

## **Briefing Note**

This paper provides members an update of Houses of Multiple Occupation [HMO] controlled under Mandatory and Additional Licensing within Thurrock.

### **1. Background**

- 1.1 The private rented sector [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 and the HMO housing market represents 1.3% of the overall PRS which is considerable smaller than the single-family rental sector.
- 1.2 The council has a duty to keep the housing conditions in its area under review with a view to identifying any action that may need to be taken under
  - Part 1 Housing Act 2004 – the Housing Health and Safety Rating System
  - Part 2 Housing Act 2004 – houses in multiple occupation licensing
  - Part 3 Housing Act 2004 – selective licensing of single private property lets – not operating within Thurrock
  - Chapters 1 and 2 of Part 4 of the Housing Act 2004 [management orders] in relation to HMOs and single private lettings under licensing

### **2. Introduction**

- 2.1 The council has operated HMO licensing since 2006, initially this was restricted to mandatory licensing, however in 2019, the council introduced an Additional Licensing scheme in certain parts of the borough requiring that every HMO required a licence to operate there.
- 2.2 The council has always been clear that the Additional HMO licensing will be used to improve HMO stock in terms of property standards and better management of homes in the borough, this continues to be a significant undertaking by the council.
- 2.3 The use of licensing as a regulatory tool to regulate Thurrock's private rented sector is consistent with the council's housing strategy.
- 2.4 The licensing schemes have proved valuable in driving up housing standards in the HMO rental market. It helps both tenants and landlords manage rented properties to a higher standard. Also, bad landlords are forced to improve their practices who put tenants at risk or leave the private rented sector.

### **3. Licensing of HMOs**

- 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 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:
- 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 HMO owners must apply for a licence and pay a licencing fee to operate lawfully under the council's Mandatory or Additional Licensing scheme.
4. **Additional Licensing**
- 4.1 The council is responsible to administer its Additional Licencing scheme. Cabinet approval was obtained before the scheme came into force on June 1 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, Ockendon, West Thurrock and South Stifford , Chadwell St Mary, Tilbury Riverside and Thurrock Park, Tilbury St Chads
- 4.2 Some buildings are exempt from HMO Licensing 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 care and support – currently under government review
- 4.3 The council's intelligence gathering process helps to validate buildings that are exempt from HMO licensing to prioritise properties for inspection. This includes children care homes, student halls, live in landlords with no more than two lodgers, foster families, etc.

## **5. Planning**

- 5.1 Planning permission is not required for all HMOs eg 5 bedrooms and less.
- 5.2 However, planning permission is required for HMOs with more than 6 residents. This is classified in planning terms as 'Larger HMOs'.
- 5.3 The council has licenced 51 properties with more than 6 residents in Thurrock.

## **6. Housing Standards**

- 6.1 All HMOs landlords must make sure that the accommodation that they provide complies with the HMO Essex Amenities Standards to ensure they are up to minimum housing standards and have suitable facilities for the number of occupants before the council can grant them a licence.
- 6.2 Overall, the PRS consisting of single property lets and HMOs have poor housing standards in the borough. Licensing has assisted HMO tenants to challenge their landlord and report issues for investigation by the council. The landlord or letting agent in control has to identify themselves to the council and this helps to make sure that
  - 1. Tenants can enjoy accommodation that's safe
  - 2. Any potential negative impacts on a neighbourhood -particularly from multi occupancy lets can be resolved swiftly under their licence conditions
  - 3. We provide information, advice and information at an early stage to the landlord/letting agent to gain their compliance
  - 4. Advice and assistance are provided to tenants during enforcement cases

## **7. Licensing**

- 7.1 The council has a duty to ensure that Houses in Multiple Occupation are licensed in accordance with Mandatory Licensing scheme as stipulated by national legislation and administer its Additional Licensing scheme.
- 7.2 The purpose of the licensing schemes is to protect the health and safety of tenants, reduce anti-social behaviour and tackle rogue landlords in the private rented sector. HMO properties in poor condition are improved via the use of legal enforcement under the councils Private Housing Enforcement Policy.
- 7.3 The landlord/owner has the responsibility for submitting a valid application for a HMO licence with their licensing fee to the council.
- 7.4 HMO properties are only issued a licence following a full inspection and the proposed licensed holder is assessed suitable to manage the house.
- 7.5 The Licensing Team provides a reactive and proactive service to help and assist landlords, HMO occupiers and residents in the borough. They investigate customer service requests in relation to tenant and landlord disputes, anti-social behaviour and disrepair of hazardous properties to enforce housing standards.

- 7.6 The Licensing Team prioritise physical property inspections to check for compliance to maintain and improve HMO stock conditions under the licensing schemes. The council must remove or reduce Category 1 or 2 hazards from HMOs using the Housing Act Part 1 powers and undertaking HHSRS assessments where required.
- 7.7 The team has undertaken 1125 HMO visits from the commencement of Additional Licensing from June 2019 to January 2023. It is important to note that not all HMO visits result in enforcement action as there are compliant landlords in the borough.
- 7.8 The council investigates cases where HMOs are suspected of operating without a HMO licence to evade licensing, when such cases are identified a robust approach is always taken with a number of cases resulting in the landlord receiving a financial civil penalty. It is important to note that the investigative process to gather evidence to a criminal standard is time consuming for a small team in Thurrock.

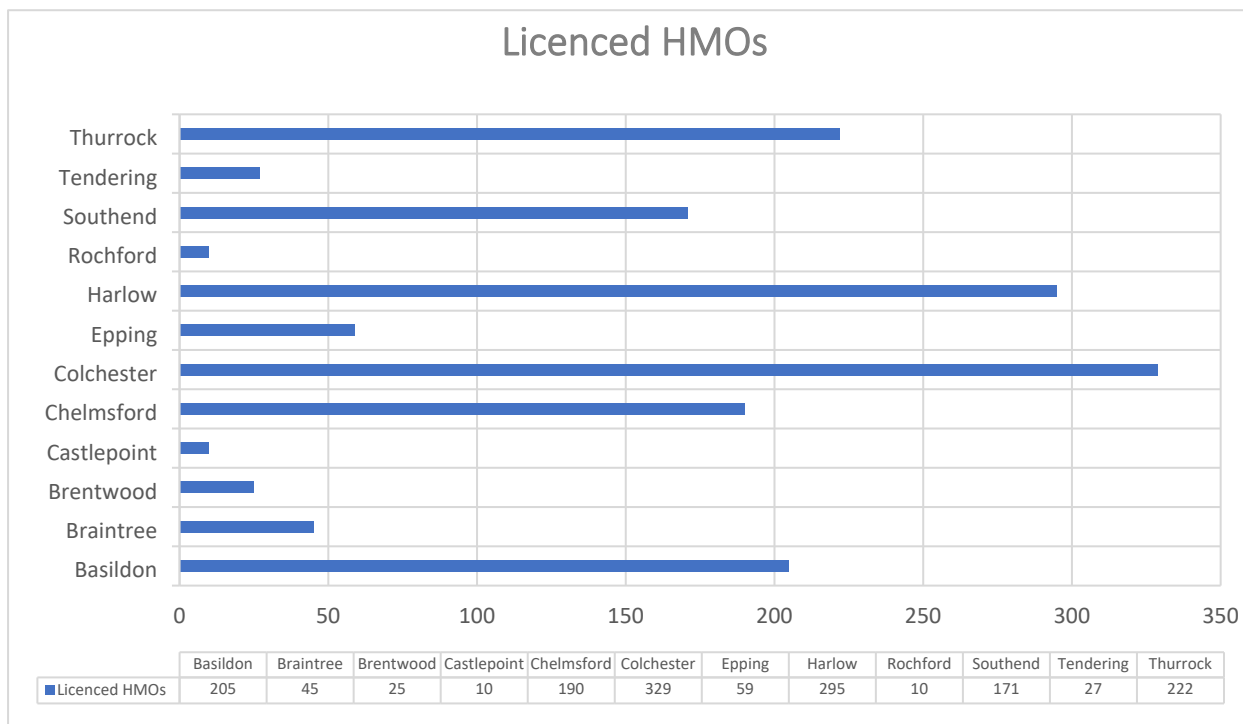
## **8. HMO Public Register**

- 8.1 The council maintains a public register of licensed HMOs under section 232 of the Housing Act 2004. This contains 222 properties with licenses granted, consisting of 165 under the additional licensing areas and 57 licensed in areas exempted from the HMO Additional Licensing scheme.
- 8.2 The map below shows a breakdown of those areas controlled under Mandatory and Additional Licensing.



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- 8.3 The highest concentration of licensed HMOs in the borough can be found within the following wards covered by Mandatory and Additional Licensing operating in those areas:
- Grays Thurrock
  - South Stifford
  - Tilbury St Chads
- 8.4 HMOs are increasingly being used by single adults as the UK population is growing, This group are mostly ineligible for social housing and unable to afford single private lettings which is driving growth within this market nationally.
- 8.5 This table shows how many HMOs are licensed within our neighbouring local authorities in comparison to Thurrock. It is important to note that Thurrock has a larger PRS in comparison to some peers.



## 9. Unlicensed HMOs

- 9.1 The Licensing Team estimates a further 212 unlicensed HMOs operating without a licence in the borough based on investigative research data from 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.
- 9.2 The council encourage residents to report unlicensed HMOs which are not on the council's public register.
- 9.3 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.
- 9.4 Presently, the team are understaffed without 2 Licensing Officers in February 2023 and 1 Licensing Assistant from April 2022 to investigate cases of HMOs operating without a licence. Prior to that in 2021/22, senior management deleted 1 Licensing Officer role as an efficiency saving to the council.

9.5 At the time of writing this paper, we are awaiting HR approval to recruit to those vacant positions.

## 10. Licensing Fees

10.1 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.

10.2 Table 1 shows the HMO licensing income fee over the last 4 years totalled £262,604. All licensing income must be ring fenced to administer the licensing scheme in the with regulatory guidance of HMO licence fees.

Table 1

Year	2019/20	2020/21	2021/22	2022/Jan 23	Total
Licensing Fee £	122,597	80,559	31,443	28,006	262,604

10.3 It is important to note that the number of licence applications fell coincidentally at the same time as staffing capacity in the Licensing Team reduced.

## 11. Licensing Enforcement Performance

11.1 The private rented sector has the worst housing conditions nationwide. It is increasingly home to some our most vulnerable residents because of shortages in council housing stock and rising housing costs,

11.2 Although Thurrock has some excellent landlords and letting agents, the Licensing Team has a vital role in improving housing standards and tackling irresponsible landlords and preventing them from profiting from their noncompliance.

11.3 Table 2 shows housing's enforcement performance requiring HMO landlords to meet housing standards.

Table 2

Enforcement Measure	2019/20 No.	2020/21 No.	2021/22 No.	2022/Jan23 No.
Improvement Notice	17	1	18	24
Suspended Improvement Notice	1	0	0	0
Prohibition Order	2	3	0	1
Emergency Prohibition Order	0	0	0	0
Suspended Prohibition Order	1	2	0	1
Emergency Remedial Action	1	0	0	0
Environmental Protection Act S80	5	0	1	1
Hazard Awareness Notice	14	0	0	0
Management Regulations 2006 Advisory Notice	24	7	13	21

Building Act 1984/Public Health Act 1936 Drainage	1	0	1	1
Public Health Act 1936 Notice	3	0	2	0
Works In Default	3	0	0	1
Prosecutions	4	1	0	4
Civil Penalty Notice	7	8	10	10
Rent Repayment Order	1	0	0	0
Banning Order	0	0	0	0

11.4 The council will try to educate and work with landlords to secure their compliance. However, the Licensing Team has imposed civil penalties for a range of offences under the Housing Act 2004 as alternative to prosecution against HMO landlords. This has totalled £337,045 for failure to comply with statutory obligations, since Additional Licensing came into force.

11.5 Table 3 shows a breakdown of this income over the last 4 years.

Table 3

Year	2019/20	2020/21	2021/22	2022/Jan 23	Total
<b>Civil Penalty Notice £</b>	63,070	82,702	103,540	88,735	337,045

11.6 Overall, the Mandatory and Additional Licensing scheme has totalled an income of £599,649, since June 2019 to January 2023.

11.7 This case study demonstrates the council are utilising all the legislative powers available to drive up housing standards in HMO dwellings.

### **Case Study**

The Private Sector Housing Team is making its first ever application for a Banning Order against a HMO landlord.

A Banning Order is considered for the most serious offenders.

If successful, the order will stop the landlord and their associated companies from letting and managing rental properties for up to 12 months.

The West Thurrock landlord lost their appeal on 30<sup>th</sup> November 2022 against 2 convictions made under Section 32 of the Housing Act 2004 .

Basildon Crown Court upheld the council's original convictions. The owner and the letting agent were fined £9,000 and the owner has court fees and costs to pay in total of £14,000.

Earlier in 2022 the Private Sector Housing Team won an appeal at the Upper Tribunal where 3 civil penalty notices under the Housing and Planning Act 2016

were upheld for the same property. This was in relation to a lack of adequate fire safety measures in the house, disrepair to the common parts and failing to apply for a HMO licence. The fines totalled £12,000.

The Council is of the view that the owner is not a fit and proper person to hold a HMO license. This is by virtue of it being convicted of a serious offence (both in the Magistrates' Court, and on appeal to the Crown Court) and also by virtue of it having received several Civil Penalty Notices, which have been upheld on appeal. The effect of this is that the company is also treated as, beyond all reasonable doubt, of being guilty of the offences which gave rise to the CPNs.

## **12. Landlord Forum**

- 12.1 National Residential Landlord Association [NRLA] landlord accreditation is low in Thurrock. Many landlords are not accredited and do not contact the council for advice, information, training or guidance regarding private renting.
- 12.2 The Private Housing Team are working with NRLA to host joint landlord forums in 2023 to educate landlords of their legal duties and increase voluntary landlord accreditation. This scheme is not currently considered to be a significant viable alternative to licensing at present.

## **13. Rogue Landlord Unit**

- 13.1 The Licensing Team is exploring a dedicated Rogue Landlord Unit, to disrupt bad landlords and agents, profiting from supplying the housing market, with low quality and unsafe homes, as well as protecting tenants' rights, from illegal evictions and harassment. This project is aimed at HMO and PRS renters because the council does not operate selective licensing. Currently, a decision regarding the Rogue Landlord Unit is expected from senior management.

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