

<b>Meeting:</b>	Executive Member for Transport Decision Session
<b>Meeting date:</b>	12 November 2024
<b>Report of:</b>	James Gilchrist - Director of Environment, Transport and Planning
<b>Portfolio of:</b>	Councillor Ravilious, Executive Member for Transport

## **Decision Report: Review of the House of Multiple Occupancy (HMO) Parking Permit**

### **Subject of Report**

1. In March 2021, Executive considered a report seeking to improve standards in the private rented sector. The options presented included an analysis of the opportunity to utilise additional licensing powers for smaller houses in multiple occupation (HMOs).
2. The council already has a licensing regime for HMO's which contain 5 or more residents, but these changes have seen an expansion of the licensing programme to include HMOs with 3 and 4 residents in certain parts of the city.
3. As a result of this we are seeing a significant increase in HMO applications and requests to change Household customers to HMO customers who now fall under the expanded licensing.
4. This report is in response to these changes and the knock-on effect it will have on the parking capacity where HMOs are located. The report recommends the removal of the HMO permit and moving all HMO properties to household permits.

### **Benefits and Challenges**

5. With the information from our back-office system supplier the number of properties in the residents parking zone which currently

have an HMO permit is 83 with 113 residents currently paying £202.50 for a HMO parking permits.

6. These are broken down as follows: -

- 60 HMO properties which have 1 HMO permit.
- 18 HMO properties which have 2 HMO permits.
- 4 HMO properties which have 3 HMO permits.
- No HMO properties currently have 4 HMO permits.
- 1 HMO property which has 5 HMO permits.

Please note this figure may well have gone up or down since this information was provided in September.

7. The cost of each HMO permit is £202.50 whereas the cost for the Household permits are: -

- First Household permit is £109.95
- First additional Household permit is £240
- Second additional Household permit is £500.

8.

9. This means that currently 83 residents will see a saving of £92.55 but the 23 residents will see an increase of £37.50 for the first additional household permit. Whilst 5 residents will have an increase of £297.50 for the second additional household permit and two residents would no longer be eligible for a residents parking permit.

10. If the HMO permits were to remain, with the increasing number of HMO properties coming about there will be a potential increase in the number of residents applying for permits, as there is no limit on the number of HMO permits available per property. This will see an increase in demand on already overstretched capacity we see across most of the resident parking zones we have.

11. As the recommended option is to remove the HMO permit and move all properties onto the Household permit. Household permits are on a first come first served basis, those who move from the HMO permit and can buy the first Household permit will make a significant saving. However, those who buy the first or second additional Household permit will be paying more.

12. In addition any properties which have four or more HMO permits in will see a reduction in available number of permits for the property, given the maximum number of 3 Household permits per property.
13. However, the benefits for this recommended change are to protect the capacity for all residents. HMO permits may be used in the C and GM bays only within the permit holders resident parking zone. Therefore, an increase in HMO permits will likely mean many permit holders won't be able to get a parking space.
14. The move of these properties to the Household permit, will mean they will have access to the whole of the resident parking zone. Therefore, striking a balance between the number of permits per property but the expansion of the access to the whole of the resident parking zone, their property is within, will be of a benefit to them.
15. We do receive a number of complaints about the availability of HMO parking capacity the recommendation to remove the HMO permit altogether will have overall benefits but it is appreciated that the limitation of Household permits available will mean some customers will have to make alternative arrangements to park if they wish to continue ownership of a vehicle within a resident parking zone.

## **Policy Basis for Decision**

16. With the increase in HMO properties, where an initial figure of 1200 has so far been identified that will need to become HMOs, it is clear that this will far exceed any available parking capacity for the small number of C and GM bays each resident's parking zone has.
17. Therefore, while there are 3 options to consider, the upshot of it is there really is only one decision to make where the limited capacity dictates the option to choose is the removal of the HMO permit and moving all current HMO properties to access the Household permits only.
18. As a result of these options being developed, the decision to ask customers to remain as Household permit customers who would normally move to becoming HMO customers has been made to reduce the impact on customers as much as possible. If the decision was made to agree to the recommended option, then the

new HMO properties would not have to be moved for a second time and significantly reduce any impacts on back office teams to make these changes and issue any refunds for the monetary difference between the two types of permits.

19. In the Local Transport Strategy the principle that private cars for people who have a choice to choose a more sustainable mode are at the bottom of the transport hierarchy continues so while the councils transport and parking policies need to reflect this, officers will do what they can to ensure the transition is done as smoothly as possible for effected customers and allow them time to transit and where required consider and make alternatives to park if they will no longer be able to buy a parking permit.
20. The recommended option will have a negative impact on some low income residents who do not have access to the first household permit. If the recommended option is approved and the HMO permit is removed then currently 28 residents will see a yearly increase in their parking permit of either £37.50 or £297.50.

## **Financial Strategy Implications**

21. Despite the reason that has informed the development of these options, and the recommended option is to do with capacity, this will also see the councils parking permit revenue decreasing by £6,749.15 (from current figures in this report) if the HMO permit is removed due to the cost difference between the Household and HMO permits and the number of permits per property.
22. Therefore, any loss or increase in revenue is deem negligible.

## **Recommendation and Reasons**

23. The Executive Member is asked to review the report and consider the following 3 options: -
  - a) To change the name of the HMO permit, so it does not have a connection to the changes in HMO licensing.

*Reason: The removal of a permit named HMO Permit form the available permits in the Parking services system and replace*

*with a new permit name, which would have the current definition, this would remove any connection with properties identified as an HMO, through the licensing of properties. While this would help to minimize the impacts from these licensing changes on current permit holder, this would mean another permit will need to be created. The residents that are moved to the new permit, would still be able to see the older version of the permit on the parking system but not able to access, which may create an issue for complaints from Parking Services. For this and other reasons listed in this report, this option is not recommended.*

b) to change the HMO definition in the TRO to be in line with the legislation.

*Reason: This would create a clear link between the changes to the HMO licensing and the HMO parking permits. This would allow the residents of new HMO properties to apply for HMO permits and would not affect existing HMO residents' eligibility for a permit. However, if this was approved there would be a large cost implication associated with this proposal, due to the consultation and signage requirements and significant impact on customers both HMO and residents. For this and other reasons listed in this report, this option is not recommended.*

c) To remove the HMO parking permit and allow current HMO permit holders to become eligible to apply to purchase Household parking permits instead. (recommended option)

*Reason: This would help remove the confusion over the eligibility of a property with the changes of housing classification of a HMO, as no one would be eligible. This would require all HMO permit holders moving to household permits with an escalating fee which increases with the number of permits and all properties would be restricted to three permits, so depending on the size of the HMO, it is likely to create a reduction in permit holders, where permits will continue to be available on a first come first served basis. This is the recommended option.*

## **Background**

24. The Councils housing team received approval from the Executive Member of Housing and Safer Neighbourhoods on 28th July 2022

<https://democracy.york.gov.uk/%28S%28dv4yyj45ufq5szjf2lxmmk45%29%29/ieDecisionDetails.aspx?Id=6603>), to change how they licence Houses in Multiple Occupation (HMO) from 1st April 2023, to bring it in line with national legislation.

25. Under additional HMO Licensing, from 1 April 2023, an HMO licence is required for any HMO occupied by 3 or 4 people who are from more than one household, where householders share facilities such as the kitchen, bathroom, or toilet. Occupants of a house are part of the same household (Section 258 Housing Act 2004) if they are all members of the same family. That includes:
  - people living together as a cohabiting couple.
  - others related to these people such as:
    - parent
    - grandparent
    - child
    - grandchild
    - brother or sister
    - uncle or aunt
    - nephew or niece
    - cousin
26. A half-blood relationship is treated the same as full blood and a stepchild is treated the same as a child. 3 unrelated friends sharing together are 3 households; a couple sharing with a third unrelated person would constitute 2 households; a family renting a property is a single household.
27. The change has led to more properties requiring to be licenced as an HMO, the council housing team are currently processing the change of these properties and actively door knocking to advise tenants/landlords of these requirements.
28. The change in approach has led to residents contacting the Councils Parking Services team to check if their current Household permit is still valid for an HMO property and requesting their accounts be changed to HMO's. This is creating an issue as not all resident parking zones allow HMO parking permits and in the zones that do allow the permits, they are only available to park in certain bays, which in turn will very likely create parking capacity issues.
29. Household permits are also restricted to three permits per household, whereas HMO permit is one per qualified applicant, so

as a property is considered an HMO if at least 3 tenants live there, forming more than one household. This will increase eligibility in the zones that they are allowed in, which potentially means an increase in demand for permits that surpasses the availability of parking in those zones. There is a bigger issue in zones where HMO permits are not eligible, as there will be household permit holders, who will no longer be eligible for a permit at all.

30. The wording in the TRO does not define an HMO by the legal definition as defined within the relevant legislation related to HMO's, the TRO defines the HMO as:

*“House in Multiple Occupancy” for the purposes of this Order, means a unit of living accommodation occupied by a number of unrelated and independently recruited tenants each tenant occupying a self-contained lockable room for which that tenant has personal responsibility and which provides, at least, a sleeping facility with provision within that unit of living accommodation of a shared cooking facility and, additionally, shared washing and toilet facilities where such additional facilities are not provided within the self-contained lockable room.*

31. This change in licencing of HMO's, requires the council to respond from a parking perspective to ensure the residents eligibility to parking is continued throughout and to ensure the customer is always aware of the parking permits that are available to them.

## **Consultation Analysis**

32. As the recommended option will require a change to the Traffic Regulation Order (TRO), this would need to go out for consultation through the TRO process with the findings brought back to the Executive Member at a later date for consideration.

## **Options Analysis and Evidential Basis**

33. There are three options available for progression to ensure residents are clear on how they apply for a permit, and which is the most appropriate permit, they are:
- a) Change the name of the HMO permit.
  - b) Change the HMO definition in the TRO to be in line with the legislation.

c) Remove the HMO permit

Option A

34. Option a), would be to change the permit name and above description to remove the link to HMO changes that the housing team are putting into operation.
35. This would require a TRO change, but it would not affect any resident's eligibility for a permit, as the terms and conditions would stay the same. As it is solely a name change that would not affect anyone's eligibility for a permit and therefore would not require a wide consultation with permit holders. This would hopefully make for a quick process and be a cost-effective change.
36. This would also help to minimise the impact on the end user and reduce any uncertainty on the changes, as they would continue to receive a permit under the same justification as before.
37. This would require a new permit to be created on the Parking System, the permit name cannot just be changed, as it would change the historic permit name and look like the resident had always received that named permit. This may need a comms plan following the amendment to the TRO, so permit holders are aware what the new permit is called and will require a change to the Council Website to update the available permits. The Council Customer Services team would also need to be briefed on the change to ensure that they are able to provide up to date permit information, so there would be an internal communication plan required as well.
38. The issue with this proposal is we will have residents of two similar properties, both of which are HMO properties, paying different rates for permits, with the HMO residents having a flat rate and the resident with the household permits paying more the more permits they have and potentially not all residents being eligible to apply for permits. This will leave customer service/parking services team in the difficult situation of trying to justify and differentiate between the different permits. With the potential high turnover of HMO properties in Student areas, this will be a yearly argument, and lead to a lot of confusion for the customer.



39. This option is not recommended, although it will have minimal impact on customers in the short term, this would create confusion and longer term issues.

### **Option B**

40. Option b, would be to change the HMO definition in the TRO to be in line with the legislation
41. If the definition of a HMO in the TRO is changed and the permit name remains the same then this would change the eligibility of permit holders for both HMO permits and Household permits, with some applicants no longer eligible to park within the zone. This would require a large consultation, including all permit holders, and would be a long process, during which residents would not be able to access permits.
42. The TRO change would also need to review the available parking in the affected zones to ensure that the increase in HMO permits would have sufficient available parking places. Therefore, the TRO amendment would also need to change the eligibility in some zones and also create additional community parking bays, which would need signage changing. As a result, this would reduce the parking capacity for Household parking permits, which normally make up the majority of permit holders in a zone.
43. As stated above this change would require a change to signage and bay markings, which would have a financial implication, to ensure that the bays were marked correctly.
44. This is not recommended, if this was approved there would be a large cost implication associated with this proposal, due to the consultation and signage requirements and significant impact on customers both HMO and residents.

### **Option C**

45. Option C to remove the HMO Permit completely from the available permits. This would help remove the confusion over the eligibility of a property with the changes of housing classification of a HMO, as no one would be eligible. This would require all HMO permit holder moving to household permits and all properties would be restricted to three permits, so depending on the size of the HMO, it

is likely to create a reduction in permit holders, where permits will continue to be available on a first come, first served basis.

46. This may create an impact on capacity in some zones, due to an increase in household permit holders but it would free up capacity in community parking bays, which is already an issue in some zones with a high number of guest houses. We may need to review some zones, but this would not require a review of all zones like the previous two suggested options, so would not be as labour intensive or cost restrictive.
47. The removal of the HMO permit would require all current permit holders to move to household permits, which would create an additional cost to some permit holders, as the additional Household permits are incrementally more expensive. This has previously run on a first come first served basis and is how this would need to operate going forward. This may create some complaints from 2nd and 3rd permit holders.
48. The areas that housing is looking at enforcement and change to HMO properties do incorporate a lot of areas of student housing and both Universities do commit to being 'car free' Universities. The Universities do discourage students from bringing their own cars, so the increase on additional permits cost would hopefully help to push the Universities commitment for their students to use more sustainable forms of transport.
49. The council do already have many different permit types available; this can be confusing for the resident when looking to apply for a permit, removal of HMO type permits would help to reduce the number of permits and simplify the situation.
50. This is the recommended option as it removes confusion for the applicant and customer service officers, who advise on permits in respect of HMO types. Although there may be some changes due to capacity, they would not be large.

## **Organisational Impact and Implications**

- ***Financial,***
- ***Human Resources (HR),*** None. The work to amend the Traffic Regulation Order (TRO) and communicate the change with residents will be undertaken by existing CYC, as part of their agreed service level.

**Legal**, The Council regulates parking by means of TROs made under the Road Traffic Regulation Act 1984 which can prohibit, restrict, or regulate the use of a road, or any part of the width of a road, by vehicular traffic. In making decisions on TROs, the Council must consider the criteria within Section 122 of the Road Traffic Regulation Act 1984 and, in particular, the duty to make decisions in accordance with s.122 of that Act so far as practicable having regard to the matters in s.122(2) to “secure the expeditious, convenient and safe movement of vehicular and other traffic (including pedestrians ) and the provision of suitable and adequate parking facilities on and off the highway”. The matters set out in s.122(2) are:

- a) the desirability of securing and maintaining reasonable access to premises;
- b) the effect on the amenities of any locality affected and the importance of regulating and restricting the use of roads by heavy commercial vehicles, so as to preserve or improve the amenities of the areas through which the roads run;
- bb) the strategy prepared under section 80 of the Environment Act 1995 (national air quality strategy);
- c) the importance of facilitating the passage of public service vehicles and of securing the safety and convenience of persons using or desiring to use such vehicles; and
- d) any other matters appearing to the local authority to be relevant.

The proposal would require an amendment to the York Parking, Stopping & Waiting Order 2014

The statutory consultation process for TROs require public advertisement through the placing of public notices within the local press and on-street. Formal notification of the public advertisement is given to key stakeholders including local Ward Members, Town and Parish Councils, Police and other affected parties.

The Council, as Highway Authority, is required to consider any objections received within the statutory advertisement period of 21 days, and a subsequent report will include any such objections or comments, for consideration. Where the Council does not “wholly accede” to any objection, it is

required to provide reasons for this in its notification of the making of an order to any person that has objected.

The Council has discretion to amend its original proposal if considered desirable, whether or not, in the light of any objections or comments received, as a result of such statutory consultation. If any objections received are accepted, in part or whole, and/or a decision is made to modify the original proposals, if such a modification is considered to be substantial, then steps must be taken for those affected by the proposed modifications to be further consulted.

The recommendation in this report is for the decision maker to consider the initial consultation and approve the advertisement of an amendment to the TRO and undertake the required statutory consultation period.

Case law has confirmed that the Traffic Regulation Act 1984 cannot be used to raise revenue, but that charges can be set to reflect the costs of administering the schemes and the authority's parking policies.

- **Procurement**, None.
- **Health and Wellbeing**, None.
- **Environment and Climate action**, None.
- **Affordability**, None.
- **Equalities and Human Rights**, The Council recognises its Public Sector Equality Duty under Section 149 of the Equality Act 2010 (to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it in the exercise of a public authority's functions). The impact of the recommendation on protected characteristics has been considered as follows:
  - Age – Neutral, the recommended option will have an impact, as residents of HMO properties are generally young adults, but due to the lower cost of the first permit it will have a positive impact on some resident but a negative impact on residents of additional permits as the cost increases;

- Disability – Neutral;
- Gender – Neutral;
- Gender reassignment – Neutral;
- Marriage and civil partnership– Neutral;
- Pregnancy and maternity - Neutral;
- Race – Neutral;
- Religion and belief – Neutral;
- Sexual orientation – Neutral;
- Other socio-economic groups including :
  - Carer - Neutral;
  - Low income groups – Neutral, the recommended option will have an impact, as residents of HMO properties are low income groups, but due to the lower cost of the first permit it will have a positive impact on some resident but a negative impact on residents of additional permits as the cost increases.;
  - Veterans, Armed Forces Community– Neutral

It is recognised that individual traffic regulation order requests may impact protected characteristics in different ways according to the specific nature of the traffic regulation order being considered.

- **Data Protection and Privacy**, None. The outcome of a decision does involve any particular named individual.
- **Communications**, The recommended option will require statutory consultation to be undertaken, with all affected residents notified.
- **Economy**, contact: Head of City Development.

## Risks and Mitigations

1. *There are no known risks*

## Wards Impacted

- Hull Road
- Guildhall
- Fishergate
- Clifton
- Heworth
- Micklegate
- Osbaldwick and Derwent
- Fulford and Heslington.

## Contact details

For further information please contact the authors of this Decision Report.

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## Background papers

<https://democracy.york.gov.uk/%28S%28dv4yyj45ufq5szjf2lxmmk45%29%29/ieDecisionDetails.aspx?Id=6603>

## Annexes