

Wokingham Borough Council – Summary Policies and Procedures relating to HMOs

Legislative Controls

There are a number of legislative controls that address issues caused by Houses in Multiple Occupations (HMOs) through Licencing, Environmental Protection (statutory nuisance) and the Planning System. Below is an explanation of these legislative controls and the Council's policy and procedure to address HMOs.

Licencing Operational Policy and Procedures

Wokingham Borough Council joined with West Berkshire District Council in 2012 to form a Shared Environmental Health and Licensing Service. This is hosted by West Berkshire District Council but Wokingham Borough Council remains the responsible authority. The legislation and policies relating to the shared service are the same as they would be if the service was administered by WBC

It is the policy of this shared service to follow the legislation and guidance set out by Central Government and statute in respect of procedures for the licencing of HMOs. Details of this policy are available on the Wokingham Borough Council website (linked to West Berkshire Council Website) with further information available on the Government website.

www.westberks.gov.uk/index. ([Rented Housing Regulation](#)).

In accordance with the legislation, a licence for a HMO is needed only when there are more than 5 residents where the building is 3 stories plus in height. Under the licencing system, issues that can be addressed focus on safety to ensure that the standard of accommodation is acceptable for the residents of the HMOs. In accordance with the licencing legislation, the only criteria that can be addressed are:-

- That the proposed licence holder and any manager of the property is a fit and proper person;
- That the proposed licence holder is the most appropriate person to hold the licence;
- That proper management standards are being applied at the property;
- That the HMO is reasonably suitable, or can be made suitable, for occupation by the number of tenants allowed under the licence with at least the minimum prescribed standards of amenities and facilities. These include the number, type and quality of shared bathrooms, toilets and cooking facilities.

The licencing regime cannot address other issues that are not set out above. If a license was refused or revoked on any other basis then the Council would be unable to support this when challenged. For this reason, it is the Council's policy through the Shared Service to restrict licencing considerations to only those matters set out in the legislation.

Environmental Protection (statutory nuisance) Policies and Procedures

Noise and disturbance issues can be addressed by environmental protection legislation (statutory nuisance). In respect of HMOs, noise can result from the building operations to convert the property or ongoing noise from occupants of the HMOs. There is no legislative control over noise and disturbance unless it is excessive.

Policy for HMOs not causing a statutory nuisance - In these cases, the Council's policy is to get the parties to talk to each other to try to resolve the issues amicably. The Council's policy is to facilitate mediation and to engage neighbourhood officers to help to resolve issues.

Policy for HMOs that are resulting in a statutory nuisance- It is the Council's first course of action to try to resolve cases causing a statutory nuisance through negotiation and to achieve voluntary cessation of the nuisance without the need for formal action. Where this fails, there is a standard procedure to investigate and serve an abatement (stop) notice with criminal offences created if the notice is not adhered to.

Planning Policies and Procedures

Under national legislation, the change of use of a dwelling to a HMO with 7 occupiers or more needs planning permission. A HMO of 6 or fewer people who are living together as a family unit is permitted development and does not need planning permission. In these cases, there is no planning control. As such, the impact of a HMO can be taken into account as there is no control over this.

Policies for assessing planning applications - If a planning application is submitted then the issues that can be addressed include the impact on parking, highway safety and neighbour amenity. Relevant planning policies relating to HMOs are found within the Council's Local Plan. These can only be applied when the HMO needs planning permission and include those outlined in the:-

- Wokingham Borough Core Strategy 2010 (including Policy CP1, CP 2, CP3, CP4)
- Managing Development Delivery (MDD) Local Plan 2014 (including Policy CC01, CC06, CC07, TB05, TB07)

(www.wokingham.gov.uk/planning-and-building-control/planning-policy/key-planning-documents/)

Other material planning considerations include the National Planning Policy Framework (www.gov.uk/government/publications/national-planning-policy-framework)

Operational planning policy and procedures associated with HMOs follow the statutory procedures and policies set out by central Government.

(www.planningportal.gov.uk/planning/planningsystem/localplans)

Policy to address HMO planning complaints – Where there are complaints received in respect of HMOs, the Council's policy is to investigate the position. This will involve a planning history search, a site visit to the property in question, and discussions with occupier/owner. Other evidence will also be considered if available. The Council will then assess the position against the legislation to determine if planning permission is required. If planning permission is not required, no action can be taken against the HMO under the planning legislation.

Sometimes, it is not clear from the evidence if planning permission is required. In these cases, the Council may contact local residents about the alleged breach to ask that they record information about the activities at the site to determine the number of people living at the property. The Council must have clear and unequivocal evidence to take action in respect of any alleged breach of planning control.

If the Council comes to the view that planning permission is required, it is Council policy to try and resolve the situation through negotiation (see the WBC Local Planning Enforcement Plan) (www.wokingham.gov.uk/planning-and-building-control/development/tell-us-about-unauthorised-development). This could be through the voluntary removal of the HMO or through regularising the breach through the submission of a planning application. The Council must accept all valid planning applications submitted and while an application is being considered, it is Council policy that formal enforcement action will not take in the first instance. Only after a negotiated solution has failed will the Council take formal planning enforcement and legal action.

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