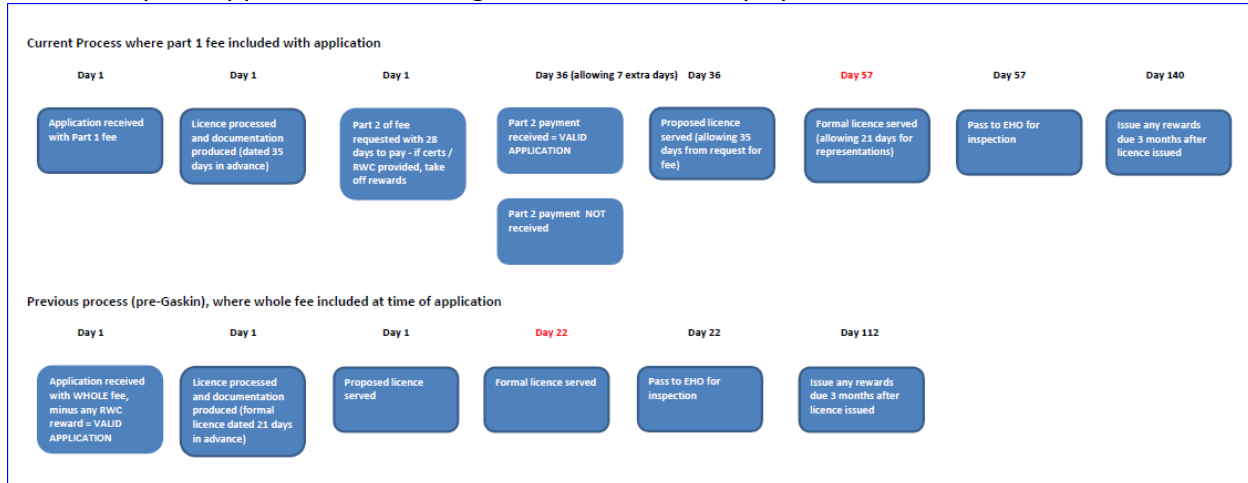
If a licence application is received after the material date the application is classed as a new application rather than a renewal.

There has been a big impact on processing times as a result of the outcome of *Gaskin* v the London Borough of Richmond court case. The Court of Appeal decision means that licensing fee payments must now be split into two parts – the first with the application to cover the administration costs of processing the application and the second for the enforcement and inspection part of the licensing process, due when we have received all valid certificates etc. and are ready to issue the licence.

This of course adds an extra delay to the former one payment process as the local authority has to request the second part of the fee and wait for it to be paid and for the landlords/agents to submit certificates.

The process map below charts the process once an application has been received - before and after the *Richmond v Gaskin* ruling regarding the requirement for split fee payment. NB this is the process

from receipt of application to issuing licence not from expiry of the old licence.



**Questions 20-21: Caroline Dix on behalf of Action for Balanced Communities (ABC). Agenda item 9 - HMOs and Licensing**

Dear Communities Scrutiny Committee,

My questions below relate to Agenda Item 9 for your meeting on 7 December - Houses in Multiple Occupation.

Action for Balanced Communities (ABC) Bristol comprises 16 Residents' Associations as members across the city, and we strongly support the Article 4 Directions in place across the city, the HMO SPD that applies in these areas, and the additional licensing initiative for the City Centre, as mechanisms to control the growth of the HMO housing sector, and to assure living conditions for those in HMOs in these localities.

I would like to ask 2 questions of the Scrutiny Committee on behalf of ABC Bristol:

**Question 20: How to apply the HMO SPD without additional licensing in place?** There is great difficulty in the application of the HMO SPD where additional licensing isn't in place due to no ability to understand the number of 3 or 4 bed HMOs in the area. This is because small HMOs in place prior to the Article 4 directions coming into force are not recorded anywhere to enable cumulative impact to be assessed by the Planning Office in planning applications. How would the scrutiny committee determine this can be managed appropriately to prevent negative cumulative impacts and harm caused due to HMO concentrations?

- o This is most prevalent in areas where the community know that small HMO numbers are very high (e.g. areas around UWE, i.e. Fishponds, Henleaze, Horfield, etc.) where there is an Article 4 but no discretionary (additional) licensing, and planning permission requests are submitted for larger (5+ bed) HMOs, meaning HMOs as a % of total housing stock are unable to be ascertained and therefore the HMO SPD tests cannot be applied.

**Answer from Private Housing and Planning:**

There is no formal or national register of HMOs unless a property requires a licence under the Housing Act. The City Council has lobbied government to lower the threshold for the new mandatory HMO requirements so smaller HMOs would be included within mandatory licensing; however this proposal was not accepted as part of the licensing review.

We are not allowed to declare a licensing area to assist Article 4 effectiveness. Property licensing are separate regulatory regimes designed to control different aspects of housing use and standards. See answer to Q21.

Many of the HMOs in Fishponds are covered by the current property licensing scheme in Eastville and St George West wards; the whole of Westbury on Trym/Henleaze ward has only 120 HMOs and therefore has not appeared as a priority area for an Additional licensing scheme; Horfield is currently being considered as a possible new Additional licensing are, although at this stage no decision has been taken.

### **Planning further comment**

The data supporting the HMO calculator is derived from planning permissions and licenses. The accuracy of HMO data in any particular area is therefore dependent on the level of planning and licensing control in place in that area. It may not be expedient or legally appropriate to make Article 4 Directions and/or operate additional licensing schemes for the entire city. Whilst the SPD, Article 4 Directions and additional licensing areas have been introduced for different reasons and perform different functions they do work together to address harmful impacts generally associated with higher HMO concentrations and broadly cover the same areas of the city. Data on HMOs will be less reliable outside of the areas of greater control however the potential for harmful HMO impacts in these areas is less likely.

**Question 21: Planning v Licensing - how can this become most effective.** The lack of a fully joined-up approach between licensing and planning (Para 26 reflects) - means that Licenses are granted where no planning permission exists, and overwhelms the Planning Office Enforcement Team who are in reality unable to deal with the volume of queries around these properties (this is evident from the very few HMO Planning Permissions shown on PinPoint v licences granted). What consideration is being given to enhancing the effectiveness of both sets of local policy by more closely interlinking them, as is being considered in other parts of England (e.g. Warwickshire).

- Para 28 reflects the current interlinks between planning and licensing which are positive - for ABC it is also noted that there is no indication of how planning determine if planning enforcement / consent is required (noting that for the majority of properties licenced without planning permission they would be required to prove that the property has been operating as an HMO or Sui Generis HMO from prior to the Article 4 direction coming into place and then continuously since this time (i.e. not been used as any other use class under permitted development thereby rendering their C4 use class previously obtained as invalid)).

### **Answer from Private Housing and Planning:**

This is addressed in the report. See 27.1

The two regimes are not linked in law. Lack of planning permission is not a reason the Council can use to refuse a licence.

Planning policy/regulations and legislation in relation to HMOs deal with a range of issues that could have an adverse effect on an area/ neighbourhood/community. These include permitted numbers, reduced housing choice, reduced community engagement from residents, reduced social cohesion, noise and disturbance, detriment to visual amenity, reduced community facilities and highway safety concerns. Housing legislation/provisions regulate the use of licensable HMOs.

There are some linkages with the two regimes, however, these two pieces of legislation/policy and regulation are designed to achieve different purposes and were not designed to be dependent on each other. That said, there is a lack of a joined-up approach of housing and planning legislation in relation to houses in multiple occupation (HMO).

A letter from the Private Housing Service sent to the Ministry of Housing, Communities and Local Government (MHCLG) on 15 May 2019 highlighted the problems caused by the current regulatory framework and suggested a number of possible solutions. These included:

- Could s.64 of the Housing Act 2004 be amended to allow for the refusal of a licence application where the property does not have appropriate planning permission?
- Could the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 be amended to include a requirement to provide relevant planning permissions as part of the licence application or reference made to article 4 planning areas?
- Could the Housing Act 2004 be amended to allow us to include licence conditions relating to compliance with planning law (Schedule 4 or s.90)?

The response from the MHCLG and the only action taken to-date is to add the following paragraph to the Houses in Multiple Occupation and residential property licensing reform – Guidance for Local Housing Authorities:

“We actively encourage local authorities to ensure planning permission has been given before issuing a licence. Wherever possible we recommend processing consents in parallel, to resolve any issues as early as possible”.

The covering letter that accompanies each proposed and full HMO licence clearly states:

### **Planning**

When determining a property licence application (Mandatory/Additional/Selective) under Part 2 and Part 3 Housing Act 2004 there is no requirement for the property to have planning consent. However to comply with planning legislation for this type of property, there may also be a requirement to obtain planning consent. Please contact Planning Services for further information: [development.management@bristol.gov.uk](mailto:development.management@bristol.gov.uk) / tel: 0117 922 3097.



See link to Warwickshire proposal mentioned –

[https://www.warwickdc.gov.uk/info/20163/private\\_housing/179/houses\\_in\\_multiple\\_occupation/3](https://www.warwickdc.gov.uk/info/20163/private_housing/179/houses_in_multiple_occupation/3)

Warwick District Council Consultation reviewed- The consultation is still running and until a decision has been taken by Warwick District Council on the outcomes of this, it is difficult to determine whether this could be replicated in Bristol.

In summary there are two options put forward for consultation. One is that a 1 year licence is issued until planning permission is given or that otherwise the option is that a licence application is frozen until the relevant planning application is in place. There is no alternative option given nor is the proposal to refuse a licence without relevant permission.

Once a licence application is made it must be determined in line with matters the Local Authority has to consider when refusing or granting a licence. The planning status is not one of those matters and in our view it would not be a legitimate reason to delay the processing of a licence until the relevant planning is in place. Nor can a licence be refused on the basis of no planning permission.

Our view is it is better to have a licence in place where there is the ability to use licence conditions to address issues such as ASB and other matters where appropriate.

It does not prevent Planning from taking enforcement action. Ultimately it is planning legislation which regulates the number of HMOs not licencing legislation.

Warwick consultation question – no alternative offered to these two options

**Option 1 – Freezing the HMO license application**

If a HMO license application is submitted, it would not be processed until the landlord had the appropriate planning permissions in place. Where the property is occupied, the landlord would be required to submit a planning application within an agreed time period (see questions below) or face enforcement action.

Where the landlord has submitted an application for planning permission, the HMO license application and the decision on possible enforcement action would be frozen until the outcome of the planning application is known.

**Option 2 - Issuing a 1 year HMO license to allow time for a planning permission decision**

We would process the HMO license application and issue a 1 year HMO license to allow the landlord time to apply for planning permission and for a decision to be made on the application.

If, for whatever reason, the planning permission/appeals process was not completed with within the 1 year period, a second 1 year HMO license would need to be issued.

**2. Which option do you prefer? \***

- Option 1 - HMO license applications will not be processed until planning permission has been obtained for the property
- Option 2 - HMO licenses will be granted for 1 year to allow time for planning permission to be applied for and a decision made on the application.

Why do you prefer this option?

## **Public Forum Statements**

### **Statement 1: Rob Harris. Agenda item 9 - HMOs and Licensing**

Dear Sir

I wish to make a statement regarding the scrutiny of item no 9 on the agenda 'HMOs and Licensing'

I welcome the HMO SPD and its positive effect on the enforcement of licensing where article 4 is in place. It is particularly important that the SPD should be applied forcefully in areas where there is already a high level of HMOs.

I believe that the SPD will have a positive impact on living conditions for those within HMOs but this can only be achieved with inspection and enforcement, which eventually should require less effort and should police itself when the die has been cast.

I think the outreach of article 4 areas should be extended .... before the horse has bolted. Otherwise developers will move into these areas and housing supply will be damaged, leading to more unbalanced communities.

The application of the HMO SPD is less effective in areas of the city where additional licensing is not in place. So it is not possible to assess the harm of further HMOs in these areas.

I think it is very important that Planning and Licensing 'talk' to each other. A planning application for an HMO should flag up an enquiry to Licensing and vice versa. This would save BCC officers and Councillors time not having to deal with issues resulting from this poor communication. This is an example of bad scrutiny?

The university is expanding and more pressure is being put on the city's housing for student beds. PBSA should always be considered when assessing the damage of an HMO application as the PBSA affects the concentration of a type of resident.

Rob Harris

### **Statement 2: Andrew Waller. Agenda item 9 - HMOs and Licensing**

I welcome this report. It answers some questions that came up in the recent SPD consultation and continues discussion of issues that impact a lot of people.

The SPD helps stop over-concentration of HMOs getting worse but it doesn't directly address that problem where it already exists. Some other action is needed, and I hope your discussion today identifies the direction to take.

As the report notes, neither HMO licensing nor planning regulation can bring immediate change. Instead, for a (quote) "immediate response" to problems such as noise nuisance and poor waste

management, it points to the Neighbourhood Enforcement Team as the main vehicle to tackle these issues.

I agree, but if NET is to have that role, I think Scrutiny needs to take a more detailed look at how it operates. Disappointingly, I don't see that analysis in this report.

For example, is NET prioritising the right things in the right places? The report talks a lot about waste management. That's important, but I believe the largest complaints category is noise. My area has many HMOs, most occupied by university students. Data published by University of Bristol shows that noise accounts for more than 80% of the complaints it receives.

NET's procedures also need to be looked at. You can't make a noise complaint to NET unless you provide a 14-day noise diary. But many noise events don't lend themselves to that approach. So people just don't complain, or if they do they fall at the first hurdle. Do NET records show there's a noise problem in Redland, Cotham, and Clifton? If the data doesn't capture that reality, it's a major systems failure. I also question whether NET is meeting the council's statutory duty to investigate noise nuisances.

In conclusion, I hope this report will not simply be "noted". Rather, it should lead to next steps that commit the council to tackling the issues the SPD can't.

I also hope this will be a collaborative effort. The SPD exercise revealed plenty of willing citizens ready to devote time and energy to solving problems. The SPD came out better and stronger as a result. As an example of council-community cooperation, it could serve as a model going forward.

Thank you.  
Andrew Waller

### **Statement 3: Councillor Clive Stevens. Agenda item 9 - HMOs and Licensing**

Dear Councillors

As you will have seen, my questions are about the impact of HMO conversions on Bristol's housing market.

This statement is on behalf of long term residents in those wards with high numbers of HMOs and I wish to point out the cumulative problems of one-off noise events at night.

-I think the Council is failing in its duty under section 79(1) of the Environmental Protection Act 1990 to inspect areas for statutory nuisances. The most efficient way to inspect an area for noise is to collect complaints.

**The cumulative noise from one-off night time events like those that occur if you live surrounded by HMOs can deprive you of sleep consistently and eventually affect your mental well-being.**

The problem is that Neighbourhood Enforcement (NET) do not collect data on night time noise events and so they cannot inform policy makers in Planning and Housing. So those departments continue to argue that there is no direct evidence of the harmful impacts from HMOs. Well in one way they are right, there is no evidence because Neighbourhood Enforcement actively discourage the public to report to them.

If you want to report being kept awake until 4am, you might go to the NET website and there it tells you to keep a noise diary for 14 days. But that specific house has had their party. Next week it will be a different house. And in between it will be people coming back from somewhere shouting and hollering.

In four wards, according to the BRE statistics about 20% of dwellings are HMOs. My ward has an average housing density of 120 dwellings per hectare. That means within 50m of a home one would expect about 10 HMOs.

I agree with NET that it would be unreasonable for NET to come out at 2am to silence a noisy party. The police are paid to do this now in some areas. But where I completely disagree with NET is their refusal to collect data from residents about one-off noise events. This leaves their colleagues in Planning and Housing data-less and therefore making policy in a vacuum.

Dear Commission I hope you feel you can add your voice to this call for better enforcement and at least logging of complaints by NET so clusters can be identified in place and time. Perhaps you might agree to send a note to the Mayor to ask for this.

Thank you and stay well

Councillor Clive Stevens

#### **Statement 4: Abigail Shepherd. Agenda item 9 - HMOs and Licensing**

To Committee Members:

I live in Clifton Down Ward which has an Article 4 Direction in place re: HMOs.

The other day I looked at student lets in my immediate neighbourhood on Rightmove and within a few minutes saw three new HMOs none of which had planning permission for a change of use in place but all three of which had been granted an HMO Licence (two of these at the end of 2019 so they are new HMOs). I had to check with Private Housing about a property in one area because the HMO licence did not appear on the Pinpoint map which can take time to be updated. The HMOs without PP that I saw (and have informed Planning Enforcement about) are:

A property which was last used as a 4 bedroom HMO now a 6 bed HMO

A property which was previously a 2 bed garden flat - now a 4 bedroom student let

A property where PP granted for 2x 3 bed flats now one of them is a 5 bed HMO.

Surely the first thing that should happen when an application for a new HMO licence is made is that the case officer should a) check whether the property is in an Article 4 Direction area and if so then b) tell the prospective landlord that they need to apply for planning permission first. It only takes a minute to check on

the Council's planning website to see if there is planning permission in place and the new SPD will have no teeth if Licensing don't take planning permission into consideration at the start of the HMO licence application process otherwise it enables landlords to attempt to 'fly under the radar'.

Kind regards

Abigail Shepherd

### **Statement 5: Diane Baker. Agenda item 10 – Wildlife Management**

I understand that this meeting will discuss road verge and green space management in the light of the Council's Ecological Emergency Strategy.

I am writing to ask you please to adopt Plantlife's guidance on managing road verges and amenity grassland for biodiversity. This will support BCC's commitment to wildlife-friendly land management.

Thank you.

Regards,

Diane Baker

### **Statement 6: Caroline Dix on behalf of Action for Balanced Communities (ABC). Agenda item 9 - HMOs and Licensing**

Dear Communities Scrutiny Committee,

The Statement below relates to Agenda Item 9 for your meeting on 7 December - Houses in Multiple Occupation.

Action for Balanced Communities (ABC) Bristol comprises 16 Residents' Associations as members across the city, and we strongly support the Article 4 Directions in place across the city, the HMO SPD that applies in these areas, and the additional licensing initiative for the City Centre, as mechanisms to control the growth of the HMO housing sector, and to assure living conditions for those in HMOs in these localities.

The place for the HMO SPD within the planning portfolio means that communities have a clear definition of harm caused by HMOs, and a series of threshold tests that help indicate where HMOs are in harmful concentrations to prevent further development.

Whilst the HMO SPD is a significant and positive step forward from the lack of planning regulation on HMOs in Bristol, there remains improvements that could be made to it and these are outlined briefly below:

- Clearer and more accessible ways of developers and the community accessing the tools that enable the concentration to be assessed. This would mean that calculations could be done more easily by both communities to understand the HMO concentration in their area, and additionally developers to help aid them in pursuing an application.
- Clarity should be given to those developers who are legally permissioned (iaw the Town and Country Planning Act 2004 - and therefore granted permission at a National level), to develop Purpose Built Student Accommodation (PBSA); the ability to avoid the HMO SPD is **not** simply by applying to build an

HMO specifically for students. This does not need to be within the SPD should be available information via the BCC website.

- The HMO SPD is practically impossible to apply in areas where additional licensing isn't in place, in order for the SPD to be effective additional licensing should be implemented wherever an article 4 direction is in place.
- The HMO SPD (and any granted planning consent) should make it clear that there is no temporary use of a C4 HMO as a C3 (family dwelling house) for any period in accordance with the General Permitted Development Orders (GPDO) (which is part of the Town and Country Planning Act). We believe this area is key for people to understand in order for planning enforcement to be most effective.
- It is totally understood why Purpose Built Student Accommodation (PBSA) isn't included in the HMO SPD (they are not within the HMO use class), but it would be beneficial for Planning Guidance on PBSA to be enhanced to reflect the cumulative community impacts when they exist in close proximity to a high density of HMOs.
- In order to prevent developers changing their sights on development locations within Bristol, the council should review their totality of Article 4 directions to ensure that no community will suffer due to a lack of this restriction.

Finally, the HMO SPD is less than useless if BCC do not enforce illegal development (where HMO development takes place regardless of planning permission being denied), and if they do not enforce planning regulation where HMO licenses are applied for, without planning consent, in areas that are already suffering from high concentrations of HMOs. ie both planning and licensing can fail the community if they aren't joined up, and work to prevent the harm being caused from over concentrations.

Our thanks goes again to those who have brought the HMO SPD to bear, and for the positive impact it will have on communities throughout Bristol; the above comments are by no means a criticism, merely ways in which the impact of the SPD could be positively grown.

Kind regards,

Caroline Dix  
Chair  
ABC Bristol

### **Statement 7: Daniel Goodwin. Agenda item 9 - HMOs and Licensing**

I live next to one of these "Portfolio" HMO landlords in Bristol and I can entirely attest to the detrimental effect it is not only having on my own life but the others around me. Noise is abundant at all hours of the day and night, the state of repair of the house is appalling and litter spews out onto the street on any given day. I've been clear to the council on a number of occasions how much it is ruining my life, and others. The existing mechanisms to remediate are not working, to the point where I've even emailed Marvin and Thangam to enlist their support. I am pleased these HMO owners are being put under new scrutiny and they should be held to a much higher standard. As far as I am aware, no HMOs have had their licence revoked due to noise and that is not good enough.

Daniel Goodwin