

Service Delivery Executive Advisory Board

Ward(s) affected: All

Report of Director of Service Delivery

Author: Sean Grady, Private Sector Housing & Pollution Lead

Tel: 01483 444392

Email: Sean.Grady@guildford.gov.uk

Lead Councillor responsible: Julia McShane

Tel: 01483 837736

Email: Julia.McShane@guildford.gov.uk

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HMO Licensing: A Review of HMO Controls and Costs

Executive Summary

The Purpose of this report is to provide information regarding the viability of applying further controls to Houses in Multiple Occupation (HMOs) and to review the potential costs arising to the Council emanating from HMOs. In addition, to review how the Council may recover costs of HMOs, where applicable.

Due to the level of evidence required to bring forth further HMO controls, this report identifies HMO occupiers and examines HMO spread, density and its connection to complaints from the public, including reports of Anti-Social Behaviour (ASB) to both the Council and the Police.

This report has been led by the data. The data was collected/analysed before the options available to extend HMO controls were evaluated - so that the direction of the report was taken in light of the evidence. The data has led the discussion on the feasibility of further HMO controls in Guildford.

The report discusses legal responsibilities, potential cost gaps and suggests methods to close any potential gaps regarding topics such as waste collection and council tax/business rates.

The report details several areas of risk to the Council and significant challenges to both resourcing of Place Services and Environment & Regulatory Services and in addition, to the effectiveness of either Article 4 and/or Additional Licensing would have - if enacted.

The data analysed in this report does not support the hypothesis that HMO density is causal to ASB. The data proposes that reports to the Council or Police relating to HMOs are not significant or frequent enough to warrant extending additional controls to the HMO marketplace.

The evidence suggests application to the Secretary of State to either enact Article 4 or to extend HMO licensing in Guildford to include areas of Additional Licensing Schemes, would not be successful.

Recommendation to Committee

That the Committee approves the recommendations within this report that advises whether to further explore specific HMO controls in Guildford Borough, specifically:

- Enacting Article 4 that would require newly created HMOs to have planning permission. It is important to note that the spread/density of HMOs that are already in-situ are uncontrollable.
- Implement an Additional HMO Licensing Scheme that would require smaller HMOs to become licensable - increasing regulation in such properties.

Both of these provisions require significant evidence within application to the Secretary of State, that shows HMOs or areas containing high HMO density are being significantly mismanaged.

It is recommended that the Executive approves the recommendations in paragraphs 16-19 as evidenced in the following Graphs and Figures.

- HMO Density Vs ASB Correlation Analysis: Seen in graphs 1-3 & Table 1 of this report
- Reports of poor housing conditions (relating to HMOs) received by the Council: Seen in figure 1 of this report.
- HMO Decline in GBC: Seen in Figures 1 & 3

Reason(s) for Recommendation:

An HMO review report heard at Overview & Scrutiny on 29 June 2021 has prompted further review of the options available to the Council to control the spread/density of HMOs and to evaluate potential cost gaps of HMOs to the Council. In addition, to identify if the Council can successfully implement further controls by analysing the relationship between the current HMO spread/density with links to Anti-Social Behaviour (ASB) and complaints to the Council and HMOs.

Is the report (or part of it) exempt from publication?

No

1. Purpose of Report

1.1 The purpose of this report is to provide information about Houses of Multiple Occupation (HMOs) and their impact on local residents in the Borough in terms of Anti-Social Behaviour (ASB) and reports to the Council relating to poor property conditions. This report seeks approval for the recommendations herein, relating to extending HMO controls in Guildford. In addition, to review how the Council may recover costs of HMOs, where applicable.

2. Strategic Priorities

2.1 The Councils strategic framework aims to “Balance the needs of urban and rural communities alike” whilst “Providing a range of housing that people need, particularly affordable homes”. Well managed HMOs and a balance of affordable housing tenures help provide the groundwork for these aims to be met.

- 2.2 By providing and regulating safe environments for residents to live, the Council helps support the strategic priority to “Support older, more vulnerable and less advantaged people in our community”. HMOs provide accommodation for a diverse range of people in the community and are often a housing solution for some of the most marginalised members of society. Well managed mixed housing tenures are an important part of reaching and maintaining these corporate aims.
- 2.3 HMOs can be occupied by students, immigrants, and many other persons such as young professionals who are likely to be interconnected to any results emanating from the strategic priority to “Encourage sustainable and proportionate economic growth to help provide the prosperity and employment that people need”. Where there is prosperity, employment and a “Centre for education” there will be demand for HMOs. Limiting and restricting HMOs may serve to work against these corporate aims.

3. Background

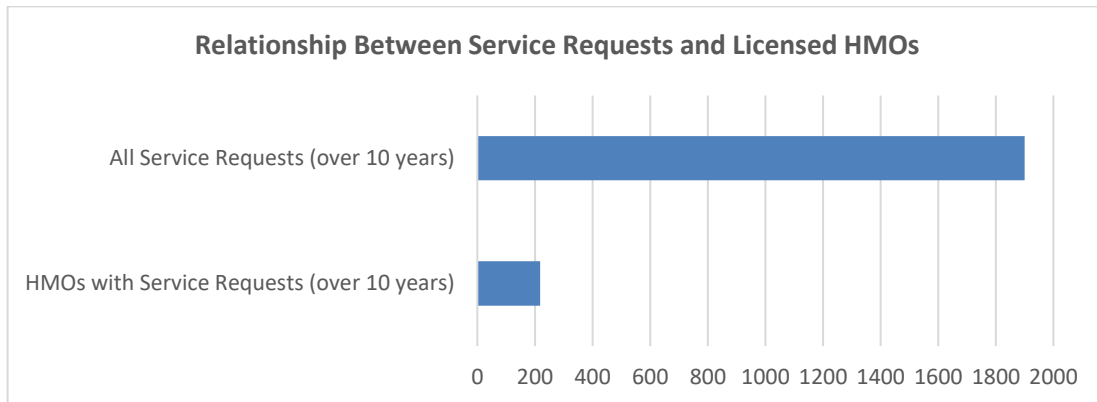
- 3.1 A simple definition of a HMOs is a dwelling that is occupied by 3 or more persons from 2 or more households. An HMO that meets the national mandatory HMO licensing definition is one that houses 5 or more persons from 2 or more households.
- 3.2 Therefore, a property housing 3-4 persons does not require an HMO licence, unless the property falls within the area where an Additional HMO Licensing Scheme is adopted. Additional Licensing is aimed at requiring smaller HMOs to also require an HMO licence to operate under certain circumstances. Currently within the Borough of Guildford, only the mandatory HMO licensing scheme is in effect, regulating larger HMOs. This is to say that smaller HMOs housing 3-4 persons are subject to less regulation.

4. Current Position of HMOs In the Borough

- 4.1 The Council has now licensed over 650 HMOs across the Borough that are mainly located in GU2 and GU1, where the majority of privately rented properties are also located.
- 4.2 The data indicates that there are potentially approximately 1,200 - 2,000 HMOs that are not captured by mandatory HMO licensing that house 3-4 persons. These properties are subject to less regulation than mandatory licensable properties of 5+ persons.
- 4.3 Private Sector Housing do not receive frequent dwelling condition complaints regarding licensed (larger) and unlicensable (smaller) HMOs. The evidence indicates that licensed and unlicensed HMOs of all types are generally well managed and generate 75% less reports about a property to Environment & Regulatory Services. This figure increases to 89% when only considering reports regarding licensed HMOs to the Private Sector Housing team (as seen in Figure 1). This indicates that HMOs (compared to other tenures) have less impact on local residents and tenants alike for issues such as waste, noise and living conditions.

4.4 The data suggests HMOs do not generate significant losses to Council services. It is important to note that reports to Private sector housing and Environmental Protection are not recorded by tenure. The only way to identify if reports are made relating to HMOs is to compare them against the licensed HMO register and council tax student exemptions. There is no method to identify the proportion of reports from other tenures.

5. **Figure 1 – Shows that only 11% of all reports related directly to a licensed HMO – Over a Decade.**



5.1 75% of all property based complaints to Environmental Protection in relation to nuisance complaints are not in relation to a student occupied potential HMO. 89% of complaints to Environment & Regulatory Services about private sector housing issues do not relate to a licensed HMO. The vast majority of complaints to Environment & Regulatory Services relate to other modes of property occupation and not HMOs.

5.2 The data indicates that both larger licensed HMOs and unlicensable smaller HMOs are being well managed and are not burdening the Council with complaints from tenants or the public.

5.3 Since the COVID-19 pandemic new HMO applications have slowed and revocations of existing licenses have increased, this is potentially a mirror of the current market.

5.4 Since the significant expansion of the licensed HMO population seen in 2018, the Council have become aware of and regulate over 650 HMOs across the Borough. These 650 HMOs require a licence to operate and meet the new definition of a mandatory HMO that came into force in 2018. This change in the licensable HMO definition has increased the number of licensed HMOs, however this change has not created new HMOs. The HMOs that are now licensed have been occupied as such previous to the expansion of the Mandatory HMO definition. The main difference is that these larger HMOs now require a licence from the local authority to operate lawfully and are now subject to increased regulation.

- 5.5 Significant proactive and reactive work has gone into the regulation of HMOs since mandatory licensing was enacted in 2006 and the expansion of the mandatory licensing definition in 2018. The implemented recommendations of the 2014 HMO Task and Finish Group highlighted in the Overview and Scrutiny report this year, inclusive of the data analysed indicate that licensed and unlicensed HMOs in the Borough are well managed and receive less reports to the Council compared to other dwellings.

6. Potential Impacts of HMOs that are Visible to the Public

Occupiers of HMOs

- 6.1 HMOs are an important and valuable source of housing being occupied by a vast range of residents from young professionals and students to those on supported income schemes. The most recent data in 2020 shows that currently student occupied HMOs represent 46% of the licensed HMO population. This is to say that 54% of licensed HMOs are not occupied by students. HMOs are becoming an increasingly more realistic housing option for more and more people.

7. Waste Accumulations and Disposal

- 7.1 Private Sector Housing and Environmental Control do not receive frequent reports of accumulations related to licensed HMOs. Data from all reports of land accumulations (accumulations of waste at an address) across the Borough of Guildford between 01.01.2011 – 01.01.2021 were cross referenced with current HMO licence addresses. From 580 reports, 101 related to a current HMO address. It is not guaranteed that these addresses have been HMOs for the 10-year sample range. This data indicates that only 15% of waste accumulations at addresses over the last 10 years were at a licensed HMO address.
- 7.2 Only 25% of reports to the Council regarding an alleged noise nuisance, state of a garden, bonfires or land accumulations from across the Borough relate to a potential HMO with a student Council Tax exemption. This means that 75% of all property based environmental protection complaints to the Council at the Borough-wide level, are not in relation to an HMO with a Council Tax student exemption. Simply put, most reports about a property to the Council regarding nuisance, are not in relation to a property with a student exemption that is big enough to be an HMO.
- 7.3 Landlords have a legal obligation under the Environmental Protection Act 1990 to responsibly dispose of all waste arising from lettings. Failure to do so could lead to prosecution. General household waste emanating from privately rented dwellings is defined as household waste. However, larger accumulations created by a landlord from property maintenance/clearance is defined as commercial waste and usually cannot be taken to a Household Waste & Recycling Centre (HWRC). The

burden rests on the landlord to ensure waste is lawfully disposed. Landlords can choose between private collection services or the Council's competitively priced general waste collection service. Critically, there is no cost recoverable from commercial waste generated at an HMO, given that a landlord can choose the services of a private company to fulfil their legal duties.

- 7.4 Private Sector Housing are currently in contact with waste services to trial a method of receiving periodic notifications relating to unreported waste accumulations – such as student change overs. Waste operators will be able to report waste accumulations directly to private sector housing.

8. Council Tax & Business Rates

- 8.1 Landlords of HMOs can be exempt from paying Council Tax if their properties are inhabited by students. Approximately half of the licensed HMOs in the Borough are occupied with a student council tax exemption. This is to say that many day-to-day council expenses are not recoverable at such addresses. Currently landlords are not subject to business rates for a domestic rental property. This function is set at a national governance level.

- 8.2 Landlords of non-commercial (domestic) dwellings, whilst operating as a profitable business are exempt from business rates that only apply to “non-domestic” properties. In 2017, Canterbury City Council launched a bid to make residential landlords pay business rates, by voting to lobby the district's MPs and the Government for a change in the rules. The bid was aimed at recovering the costs of Council services to student HMOs. Under the bid students would continue to be exempt from Council Tax but landlords were expected to make a taxable contribution. The Residential Landlords Association (RLA) chief executive at the time commented that this additional tax would be passed onto renters in the form of higher rents. This outcome would be undesirable for renters in Guildford where rental rates are already high.

- 8.3 The contributions of landlords to the government and specifically local Council services are already taxable. A rental property is subject to tax on any profit made from rental income that is not covered by landlord personal allowances, which is set at £12,500 for the 2020-2021 tax year.

- 8.4 After researching the media publications and contacting Canterbury City Council; to date business rates are not applied to private residential landlords, 4 years on from the bid.

9. HMOs Density

- 9.1 The current geographic spread of HMOs is not a blank canvas. Local housing markets and public demand have driven the current location and density of licensed and unlicensable HMOs. The location of HMOs and more broadly the

entire private rented sector appear to be geographically located close to the University of Surrey and Central Guildford. The location of HMOs may be driven by a connection to the local economy and educational institutions. Guildford also has excellent travel connections to London and its Boroughs, creating an attractive commute to young professionals working in London who wish to live outside the capital.

- 9.2 Landlords, students and young professions all contribute to and are interconnected through the local economy. Historically, Guildford has slowly evolved into a Borough with a buoyant private rented sector. Public demand to live/rent, work and study in Guildford is likely to continue to increase overtime. Demand for HMOs is likely to be seen the most in locations with a buoyant local economy, educational institutions and an established private rental sector that provides a place to work, study and live - ultimately driving desirability. Restricting HMOs may also be to restrict the local economy and distort local markets.
- 9.3 Restricting the number and concentration of HMOs is most directly achieved through Article 4, which would also deliver a number of specific short and long term risks to the Council and the housing market.

10. Options for Further Regulation

Article 4

- 10.1 The most direct mechanism available to the Council to influence the number and location of HMOs across the Borough is to invoke an HMO Article 4 Direction. Article 4 is applied only to specific streets in a Borough and requires new HMOs created from other tenures to require planning permission for change of use. Article 4 is a decision that must be carefully considered by planning policy and not Regulatory Services alone.
- 10.2 Article 4 is a tool that requires planning permission for a range of different outcomes, one of which is to require new HMOs to have planning permission under the “change of use” mechanism. Any refusal of an Article 4 HMO change in use would not be made simply because an Article 4 Direction was in place. An application would only be refused in consideration of a planning officer’s final decision. A final decision would be based on the individual case at hand, National and local planning policy/guidance/legislation, comments received by the public, statutory consultees and other relevant party comments.
- 10.3 Article 4 only applies to new HMOs and as such no planning application would be needed for existing HMOs. This is to say that the current spread and location of HMOs (licensed or not), are unaffected by the invoking of Article 4. Current locations and ultimately the current density of HMOs will not be reduced under Article 4. The direction would serve to limit the number of newly created HMOs, in specific areas only.

- 10.4 It is important to note that planning permission is already required for larger HMOs, that tend to have the biggest impact on localities. Any HMO occupied by 7 or more persons requires “Sui Generis” planning permission to operate. HMO licencing has identified a number of HMOs housing 7 or more persons without Sui Generis planning permission. Once granted, the HMO licence has subsequently required such HMOs to have planning permission in order for the HMO licence to authorise 7+ persons over the longer term. This is an area where Place and Environment and Regulatory Services are aligned.
- 10.5 To enact an Article 4 Direction there must be a Planning Policy reason for one and the Article cannot be enacted with analysis undertaken by Environment and Regulatory Services alone. Article 4 is primarily a Planning function and as such will require the Planning Committees to approve it. To examine whether the test for an Article 4 direction may be met Environment and Regulatory Services have analysed data and planning specialists have been consulted for the wider policy implications that may emanate from enacting Article 4.
- 10.6 The decision to enact Article 4 to control HMO density is a function led by Planning Policy. The Local Plan (2015-2034) Planning Policy H1 refers to the balance of housing tenure in the Borough. Policy H1 details “New development should provide a mix of housing tenures, types and sizes appropriate to the site size, characteristics and location”. The Policy continues to specify in relation to HMOs that “Proposals for houses in multiple occupation that require planning permission will be supported where the balance of housing types and character of the immediate locality would not be adversely affected and there is sufficient amenity space available”. To be specific, this means that larger HMOs that already require Planning permission are already covered by the Policy and any decision to grant planning permission for these larger HMOs is weighed against their impact on the immediate locality. Policy H1 refers to providing a mix of housing tenures that recognises the need for a balance of housing types.
- 10.7 Planning Policy H1 could also be impacted by the presence of HMOs as opposed to any decision to reduce/limit them. Councillors have received reports from local schools and residents regarding the suspected social impact on localities that HMOs may be having. Local residents and schools have reported that in certain areas there are less children applying for school places and this is suspected to be connected to family homes in such locations being replaced by HMOs. It is important to note that here may be other reasons for decline in school applications.
- 10.8 The Council’s Corporate Plan rightly strives to encourage sustainable and proportionate economic growth to help provide the prosperity and employment that people need, ultimately providing opportunity and a thriving place to live and work for its residents. The wider reaching implications of Article 4 may provide to contradict these goals, unbalancing local markets and housing tenures that have evolved in Guildford due to its Corporate Aims.

- 10.9 National Planning Policy Framework (NPPF) (2019) Paragraph 53, defines how Article 4 should be used. The NPPF is currently under Government consultation that may amend/extend the meaning of Paragraph 53. In particular, to add that Article 4 must 'apply to the smallest geographical area possible'. To put it another way, that a street-by-street approach is most likely to be required and that the Council needs to specifically target any enactment of the Article.
- 10.10 The current Planning Policy will not enable specific numerical values to define HMO density/capacity in a street. Each planning application for a property's change of use would be made by a planning officer on a case by case basis. A decision to grant an Article 4 change of use HMO planning application would not be made based upon a percentage capacity of any specific street. In other words, HMO density cannot be numerically limited in a street anywhere in the Borough. The current Planning Policy will not enable the Article to apply numerical restrictions and/or street-by-street numerical capacities.
- 10.11 Article 4 approval would still be subject to the data in specific areas and relies upon a strong justification based on data driven evidence to the Secretary of State.
- 10.12 Article 4 requires a full and comprehensive consultation period that can take 6-12 months to complete. Landlords may have incentive to apply for Lawful Use Certificates before the date Article 4 came into effect. Affected HMO landlords would have the entire consultation period to make such an application. This would serve to reduce the number of applications after enactment and circumvent the Article's purpose. It is also critical to note that after a 12-month consultation period the local markets may have changed or adjusted. Landlords would also be able to create new HMOs outside of the prescribed area(s) of any Article 4 Direction and evade its purpose, exporting HMOs to other localities. These lower density areas may become increasingly more saturated with HMOs. For example, Article 4 may export HMOs across the Borough, into currently less affected areas and potentially less suitable locations.
- 10.13 Article 4 provides a compensation mechanism for businesses or persons who were profiting from an activity they were previously able to undertake, prior to Article 4 ceasing such activities. Limiting HMO landlords and management companies by invoking an Article 4 Direction may result in applications for compensation through loss of business.
- 10.14 The rental market is already well established in Guildford. New HMOs are unlikely to be created in any greatly significant manner. For instance, Article 4 may not be as effective in Guildford as it may be in other localities with a newly growing private rental sector. It is important to note that a decision to limit or reduce HMOs may have unintended consequences for the Boroughs residents and those proximal to HMOs.

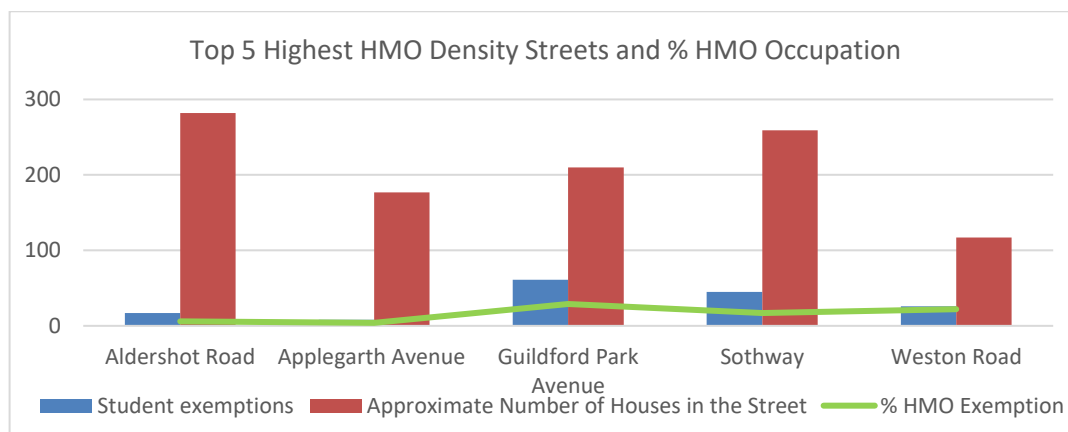
11. Additional HMO Licensing

- 11.1 Another option (other than Article 4) is to increase proactive regulation by defining more HMOs as requiring a HMO licence, as opposed to restricting their existence as is done in Article 4. Additional Licensing Schemes require all HMOs of 3 or more occupants to need a licence from the Council to operate lawfully. Additional Licensing is a decision that is granted by the Secretary of State upon successful application that includes an evidence based reasoning for invoking the Scheme based on HMO mismanagement and Anti-Social Behaviour (ASB). Enacting an Additional HMO Licensing Scheme would overnight, require an estimated 1,000-2,000 properties across the Borough to require a licence to operate – dependant on their location within selected wards.
- 11.2 Defining more HMOs as requiring an HMO licence would be to enact an Additional HMO Licencing Scheme that would require smaller HMOs to be licensed in specific areas that have a significant amount of mismanaged HMOs. HMO mismanagement must be identified with a strong and data driven justification, made in application to the Secretary of State.
- 11.3 GU2 & GU1 contain 96% of the total licensed HMOs in the Borough. Specific streets in GU2 and/or GU1 could be likely candidates for Additional HMO Licensing due to the increased HMO density in these postcodes increasing the likelihood of a relationship between ASB and HMOs that could justify enacting Additional Licensing. Data from reports to Environment and Regulatory Services in the last 10 years, in GU2 - identify 1,113 reports relating to either domestic noise nuisance, bonfires, land accumulations, condition of a premises/garden or rats that may also be indicative of mismanagement and anti-social behaviour. After removing duplicated properties that have had several complaints over time, 731 unique records remain.
- 11.4 Focusing on GU2 where the majority of HMOs are located - and cross referencing the 2020 student Council Tax exemptions data with the 731 properties with reports to Environment and Regulatory Services over the past 10 years (in GU2) – identifies 227 reports related to a property with a Council Tax student exemption. This means that 30% of reports in GU2 over the last 10 years related to properties occupied with student exemptions, that were large enough to be an HMO. This is to say that 70% of all reports relating to the state of a property in GU2 did not have student Council Tax exemption. It is important to note that just because a property has registered a student council tax exemption, does not mean that the house is occupied only by students or is even guaranteed to be an HMO. The true number is likely to be much less than 30% due to this data including any house with even 1x student exemption. In many follow ups the property is in fact a family home with a live-at-home student.

- 11.5 As seen in Graph 1, cross referencing the licensed HMO register with reports to Environment and Regulatory Services over the last 10 years reveals that 11% related to a licensed HMO. This means that 89% of reports related to a non-HMO and does not support the hypothesis that HMOs are causational to increased reports from tenants and the public alike.
- 11.6 Additional HMO regulation could balance the needs of residents close to HMOs with the wider basic needs of education, employment and opportunity that contributes to the Corporate Plan. The Corporate Plan is clear in its aims of supporting older, more vulnerable and less advantaged people in our community. Safe and regulated properties provide for these aims to be met. Restricting HMOs may serve the opposite over time.
- 12. Evidence Base for Additional Licensing and/or Article 4: Relationship Between HMOs Density and Mismanagement in Guildford**
- 12.1 To invoke either Article 4 or an Additional Licensing Scheme in the Borough, the Council must be able to demonstrate an evidence based rationale for such a policy direction. Such evidence must demonstrate that licensed (larger) and currently unlicensable (smaller) HMOs are being mismanaged, resulting in significant complaints from the public.
- 12.2 In addition, it is necessary to demonstrate that HMO density is a significant issue for home owners in high HMO density locations. It is therefore essential to evaluate HMO density and ASB/property reports relating to HMOs to show that there are significantly dense HMO areas and in these areas there is also significant HMO mismanagement.
- 12.3 The Borough wide data and specifically GU2 have been analysed due to having the highest concentration of licensed HMOs. GU2 has very little evidence of HMO mismanagement. 30% of all reports relating to the state of a property (overgrown land, pests, significant disrepair etc) to Environment and Regulatory Services in GU2 over the last 10 years relate to properties large enough to be a HMOs that are occupied with a student Council Tax exemption. This is also likely to be seen at the street-by-street level. This is to say, 70% of reports in GU2 are not related to a dwelling with a student Council Tax exemption.
- 12.4 The data surrounding the 5x most densely HMO populated streets in Guildford shown in Table 1 below, indicate that on the street-by-street level there are less HMOs with a student Council Tax exemption than properties without a Council Tax exemption registered. In short, there are significantly more home owners (or family renters) than HMOs. Guildford Park Avenue has the most student exemptions per residence in the Borough at 29%. Weston Road has a student exemption density of 22% in comparison to the total housing stock in the street.

- 12.5 29% of properties in Guildford Park Avenue have a student exemption. However, the data regarding the two streets in Guildford with the highest student exemption density identify that 71% of Guildford Park Avenue is not occupied by students and 78% of Weston Road is not occupied by students.

13. Table 1: Compares HMO Tenure with Other Tenures



14. Relationship Between HMOs and ASB

- 14.1 Whilst it is useful to compare the number of HMOs with other tenures in high HMO density areas – this does not evaluate any potential relationships between ASB/Property complaints and HMO density.
- 14.2 The data has already established that HMO density peaks at 29% in Guildford and that over the past decade fewer than 30% of all reports relating to the state of a property in GU2 (where 68% of HMOs are located) relate to an HMO of any kind. This is a signal that HMOs are unlikely to have a relationship that is statistically significantly between Police reported ASB and property complaint reports to the Council. This is because 30% of reports in the entirety of GU2 (where 68% of licensed HMOs are located) is not a significant figure that does not signal remarkable problems with HMO management.
- 14.3 Data was collected for analysis between the dates 01.04.2020 – 01.04.2021. It is valuable to note that this data is drawn from a date range that includes a national lockdown in response to COVID-19. However, out of season increases were seen in reports to environmental protection and private sector housing during this date range and may in fact include more reports than a usual year. Online police crime data sets were filtered by ASB and by street. Only roads with high HMO density were analysed to identify the areas that would potentially have higher ASB – if a true relationship between ASB and HMOs exists. Areas with high HMO density would be required to have a proven correlation that indicates a statistical inference that the relationship between HMO density and ASB is likely to be causative (a

strong positive correlation) - if any further extension to HMO controls could be enacted. Correlation does not mean causation, however decisions to increase HMO controls in areas with high HMO density will require a strong positive correlation to ASB for any inferences on causation to be made.

14.4 Initially Police ASB data was examined to establish the extent of any potential relationship to HMO density. HMO density was calculated by adding together all known Council Tax student exemptions in the street with all licensed HMOs and expressing these as a percentage ratio calculated against all properties in the street and filtering for duplicates. Police ASB data was collected by examining all ASB reports in a relevant street and is expressed as a percentage ratio that was calculated against all the properties in the street.

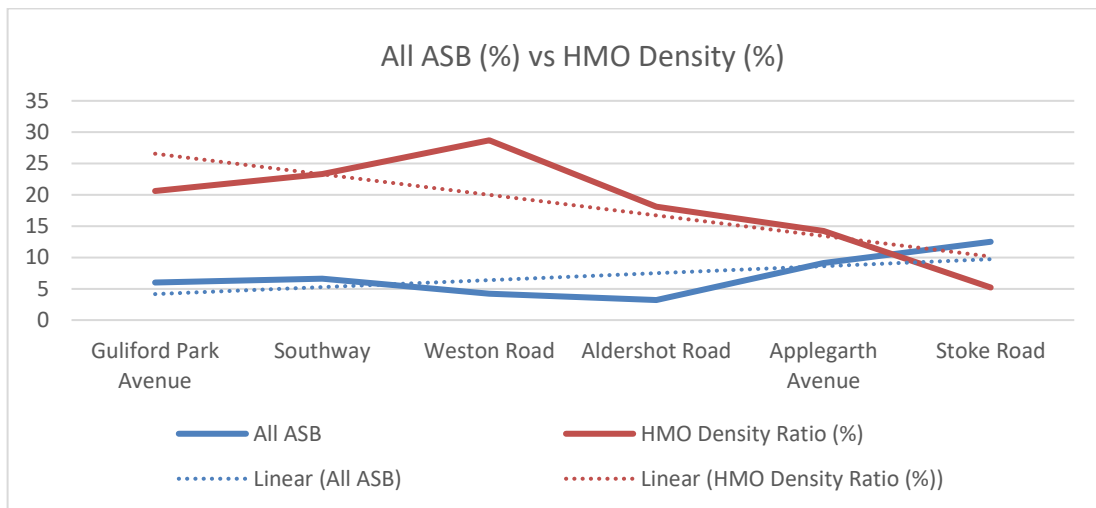
14.5 Police ASB data was then added to all Environment and Regulatory service requests relating to behaviour that is indicative of ASB – such as: noise nuisance, insects, Waste accumulations, State of garden/premises, Rats, Bonfires, Dog fouling, dog ASB and domestic odour. This created a master-gazetteer of all ASB reports to either the Council or the police, directly related to streets with highest HMO density.

14.6 The streets analysed include: Aldershot Road, Guildford Park Avenue, Southway, Weston Road, Applegarth Avenue and Stoke Road.

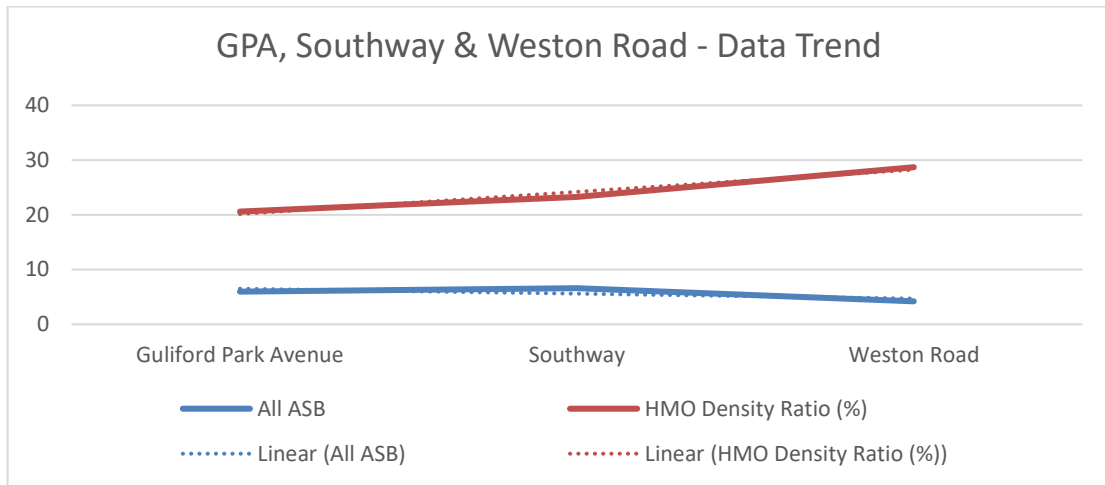
14.7 **Table 2: A Table to Display Correlation Results between ASB & HMO Density**

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Column 1	1	
Column 2	-0.82231345	1

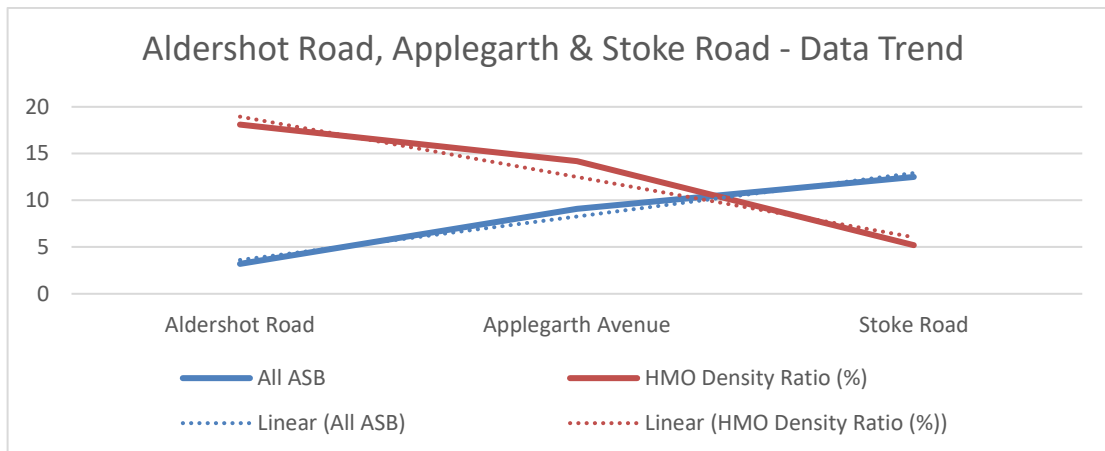
14.8 **Graph 1: A Graph to Illustrate the Relationship Between ASB & HMO Density**



14.9 **Graph 2: A Graph to Focus on the Relationships & Trends in the Data**



14.10 **Graph 3: A Graph to Focus on the Relationships & Trends in the Data**



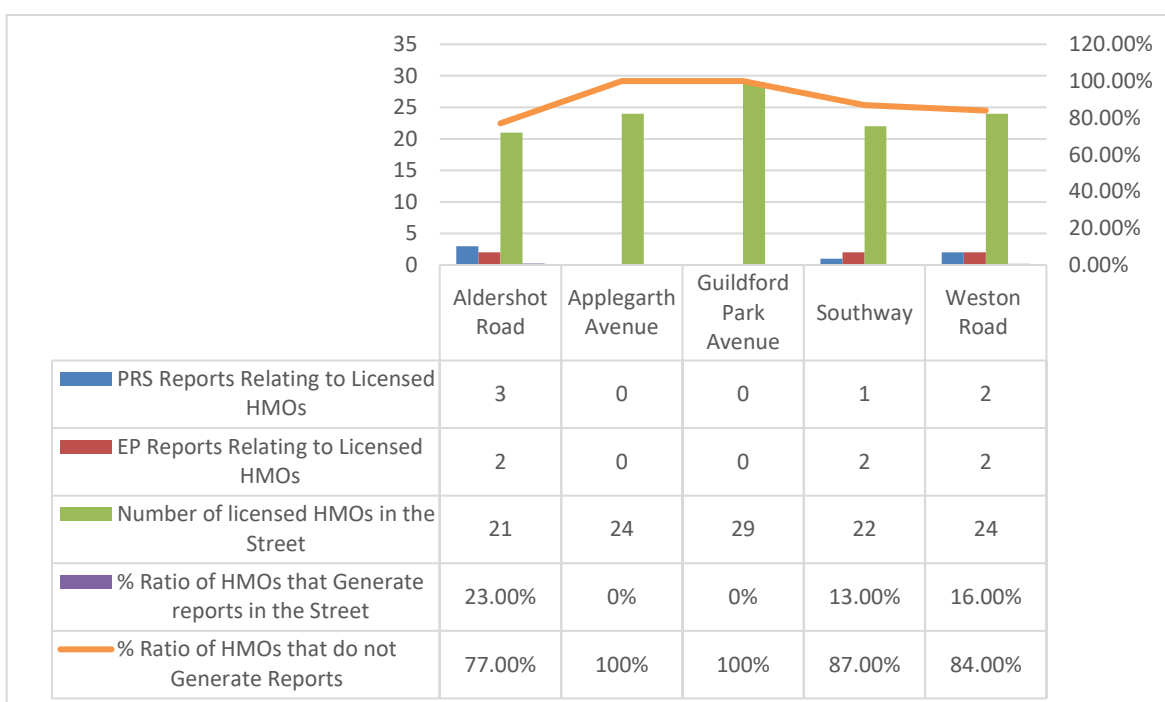
14.11 Table 2 shows that there is a very strong negative (-0.8) relationship between ASB reported to the Council/Police and HMO density. This is to say that as one variable increases, the other decreases (and vice-versa). For example (as seen in Graph 2) in Guildford Park Avenue, Southway and Weston Road as HMO density increases, reports of ASB reduce. Whereas (as seen in Graph 3) in Aldershot Road, Applegarth Avenue and Stoke Road – as ASB increases, HMO density decreases. Both of these effects cannot be associated with a causation between ASB and HMO density.

14.12 This data does not support the hypothesis that HMO density causes an increase in ASB. The data also indicates that there is not a relationship between ASB and HMOs that can be attributed to increased HMOs creating increased ASB. Further to this point, where ASB levels cannot be attributed to areas with high HMO density there is an indication/signal that in fact HMOs in the Borough are well managed.

14.13 Whilst it is useful to compare reports to the Council that relate to HMOs with those that relate to Non-HMOs and evaluate ASB in and around HMOs, Table 3 goes further to evaluate the effect HMOs have upon the local area and their occupants. Data from all reports made to Environmental Protection and Private Sector Housing between 01.10.2018 – 01.10.2021 (the time HMO licensing has been expanded) have been compared to HMO density and expressed as a %-ratio. The 5x densest HMO streets have been used to see if these streets generate significant reports relating to the overall number of licensed HMOs that are present in these streets. In essence – if HMOs are generating significant reports about property disrepair, dwelling conditions, landlord complaints, noise, waste, insect infestations, bonfires (etc) then the proportion of HMO creating reports should be large. If there are 24 HMOs in a street and 0 of them generate a report to the Council over 3-years (as seen in Table 3) – then it will be difficult to say HMOs are problematic.

14.14 Over a 3-year period no more than 5x complaints were received relating to a licensed HMO, in any one street where HMO density is highest. 2x of the 5x most dense HMO streets did not register a single complaint between 2018 -2021. From Table 3 below, an average of 10% of the licensed HMOs in the most dense HMO streets generate complaints in Guildford. In other words, on average 90% of licensed HMOs do not generate complaints to the Council in the densest HMO streets, from either the public or the HMO occupants. This additional data validates other data in this report that HMOs in Guildford are well managed.

Table 3: A Table to Show HMO reports to the Council as a %-Ratio of the Total Number of HMOs in the Most HMO Dense Streets



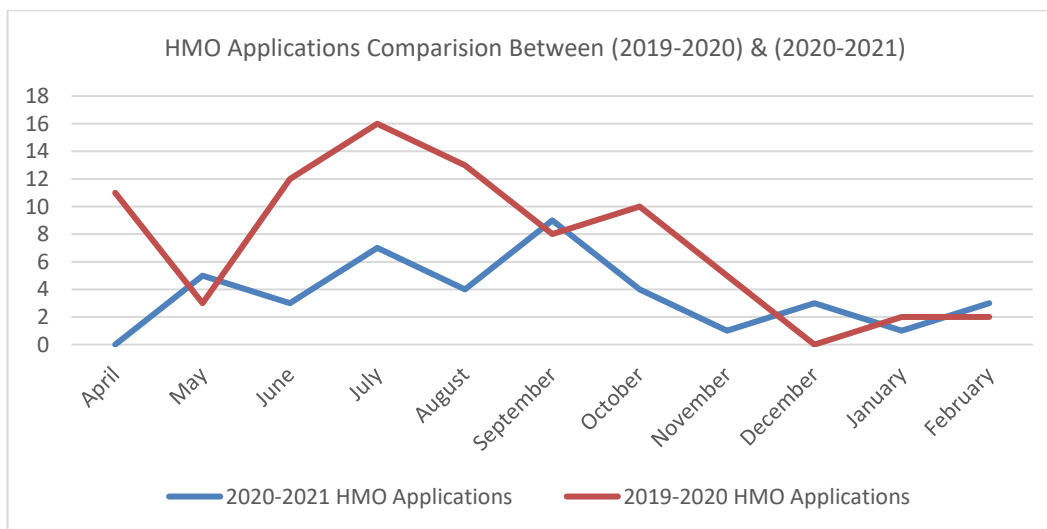
14.15 Table 3 shows that it is not necessary to compare the number and nature of complaints about HMOs with non-HMOs. By expressing reports relating to HMOs as a %-ratio we can see what proportion of HMOs generate complaints and what proportion do not. If most HMOs (or a significant figure) do generate reports then this will be an indication of HMO mismanagement. If a small proportion of HMOs generate reports, this is an indication that HMOs are well managed.

14.16 The licensed HMO population is significantly smaller than that of non-HMOs (even in the densest HMO locations) – this means that reports relating to HMOs are likely to be fewer than reports relating to other tenures that surround HMOs. This being said, the data that really counts is what ratio of HMOs are problematic and mismanaged causing significant reports to the Council. Table 3 shows that in the densest HMO locations the vast proportion HMOs are well managed and do not generate a significant number of reports.

15. HMO Decline

15.1 New HMO applications have slowed over the COVID-19 pandemic and overall between the previous two financial years. Between April 2019 - February 2020 the Council received 82 new HMO applications that were not renewals of existing HMO licenses. Between April 2020 – February 2021 the Council received 39 new HMO applications, which is 47% less that the year before. It could be said that new HMOs are not being created in the same abundance as previous years. Figure 2 below also shows that since September 2020 newly created HMOs with applications to the Council have been falling. This may be due to the pandemic forcing the local market to change. Only time will tell if this trend continues. Newly created HMOs appear to follow a trend of peaking in the summer and reducing over autumn to a low in winter. This may be connected to the student market.

15.2 Figure 2: Shows the Spread of New HMO Applications



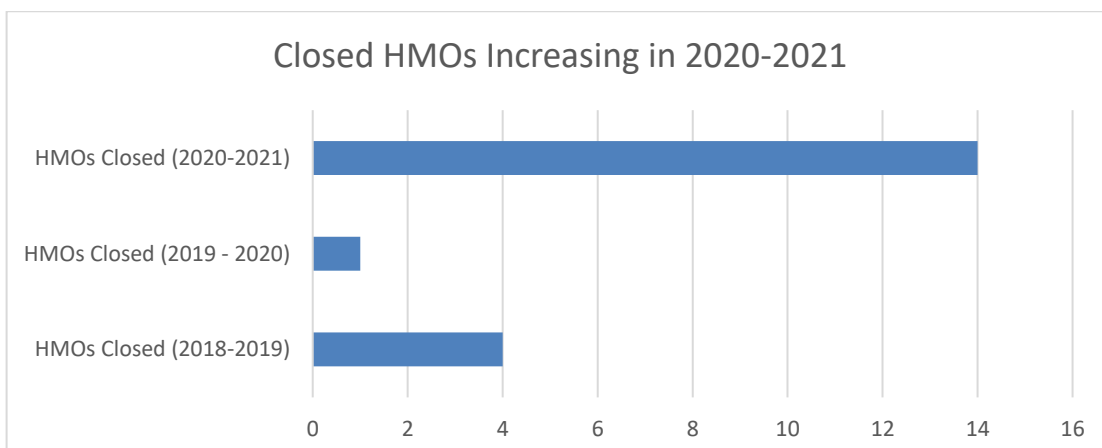
15.3 In addition to new HMO applications slowing this year in comparison to the previous year, significant amounts of existing HMOs are also being closed, withdrawn or revoked. This is usually due to the property being sold or becoming occupied by less than 5x persons and falling outside the scope of mandatory HMO licensing. Figure 3 below shows that over the past 3 years, there has been a significant spike in HMOs that have either been sold or let to less than 5x persons, falling out of mandatory licensing. The data in Figure 3 shows that the HMO market is less stable than previous years – with more landlords selling properties in 2020-2021. The data does not show that all the closed HMOs are no longer HMOs, but that the market is fluctuating. This may also be attributable to the current climate during the COVID-19 pandemic.

Purpose Built Student Accommodation (PBSA)

15.4 PBSA's in Guildford are exempt from HMO licensing, all providers that have been contacted are accredited by ANUK (Accreditation Network UK) that ensure fire safety and overall management. The Council has not received a complaint from residents of PBSA's in relation to dwelling conditions or ASB. Surrey Fire and Rescue Service are responsible for enforcing fire safety in all communal areas of these buildings.

15.5 PBSA is usually occupied by 1st year students who then move into the HMO rental market in their 2nd year of education. However, there are roughly 1,750 bedspaces available in PBSA across Guildford. Licensed HMOs account for approximately 3,500 bedspaces across Guildford. PBSA's are usually more expensive than the HMO market place for renters and during the COVID-19 pandemic new students may choose to invest/risk less monies by renting private HMOs as opposed to PBSA's. The erection of PBSA's is led by planning department decisions based upon each developer's planning application and the comments they receive. Only time will tell if demand for privately rented HMOs will reduce further in light of other accommodation options for students.

15.6 **Figure 3: Shows the Increase in the Number of HMOs Becoming Non-HMOs**



16. Recommendations

Article 4 and HMOs

- 16.1 Officers recommend that the data does not support the inference that an Article 4 Direction would be proportionate to any area of the borough at this time. A full review of the wider impact and scope of Article 4 has been offered in full consideration of the main risks and the current climate.
- 16.2 Article 4 applies to new HMOs and these have reduced by nearly half since the beginning of the COVID-19 pandemic. Student exemption density in Guildford peaks at 29% at the street-by-street level. With the market creating less new HMOs and in consideration of the current climate, there does not appear to be evidence of a rapid growth of either HMOs or reports relating to their mismanagement.
- 16.3 Officers recommend that Article 4 is unlikely to have a substantial impact on localities. The evidence does not highlight significant problems that are suggestive of HMO mismanagement. The evidence does not support a causative relationship between increased HMOs and increased ASB. The data implies that application to the Secretary of State is unlikely to be successful.
- 16.4 The data driven evidence indicates that licensed and unlicensed HMOs of all types are generally well managed and generate 75%-89% less reports about a property to the Council. This indicates that HMOs have less impact on local residents and tenants alike for issues such as waste, noise and living conditions. The data suggests HMOs do not generate significant losses to Council services.

17. Additional HMO Licensing

- 17.1 Officers recommend that at the Borough wide level and in the most HMO dense areas, the data does not support additional HMO licensing and that supplementary HMO regulation is not proportionate to Guildford's circumstances at present. The data shows that there is no causative relationship between ASB and HMOs. The data also reveals that reports to Environment & Regulatory Services relating to the state of a property do not significantly relate to (larger) HMOs or potential (smaller) HMOs that might meet the definition of an additionally licensed HMO. This means that there is no evidence to suggest that there is significant mismanagement of HMOs within Guildford Borough.

18. Business Rates

- 18.1 The Council may wish to consider encouraging a change in national legislation to the effect of requiring private domestic landlords to pay business rates, however the impact on both landlords and tenants would need to be evaluated. In order for a landlord of a HMO in the Borough to pay Business Rates, the Council would

need to provide data driven evidence that the costs of collecting waste and other key services to HMOs are disproportionate to those that are not HMOs. Currently the data suggests that there is insufficient evidence to suggest that licensed HMOs in the Borough are mismanaged and operate at a disproportionate loss to the Council outside of HMO licensing where fees are set on a cost recovery basis, in comparison to other sectors of housing. Any additional costs to landlords are likely to be passed onto renters with increased rent prices in an already expensive rental area of the County/Country. Officers recommend that the Council does not lobby the Government for a change in national legislation.

19. Commercial Waste

- 19.1 Landlords have a legal duty to responsibly remove accumulations such as property renovation waste that is defined as commercial waste and are free to choose between the private and public sector removal. Residents can report accumulations of waste to Environment and Regulatory Services for investigation, however over the last decade only 11% of waste accumulations related to licensed HMOs. Officers recommend that landlords who are duty bound to control accumulations at their properties can choose between Private or Public sectors to clear any accumulations classed as commercial waste. Officers advise that residents, councillors and tenants alike can report accumulations to the Council for a case to be raised and investigated against the appropriate legislation.

20. Consultations

- 20.1 Planning officers from Place Services have been consulted for specialist advice relating to Article 4. The lead councillor has approved this report. There is no formal consultation required in relation to the contents of this report.

21. Key Risks

Resource Implications

- 21.1 Invoking Article 4 would lead to increased demand to process change of use Article 4 planning applications. This is likely to effect Environment and Regulatory Services as well as Place Services who would need to process any Article 4 applications or enforce HMO licensing regulations at such addresses. Applications will need to be processed and Environment and Regulatory Services will be required to make comment on each application and/or statutory consultation.
- 21.2 Invoking Article 4 would require progress review and will inevitably lead to increased planning enforcement and private sector housing enforcement activities, that will significantly impact current resourcing.
- 21.3 Enacting an Additional HMO Licensing Scheme would overnight, require an estimated 1,000-2,000 properties across the Borough to require a licence to

operate – dependant on their location within selected wards. This will bring significant resourcing challenges to Environment and Regulatory Services.

21.4 GU2 has the highest concentration of licensed HMOs and as such is a good case study for potential costs of delivering an Additional Licensing Scheme. If an Additional Licensing Scheme was supported by the data and was able to be introduced in Guildford – the HMO licensing fee would cover the costs of licensing those properties that fell within the area of the Scheme. Approximately 500 – 1,000 properties (derived from student exempt dwellings large enough to be an additionally licensable HMO) may require a licence in GU2 if an additional licensing scheme was introduced in Guildford (GU2). It is important to note, that the true number of HMOs that would be subject to additional licensing is likely to be lower than 1000 and as such Figure 4 estimates 50% will require a licence out of the 1,000 potential additional HMOs. This is because, after investigation - many of these dwellings are in fact a family home (with 1x student dependant). Figure 4 below shows that the HMO fee covers administration and delivery of the scheme assuming that the time spent regulating additional HMOs will double as the HMO population doubles from 650 to 1,150. Figure 4 considers that Additional Licensing in GU2 would double the licensable HMOs in Guildford and increase from around 650 to approximately 1,150. This is based on an estimation that 50% of all properties with a student exemption in GU2 will require a licence. It is important to note that there may be unforeseen costs in delivering an additional licensing scheme.

Figure 4 – To Show the FTE Provisions Afforded by the Current HMO Fee - If Addition Licensing was Introduced across GU2 – Assuming 500 Additional Properties Require Licensing

A	B	C	D	E	F	G
Number of Additional HMOs to be Licensed	Fee per HMO Application (Every 5 years) (£)	Revenue from Scheme (Every 5 years) (£) (A x B)	Private Sector Housing Compliance Rate – Higher estimate (£)	Compliance Officer Rate – Higher estimate (£)	Maximum Resource After Case Service Have Processed HMO Application <i>(Approximately 20% of the fee is absorbed by processing the HMO application)</i>	Maximum resourcing after 5 years of resourcing costs (salaries)
500	885	442,500	48,133 Grade 7	36,004 Grade 5	(D = 7.2) FTE (E = 9.5) FTE	(D = 1.4) FTE (E = 1.9) FTE

21.5 As a rough guide, the entirety of GU2 may contain an estimation of 500 properties (derived from Council Tax student exemptions in GU2) that are occupied as an HMO by 3-4 persons, that would be subject to Additional Licensing. This influx of HMOs would double the time spent undertaking current routine licensing regulation, without the consideration of enforcement upon noncompliance with

licence conditions and/or failure to make HMO application. From this rough estimate, human resourcing could require more staff than the licence fee will provide. It is important to note that whilst the licensing fee would cover the cost of processing the HMO application form, inspection and issuing the licence paperwork – it would not cover any enforcement. HMO licence fees cannot account for enforcement. The amount of enforcement that may be required if an additional licensing scheme was introduced is an unknown. This is because the level of potential compliance is dependent on human behaviours that are not predictable/foreseeable with any accuracy or reliability. There has been very good compliance with the current mandatory HMO licensing scheme in Guildford - however, this trend cannot necessarily be extended to other potential schemes. Compliance with the HMO licence will also need to be checked in each of the 500 HMOs, this will significantly add to enforcement costs. The human resource implications will also be seen in Customer, Case & Parking Services who will be processing the HMO applications or taking licensing enquiries from landlords.

- 21.6 To summarise, the introduction of Additional licensing in GU2 would significantly increase (inclusive of enforcement) the current private sector housing skilled human resourcing in Regulatory Services with the same level of impact upon Case, Customer & Parking Services (who will process applications, complaints and landlord enquiries). HMO enforcement will be essential to ensure that the Scheme is being complied with. This would have a large impact upon the current 1.5FTE Private sector housing specialist compliance officer resourcing, requiring upwards of 4xFTE additional resourcing to cope with enforcement duties and routine delivery of the scheme. The HMO licence fee will cover the costs of delivering the HMO licence, but will not cover the significant costs that will arise from enforcing HMO legislation upon a further 500 HMOs. As such all enforcement costs are likely to result in a funding deficit.

22. Financial Implications

- 22.1 There are significant resourcing costs that may arise from the enacting of either Article 4 or Additional Licensing, as detailed above in paragraph 21 – 22.
- 22.2 Enacting Article 4 enables a legal mechanism for residents to claim compensation (as detailed in paragraph 10.1.3) where the enactment of Article 4 has ceased financial gains that they were previously able to engage in.

23. Legal Implications

- 23.1 Decisions made from the recommendations in this report, are to either enact or not enact specific aspects of legislation.
- 23.2 There are legal implications from any challenge to Article 4 in relation to compensations claims, it's enactment and/or appeals against decisions to grant/refuse individual planning applications – as detailed in paragraph 10.1.3.

23.3 Article 4 statutory provisions can be found in The Town & Country Planning (General Permitted Development) (England) Order 2015. Decisions made to enact Article 4 will require further consultation with Place Services and Legal Services.

23.4 Additional HMO Licensing statutory provisions can be found in the Housing Act 2004. Decisions made to implement an Additional Licensing Scheme will require full consultation with HMO stakeholders and all representations received considered.

24. Human Resource Implications

24.1 There are resourcing implications to both Environment & Regulatory Services and Place Services. This may create significant demand to both services and have unintended knock-on effects to other workstreams within these services. There may also be unintended increased contact with the Council that will increase demand on Customer, Case and Parking Services.

25. Equality and Diversity Implications

25.1 By restricting specific housing tenures that house the widest spectrum of Guildford's residents, it is possible that this will reduce diversity within the Borough. It is also possible that by reducing the supply of HMOs this will increase demand and potentially rental prices that may negatively impact upon equalities and opportunities across the Borough.

26. Climate Change/Sustainability Implications

26.1 Restricting HMOs in specific areas via Article 4, may reduce the number of personal vehicles with internal combustion engines – in specific streets. However, these vehicles will be exported to other areas of the Borough where Article 4 is not in effect.

26.2 The data analysed in this report does not suggest that HMOs create significant waste challenges to the environment or losses to the Council.

26.3 The data in this report does not suggest that HMOs represent significant ASB increase in Guildford and thus do not significantly impact community wellbeing.

27. Suggested issues for overview and scrutiny

27.1 This report has transgressed into EAB, from an original HMO update report that was heard at Overview & Scrutiny in 2021. There are no issues for Overview and Scrutiny at this stage.

28. Summary of Options

- i. Further exploration of Article 4
- ii. Further exploration of Additional HMO licensing
- iii. No further action at this time

- 28.1 Officers recommended that neither Article 4 nor Additional HMO Licensing is appropriate in Guildford at this time – in full consideration of the statistics and data analysed. Officers recommend that option (iii) is preferred, and no further action is taken at this time.

29. Conclusion

- 29.1 The data analysed infers that HMOs across the Borough, whether they be licensable (large) or unlicensable (smaller) are broadly well managed and do not present significant challenges to local residents, the police or the Council. The data shows that HMO density is not correlated to ASB in a manner in which causation can be inferred. In all the highest HMO density streets across the Borough, as ASB increases, HMO density reduces (and vice-versa). This data does not support the hypothesis that additional HMO controls are required in Guildford at this time. The data suggests that the vast majority of reports to the Council do not relate in any significant manner to HMOs whether they be large or small. Instead, the data suggests that other tenures are responsible for the vast number of complaints to the Council. This is likely due to property owners, family renters/owners and couples are likely to be the source of the majority of complaints to the Council. There is currently no method available in the database to record what housing tenure type has made a complaint.
- 29.2 Since the Coronavirus pandemic, new HMOs are being created significantly less frequently, in addition, there has been an increase in the number of HMOs that are being sold on. This raises questions around the necessity of evoking Article 4 in the current climate and its efficacy if evoked. The data supports the notion that HMOs are not being significantly mismanaged within the Borough and as such it is unlikely that application to either introduce an Additional Licensing Scheme or evoke Article 4 will be successful.
- 29.3 The data shows that waste accumulations are not significantly prevalent at HMO addresses and HMOs are not the main cause of nuisance reports to the Council for issues such as noise, bonfires and property conditions.
- 29.4 This report has analysed data reasonably available to the Council in the same manner as would be required upon application to the Secretary of State; either to introduce Additional Licensing and/or Article 4.
- 29.5 This report acknowledges that there may be a certain level of impact upon residents in areas of Guildford where HMO density is higher. However, this impact, once quantified and evaluated, is identified as not being significant enough to breach the required threshold to introduce additional legislative controls upon HMOs – at this time.

30. Background Papers

Overview & Scrutiny HMO Report: [Overview and Scrutiny Committee - Tuesday, 29th June 2021 at 7:00pm - Guildford Borough Council webcasts \(public-i.tv\)](#)
(Resources tab - Item 7 - download report)

[National Planning Policy Framework](#) 2019 (Paragraph 53)

[Planning Practice Guidance](#) (Paragraphs 38 – 51)

[Guildford Local Plan - Guildford Borough Council](#) – Policy H1 (Page 32 – 39 & paragraph 4.2.23)

31. Appendices

None

Please ensure the following service areas have signed off your report. Please complete this box and do not delete.

Service	Sign off date
<i>Finance / S.151 Officer</i>	<i>14.09.2021</i>
<i>Legal / Governance</i>	<i>14.09.2021</i>
<i>HR</i>	<i>16.09.2021</i>
<i>Equalities</i>	<i>N/A</i>
<i>Lead Councillor</i>	<i>14.09.2021</i>
<i>CMT</i>	<i>21.09.2021</i>
<i>Committee Services</i>	