

Overview and Scrutiny Committee

21 January 2020



Title	Houses in Multiple Occupation		
Purpose of the report	To note		
Report Author	Esmé Spinks, Planning Development Manager Tracey Wilmott-French, Senior Environmental Health Manager		
Cabinet Member	Cllrs Barratt and Mclroy	Confidential	No
Corporate Priority	Housing and Clean and Safe Environment		
Recommendations	The Overview and Scrutiny Committee is asked to note: <ul style="list-style-type: none">• The contents of this report;• That HMOs will be continued to be monitored by the Planning Enforcement and Environmental Health teams; and• If the position changes and the number of complaints relating to HMOs which are permitted development and which are causing negative impacts on neighbours increases significantly, a further report will be brought to the O&S Committee in the future.		

1. Summary

- 1.1 In November 2018, a report was presented to the O&S Committee which explored whether it was considered expedient to serve an Article 4 Direction to remove Permitted Development rights in respect of houses in multiple occupation (HMOs). The report used Planning and Environmental Health data to undertake a spatial analysis by ward of the numbers and types of HMOs which existed and the extent of the complaints received in Spelthorne.
- 1.2 The report acknowledged that new licensing legislation came into effect on 1 October 2018 which is the responsibility of Environmental Health. It was expected that this would bring about improvements to the management and safety standards in a high proportion of residential properties in the private rental sector within Spelthorne.
- 1.3 The report concluded, and the O&S Committee agreed that given the available data, evidence was insufficient at that stage to justify the introduction of an Article 4 Direction. However, as major recent changes to the EH legislation had only just come into effect, it was agreed that HMOs continue to be monitored by the Planning Enforcement team and an updated report was to be brought to the Overview and Scrutiny Committee at the end of 2019/beginning of 2020.

- 1.4 A copy of the previous report and its appendices are attached as an annex to this report.
- 1.5 Under current planning legislation, permission is not required to convert a dwelling to a house in multiple occupation (HMO) providing it is occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.
- 1.6 However, it is possible to make an Article 4 Direction under the Town & Country Planning (General Permitted Development) (England) Order to remove Permitted Development Rights for HMOs (which would mean that planning permission would be required for any HMO regardless of the number of occupants) in certain areas. Article 4 Directions do not stop development; they simply mean that planning permission is required for the specified development which, without the Article 4 Direction, would be permitted development (i.e. does not require planning permission). Article 4 Directions are intended for use in exceptional circumstances where evidence suggests that development under Permitted Development rights harms local amenity or the proper planning of an area.
- 1.7 This report uses Planning and Environmental Health data to undertake a spatial analysis, by ward, of the numbers and types of HMOs which exist and the extent of the complaints received in Spelthorne. Within the past year, seven complaints have been received by Planning Enforcement where planning permission was not required and hence there were no planning controls. Following investigation by the Planning Enforcement Officers, other complaints received did not relate to HMOs.
- 1.8 Environmental Health only received 4 complaints about issues arising from the presence of HMOs in the past year, and these related to HMOs in the following wards: Ashford Common and Staines. The complaints were about pests, an accumulation of refuse and noise.
- 1.9 New licensing legislation for HMO's came into effect on 1 October 2018. This is the responsibility of Environmental Health and has brought about improvements to the management and safety standards in a high proportion of residential properties in the private rental sector within Spelthorne. The question of whether planning permission has been granted or is required is not a consideration in the granting of HMO licences.
- 1.10 It is considered that given the available data, evidence is insufficient to justify the introduction of an Article 4 Direction in Spelthorne. However, it is recommended that HMOs continue to be monitored by the Planning Enforcement and Environmental Health teams. If the position changes and the number of complaints relating to HMOs which are permitted development and which are causing negative impacts on neighbours increases significantly, a report will be brought to the O&S Committee in the future.

MAIN REPORT

1.0 Background

- 1.1 Under planning legislation, the Town and Country Planning Use Classes Order (UCO) 1987 as amended, sets land use activities into various use classes. Uses are grouped into classes A, B, C, D and *sui generis* (a unique

use class not within a specified class). Within each group, there are further subdivisions of use classes; some 16 in total. Planning permission is normally required to change from one use class to another although there are exceptions where the legislation does allow some changes between uses (the Town and Country Planning General Permitted Development Order 2015, as amended).

- 1.2 Dwellings fall within use class C3 of the UCO. Houses in multiple occupation (HMOs) are contained within both Use Class C4 or *sui generis*. Class C4 defines an HMO as:

Small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom.

- 1.3 A HMO larger than this (i.e. with 7 or more unrelated people) is classed as a *sui generis* use for which planning permission is always required.
- 1.4 Use Class C4 was introduced in April 2010. This change was made in response to concerns around the impact of concentrations of HMOs in certain areas in terms of anti-social behaviour, crime, parking and pressure on facilities particularly in university and coastal towns.
- 1.5 However in October 2010, further measures were introduced to allow changes of use between family houses (Class C3) and small shared houses (Class C4) to take place freely without the need for planning permission.
- 1.6 Consequently it is currently permitted to change from a Class C3 dwelling house to Class C4 HMO property without planning permission. It is also permitted to change a Class C4 HMO property back to a Class C3 dwelling house without planning permission.
- 1.7 However, converting dwellings to an HMO, when classed as *sui generis* (i.e. seven or more occupants) will require planning permission. Likewise a conversion from a large HMO to any other use will also require planning permission.
- 1.8 When planning restrictions were freed up in October 2010, it was made clear by the government that, "*in those areas experiencing problems with uncontrolled HMO development, local authorities will be able to use their existing direction making powers to restrict this freedom of movement by requiring planning applications.*"
- 1.9 In 2013 the (then) Communities and Local Government Select Committee considered the issue of high concentrations of HMOs as part of its inquiry into the private rented sector. The Committee concluded that controlling the spread of HMOs should be a matter for local determination and supported the use of Article 4 Directions to manage conversions to HMO. The Government agreed with the Committee's recommendation.
- 1.10 Directions are made under the Article 4 Direction of the Town & Country Planning General Permitted Development Order. They remove Permitted

Development Rights for certain types of specified development in certain areas. Article 4 Directions do not stop development; they simply mean that planning permission is required for the specified development which, without the Article 4 Direction would be permitted development (i.e. does not require planning permission).

- 1.11 Article 4 Directions are intended for use in exceptional circumstances where evidence suggests that development under Permitted Development rights, such as the spread of HMOs, harms local amenity or the proper planning of an area.
- 1.12 The National Planning Policy Framework (NPPF) requirements for removing permitted development rights compels the planning authority to demonstrate that the removal is necessary to protect local amenity or the wellbeing of a particular geographic area (NPPF, Para 53).
- 1.13 Advice on making an Article 4 Direction is set out by Government in the Planning Practice Guidance (PPG). It states that:

“The use of article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. The potential harm that the direction is intended to address should be clearly identified”.

The advice further states that there should be a particularly strong justification for the withdrawal of permitted development rights relating a number of different scenarios including those covering the entire area of a local planning authority.

- 1.14 In procedural terms there are two types of Article 4 Directions:-
 - Non-Immediate Direction – permitted development rights are withdrawn 12 months from service of the direction after a period of consultation.
 - Immediate Direction – permitted development rights are withdrawn immediately, but must be confirmed within six months after a period of consultation. The Council becomes liable for abortive expenditure or other loss or damage attributable to withdrawal of the permitted development rights, if a subsequent application is refused. The ‘other loss or damage’ would include the difference in the value of the site, and would expose the Council to potentially significant financial liability.
- 1.15 Consequently if the Article 4 takes effect less than one year from issue, compensation is payable to affected landowners. After one year, there is no compensation

2.0 Assessment

- 2.1 All planning enforcement complaints received relating to HMOs which did not require planning permission because they contained six residents or less have been recorded.

The following dates have been used:

- 01/10/16 – 30/09/17
- 01/10/17 – 30/09/18
- 01/10/18 – 30/09/19

The results are shown by ward in the following tables. Any ward not listed did not have any HMO complaints recorded. Each of the three tables are followed by a table showing the reasons why planning permission was not required. It can be seen that a number of complaints listed were investigated by the Planning Enforcement officers and it was established they were not HMOs at all.

Table 1 - HMO complaints by ward where Planning Permission was not required between 1 October 2016 and 30 September 2017

Ward	Numbers of Complaints	Numbers of Households	Number of complaints as a % of households
Ashford Town	1	2,703	0.037
Riverside & Laleham	1	2,846	0.035
Staines South	1	2,899	0.035
Stanwell North	1	3,250	0.030
Other Wards	0		0
Grand Total	4	39,512	0.010

Table 1A - Reasons Planning Permission was not required between 1 October 2016 and 30 September 2017

By Ward & Reason	Count of Reason PP Not Required
Ashford East	2
Care Home	1
Family Dwelling House	1
Ashford North & Stanwell South	1
Family Dwelling House	1
Ashford Town	2
Care home	1
HMO Permitted Development	1
Riverside & Laleham	1
HMO Permitted Development	1
Staines	1
Not a HMO but 2 flats above Retail Unit.	1
Staines South	1
HMO Permitted Development	1
Stanwell North	1
HMO Permitted Development	1
Sunbury Common	1
Family Dwelling House	1
Total complaints	10
Total Complaints HMO Permitted Development	4

- 2.2 Of the 10 complaints received between 1 October 2016 and 30 September 2017, only four related to HMOs which were permitted development.

Table 2 - HMO complaints by ward where Planning Permission was not required between 1 October 2017 and 30 September 2018

Ward	Numbers of Complaints	Numbers of Households	Number of complaints as a % of households
Ashford East	1	2,959	0.034
Ashford North & Stanwell South	2	3,140	0.064
Staines South	1	2,899	0.034
Other Wards	0		0
Grand Total	4	39,512	0.010

Table 2A - Reasons Planning Permission was not required between 1 October 2017 and 30 September 2018

By Ward & Reason	Count of Reason PP Not Required
Ashford East	2
Family Dwelling House	1
HMO Permitted Development	1
Ashford North & Stanwell South	3
Family Dwelling House	1
HMO Permitted Development	2
Ashford Town	1
Flats	1
Riverside & Laleham	1
Family Dwelling House	1
Staines	1
Flats	1
Staines South	1
HMO Permitted Development	1
Total Complaints	9
Total Complaints HMO Permitted Development	4

- 2.3 Of the nine complaints received between 1 October 2017 and 30 September 2018, only four related to HMOs which were permitted development.

Table 3 - HMO complaints by ward where Planning Permission was not required Between 1 October 2018 and 30 September 2019

Ward	Referrals by EH	Numbers of Complaints	Numbers of Households	Number of complaints as a % of households
Ashford East	0	1	2,959	0.034
Ashford North & Stanwell South	1	2	3,140	0.063
Ashford Town	1	1	2,703	0.037
Riverside & Laleham	1	0	2,846	0
Staines	1	1	3,528	0.028
Stanwell North	1	2	3,250	0.062
Other Wards	0	0	-	0
Grand Total	5	7	39,512	0.018

Table 3A - Reasons Planning Permission was not required between 1 October 2018 and 30 September 2019

By Ward & Reason	Count of Reason PP Not Required
Ashford East	2
Family Dwelling House	1
HMO Permitted Development	1
Ashford North & Stanwell South	6
Family Dwelling House	2
HMO Permitted Development	2
HMO – Certificate of Lawful Development	1
HMO has Planning Permission	1
Ashford Town	4
HMO Permitted Development	1
Family Dwelling House	2
HMO has Planning Permission	1
Riverside & Laleham	1
Flats	1
HMO Permitted Development	0
Staines	2
Family Dwelling House	1
HMO Permitted Development	1
Stanwell North	4
B&B above pub	1
Family Dwelling House	1
HMO Permitted Development	2
Total Complaints	19
Total Complaints HMO Permitted Development	7

2.4 Of the 19 complaints received between 1 October 2018 and 30 September 2019, only 7 related to HMOs which were permitted development and these complaints were located in five different wards in Spelthorne. A summary of the HMO complaints which were HMOs not requiring planning permission is set out in table 4:

Table 4– HMO Permitted Development Complaints 2016 – 2019

Year	No. of HMO PD complaints	Number of complaints as a % of households
01/10/16 – 30/09/17	4	0.010
01/10/17 – 30/09/18	4	0.010
01/10/18 – 30/09/19	7	0.018
Average over 3 years	5	0.013

- 2.5 Table 5 below shows the number of HMO complaints received by planning enforcement for the three years 01/10/16 – 30/09/19 as a percentage of the total complaints received. These relate to HMOs which were permitted development. It can be seen that the % of planning enforcement complaints relating to HMOs are low, comprising just over 1% of all complaints received.

Table 5– HMO Planning Enforcement complaints received compared with total Planning Enforcement complaints received 2016 – 2019

Year	No. of HMO PD complaints	Total number of Planning Enforcement complaints received	Number of HMO Planning Enforcement complaints received as a % of total complaints
01/10/16 – 30/09/17	4	399	1%
01/10/17 – 30/09/18	4	317	1.2%
01/10/18 – 30/09/19	7	353	1.13%
Average over 3 years	5	356	1.13%

- 2.6 The number of planning applications for HMOs (containing seven or more residents) by ward which were determined between 1 October 2016 and 30 September 2019 are set out in table 6 below. A full list of the site details are contained as Appendix 1 to this report. It can be seen that 10 out of the 15 applications related to HMOs which contained 7 residents. This is the smallest number of residents within an HMO which requires planning permission.

Table 6 - Planning applications for HMOs by ward determined between 1 October 2016 and 30 September 2019

Ward	Numbers of planning applications approved	Numbers of planning applications refused
Ashford Common	2	0
Ashford East	1	2
Ashford North & Stanwell South	3	1
Ashford Town	2	0
Staines	1	0
Stanwell North	0	1
Sunbury Common	1	0
Grand Total	10	4

- 2.7 The Planning Officers and Planning Enforcement Officers work closely with the Environmental Health Officers who are responsible for issuing a licence for HMOs. The two Departments share information about licence applications and planning applications as well as intelligence about potential HMOs. A licence for an HMO is required from Environmental Health under the following circumstances:
- The dwelling is occupied by five or more people who form two or more households; and
 - all or some of the occupants share bathroom, toilet or kitchen facilities
- 2.8 It should be noted that before the licensing regime change (which was from the 1 October 2018) a licence was only required for HMOs in three+ storey buildings. Consequently, a much larger number of HMOs now fall within the Environmental Health licensing process.
- 2.9 When determining whether to grant a licence for an HMO, Environmental Health are not able to take into consideration whether or not the property has or requires planning permission to operate as an HMO. Environmental Health does, however, strongly advise that HMO licence applicants contact Planning to enquire whether Planning Permission is needed.
- 2.10 The following table shows the number of HMOs licensed by Environmental Health, by ward as well as the number of potential HMOs that have come to the attention of Environmental Health through complaints and enquiries. It should be noted that there is an overlap with the information in tables 1, 2 and 3 above.

Table 7 - Number of HMOs that have been licensed, and the number of potential HMOs brought to the attention of Environmental Health, by Ward.

Ward	Number of licensed HMOs (2018-19)	Potential HMOs*		
		2016 - 2017	2017 - 2018	2018 - 2019
Ashford Common	7	5	2	5
Ashford East	4	4	4	7
Ashford North & Stanwell South	18	13	9	7
Ashford Town	15	7	9	6
Laleham and Shepperton Green	1	1	5	2
Riverside and Laleham	3	3	1	5
Shepperton Town	1	1	1	1
Staines-upon-Thames	11	4	10	11
Staines-upon-Thames South	2	4	4	4
Stanwell North	11	13	7	9
Sunbury Common	9	4	1	7
Sunbury East	2	3	4	1
Grand Total	84	62	57	65

*This 'Potential HMOs' data has recently been extracted from the EH database for the years shown. The data relates to all service requests and enquiries which indicate the properties might be HMOs. From analysis of the data at this time it is not known if they are HMOs and if so whether need to be licensed.

- 2.11 Of the potential HMOs listed within table 7 above, a number of the HMOs have since been licensed or have applications pending:
- 1 October 2016 to 30 September 2017, 62 Potential HMOs of which 18 are now licensed, and 2 are pending (which were not licensable at that time).
 - 1 October 2017 to 30 September 2018, 57 Potential HMOs of which 13 are now licensed, and 1 is pending.
 - 1 October 2018 to 30 September 2019, 65 Potential HMOs of which 4 are now licensed, and 3 are pending.
- 2.12 Maps showing the distribution of licensed HMOs throughout Spelthorne and then the distribution of licensed HMOs by ward are included as Appendices 3 - 16 to this report. The information shows that the highest number of licensed HMOs is within the wards of Ashford Town, Ashford North & Stanwell South and Stanwell North.

3.0 **Issues**

- 3.1 At a time when house prices remain high and access to finance limited, sharing a dwelling with others will continue to be an attractive option. HMOs do fulfil a vital role in providing affordable accommodation for individuals and it is clear that they are an essential part of the housing stock.
- 3.2 A total of 11 properties have been granted planning permission for HMOs between 1 October 2016 – 30 September 2019 and four were refused permission.
- 3.3 In addition, 22 complaints were received over the same period relating to HMOs which did not require planning permission because the number of residents were six or less.
- 3.4 There are concerns that as well as providing much needed affordable accommodation to residents, HMOs can also have negative effects on neighbourhoods. Impacts, either real or perceived from complaints received include the following:
- Noise and anti-social behaviour
 - Accumulations of rubbish and pests
 - Imbalanced and unsustainable communities
 - Negative impact on the physical environment
 - Pressures upon parking provision
 - Growth in private rented sector at the expense of owner-occupation
 - Increased crime, and
 - Pressure upon local community facilities.
- 3.5 For the years 2016 to 2019, tables 8, 9 and 10 below provides a summary of the complaints relating to known HMOs received by Environmental Health about matters relating to accumulations of rubbish, antisocial behaviours, noise, bonfires, vermin and pests. It should be noted that there is some overlap of complaints received by Planning and Environmental Health.

Table 8: Complaints received by Environmental Health about known HMOs between 1 October 2016 and 30 September 2017

Ward	No. of Complaints	No. of Households in Ward	No. of complaints as a % of households	Complaint Type
Riverside & Laleham	1	2,846	0.035	Rubbish Accumulation
Ashford North & Stanwell South	1	3,140	0.032	Noise
Ashford Town	1	2,703	0.037	Rubbish Accumulation
Ashford Common	1	3163	0.032	Bonfire
Other Wards	0		0	-
Grand Total	4	39,512	0.010	

Table 9: Complaints received by Environmental Health about known HMOs between 1 October 2017 and 30 September 2018

Ward	No. of Complaints	No. of Households in Ward	No. of complaints as a % of households	Complaint Type
Stanwell North	2	3,250	0.062	Rubbish Accumulation/ Vermin
Ashford Town	1	2,703	0.037	Rubbish Accumulation
Other Wards	0	-	0	-
Grand Total	3	39,512	0.008	

Table 10: Complaints received by Environmental Health about known HMOs between 1 October 2018 and 30 September 2019

Ward	No. of Complaints	No. of Households in Ward	No. of complaints as a % of households	Complaint Type
Ashford Common	2	3163	0.063	Pests/Noise
Stanwell North	1	3,250	0.062	Rubbish Accumulation
Staines	1	3,528	0.028	Noise
Other Wards	0		0	-
Grand Total	4	39,512	0.010	

- 3.6 Table 11 below provides a summary of the complaints received by Environmental Health relating to residential properties in general (includes HMOs and non-HMOs) about matters relating to accumulations, antisocial behaviours, noise, bonfires, vermin and pests. It also shows what percentage of these complaints relate to HMOs.

Table 11: Complaints received by Environmental Health about all residential properties

Year	No. of Complaints Received	All complaints as a % of households	HMO complaints as a % of total complaints	Complaint type
2016 - 2017	1347	3.4	0.297	Rubbish Accumulations, noise, pests
2017 - 2018	1173	2.97	0.256	
2018 - 2019	1194	3.02	0.335	

4.0 Environmental Health controls of licensed HMOs

4.1 All licensed properties are subject to programmed inspections to check compliance with relevant legislation and licence conditions relating to fire safety, amenities and management. These licence conditions include matters that might adversely impact on nearby residents, in particular in relation to anti-social behaviour and accumulations of rubbish.

4.2 Spelthorne's HMO licence conditions for antisocial behaviour and rubbish are as follows:

- The Licence Holder must take all reasonable and all practicable steps for preventing and dealing effectively with anti-social behaviour by people occupying or visiting the premises; and for preventing the use of the premises for illegal purposes. These steps must include:
 - Ensuring that a written statement of the terms and conditions upon which the house is occupied contains a clause holding the occupants responsible for any anti-social behaviour by themselves and/or their visitors, and that this clause is drawn to the attention of occupants when they take up residence.
 - Responding to complaints of anti-social behaviour that concern occupiers of the premises or their visitors. Where anti-social behaviour is discovered, the Licence Holder must inform the tenant of the matter within 14 days and of the consequences of its continuation.
 - Ensuring that all outhouses, garages and sheds are kept secured and used for their intended purpose. The Licence Holder must not allow them to be occupied as individual habitable rooms, kitchens or bathrooms.

- Ensure that waste bins, which are provided by the Council in line with our bin allocation policy, are made available for all residents of the accommodation. Ensure that suitable refuse bins are provided within the accommodation including within all kitchens. Additional arrangements should be made for the storage and disposal of household waste from the property to ensure compliance with Spelthorne Borough Council's refuse and recycling disposal scheme. For further details about the scheme please go to <https://www.spelthorne.gov.uk/rubbishwasterecycling> or contact Neighbourhood Services on 01784 446411 or email at neighbourhoodservices@spelthorne.gov.uk.

4.3 In addition to the controls Environmental Health have over licensed HMOs, Environmental Health also have powers under various legislation such as the Environmental Protection Act, the Prevention of Damage by Pests Act and the Anti-social Behaviour, Crime and Policing Act 2014 to deal with noise and other nuisance; accumulations of rubbish; and along with our colleagues in Community Safety, to address complaints about anti-social behaviour. These powers apply to all residential properties in the Borough including licensed and unlicensed HMOs.

5.0 Environmental Health activity since the changes to mandatory licensing

5.1 Since before the changes to mandatory licensing and in preparation of such, Environmental Health have undertaken a project focusing on HMO licensing, and have developed new systems and better ways of working in relation to processing HMO licences; proactive investigative work to identify HMOs and compel landlords to ensure their properties are licensed if they meet the licensable criteria; enforcement action in relation to unlicensed HMOs and a risk assessment approach to the timing and frequency of inspections of licensed HMOs.

5.2 Environmental Health publicised the changes to mandatory licensing, and wrote to all known landlords advising them of the changes and the requirement to licence. Additionally, Environmental Health have been keeping a database of potential HMOs from intelligence from various sources including information from complaints. The team have carried out checks on 328 properties from this database in advance of, and since the changes to licensing. Of those visits, 221 were found not to be HMOs, and 107 were considered to be HMOs or potentially licensable HMOs, 35 of which have since been licensed.

5.3 Environmental Health are now following up on the remaining 73 properties where complaints or intelligence suggests that the properties may be licensable. Letters and licence application packs have been sent to the owners of all these properties, and Environmental Health are now following up those that have not yet made an application. This is a time intensive process which includes visits to the properties and gathering evidence where necessary for possible prosecution.

5.4 Since 1st October 2018, 46 licensed HMOs have been visited, and a further 76 visits have been undertaken in relation to unlicensed HMOs in addition to the checks carried out.

5.5 An HMO landlords' guide has been developed to give landlords information on standards required for HMOs and information has been added to the Council's website. This is to encourage landlords to be informed and educated on what they need to do to ensure that their properties comply. However, where necessary, Environmental Health have taken enforcement action by service of informal and formal notices (11 formal notices have been served since 1st October 2018) to improve conditions in a number of HMOs.

6.0 Options

6.1 The previous report to Overview and Scrutiny Committee considered five possible options and commentary was provided on each as to their appropriateness as set out below.

(i) That the Council introduces an Article 4 Direction across the whole Borough.

(ii) That the Council introduces an Article 4 Direction across the wards of Ashford Town and Ashford North & Stanwell South (the wards with the highest number of complaints and applications) withdrawing the permitted development rights to convert a dwellinghouse (C3) to a House in Multiple Occupation (C4) with immediate effect.

(iii) That the Council introduces an Article 4 Direction across the wards of Ashford Town and Ashford North & Stanwell South (the wards with the highest number of complaints and applications) withdrawing the permitted development right to convert a dwellinghouse (C3) to a House in Multiple Occupation (C4) coming into effect after 1 year of its introduction.

(iv) That the Council does not introduce an Article 4 Direction.

(v) To review the position within a year (1 October 2019) from the change in EH regulations.

6.2 The previous O&S report set out the reasons why options (i) to (iv) were not recommended. Consequently it was agreed that HMOs would be continued to be monitored by the Planning Enforcement team and an updated report was to be provided at the end of 2019. This would allow for the implications of the changes to the licensing of HMOs to be assessed.

6.3 From 1 October 2018, all HMOs with five or more people must have a licence from Environmental Health regardless of the number storeys, and this includes certain types of flats. This was a major change from the previous licensing regime which only applied to buildings of three storeys or more. As of 30 September 2018, there were only 28 Houses in Multiple Occupation licensed by Environmental Health in Spelthorne. This has increased to 86, with a further 16 pending.

6.4 The extended scope of the HMO definition has brought a significant increase in the number of HMOs that require a licence by Environmental Health to operate. Overall it has brought about improvements to the management and safety standards in a high proportion of residential properties in the private rental sector within Spelthorne.

- 6.5 A summary of complaints received by Planning Enforcement relating to HMOs which were permitted development over the last three years are shown in table 4 above. It is clear that whilst the number of complaints concerning HMOs have increased in the year from 01/10/18 since the change in the licensing regime, the number of complaints at 7, which is spread over 5 different wards in Spelthorne, ranging between 1-2 complaints per ward is very low. Overall, the number of complaints across the borough equates to just 0.018 complaints as a % of households in the year to 30/09/19 and 0.013% as an average over the last three years.
- 6.6 The total number of complaints received by Environmental Health about issues arising from the presence of HMOs in the last three years is only 11. This, as shown in table 11, represents a very small proportion of overall complaints about issues relating to residential properties that would adversely impact on nearby residents for the year.
- 6.7 As detailed in section 3 above, HMOs provide a useful form of housing tenure. At a time when house prices remain high and access to finance limited, sharing a dwelling with others will continue to be an attractive option. HMOs do fulfil a vital role in providing affordable accommodation for individuals and it is clear that they are an essential part of the housing stock. It should be noted that the introduction of an Article 4 Direction could indirectly result in a reduction in the supply of HMOs which in turn might impact on the groups who typically occupy this type of low cost accommodation. Local authorities will still be required to plan to meet the housing needs of those groups and this duty has recently increased following the Homelessness Reduction Act 2017 which came into effect in April 2018.
- 6.8 It should be noted that Environmental Health has powers to investigate and take enforcement action in relation to noise and other nuisance behaviours; accumulations of rubbish and pest and vermin control. These powers apply in relation to licensed and unlicensed HMOs as well as dwellings that are not HMOs.
- 6.9 The Police and the Highway authority have powers to control dangerous or illegally parked vehicles and vehicles causing damage to highway verges and crime. Neighbourhood Services has powers to serve notices in relation to poor waste management.
- 6.10 The introduction of an Article 4 Direction would need to be justified by evidence. Given the very low level of complaints received not requiring planning permission (which would be covered by an Article 4 Direction) as a proportion of the number of households, it is considered that there is insufficient evidence at this stage to justify the making of an Article 4 Direction. However, it is recommended that HMOs continue to be monitored by the Planning Enforcement and Environmental Health teams. If the position changes and the number of complaints relating to HMOs which are permitted development increase significantly, a report will be brought to the O&S Committee in the future.

7.0 Recommendation

- 7.1 It is recommended that HMOs continue to be monitored by the Planning Enforcement and Environmental Health teams. If the position changes and the number of complaints relating to HMOs which are permitted development and which are causing negative impacts on neighbours increases significantly, a report will be brought to the O&S Committee in the future.

Appendices:

Appendix 1 – Planning Applications for HMOs by ward determined 30 October 2016 – 30 September 2019

Appendix 2 – Licensed HMOs by ward (Borough plan) as of 6 November 2019

Appendices 3 – 15 – Licensed HMOs by ward (individual plans)

Annex – Report to Overview and Scrutiny Committee – 20 November 2018

Appendices to Annex

Appendix 1 – Planning Applications for HMOs by ward determined April 2010 – May 2018

Appendix 2 - HMO complaints by ward where Planning Permission was not required (From April 2010)

Appendix 3 - Numbers of planning applications refused

Appendix 4 - Numbers of planning applications approved

Appendix 5 - Numbers of HMO licenced premises (up to 6 residents)

Appendix 6 - Numbers of HMO licenced premises (7 residents or more - Planning Permission required)