



# Woughton Community Council

Position Paper on

# Houses of Multiple Occupation (‘HMO’s’).

April 2021



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Woughton is home to several estates which lend themselves to private landlords converting properties into HMO's. Woughton has a high number of Houses of Multiple Occupation (HMO) and the Planning, Licencing and Development Committee is receiving a number of either applications or 'Certificate of Lawfulness' updates relating to further provision. This position paper aims to state the approach that Woughton Community Council and its committees will take when assessing these applications.

The position paper should be read in conjunction with other MKC policies, the WCC Neighbourhood Plan (WCCNP) and specifically the Supplementary Planning Document (SPD) that relates to HMO's within the borough.

### **What is a HMO**

The full definition of an HMO can be found in the Housing Act 2004 under section 254.

For guidance, a property is a House in Multiple Occupation (HMO) if it is;

- An entire house or flat which is let to three or more tenants who form two or more households and who share a kitchen, bathroom or toilet;
- A house converted into bedsits or other non-self-contained accommodation, which are let individually to three or more tenants who form two or more households and who share a kitchen, bathroom or toilet facilities;
- A converted house which contains one or more flats which are not fully self-contained (where the flat does not contain within it a kitchen, bathroom and toilet) and which is occupied by three or more tenants who form two or more households;
- A building which is converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations and more than one-third of the flats are let on short-term tenancies. The definition for dwellings converted to self-contained flats is found under section 257 of the Housing Act 2004.

In order to be a HMO the property must also be used as the tenants' only or main residence and it should be used solely or mainly to house tenants. Properties let to students and migrant workers will be treated as their only or main residence and the same will apply to properties which are used as domestic refuges. The full definition of what constitutes a tenants only or main residence can be found in the Housing Act 2004 under section 259.

### **What are the issues relating to HMO's? Why the need for this paper?**

As noted below, there are considerable numbers of HMO's in the parish and increasingly, we are seeing retrospective planning permission or certificate of lawfulness applications coming through the Planning Committee. This suggests that the actual level of HMO provision is even higher than registered.

Issues noted are predominantly around the impact that HIGH LEVELS of HMO's can have within an area. It is acknowledged that HMO's have a role to play within the wider housing market and meet a local need (indeed, that is noted within the Neighbourhood Plan), but where numbers are concentrated, amenity issues can arise, especially if not managed well. A report produced in 2008 by the Communities and Local Government department - 'Evidence Gathering – Housing in Multiple Occupation and possible planning responses' (known as the ECOTEC report) was commissioned to address concerns around the impact of high numbers of HMO's and to look at best practice and

management. Whilst the situation has change significantly over the decade plus since writing, this report highlighted the following impacts:

- anti-social behaviour, noise and nuisance
- imbalanced and unsustainable communities
- negative impacts on the physical environment and streetscape
- pressures upon parking provision
- increased crime
- growth in private rented sector at the expenses of owner-occupation
- pressure upon local community facilities and
- restructuring of retail, commercial services and recreational facilities to suit the lifestyles of the predominant population

It is worth noting that the report highlighted students and migrant workers. HMO levels are often led by community make up – where students or migrant workers are present, affordable housing is needed and for many, HMO's are the tenure of choice (by virtue of being suitable or by virtue of being affordable). It is likely that due to the increasing costs of housing generally, that HMO's may well be the only choice available to many in 2021, particularly those who are in receipt of Housing Benefits where, if a younger person, this will only cover the costs of a room in a shared house.

It is also worth noting this passage from the MKC HMO SPD

*'Some of the issues identified in the September 2008 ECOTEC report, such as increased crime or pressure on local facilities, have been found not relevant in Milton Keynes, or there has been insufficient evidence found to support these findings in Milton Keynes. This could be because these issues are linked to areas with higher numbers of Hi-MOs or student HiMOs. In Milton Keynes unlike many other towns and cities, HiMOs are generally not occupied by large numbers of students, although in the future this may change as the University Centre MK grows.'*

Whilst acknowledging that the issues around student numbers and, to a lesser extent, migrant workers are limited within MK, student numbers are likely to increase and whether migrant or otherwise, the high number of low paid jobs within the city means, combined with a housing market that excludes many, means affordable housing (i.e. HMO's) will remain an important element.

Here in Woughton, issues around parking have been highlighted, alongside the lack of investment many HMO residents have within the community – by their very nature, HMO's are temporary and often have high levels of turnover (also known as housing 'churn'), meaning often tenants don't have roots locally or indeed any ambition to remain within the parish. This can mean that looking after the estates, playing a part within the community and be considerate of neighbours and others are not priorities.



This is where the balance is needed – as noted, HMO's are an important part of the overall housing need locally, but numbers and proliferation must be managed accordingly.

***It is recommended that MKC undertake work to fully identify the actual number of HMO's within the parish and update the register accordingly. WCC are happy to work with MKC on this issue, using local intelligence to provide a more accurate picture so that any planning decisions can be made with full knowledge, rather than with the patchy, inaccurate figures currently in place.***

## What is the current level of HMO Provision in Woughton

The current HMO Register (April 2021) states the following numbers on each of our estates:

Beanhill	1 property, 5 rooms, max 10 people
Coffee Hall	3 properties, 15 rooms, max 18 people
Eaglestone	3 properties, 12 rooms, max 15 people
Netherfield	10 properties, 50 rooms, max 57 people
Peartree Bridge	14 properties, 70 rooms, max 85 people
Tinkers Bridge	8 properties, 43 rooms, max 51 people

There are no registered HMO's on Leadenhall.

This suggests that there are a total of 39 HMO properties within the parish. This is widely accepted as being a significant under-estimation and signifies the large number of unregistered HMO's. This, in turn, explains the higher number of retrospective applications that are being made and coming to the Planning committee.

## Legislation, planning rules and key directions relating to HMO's in MK.

There are a number of different elements that provide guidance when looking at the provision of HMO's in the city of Milton Keynes;

- Plan:MK,
- WCC Neighbourhood Plan (NP),
- the HMO Supplementary Planning Document (SPD)
- The MKC Private Sector Housing Strategy 2020 - 2025 (currently in draft form and only two mentions of HMO's throughout this document).

The number of Houses in Multiple Occupation should not exceed 35% of the total number of properties within a 100 metre diameter buffer of the application property.

For the purposes of this SPD:

- HiMOs will be counted by the number of bedrooms (e.g. a 5 bedroom HiMO = 5 HiMO properties in the concentration calculation).
- Non HiMO houses will be counted as a single property, regardless of number of bedrooms (e.g. a 4 bedroom house = 1 non-HiMO property in the concentration calculation)
- One bedroom flats are counted towards the concentration of HiMOs and each flat is counted as a single property.
- Flats with more than one bedroom do not count towards the concentration of HiMOs and each flat is counted as a single property.

There are also elements of the Article 4 Directions that have been enacted, meaning that HMOs have to go through planning, as opposed to being permitted development and the Housing Act 2004 details the licencing elements, alongside other aspects.

The key elements to note from these policies are:

- ALL HMO's that fall within the definition (two or more household in a property, sharing facilities with five or more people, but with some exceptions) should be registered and licenced with MKC. They will also need to gain planning permission to convert to an HMO
- The person holding the licence must be 'fit and proper'.
- The HMO must meet agreed standards (could include annual safety checks, provision of smoke / carbon detectors, fire doors, etc..)
- That failure to comply with the rules can lead to large fines, criminal record, rent repayment orders and other penalties.
- That the HMO SPD details the planning obligations for converting from a 'dwelling house' to an HMO – management of noise, parking, waste, etc.
- That there are levels of HMO provision that are considered 'enough' – this is explained in more detail below, but each room of an HMO is considered a 'property' and the total number cannot exceed 35% within 100 metres.

Due to Article 4 Directions that were introduced by MKC in 2011 / 2012, planning permission is needed to convert a property into an HMO. This means that the 'permitted development' rules that could apply, have been removed to ensure control over planning and development within the urban areas of the borough (including all of Woughton). As well as planning legislation, HMOs are covered by housing legislation. The Private Sector Housing Team is responsible for checking all Houses in Multiple Occupation (HMO's) to make sure they are in satisfactory condition, are safe, have satisfactory means of escape from fire, have sufficient bathrooms and kitchens, have adequate space and proper management.

The team also deals with the mandatory licensing of Houses in Multiple Occupation.

*It is recommended that Milton Keynes Council accept and embrace this responsibility, identifying and addressing the significant number of unregistered or insufficiently managed HMO's, taking legal action where necessary and remedial action to address shortcomings in current lets.*

## Number of HMO's allowed within a geographical area

There are agreed levels of HMO provision that are allowed within asset area and these figures are laid out within the HMO SPD and within the WCC NP. These two documents have slightly different approaches, with the Neighbourhood Plan taking an estate based approach, as opposed to the city wide levels within the SPD.

The MK wide policy is:

*'The number of Houses in Multiple Occupation should not exceed 35% of the total number of properties within a 100 metre diameter buffer of the application property.'*  
(Page 10 of the MKC HMO SPD 2012).

This is also the policy for the grid squares of Eaglestone, Coffee Hall, Leadenhall and Beanhill within the WCC NP. However, for the remaining three estates of Netherfield, Peartree Bridge and Tinkers Bridge, the policy states: '...the number of houses in multiple occupation does not exceed 20% of the total number of properties within a 100m diameter buffer of the application property.'

Thereby reducing the proliferation of HMO's within those three estates, where particular concerns have been noted. For a 'worked example' (how this works in the real world) see the example to the right.

It is worth noting that whilst this would be acceptable under the SPD, this would NOT meet the standard expected on the three exceptional estates within Woughton, where this would exceed the 20% level in place.

*WCC would like to see action taken against landlords who are non-compliant with registration and rather than 'rubber stamping' backdated lawfulness certificates, that permission is refused and action taken, using rules below, to challenge rogue landlords.*

**Worked Example**



**Key**

<span style="display: inline-block; width: 15px; height: 15px; background-color: teal; border: 1px solid black;"></span> Proposed HiMO	<span style="display: inline-block; width: 15px; height: 15px; background-color: darkblue; border: 1px solid black;"></span> Existing HiMO
<span style="display: inline-block; width: 15px; height: 15px; background-color: pink; border: 1px solid black;"></span> Flats	<span style="display: inline-block; width: 15px; height: 15px; background-color: lightgrey; border: 1px solid black;"></span> Properties that fall outside of the buffer

In the above example there are 50 properties within the 100 metre buffer consisting of:

- One bedroom flats x 5
- Two bedroom flats x 5
- Houses x 37
- Existing HiMO (5 bedrooms) x 2
- Application property (5 bedrooms) x 1

**Calculation**

Total Houses, Flats and HiMO Bedrooms = 62  
(37 houses, 10 existing HiMO bedrooms, 5 proposed HiMO bedrooms, 5 one bedroom flats and 5 two bedroom flats)

Total Number of HiMO Bedrooms = (5 Bedroom HiMO x3) + (One bedroom flats x5) = 20

Concentration = (100/62) x 20 = 32%

Proposal is under 35% and would be acceptable.

## Penalties for renting a licensable HMO, without obtaining a licence.



This information has been taken from the MK Council website, sitting within the HMO pages. It is mentioned within the Draft Private Sector Housing Strategy and forms an essential part of the arsenal of options available to local authorities to address private sector issues, including those within HMO's. The Private Sector Housing Strategy speaks primarily of fire safety, as opposed to any other issues, but included details of these penalties.

Section 72 of The Housing Act 2004 makes it a criminal offence if a person managing or controlling a HMO does not have the required licence. A person found guilty of such an offence will be subject to a fine of up to £20,000. You cannot rely on any delay in obtaining planning permission as a defence for not licensing your HMO.

It is an offence not to meet all the conditions of the licence. There could be an unlimited fine for each breach and the licence may be revoked.

If, for example, a requested safety certificate is not submitted or more persons occupy the HMO than are permitted on the licence, evidence may be gathered to begin legal proceedings. Therefore it is imperative that the terms and conditions of the licence are complied with.

Failure to licence an HMO or to permit a breach of the licence conditions will incur the following penalties:

- A financial penalty up to £30,000.00
- Prosecution resulting in a criminal record and a fine
- A Rent Repayment Order to recover up to 12 months' worth of rent paid by housing benefits to the landlord/agent directly or by the tenant.
- Interim Management Orders (IMO)

The landlord cannot issue a section 21 "Notice Requiring Possession" during the period the property is unlicensed.

*WCC would welcome robust action to be taken against private sector landlords, with the strong message this send with regard to expectations across the city. This includes action to effectively manage HMO's and ensure that standards are high across the sector.*

## Planning applications and 'Certificates of Lawfulness'

As mentioned previously, WCC oversees the Planning, Licencing and Development Committee, which has a remit to assess and comment on the suitability of planning and related applications that are made to MKC but relate to the parish.

Over the past year, WCC has seen a significant increase in the number of applications relating to the provision of HMO's, be that to convert a property or to register a property that has been acting as an HMO and now wants to become legally recognised, usually via a 'Certificate of Lawfulness' - essentially allowing the landlord to declare an HMO without undertaking the planning process based on the 'probability; that this property has been an HMO for 10 years or more. WCC finds this situation unacceptable ;

- The level of HMO provision is unknown to such a level as to make policy null and void - it is impossible to assess the number of HMO's within 100 metres if few are formally registered. Simply rubber stamping applications does not address this issue.
- Allowing landlords that have, in many cases, been acting illegally by failing to register or licence their HMO to simply apply and avoid any penalties is not the message that WCC feels is correct. There MUST be a conse-

quence for acting unlawfully and that should not be a local authority ignoring illegality.

- The planning process, even if fully utilised, is still unable to fully assess the impact of any application whilst HMO numbers remain unknown.
- The situation is likely to get more and more challenging as University MK comes into being - university cities across the country have seen the areas where large properties in lower cost areas, especially when within walking distance to the campus, are targeted for conversion to HMO's. Woughton fits this category perfectly, especially on the three estates noted as having specific challenges (Tinkers Bridge, Netherfield and Peartree Bridge).

It is hugely frustrating for elected representatives to be faced with a situation where 'applications' come to committee for discussion, only for planning officers to respond to real concerns with 'there is nothing we can do - they have been doing it for 10 years'. Referrals to the private sector department are welcomed, but WCC is aware of the pressures that this team already faces with a large and growing private rented sector and extremely limited resources within that team.

## Conclusions

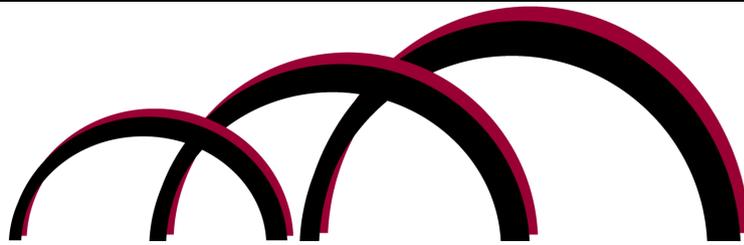
**Woughton Community Council understands that the private rented sector, including Houses of Multiple Occupation, are part of the housing landscape locally and provide an important option for those unable to buy, access social housing or who value the flexibility the private sector offers. However, ensuring that the sector is sufficiently managed, that standards are maintained and tenants protected from the worst of rogue landlords means that further focus and resource should be allocated.**

With specific reference to HMO's, there remain significant gaps in local knowledge around the number and geographic location of HMO's within the parish and the wider city. This means that effective management of planning, resources, licencing and compliance is impossible. The restricted level of action to remedy breaches of law is of concern and the inability of WCC to impact on retrospective applications means presenting these applications to committee is likely to be pointless.

WCC welcomes the opportunity to work in partnership with MKC, landlords and the wider community to ensure that HMO's can continue to play the valued role within the wider sector, whilst equally meeting the expectations laid out in law and local policy. This includes:

- Resource allocated to fully mapping the levels of HMO provision, both licenced and illegal, across the parish
- Action taken against those landlords who refuse to comply with the legislation, licencing agreements or planning rules, to include all remedies within the authorities remit (see above).
- The 100 metre rules effectively used to manage HMO levels within locations, including the reduced levels laid out within the WCC Neighbourhood Plan
- WCC /MKC engagement with HMO tenants to support involvement and responsible living within the communities of Woughton, including waste management, parking, noise and similar, but equally on enabling tenants to be involved in the positive aspects of Woughton life.

*We will continue to campaign for better housing for all, for greater investment into Woughton, for higher quality housing and public realm and for fair funding for the parish. All these issues contribute to the wider wellbeing of our communities, the economic benefits to local people and the strengthening of equality and fairness for residents of the parish.*



*Creating Connections, Supporting Communities*  
**Woughton Community Council**

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