

20 June 2023		ITEM: 6
Housing Overview & Scrutiny Committee		
Houses of Multiple Occupation (HMO) Report		
Wards and communities affected: All	Key Decision: Non key	
Report of: Dulal Ahmed, Housing Enforcement Manager		
Accountable Assistant Director: Ewelina Sorbjan, Assistant Director of Housing		
Accountable Director: Ian Wake, Director of Public Health, Adults, Housing and Health		
This report is Public		

Executive Summary

This report has been drafted to reflect the activities of the service during the year. The challenges facing the Council during 2022 are well publicised and this report should be read in that context. Future service activity will need to reflect the intervention the Council finds itself in. Particularly difficult decisions will need to be made on levels of service and methods of service delivery during 2023 and beyond.

This report provides an update on the council's performance on ensuring that Houses of Multiple Occupation [HMO] are licensed in accordance with Mandatory Licensing scheme as stipulated under Part 2 of the Housing Act 2004.

The council also operates an Additional Licensing scheme for small HMO's, covering 11 out of its 20 wards that came into force on 1 June 2019 and runs until 31 May 2024.

To date, the council has licensed 225 HMO dwellings from April 2019 to March 2023.

HMO landlords must pay a fee to the council to rent out their property under licensing. The council has collected a total of £263,138 in licence fees from 2019 to 2023. This has contributed towards the council's employment of licensing officers to perform this duty.

It is important to note that some HMO dwellings in the borough, do not require a licence and some buildings are excluded from HMO licensing, therefore not subject to Mandatory and Additional licensing or have to pay a council fee, to rent out their HMO property.

Planning permission is not required to change the use of a family house into an HMO up to 6 persons but is required for large HMOs with 7 or more unrelated persons sharing.

The Private Housing Team investigate all cases where HMOs are suspected of operating without HMO licence.

Thurrock's population growth has increased the need for HMO accommodation for one person households. Over 38,708 of residents are aged 18-34.

The Private Housing Team are gathering evidence to extend the council's Additional Licensing scheme beyond May 2024. This will cover the whole borough for another 5 years, with the purpose to continue improving housing standards within the Private Rented Sector [PRS].

1. Recommendation(s)

1.1 That the Committee notes and comments on the report.

1.2 That the Committee notes the local household need for 1-bedroom properties in the borough has increased in line with Thurrock's population growth.

1.3 That the Committee notes the Private Housing will produce a new business case to extend its Additional Licensing Scheme for another 5 years covering the whole of the borough.

2. Local Housing Context

2.1 The borough's population size has increased by 11.6% from around 157,000 in 2011 to 176,000 in 2021.¹

2.2 The PRS in Thurrock is important and plays a short- and long-term role in meeting the housing needs of the borough. Its size has significantly grown from 9,200 in 2011 to 16,346 dwellings in 2022. ² This has helped to meet local housing need.

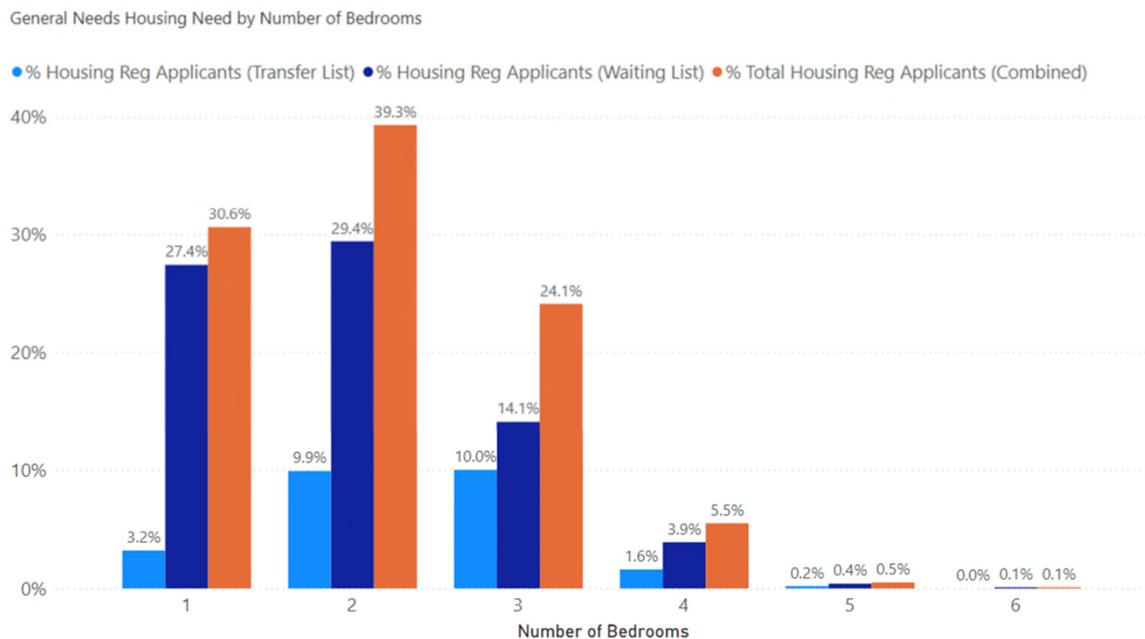
2.3 It is estimated that the number of people aged between 20 to 34 years old has increased by almost three thousand as per the ONS census 2021 compared to 2011.

2.4 HMOs provide accommodation to single adult residents to meet their housing needs, especially those under 35 years of age, eligible for Universal Credit/Housing Benefit room-in-a-shared-house rate only.

¹ Source ONS Census 2021

² Source Thurrock Private Housing Stock Condition Survey 2021

2.5 This chart presents a snap of general housing need by property size on the council housing register. It includes applicants that have placed a least one bid in the past two years or have had their application registered in the past two years.



2.6 Based on the council’s housing register data, the greatest demand is for two-bedroom properties, followed by one-bedroom properties. ³ⁱ

3. Houses of Multiple Occupation

3.1 The definition of a House in Multiple Occupation as a Mandatory HMO changed in October 2018 to a property which is:

- Occupied by 5 tenants, forming 2 or more households
- Sharing toilet, bathroom or kitchen facilities with other tenants regardless of the number of storeys

3.2 A small House in Multiple Occupation [HMO] is a property which is:

- Occupied by 3 or 4 people, forming 2 or more households
- Sharing toilet, bathroom or kitchen facilities with other tenants

3.3 The small HMO definition at 3.2 describes properties requiring a licence under the council’s Additional Licensing scheme.

3.4 A household is either a single person or members of the same family who live together. A family includes people who are:

³ⁱSource Housing Strategy 2022-2027

- Married or living together – including people in same sex relationships
- Relatives or half relatives for example grandparents, aunts, uncles, siblings
- Stepparents and stepchildren

3.5 All HMOs must comply with the Essex Amenities Housing Standards. This is attached in Appendix 1. The council has adopted minimum standards for amenities and space permitted in an HMO suitable for the number of occupants.

4. Planning

4.1 Planning permission is not required for all HMOs. The Town and Country Planning (Use Classes) Order 1987 (as amended) puts uses of land and buildings into various categories known as ‘Use Classes’.

4.2 Use Class ‘C’ relates to residential uses. Of relevance to this report are following subsections:

C3 Dwelling Houses

This class is formed of three parts

C3(a) covers use by a single person or a family (a couple whether married or not a person related to one another with members of the family of one of the couple to be treated as members of the family of the other) , an employer and certain domestic (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant) a carer and the person receiving the care and a foster parent and foster child.

C3(b) N/A

C3(c) allows groups for groups (up to six) living together as a single household. This allows for those groupings that do not fall within the C4 HMO definition, but which fell within the previous C3 use class, to be provided for i.e a small religious community may fall into this section as could a homeowner who is living with a lodger

C4 Houses in multiple occupation – Small shared housed occupied by between three and six unrelated individuals as their only or main residence, who share basic amenities such as kitchen or bathroom

Other relevant uses classes

Sui Generis Uses

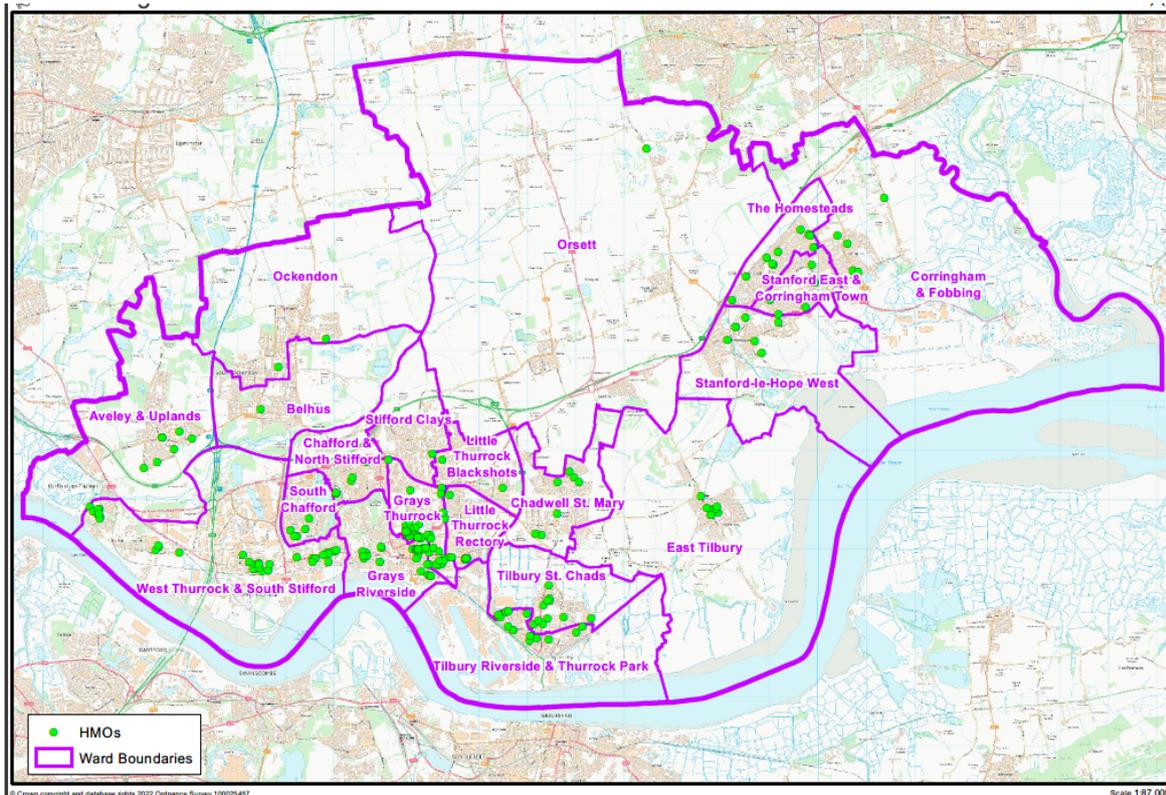
HMO of more than 6 people fall outside the C uses, and are in the sui generis use class as “Larger HMOs”.

Planning permission is not required for movement between the C uses identified above. Planning permission will be required for all HMOs with more than 6 residents, which are classified in planning terms as “Larger HMOs’ Some Local Authorities have Article 4 Directions in place which remove permitted development rights for changes HMOs, of any size. Thurrock does not have any Article 4 Directions in place.

The government has issued guidance on when and how to make an Article 4 Direction. It says that local authorities should consider making Article 4 Direction only in those exceptional circumstances where the direction is necessary to protect local amenities or the wellbeing of the area.

5. HMO Licensing

- 5.1 The council has a duty to ensure that HMOs are licensed in accordance with Mandatory Licensing and its Additional Licensing scheme.
- 5.2 It has 225 properties on the council’s public register of licensed HMOs under section 232 of the Housing Act 2004. Out of those 225 properties, 168 properties are located within the additional licensing areas and 57 are licensed within areas exempted from the HMO Additional Licensing scheme.
- 5.3 The following map shows a breakdown of HMOs controlled under Mandatory and Additional Licensing.



5.4 The highest concentration of licensed HMOs in the borough are found within the following wards where Mandatory and Additional Licensing are implemented:

- Grays Thurrock
- South Stifford
- Tilbury St Chads

5.5 There is no high number nor concentration of HMOs on one street that could be identified within the licensed data set available. The distribution of HMOs is generally clustered in areas of older properties and low-quality affordable housing except for the student accommodation in the following wards Stanford Le Hope West, Stanford East & Corringham Town, The Homesteads, and Corringham & Fobbing.

5.6 The owner has the responsibility for submitting a valid application for an HMO licence with their licensing fee to the council. At 7.2 it shows the HMO fees collected from 2019 to 2023.

5.7 HMO properties are only issued with a licence following a full inspection and the proposed licensed holder is assessed suitable to manage the house, following a 'fit and proper' test.

5.8 The Private Housing Team looks at the following checks if the person has before a licence is granted:

- Any unspent convictions involving fraud, or other dishonesty or violence or drug offences
- Any offences listed in the Schedule 3 to the Sexual Offences Act 2003
- Any unlawful discrimination on the grounds of sex, colour, race, ethnic or disability in connection with carrying out of any business.
- Contravened any provision of housing or landlord and tenant law
- Or to anything else which is relevant

5.9 Some buildings are exempt from HMO Licensing under Schedule 14 of the Housing Act 2004 where the person managing or having control is

- A local authority
- A registered Social Landlord
- The Police
- Fire and Rescue Authority
- National Health Service
- Specified education establishments eg student halls
- Religious buildings
- Exempt supported housing accommodation providing commissioned care and support – currently under government review

5.10 The Government recently published draft guidance to exempt accommodation provided by the Home Office for asylum seekers from HMO licensing requirements. The Private Housing are awaiting further guidance of when this date comes into force.

6. Additional Licensing

6.1 Cabinet approval was obtained before the council's Additional Licensing came into force on 1 June 2019. This discretionary scheme lasts for 5 years and comes to an end on May 31, 2024. The scheme covers the following areas in Thurrock:

- Grays Riverside, Grays Thurrock, Little Thurrock Blackshots, Stifford Clay, Aveley and Uplands, Belhus, Ockendon, West Thurrock and South Stifford , Chadwell St Mary, Tilbury Riverside and Thurrock Park, Tilbury St Chads

6.2 Small HMOs that meet this definition at 3.2 but are located outside the aforementioned areas are not required to have a licence from the council to operate. This includes the following wards

- Corringham & Fobbing, Stanford East & Corringham Town, The Homesteads, Stanford Le Hope West, East Tilbury, Orsett, Little Thurrock

Chafford & North Stifford, South Chafford

- 6.3 The Private Housing Team will produce a business case in 2024 to extend HMO Additional Licensing to cover whole of the borough.
- 6.4 Licensing has proved valuable in driving up housing standards in the HMO rental market. It helps both tenants and landlords manage rented properties to a higher safety standard under their Management Regulation duties. See point 8.5.

7. Licensing Fees

- 7.1 HMO landlords must pay a licensing fee to the council to rent out their property. The HMO licence fee is regulated under Section 63[3] of the Housing Act 2004. Fees are reviewed annually, and they cover the cost incurred in carrying out the licensing function.
- 7.2 The following table provides a breakdown of licensing fees collected from 2019 to 2023. This money from fees must be ring fenced to cover the cost of providing the HMO Licensing Service, including all overheads and oncosts.⁴

Licensing Fees

Year	2019/20	2020/21	2021/22	2022/23	Total
Licensing Fee £	122,597	80,559	31,443	28,539	263,138

- 7.3 From 2021 to 2023. the Private Housing Team have experienced the following organisational challenges to licence HMOs:
- Staffing levels were reduced from 4 to 3 Licensing Officers in 2021/22 to make an efficiency saving.
 - The challenges facing the council during 2022 have impacted on 2 out of 3 Licensing officers leaving the council in 2023. The Private Housing Team anticipate filling those vacant positions in August 2023.

8. Licensing Performance

- 8.1 The Private Housing Team prioritise physical property inspections to check for landlord compliance to maintain and improve HMO stock conditions in the PRS.
- 8.2 The following performance table demonstrates the Private Housing Team utilising their full powers under the Housing Act 2004, to protect tenants from repair deficiencies identified in dwellings from 2019 to 2023.

⁴ Source Open for business – LGA Guidance on locally set licence fees

- 8.3 The key headlines are:
- 8.4 21 Improvement notices were served where the Council determined that this should be served in respect of a Category 1 hazard. This requires work to be carried out that will either remove the hazard entirely or reduce it so that it ceases to be a Category 1 hazard. The most severe hazards are known as Category 1 hazards. If a hazard is less serious, this is known as a Category 2 hazard. See Appendix 2 for the 29 Housing Hazards and health effects
- 8.5 66 Management Regulation Notices were served where the Council determined that the landlord has failed to follow the safety measures required for managing an HMO. This includes fire safety, maintain the water supply and drainage, maintain gas and electricity, maintain common parts and living accommodation and provide waste disposal facilities.
- 8.6 The Council has prosecuted 8 landlords and imposed 35 civil penalty notices.

Performance outputs

Enforcement Measure	2019/20 No.	2020/21 No.	2021/22 No.	2022/23 No.	Total
Improvement Notice	17	1	0	3	21
Suspended Improvement Notice	1	0	0	0	1
Prohibition Order	2	2	0	0	4
Emergency Prohibition Order	0	0	0	0	0
Suspended Prohibition Order	1	2	0	1	4
Emergency Remedial Action	1	0	0	0	1
Environmental Protection Act S80	5	0	1	1	7
Hazard awareness Notice	14	0	0	0	14
Management Regulations 2006 Advisory Notice	24	7	13	22	66
Building Act 1984/Public Health Act 1936 Drainage	1	0	1	1	3
Public Health Act 1936 Notice	3	0	0	0	3
Works In Default	3	0	0	1	4
Prosecutions	4	0	0	4	8
Civil Penalty Notice	7	8	10	10	35
Rent Repayment Order	1	0	0	0	1
Banning Order	0	0	0	0	0

9. Civil Penalties

- 9.1 The council will try to educate and work with landlords to secure their compliance. However, the Private Housing Team has imposed civil penalties for a range of offences under the Housing Act 2004 as an alternative to prosecution against HMO landlords. This has totalled £337,045 for failure to

comply with statutory obligations, since HMO Additional Licensing came into force.

9.2 The following table shows a breakdown of this income for the offences set out below

- Failing to comply with an Improvement Notice
- Failing to comply with an Overcrowding Notice
- Owning or managing an unlicensed HMO
- Breach of HMO licence conditions
- Breach of HMO management regulations

Civil Penalties

Year	2019/20	2020/21	2021/22	2022/23	Total
Civil Penalty £	63,070	82,702	103,540	88,735	337,045
No.	7	8	10	10	35

9.3 It is important to note that if a landlord believes their penalty notice has been unfairly imposed or that the penalty is unreasonably high, they can appeal the council's decision.

9.4 Overall, our Licensing schemes and civil penalties has totalled an income of £600,183, since April 2019 to March 2023. This income has reduced the General Fund pressure to fully support the Private Housing Team.

10. Unlicensed HMOs

10.1 Since 2019, the Private Housing Team have identified 970 alleged HMOs to investigate.

10.2 The following table provides an outcome of those suspected HMOs.

Outputs	No
Alleged HMOs	970
Filtering data with a second and third data match	525
Physical Property Inspections carried out	198
No of homes required a licence	48
No of homes did not require a licence outside of an additional licensing area	20
No of homes found to be a single let	130

10.3 The number of suspected HMOs will increase and decrease during the year. This is based on investigative research datasets including, complaints, tenancy deposit schemes, council tax, electoral, and housing waiting list records. It is important to note that intelligence gathering plays an important function of identifying, prioritising and preparing property lists to detect HMOs requiring a licence This is an ongoing process throughout the year to validate

this information. The current number of HMOs suspected without a licence is 327.

- 10.4 Each Licensing Officer is allocated a number of unlicensed HMOs to investigate. This usually involves undertaking background checks regarding ownership, property visits and gathering of evidence such as tenancy agreements, witness statements and photographs. This can be resource intensive depending on the property but generally each Officer undertakes approximately 40 investigations per year.

Reasons for Recommendation

- 10.5 The PRS has grown significantly alongside the borough's population growth. The population is expected to reach 192,535 in 2032⁵ The borough needs 1-bedroom properties to meet local demand levels. HMOs are an important part of housing supply, and the trend is likely to continue as the population increases.
- 10.6 Housing enforcement records demonstrate that PRS continues to have poorly managed HMOs impacting on tenant safety and the wider neighbourhood. Better managed and maintained HMOs improve the health and wellbeing of tenants and have a positive impact on their local community.
- 10.7 The council has systems in place to administer licensing to improve housing conditions through HMO licence conditions setting minimum housing standards in the PRS.
- 10.8 This licensing function is self-funded from HMO licencing and civil penalty fees.
- 10.9 Licensing assists the Government's levelling up agenda, in terms of its ambition to half the number of non-decent homes across all tenures by 2030.⁶

11. Consultation (including Overview and Scrutiny, if applicable)

- 11.1 NA

12. Impact on corporate policies, priorities, performance and community impact

- 12.1 Thurrock's Housing Strategy 2022-27 is committed to protecting resident safety from harm to their physical and mental health. HMO licensing will improve the safety and security of Thurrock residents by addressing property conditions required to support residents to feel safe.

⁵ Source ONS Subnational population projections 2012

⁶ Source [A fairer private rented sector - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/a-fairer-private-rented-sector)

13. Implications

13.1 Financial

Implications verified by: **Mike Jones**
Strategic Lead – Corporate Finance

Section 63[3] of the Housing Act 2004 provides that license applications may be accompanied by a fee to be determined by the local housing authority [LHA]. In setting its fee LHA may take into account all costs its incurred in carrying out its licensing function which we have done for licence applications up to a 5 year period.

All income generated through the licensing scheme is ring fenced to administer the scheme and improve the HMO offer in the borough.

13.2 Legal

Implications verified by: **Adam Rulewski**
Deputy Principal Barrister, Housing, Litigation and Prosecutions

The committee is recommended to note the report only, as such there are no legal implications in respect of the recommendation.

S3 of the Housing Act 2004 places a duty on a local housing authority to keep the housing conditions in their area under review with a view to identifying any action that may need to be taken under the provisions mentioned in s3(2). The licensing of HMOs is one of those provisions.

13.3 Diversity and Equality

Implications verified by: **Rebecca Lee**
Team Manager, Community Development and Equalities

A community and Equality Impact Assessment was carried out prior to the implementation of Additional Licensing in 2019.

Licensing allows the Council to remedy poor conditions in the private rented sector that can have an adverse effect on health and can exacerbate medical conditions. The Council can take the appropriate action required under Mandatory and Additional Licensing

13.4 **Other implications** (where significant) – i.e. Staff, Health Inequalities, Sustainability, Crime and Disorder, or Impact on Looked After Children

None

13.5 This contributes towards the council's Community safety partnership duty to reduce crime, and anti-social behaviour in the borough as licensing increases collaboration to tackle rogue landlords.

The definition of a rogue landlord is a landlord who knowingly flouts their obligations by renting out unsafe and substandard accommodation to tenant, many of whom may be vulnerable.

14. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- [Thurrock population change, Census 2021 – ONS](#)
- [Thurrock Council - Housing Strategy, 2022-2027](#)
- [Thurrock Council - Joint Strategic Needs Assessment: demographics and population change](#)
- [A fairer private rented sector - GOV.UK \(www.gov.uk\)](#)
- [Open for business: LGA guidance on locally set licence fees | Local Government Association](#)

15. **Appendices to the report**

- Appendix 1- Essex Amenities Standards for Houses in Multiple Occupation.
- Appendix 2 - Housing Hazards and Health Effects

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