



**To/
Councillor David Hopkins
Cabinet Member for Corporate
Service & Performance**

BY EMAIL

cc: Cabinet Members

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Scrutiny

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SPC/2022-23/11

13 March 2023

Summary: This is a letter from the Scrutiny Programme Committee to the Cabinet Member following the meeting of the Committee on 14 February 2022. It is about Houses in Multiple Occupation. A formal written response is not required.

Dear Councillor Hopkins,

Scrutiny Programme Committee – 14 February Scrutiny of Houses in Multiple Occupation

We are writing to you following our Scrutiny session, which focussed on a specific aspect of your cabinet portfolio responsibilities, namely Houses in Multiple Occupation (HMOs). This was previously subject of a Scrutiny Working Group in 2017.

We thank you for attending the meeting and providing a written report covering this. We thank Paula Livingstone, Divisional Environmental Health Officer, for taking us through the detail, and for the helpful contributions by officers on housing standards, licensing, and planning roles / aspects as they relate to HMOs. The report helped us to understand statutory duties, policy, activities, performance and trends, and current issues.

The Committee was able to explore priorities / objectives, the delivery of this work and provide challenge on actions and performance, as well as future thinking. It was a very helpful and useful session, and we thank all concerned for their work on HMOs.

OVERVIEW & SCRUTINY / TROSOLWG A CHRAFFU
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This letter reflects on what we learnt from the information presented, questions, and discussion. It shares the views of the Committee and highlights any outstanding issues / actions for your response - key issues are summarised below.

Legislation

We noted that the vast majority of the Council's work in relation to HMOs is statutory. We discussed the confusing picture of different pieces of legislative regimes that apply to HMOs, and associated challenges: housing, public health, and licensing legislation, as well as planning / development policy and how applications for HMOs are dealt with.

We heard that the definition of a HMO in housing and planning legislation is not the same e.g., some buildings converted into flats that do not comply with the Building Regulations 1991 will be considered as an HMO under housing legislation, but not planning legislation. The majority of purpose-built student accommodation managed by national management companies are not considered to be HMOs by virtue of a specific exemption in the Housing Act 2004. The Council has specific Local Development Plan (LDP) policy and Supplementary Planning Guidance relating to the development of such buildings. But Housing and Planning are two separate legislative regimes, which are not interdependent. Licensing can control property condition, amenities and management arrangements, but does not control the number of HMOs in Swansea.

We are aware that in accordance with the Housing Act 2004, a property is a HMO where three or more people forming more than one household share amenities, such as a kitchen or bathroom, occupy the house as their only or main residence and where rent is payable for their occupation. We understood that there is a statutory requirement for all HMOs across Swansea that are three storeys or more with five or more occupiers to be licensed, for which a prescribed fee is payable. The Council has an 'Additional' HMO licensing scheme operating in Uplands, Castle, St Thomas and Waterfront wards, adopted under discretionary powers available to the Council, to license smaller HMOs not subject to mandatory licensing. We noted that as of 30 January 2023 there were 1,672 licensed HMOs in Swansea, with just over 1000 of these being in the Uplands area. In addition to specific HMO Licensing, there are licensing requirements under Rent Smart Wales, a central licensing authority, for all rental properties across Wales, assisting those that let properties with their obligations and compliance with housing legislation.

We agreed that it was a lot for the public to understand all the different aspects to HMOs, and private rented sector more generally.

HMO Licensing

We discussed the backlog in licensing HMO properties, a consequence of the pandemic, and efforts to tackle this. We heard that the work of the Environmental Health and Housing team was severely impacted by the Covid-19 pandemic, with staff redeployed to support other services. We appreciated that it has been a difficult past three years. You provided assurance that the backlog, in terms of checking licences and inspecting properties, was being addressed. You reported that there is still a delay in processing applications for HMO licences but as the recovery programme progresses, waiting times for inspections have reduced from the six to seven months that occurred during the pandemic with applicants now waiting approximately four months for an inspection of their property. The extension of the Additional HMO Licensing Scheme to include the St Thomas ward, has increased the number of properties that have now become licensable. You reported that there were now 109 licensed HMOs in St Thomas, compared to an original estimate of around 70 suspected HMOs following an initial survey of the area.

We were told that there are currently just over 200 licence applications being processed, either at the initial stages of checking applications, following-up on incomplete applications, awaiting fee payment or where complete applications have been received and are then awaiting inspection before licence is granted. We asked for a breakdown by ward and thank you for providing the following information immediately following our meeting:

As of 14th February 2023, there are 203 HMO licence applications (including both new and renewal applications) in the checking/processing stage in the following Wards:

| | |
|----------------|-----|
| Castle..... | 61 |
| Landore..... | 1 |
| St Thomas... | 9 |
| Uplands..... | 130 |
| Waterfront.... | 2 |

Health & Safety

We asked about activities relating to the health and safety of HMOs. We noted that there is a Housing Health and Safety Rating System (HHSRS) which applies to all housing including HMOs irrespective of whether the property is licensable. It involves an assessment of the effect of housing conditions on the health of occupiers and an assessment of specific potential hazards. Enforcement action can be by a variety of notices and orders requiring a landlord to carry out work or to prohibit occupation of part or the whole of a property. Both licensable HMOs and those that fall outside the licensing requirements are subject to one of two sets of Management Regulations, which impose certain duties on managers including the maintenance of fixtures and fittings, fire safety measures, gas and electricity supplies and waste disposal arrangements. We discussed some issues

around difficulties in identifying landlords, when needing to take enforcement action.

It was clarified that the new Renting Homes (Wales) Act, which came into force in December 2022 relates to the contractual arrangement between landlords and tenants. The new legislation makes it clearer for landlords and occupiers about what standards should be kept within a property and gives routes for private action by occupiers, but does not introduce any additional regulatory or enforcement powers for the Council over and above the HHSRS. The new Act sets out the obligations of landlords to ensure a dwelling is fit for human habitation, and includes things like damp and mould growth, cold, personal hygiene, electrical hazards, fire safety and gas safety. The Committee expressed some concern that the new Act is not subject to Local Authority enforcement, which would provide greater protection to tenants. It is important that tenants are fully aware of their rights and have a degree of help and support when raising issues with the landlords, many of whom may not have the confidence or resources to do so. We remarked that this legislation will have an implication on the Council as a landlord and its relationship with the tenants of Council housing.

Planning Process

We discussed several aspects of the planning process, and the application of the LDP in the determination of any planning applications submitted for HMOs.

You reported that the Swansea LDP, which was adopted in February 2019, contains a detailed policy on HMOs, supported by Supplementary Planning Guidance which provides a sound evidence base to make informed decisions on applications for planning permission for HMOs. It takes into account interests of fostering cohesive communities, including by avoiding instances of over-concentration of HMO properties to the detriment of residential amenity and community balance. The policy framework defines a 'HMO Management Area' where there are already high levels of HMOs, within which no more than 25% of residential properties are normally permitted to be HMOs. Outside these areas the limit is set at 10%. It also requires that development proposals do not 'sandwich' Class C3 dwellings between HMO properties either side.

We asked questions around how the Authority assesses planning applications and the evidence base used to identify HMOs, which we were told included planning records, licensing records and information from the public. When it came to determining the concentration of HMOs in an area, one issue was raised regarding whether this takes account of large buildings or blocks of flats that contain many properties. It was clarified that the planning process considers the 'use classes' of properties in an area, in accordance with legislation and the policy framework, and that the concentration of HMOs is one of a number of factors taken into account, along with other impacts

including impact on adjoining properties, local amenities / space (e.g., parking) and other concerns in the area that may affect the quality of life. These considerations will also apply to existing HMO properties where a fresh application may be submitted looking to extend the property and increase the number of occupants. The planning officers were requested to provide examples of planning decisions where percentage thresholds in relation to the concentration of HMOs were overridden by other relevant factors. These can be emailed to scrutiny@swansea.gov.uk.

Another issue was raised, challenging whether the current requirement for a property to be marketed for six months as a 'family' home before it would be considered for HMO use, if unsuccessful, was realistic, and was possibly open to abuse to circumvent concentration thresholds. It was felt that this was not a long enough period, given that property transactions can often take much longer. The Committee was told that what some may refer to as the 'six-month rule' was purely guidance and decision makers would consider the merits of individual applications, and in some cases agree that six months would not have been enough.

Your report described the impact and 'success' of the LDP citing the decrease in the number of appeals against Council decisions being allowed by the Planning Inspector. You also mentioned the drop in the number of planning applications submitted. In the three years prior to adoption of the policy, approximately 250 planning applications were submitted. In the three-year period since adoption of the policy, approximately 165 applications were submitted. You stated that this reduction of 35% in the number of HMO applications submitted suggests that prospective applicants are aware of the policy and the control exercised through the policy. As a result, they are less likely to seek planning permission for HMOs where policy indicates they will not be permitted.

We also asked about the current position regarding addressing the detrimental impact of the proliferation of letting boards in areas with high proportion of rental properties, which you acknowledged as a long-standing issue. You cited resource constraints, but we noted you would be happy to discuss further with relevant local councillors, including the possibility of using councillor community budgets to make progress.

Public Questions

The Committee received public questions, from one individual on the link between Airbnb / Short Term Rental properties and HMOs, and their regulation / Council action and effects, and from another individual relating to HMO numbers and the Council's assessment of HMO applications. You undertook to respond fully in writing addressing their concerns, and we are pleased to see that you have done so. Thank you for providing copy of your responses.

Your Response

We hope that you find the contents of this letter helpful and would welcome comments on any of the issues raised within; however, we do not expect you to provide a formal response.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. Black', written in a cursive style.

COUNCILLOR PETER BLACK

Chair, Scrutiny Programme Committee

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