



Report sponsor: Rachel North, Strategic Director for Communities and Place
Report author: Ian Fullagar, Head of Strategic Housing.

Houses in Multiple Occupation (HMOs)

Purpose

- 1.1 To update the board in relation to the known numbers and issues arising from Houses in Multiple Occupation (HMO) within the City and to identify the Council's next steps in responding to these issues.

Recommendation

- 2.1 To note the report.

Reason(s)

- 3.1 To ensure Members are updated in relation to the positive and negative issues currently arising from HMOs in the City and the next steps being considered in response to these.

Supporting information

- 4.1 A small House in Multiple Occupation (HMO), that isn't required to be licensed, can be broadly defined as a shared house or flat occupied by up to four unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen and/or bathroom.
- 4.2 A large HMO, that is required to be licensed, can be broadly defined as a shared house/flat where 5 or more persons, forming two or more households occupy it as their only or main residence.
- 4.3 Part 2 of The Housing Act 2004 requires that larger HMOs be licensed by the Local Authority. From the data we hold in Derby there are, as of the beginning of October 2022, some 558 Licensed HMOs with a further 22 being processed and approximately 100 smaller non-licensed. The ward locations of these Licensed and known smaller HMOs are as follows:

4.4

| Ward | Number of licensed HMO's |
|--------------|---------------------------------|
| Abbey | 148 |
| Allestree | 2 |
| Alvaston | 71 |
| Arboretum | 176 |
| Blagreaves | 2 |
| Boulton | 4 |
| Chaddesden | 3 |
| Chellaston | 8 |
| Darley | 112 |
| Derwent | 4 |
| Littleover | 10 |
| Mackworth | 61 |
| Mickleover | 2 |
| Normanton | 32 |
| Oakwood | 0 |
| Sinfin | 19 |
| Spondon | 4 |
| Total | 658 |

- 4.5 As the smaller HMOs are not required to be licensed, the Council does not hold definitive data in relation to their location and number.
- 4.6 HMOs provide some of the most affordable private sector accommodation within the City, enabling a great many individuals and households to source their own homes. Without the existence of large numbers of HMOs within the City it is inevitable that pressures on an already over-burdened social housing waiting list would be significantly increased.
- 4.7 For many young people a HMO can provide a valuable 'stepping stone' as they move away from their parental home, but for many more a HMO will remain their long-term housing option either through financial necessity or through choice. Some HMOs within the City are at a significantly higher price point providing comparatively short-term high-quality accommodation for professionals staying in the City whilst working for some of the City's major employers or whilst working on short or medium-term contracts.
- 4.8 However, as Members are well aware, HMOs can also present issues for their occupants and surrounding residents. These issues can generally arise through one or more of the following reasons:
- Proliferation of HMOs within a given area
 - Poorly managed HMOs resulting in Anti-social Behaviour (ASB) by tenants
 - Poorly managed and maintained HMOs resulting in poor living conditions and in some cases inadequate support for tenants

Proliferation of HMOs - The permitted development right to change the use of a building from a Class C3 dwelling-house to a Class C4 House in Multiple Occupation (for up to 6 residents) and vice versa, means that such conversions are not easily visible to the Housing Standards Team and are not regulated in planning terms.

- 4.10 As outlined in paragraph 4.1 above, small HMOs are also not required to be licensed under Housing legislation and can therefore be established without easy oversight or automatic inspection by the Housing Standards Team. The Licensing process for larger HMOs will assess the layout and condition of the property together with the fit and proper status of the owner or managing agent to be a landlord, but it cannot take into account the proximity or number of HMOs within the locality.
- 4.11 Article 4 [A4D] of the Town and Country Planning (General Permitted Development) (England) Order 2015 allows local planning authorities to make Directions withdrawing permitted development rights where the authority considers it expedient that development should not be carried out, based on robust evidence of the harm being caused, unless express planning permission has been obtained. Through this means the Council can exercise some level of control over newly established HMOs, but it should be borne in mind that each planning application can of course only be considered on established planning grounds.
- 4.12 Poorly managed HMOs resulting in ASB – Members will be well aware that a large number of complaints are received that relate to the behaviour of tenants in HMOs. Clearly, many of these issues cannot be attributed to the type of accommodation that these tenants reside in, but in some cases the ASB can be attributed to a lack of effective management by the landlord. As above, it is only the larger HMOs that currently require Licensing and therefore it is only on these larger HMOs where the Council will have the opportunity to identify potential issues and require preventative measures.
- 4.13 As above, the Council has no ability to license smaller HMOs as it does not have an Additional Licensing Scheme in place and therefore potential issues cannot be foreseen and preventative measures required. In these cases, the Council can only therefore react once problems have occurred, and complaints have been received.
- 4.14 Poorly Maintained HMOs resulting in poor Housing Conditions – The Council receives numerous complaints each year relating to the condition of properties that are let by private sector landlords. Approximately 10% of these will relate to HMOs. When investigating complaints, the Council's Private Sector Housing Standards team in line with their enforcement policy and enforcement concordat will make contact with the licence holder or managing agent in the first instance. This will usually be followed up by a visit to the property to ascertain if the complaint is founded. Following this any advice or enforcement action deemed necessary will be undertaken.

- 4.15 In 2019, in the light of the nature and volume of complaints relating to private sector housing conditions, the Council conducted a desktop survey of housing conditions within the City using a variety of information sources including the English Housing Survey. This survey revealed that some of the worst housing conditions existed within the private rented sector. In 2021, having secured government funding, the Council undertook an 'on the ground' survey of private rented housing conditions which included, but which was not limited to HMOs. The survey confirmed that housing conditions within some private rented properties, were significantly worse than the national English Housing Survey figures suggested.
- 4.16 In addition, Derby, like many Cities of a similar or larger size has seen a significant growth in the provision of Supported Exempt Accommodation (SEA). Such accommodation houses vulnerable people who have both housing and support needs. If the necessary support is provided with the accommodation, it is exempt from Housing Benefit caps and as a result a significantly higher rent can be charged and will be met through the Housing Benefit system. SEA can be provided by Registered Social Landlords who are regulated by the Housing Regulator. It can also be provided by Community Interest Companies which can be readily established by private individuals, and which have very little in the way of checks or regulation.
- 4.17 Issues arising from the growth in unregulated SEA has been well documented particularly in City's such as Birmingham when significant concerns have been raised where SEA tenants have been placed in grossly substandard accommodation with minimal or no effective support.
- 4.18 Next Steps – Article 4 Directive. As Members will be well aware, Full Council at its 21 September 2022 meeting, resolved that Officers should investigate the potential introduction of an Article 4 directive under the Town and Country Planning (General Permitted Development) (England) Order 2015.
- 4.19 In accordance with this resolution, Officers are currently receiving evidence that could potentially justify, in law, the introduction of an Article 4 directive. It is anticipated that this call for evidence will continue until the end of the current Calendar year with Officers reporting back to Members early in 2023.
- 4.20 Next Steps - Poorly Managed and Maintained Properties. Following the 2021 Private Rented Stock Condition survey, two linked reports are currently being finalised that detail the findings of the survey but which also highlight the Health Impacts that living in substandard accommodation can have. It is envisaged that these reports will be considered by Council Cabinet shortly. The accompanying Cabinet reports will also advise members as to what measures or interventions are available to the Council, if Members should wish to intervene in the private rented market, of which HMOs form a part, in order to raise housing conditions.

- 4.21 In response to the increase in SEA, which is predominantly located within HMOs, the Council is establishing a small team, utilising Government homelessness prevention monies, to ensure that these homes have decent conditions and adequate levels of support in line with the level of Housing benefit being received.

Public/stakeholder engagement

- 5.1 None. The purpose of this report is to update Members of the Regeneration and Scrutiny Board.

Other options

- 6.1 As set out in paragraphs 4.17 and 4.18, Full Council at its 21 September 2022 meeting, resolved that Officers should investigate the potential introduction of an Article 4 directive under the Town and Country Planning (General Permitted Development) (England) Order 2015. It is anticipated that Officers will report back to Members in early 2023 following the ongoing call for evidence.
- 6.2 The Council could resolve to introduce an 'Additional Licensing' scheme across all or part of the City under the provisions of the 2004 Housing Act. An Additional Licensing scheme would require all HMOs within the defined Additional Licensing area to be Licensed irrespective of their size.
- 6.3 The Council could also resolve to introduce a Selective Licensing scheme across all or part of the City under the provisions of the 2004 Housing Act. A Selective Licensing scheme would require all privately rented homes, (not just HMOs) within the defined Selective Licensing area to be licensed.
- 6.4 It is envisaged that the future Cabinet report that will consider the findings of the 2021 Stock Condition Survey, referred to in paragraph 4.20, will also consider the relative merits of introducing a Selective Licensing scheme and/or an Additional Licensing scheme.

Financial and value for money issues

- 7.1 None directly arising from this report.

Legal implications

- 8.1 None directly arising from this report.

Climate implications

9.1 There are no Climate implications arising directly from this report.

Other significant implications

10.1 None.

This report has been approved by the following people:

| Role | Name | Date of sign-off |
|----------------------------|-------------------------------------------------|-------------------------|
| Legal | Olu Idowu, Head of Legal | 10/10/22 |
| Finance | Amanda Fletcher, Head of Finance | 10/10/22 |
| Service Director(s) | | |
| Report sponsor | | |
| Other(s) | Paul Clarke, Chief Planning Officer | 04/10/22 |
| | Dawn Deakin, Service Manager, Housing Standards | 04/10/22 |

Background papers: None