

APPENDIX 2 : HMO Summary Consultation Analysis

Respondents

12 respondents during consultation period, including 4 Community Councils and 1 adjoining authority. Plus 1 respondent prior to consultation period.

Q1. Do you agree that Technical Note 3 : Houses in Multiple Occupation provides a helpful summary of the issues in respect of Houses in Multiple Occupation?

12 responses

8 Yes

4 No

Summary of Comments: Main comments related to concerns over anti-social behaviour and residential amenity.

Summary Response: Circular 2/2012 directs that “Some of these changes, particularly regarding the behaviour of HMO tenants, are not matters for planning authorities.” The planning authority can take into consideration the impact on community amenity as this is a planning concern

Summary of Change: Clarification and greater emphasis regarding management of impacts on community amenity.

Q2. Do you agree that Technical Note 3 : Houses in Multiple Occupation provides sufficient clarity on the different requirements for licensing and planning permission in relation to Houses in Multiple Occupation?

12 responses

9 Yes

3 No

Summary of Comment: None

Q3. Is the status of Technical Note 3 : Houses in Multiple Occupation clear? (This is set out in paragraphs 1.6 – 1.10.)

11 Responses

7 Yes

4 No

Summary of Comment: Improve the link to the Development Plan.

Summary of Change: Hyperlink to LDP and Supplementary Guidance added

Summary of Comment: Issues regarding how the guidance applies to renewals and requests for change.

Summary Response: Planning Permission would not require to be renewed if implemented unless there has been a material change which would require a new application. Planning

policy for concentrations can only apply to first time proposals since the policy was written. The aim is to integrate the licencing and planning responses as far as possible

Summary of Change: Clarification by amendment to 1.8 and 1.9 that the guidance applies to applications submitted after the Technical Note was published.

Summary of Comment: Reference to HMO licences not included paras 1.8-1.9

Summary of Change: Reference to HMO licences included para 1.9

Q4. Do you agree with the 4 guiding principles that set out our approach to Houses in Multiple Occupation in Argyll and Bute? (see HMO1 after paragraph 2.2)

12 responses

8 Yes

4 No

Summary of Comment: Issues relating to the responsibilities of landlords e.g. garden maintenance and window cleaning should be within the guiding principles

Summary of Response: Principles are broad values rather than detailed policy.

Summary of Change : Amend 2nd bullet of principles to cover maintenance issues

Summary of Comment: Issues regarding control of HMO numbers to prevent over-provision should be within the guiding principles

Summary of Response: Principles are broad values rather than detailed policy.

Summary of Change: Amend 1st bullet to address overprovision issue as related to levels (numbers and capacity) of HMO

Summary of comment: Issues regarding enforcement and legal requirements should be within the guiding principles

Summary of Response: Principles are broad values rather than detailed policy.

Summary of Change: Amend 4th bullet to clarify covers all environmental health and planning matters. Note that enforcement will be undertaken in accord with the Enforcement and Monitoring Charter – added to para 1.9.

Q 5. Do you agree with the key considerations and policy for assessing applications for Houses in Multiple Occupation? (These are shown in paragraphs 2.3 – 2.4 including HMO2.)

12 responses

8 Yes

4 No

Summary of Comment: Concerns raised about use of shared private amenities e.g. sewage systems, unadopted roads (including capacity, safety and maintenance) and also scale of garden ground maintenance

Summary of Response: Infrastructure will be assessed as part of the planning process. Maintenance issues do not require to be dealt with through a planning application. Other processes are in place for dealing with poor standards of maintenance of any property.

Summary of Change: Para 2.4 and HMO2 additional text to cover infrastructure and servicing in relation to these issues.

Q 6. Do you agree with the method for assessing overprovision and the policy on this? (This is shown in paragraphs 2.5 – 2.7, including HMO3.)

12 responses

8 Yes

4 No

Summary of Comment: Support for responsive approach to overprovision

Summary of response : Support welcomed and noted

Summary of Comment: 2.6: Should include reference to villages and hamlets

Summary of response: The LDP refers to towns, villages and settlements. It is preferable to maintain a common language within the Technical Note that is subsidiary to the LDP.

Summary of Change: Para 2.6 alteration to include reference to villages

Summary of Comment: The number of HMO licence applications (and the requested occupancy levels) in process should also be taken into account

Summary of Change – Para 2.6 Reference made to current and proposed levels and total permitted capacity of HMO.

Summary of Comment : Para 2.7 The word “cluster” requires defining. E.g. A cluster - being more than 1 HMO in any one postcode or census output area to encourage a consistent and understood approach.

Summary of Response: The proposed definition would not necessarily identify a cluster. Guidance and a consistent approach to assessment will be key.

Summary of Change : Identification of cluster section expanded for clarification

Summary of Comment – Para 2.7 “in the immediate area” - is open to individual interpretation. It should reference an individual postcode/census output areas, or recognised local groupings of houses e.g. streets, village centres

Summary of Response : Encompassing the range of situations within a single definition would be difficult within the Argyll and Bute context which contains very varied situations. Guidance and a consistent approach to assessment will be key.

Summary of Change : Identification of cluster section expanded for clarification

Summary of Comment: 2.7 “Number, type and capacity of existing HMO” - noted that HMO planning approval and HMO licences approval are not occupier specific - so the “type”/nature could change in the life of the HMO.

Summary of Response: Agree

Summary of Change : delete reference to “type”

Summary of Comment : Para 2.7 Mitigating factors - “The extent to which the HMO accommodation supports identified Community Planning Partnership projects”. Consultees are cautious that naming categories e.g. of students and military personnel could lead some applicants (or sheriff on appeal) to argue that this document supports the continuing increase in numbers of HMOs in proximity to their establishments irrespective of the over-provision that already exists/may be created. It could raise expectations by some applicants that HMO approval will be automatically granted without the need for organisations to seek alternative solutions for the housing of personnel/students. Consultees suggest that the wording should emphasise that availability of transport (personal and public) does not mean that personnel/students all need to live within walking distance from the Community Planning Partnership projects.

Summary of response: The circular states that “any concentration levels set should take account of the demand for HMOs in each area, as well as the need to protect residential amenity.” Demand should not be viewed as an overriding factor but as one element of the consideration of HMO overprovision.

Summary of Change: The overprovision section now clearly identifies the demand related considerations separately from mitigating factors and has additional wording to clarify the consideration of this issue.

Summary of Comment - HMO03 Over-provision should also be taken into account when assessing renewals of HMO licences.

Summary of Response : The circular states that “Any planning policy to manage HMO concentrations will apply only to properties being proposed for use as a HMO for the first time after the date on which the policy takes effect.”

Summary of Comment - Consistency - If the document in it’s current format was given to a number of A&B officers (planning and licensing) with a scenario, we suspect that the decision to approve or refuse based on overprovision would not be consistent - due to the

“flexibility” of the document to enable personal opinion, hence the need for defining terms such as “clusters”, “immediate area” etc.

Summary of Response: The section includes additional wording for clarification. The Technical Note is being introduced to help achieve joint working and consistency on the Council’s approach to HMO and will be supported by training and process to ensure a consistent approach.

Summary of Comment: The Technical Note should only make reference to purpose built student accommodation for which the overprovision does not apply and clearly state that all other applications are subject the guidance.

Summary of Response: The only exclusion to Policy HMO 3 is purpose built student accommodation.

Summary of Change: A note explaining “purpose-built student accommodation” exemption has been added

Q7 Do you have any comments on the conditions that apply to licensing Houses in Multiple Occupation? (This is shown in paragraphs 3.1 – 3.7)

11 Responses

2 Yes

9 No

Summary of Comment: wording should be included which states that “HMO licence applications can only be accepted from the legal owners of a property and that this will be checked by A&B to ensure legal owners cannot deny knowledge of HMO occupation”

Summary of Response: This is a matter of detail that the Licensing process deals.

Summary of Change : Link to licence application guidance has been included in the Technical Note.

Summary of Comment 3.4 “fit and proper” should also include a statement that supports refusal based on breaches in housing/letting legislation. This should not only include criminal convictions but also to be based on A&B knowledge of the operation of any property as an HMO without licence by the applicant, the agent or the person responsible for day to day management. Historical information should also be taken into account.

Summary of Response: A professional judgement is made by the local authority as regards the “fit and proper” nature of a landlord. It is not considered to be appropriate to set specific detailed criteria within this Technical Note.

Comment - 3.4 Should include wording that landlord registration must be in force.

Summary of Response: This would not always be the case. Where it is required to be in place this is part of the licencing process. A Link to licence application guidance has been included in the Technical Note.

Summary of Comment: 3.7 The links stated on the document are no longer valid.

Summary of Change - Updated link

Q8 Other comments

Summary of comment : Seasonal workers- potential substandard accommodation. It is good to inspect and licence

Summary of Response: Noted

Summary of Comments: Various issues re potential antisocial behaviour

Summary of Response: The circular states that “Policies must be designed to safeguard community amenity, and must not be in response to perceived concerns about the behaviour of tenants.”

Summary of Comment: Issues re resources to monitor. Concern that the situation will be monitored

Summary of Response: Planning applications and Licence Applications are currently logged in the Council’s processing system and can be monitored.

Summary of Comment : Dynamic of housing market. Large houses used up for HMO not available for large families, in particular Lochgilphead

Summary of Response: Housing needs are assessed through the Housing Needs and Demand Assessment and other more localised assessments. Housing need is part of the test in terms of overprovision. Clarified in Overprovision section.

Summary of Comment: Welcome approach re overprovision for rural area. If have a % should be cautious – 2% of Census Output Area suggested. Information supplied,

Summary of Response: Currently no percentage is proposed but the situation will be monitored

Summary of Comment: Concern re monitoring of HMO and related enforcement.

Summary of Response: The Council has an Enforcement and Monitoring Charter. Hyperlink to this included in the Technical Note

Summary of Comment : typos 3.12

Summary of Response : Thanks. Corrected.

Summary of Comment : There are contradictions within the document. As follows: Ballet West noted in the mitigation factors section indicating that the increase in HMOs for the school could be regarded as acceptable/mitigating. Then the school is referred to in section 3.17 'there are concentrations developing that may present issues, for example within Taynuilt linked to Ballet West'

Summary of Response: This needs clarification. Demand factors should be taken into account in the assessment of overprovision but would not be overriding – part of a balanced assessment.

Summary of Change: Demand factors clearly shown in separate section and approach clarified.

Summary of Comment 4.2 Staff are not accommodated in HMO's, this type of accommodation only applies to the students.

Summary of Change - Deleted “staff”

Other Comments

Summary of Comment - Paragraph 1.5 4th bullet point. The statement should be clarified as HMOs are regularly inspected by the Local Authority and should not lead to physical deterioration.

Summary of Response : This bullet relates directly to Circular 2/2012. Inspection takes place to identify issues, including potential physical deterioration.

Summary of Comment : Para 2.4. The parking needs for an HMO are quite often much less than for a normal dwellinghouse. E.g. Students have far fewer motor vehicles. Evidence supplied re current situation within a number of HMO in Taynuilt indicating no cars or limited number of cars at the properties.

Summary of Response: The HMO is granted as an HMO and not a specific type, i.e. it does not contain a restriction in respect of occupiers for example students and could equally be available for seasonal workers or other occupier. There is also no restriction on occupants in terms of car ownership. The circular 2/2012 identifies one of the potential problems with HMO concentrations as “increased population density, resulting in increased demand on services, infrastructure and on-street parking provision”. It is therefore appropriate to consider increased parking requirements. However it is agreed that the requirement should be applied in a responsive manner.

Summary of Change : clarification on how to apply the parking standards including a framework for circumstances when the standard may be reduced.

Summary of Comment : Page 8 - 2nd bullet point Ballet West is linked to the Open University.

Summary of Response : No issue in terms of the Technical Note

Summary of Comment : Para3.3. Should state what the penalty is.

Summary of Response : The penalty is not fixed, may change and is related to a process outwith the scope of this Technical Note. The Technical Note statement is to make it clear that it is an offence to operate an HMO without a licence.

Summary of Comment : Table 1 should refer to managers of the property. Agents are sometimes only responsible for dealing with the applications and not the supervision of the property.

Summary of Response : This is taken directly from the Scottish Government Guidance. "Agent" simply refers to a person who acts for or represents another. People submitting planning applications may engage agents to act for them and equally landlords may employ agents to act for them.