

# **Aberdeen Planning Guidance 2023: Houses in Multiple Occupation and Overprovision (DRAFT)**

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## **1. Introduction**

### **1.1 Status of Aberdeen Planning Guidance**

This Aberdeen Planning Guidance (APG) supports the Local Development Plan and is a material consideration in the determination of planning applications. It expands upon the following Aberdeen Local Development Plan policy:

- Policy H8 – Houses in Multiple Occupation and Overprovision

### **1.2 Introduction to Topic / Background**

Houses in Multiple Occupation (HMOs) are an important component of the private rented sector within Aberdeen City. In particular, Aberdeen has a long history of being a centre for high quality tertiary education and HMOs play a key role in helping to meet the accommodation needs of the City's student population.

A key focus of the Scottish planning system is to ensure sustainable mixed communities. This means not only a mix of housing types and sizes but also a mix of occupancies. This APG provides guidance to ensure that new HMOs can be successfully integrated into existing communities and to prevent an over proliferation of HMOs in any single area of Aberdeen. It also provides advice on the relationship and interaction between planning controls over HMOs and the separate system of HMO licensing.

### **1.3 Climate Change**

New housing, including HMOs, can make a considerable contribution to the built environment's transition towards net zero. The contents of this APG relate to UN Sustainable Development Goal: 11 (Sustainable Cities and Communities).

## **2. Aberdeen Planning Guidance**

### **2.1 Background**

Houses in Multiple Occupation (HMOs) account for a significant proportion of the available rental accommodation in Aberdeen and are particularly important in supporting the city's sizable student population. However, the cumulative impact of large numbers of HMOs in an area can give rise to a number of issues and concerns. These can include: potential physical deterioration caused by lack of investment by absentee landlords; an increased population density in a localised area resulting in an increased demand on services, infrastructure and parking provision; and a deficiency in community cohesion as a result of transient tenants. Locations close to educational facilities, the city centre, or key employment areas are particularly likely to be affected by these potential issues.

Policy H8 of the Local Development Plan has therefore been developed with a view to avoiding an excessive concentration of HMOs in parts of the City. It states that proposals for new HMOs will be assessed as to whether the cumulative concentration of HMOs would be excessive in the context of the proportion of HMOs relative to other residential properties and any resultant detriment to the established residential character and amenity of the area. It goes on to state that within areas of concern due to excessive concentration further HMO provision is unlikely to prove acceptable. This APG provides further guidance on how policy H8 will be applied, with a particular focus on setting out the areas of the City that are considered to be of concern due to an excessive concentration of existing HMOs.

It should be noted that there is both a planning and a licensing regulatory regime for HMOs. The distinctions between these two regimes can sometimes cause confusion for those seeking to operate HMOs and the communities in which HMOs are located. This APG focuses on planning controls over HMOs. However, it also includes links to resources which provide more information on the separate HMO licensing regime.

### **2.2 Planning Requirements for HMOs**

#### **2.2.1 When is a Planning Application Required?**

Planning legislation in Scotland does not include a specific definition of an HMO. However, Planning Circular 2/2012 'Houses in Multiple Occupation: Guidance on Planning Control and Licensing' allows planning authorities to provide guidance as to the occupancy levels for individual HMOs that would be considered to represent a material

change of use from a mainstream domestic dwelling, and above which they would normally seek a planning application.

Taking into account Aberdeen's context and specific circumstances, the Local Development Plan identifies that a material change of use to an HMO would be considered to take place where either a house or a flat will be occupied by 3 or more unrelated people. A planning application for a 'change of use' to form an HMO will therefore be required in cases where this occupancy threshold is met. This threshold is consistent with the statutory occupancy threshold that is used for HMO licensing purposes (see section 2.3 for more information on licensing requirements). In accordance with Planning Circular 2/2012, the requirement to obtain planning permission where the 3 person threshold is met will only apply to properties being proposed for use as an HMO for the first time after the date of adoption of the Local Development Plan (see section 2.2.4 below for more information on exceptions).

#### 2.2.2 Considerations for HMO Planning Applications

Any planning applications for HMOs will be considered on their own merits. All proposals will be assessed with regard to matters including, but not limited to, the following:

- Any significant adverse impact on residential amenity. This may include, but will not be limited to, adequate provision of refuse storage space, appropriate provision of garden ground / amenity space, and an appropriate level of car parking spaces
- Any adverse impact on the safety of pedestrians, cyclists or other road users, including as a result of increased pressure on car parking

#### 2.2.3 Avoiding Excessive Concentrations of HMOs

In addition to the above factors, planning applications for HMOs will be particularly assessed with regard to whether they would result in an excessive concentration of HMOs relative to other residential properties in a given locality.

In order to prevent an excessive concentration of HMOs within parts of the City, the Council considers that the number of licensed HMOs should generally not exceed 12% of the total residential properties in any single Small Data Zone. This broadly equates to a 1:8 ratio of HMOs to other residential properties within any single Small Data Zone. This ratio is considered to represent a suitable balance between protecting the established residential character and amenity from adverse impacts resulting from high numbers of HMOs whilst also acknowledging the

significant role of HMOs in meeting the housing needs of students and other sectors of the population. Small Data Zones have been identified as the most appropriate geographical area for this purpose as they are large enough for statistics to be presented accurately whilst also being small enough that they can be used to represent communities spatially. They also have shapes that respect physical boundaries on the ground wherever possible.

Maps showing a snapshot of Small Data Zone HMO concentrations at the date of adoption of this APG are presented in Appendix 1. These maps provide an indication of the areas of concern where the proportion of HMOs relative to other residential properties exceeds 12% and where further HMO provision is therefore unlikely to be accepted. The map data on HMO concentrations will be updated on a monthly basis and will be made available on the Council's website for information purposes throughout the lifetime of the Local Development Plan. This information is intended to provide prospective applicants with an indication of the likelihood of there being capacity for additional HMOs in any Small Data Zone. As part of considering if a house or flat is likely to be appropriate for use as an HMO, it is also recommended that prospective applicants or their agents contact the Council's development management team for pre-application advice before submitting any formal planning application.

It should be noted that for the purposes of applying policy H8 and the guidance in this APG, any planning application for a new HMO will be assessed against the most up-to-date data on the HMO concentration within the relevant Small Data Zone at the time of determination.

Applicants should be aware that the Council will not refuse to accept and validate a planning application for a new HMO within a Small Data Zone that is identified as an area of concern due to an excessive concentration of existing HMOs. It will be for the applicant to decide whether or not they wish to submit a planning application and, where necessary, to seek to demonstrate that there are exceptional circumstances which would justify the normal 12% concentration threshold not being applied in their case.

Where more than one planning application for an HMO in the same Small Data Zone is being considered at the same time, the Council will normally assess applications in order of validation date unless additional supporting information has been requested from the applicant to allow an effective decision (in which case applications will be considered in the order of receipt of all relevant supporting information).

#### 2.2.4 Exceptions

In accordance with Planning Circular 2/2012, the provisions of policy H8 and the guidance in this APG with respect to managing HMO concentrations will only apply to properties being proposed for use as an HMO for the first time after the date of adoption of the Local Development Plan. The requirement to obtain planning permission for change of use to an HMO where the 3 person threshold is met, and the policy and guidance on the management of HMO concentrations, will therefore not apply to:

- Licensed HMOs that were already in existence at the date of adoption of the Local Development Plan, including existing HMOs which subsequently change ownership and therefore require a new HMO license for the new owner
- Competent renewals of licensed HMOs that were already in existence at the date of adoption of the Local Development Plan
- HMOs for which a license application has already been submitted and is pending determination at the date of adoption of the Local Development Plan

New purpose-built student accommodation will also be exempt from assessment against the 12% HMO concentration threshold. Any such developments would instead be assessed against policy H7 of the Local Development Plan.

### 2.3 **Licensing Requirements for HMOs**

In addition to the planning requirements outlined above, it should be noted that there is a separate licensing regime for HMOs. It is mandatory under Part 5 of the Housing (Scotland) Act 2006 (as amended) that a license is obtained to occupy a house or flat as an HMO. Licensing legislation provides that a house or flat is an HMO if it is the only or principal residence of 3 or more qualifying persons from 3 or more families.

The purpose of HMO licensing is to control standards in 3 main areas:

- the suitability of the property owner to be an HMO landlord;
- the owner's management of the premises; and
- the physical condition and facilities of the accommodation.

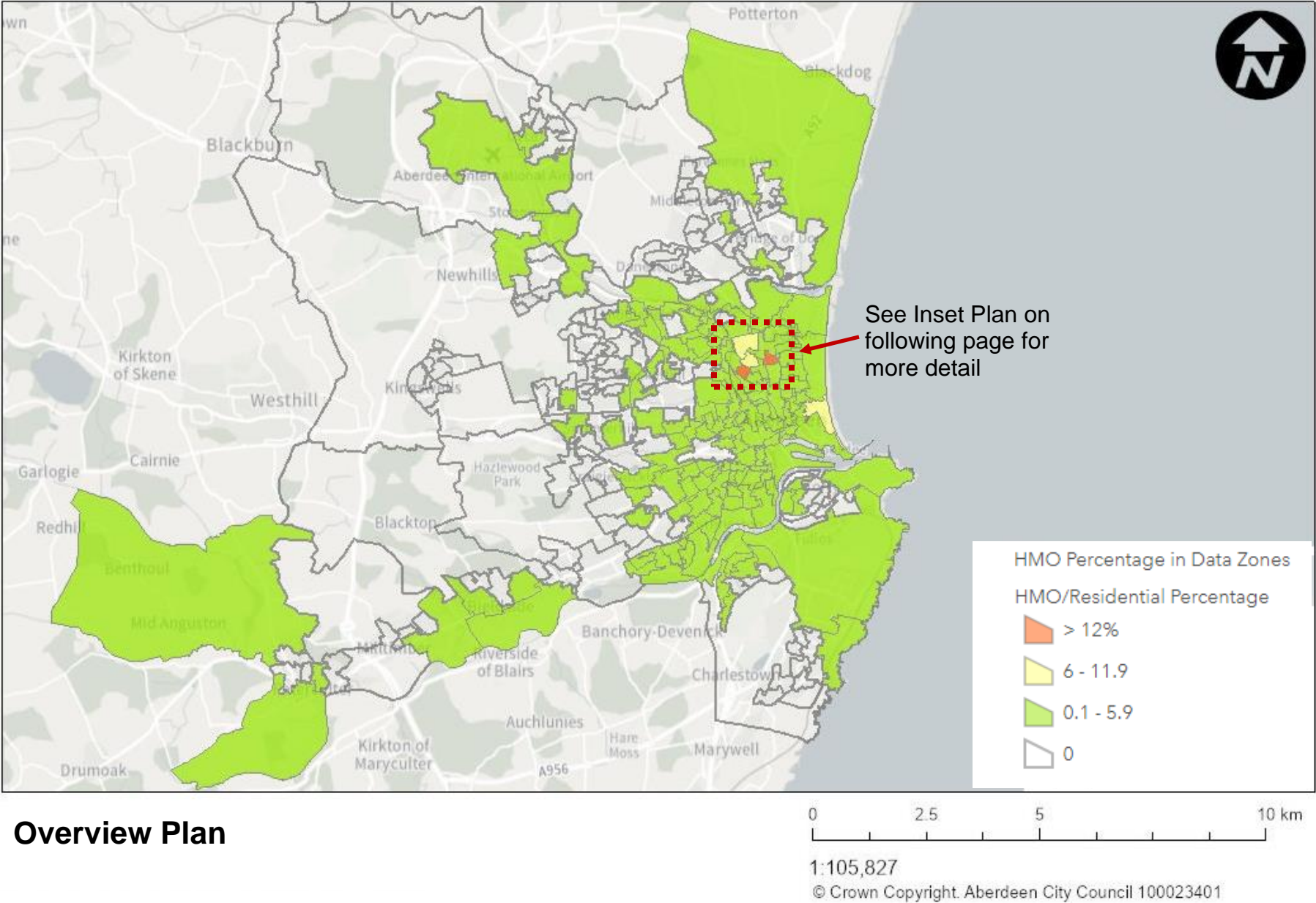
It is a criminal offence to operate an HMO without a license. The licensing of HMOs in Aberdeen is administered by the Council's Private Sector Housing Unit. More information on licensing requirements for HMOs is available on the Council's Private Sector Housing Unit webpages. Applicants should be aware that the granting of planning permission for an HMO does not remove the requirement to obtain the appropriate license (and vice versa).

### **3. Further Reading**

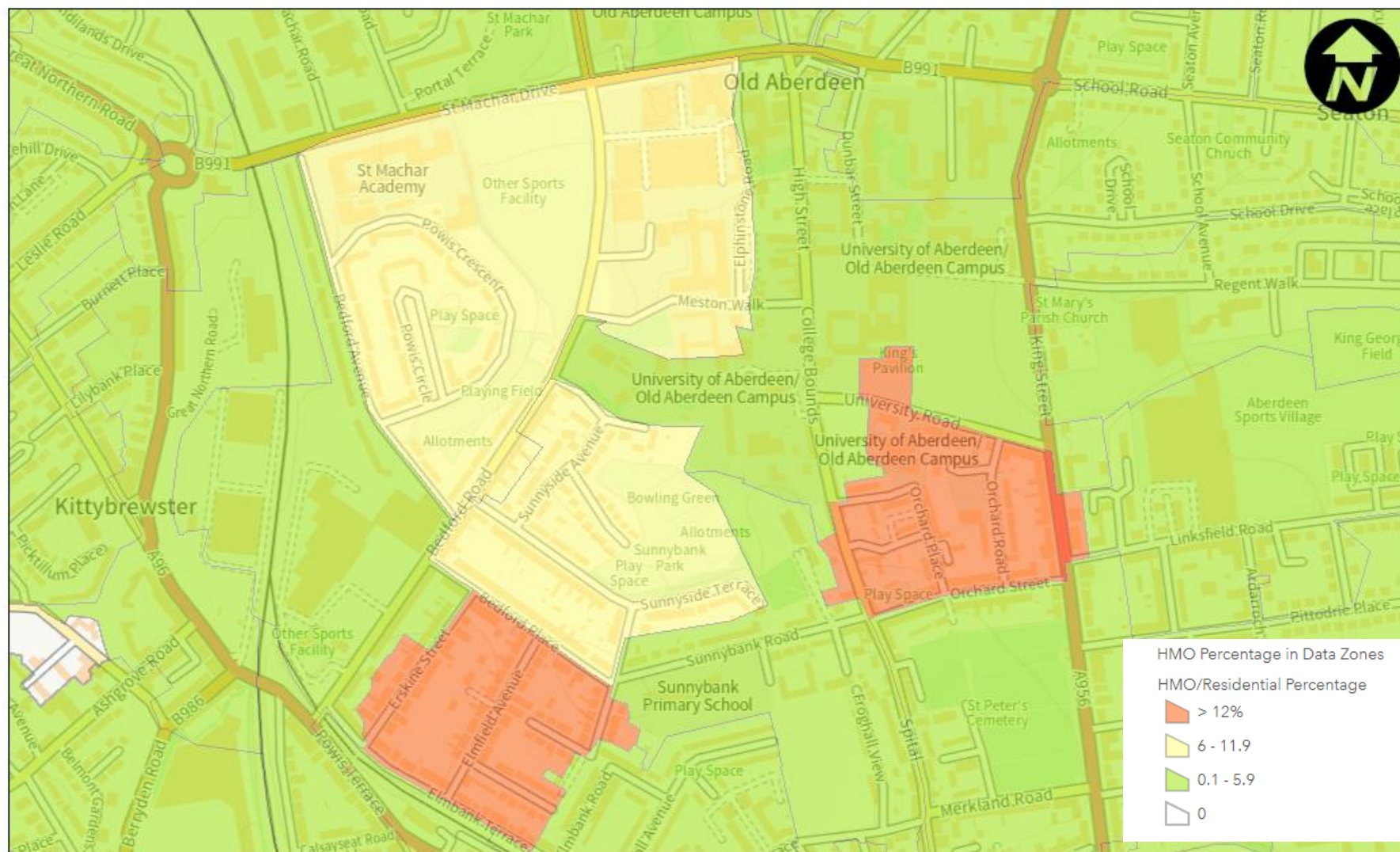
Aberdeen City Council website, Private Sector Housing Unit: <https://www.aberdeencity.gov.uk/services/services-business/licences-and-permits/houses-multiple-occupation>

Planning Circular 2/2012 'Houses in Multiple Occupation: Guidance on Planning Control and Licensing', Scottish Government, Scottish Government website: <https://www.gov.scot/publications/houses-multiple-occupation-guidance-planning-control-licensing/>

Appendix 1 – Snapshot of Small Data Zone HMO Concentrations (November 2022)







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**Inset Plan**

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