

	<b>Overview &amp; Scrutiny Committee – 4 April 2017</b>	<b>Agenda Item No. 7</b>
<b>Title</b>	<b>Task &amp; Finish Group to review WDC’s role in dealing with Houses of Multiple Occupancy (HMOs)</b>	
<b>For further information about this report please contact</b>	<b>Membership:</b> Cllrs Davison, Naimo, Quinney, Mrs Knight, Miss Grainger, Thompson, Mrs Cain.	
<b>Wards of the District directly affected</b>	ALL	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>	Overview & Scrutiny Committee 1 <sup>st</sup> June 2016, item 9, scoping document first established Overview & Scrutiny Committee 28 <sup>th</sup> June 2016, item 8, membership agreed Overview & Scrutiny Committee 26 <sup>th</sup> July, Verbal update Overview and Scrutiny 27 September 2016 – Interim Report	
<b>Background Papers</b>	HMO Task & Finish Group Scoping Document Government guidance on HMO regulations WDC HMO Licence Written case studies from residents Report on Council Tax exemptions Government report on extension of HMO licensing Housing & Planning Act 2016 Housing & Planning Act – Rogue landlord provisions HMO & enforcement policies in other towns WDC H6 planning policy – ‘the 10% rule’ Private Sector Housing Service requests and Inspections 14/15 & 15/16 Brighton's Student Housing Strategy Paper	

	Written report from Durham Conference on HMOs  Coventry City Council Task & Finish Group landlords survey, report & recommendations
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<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	Yes
<b>Included within the Forward Plan? (If yes include reference number)</b>	No
<b>Equality Impact Assessment Undertaken</b>	No

<b>Officer/Councillor Approval - N/A at this stage</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive/Deputy Chief Executive		
Head of Service		
CMT		AJ, BH & CE
Section 151 Officer		
Monitoring Officer		Andrew Jones
Finance		
Portfolio Holder(s)		

#### List of Appendices

- A – Reports and Evidence from other towns
- B - Draft CPN Policy & Map of Waste issues in WDC
- C - WDC HMO Planning Policy H6
- D - Legal complaint
- E - Responses from Town Councils and Map of HMOs in District
- F - Statement from University of Warwick
- G - Service Requests from Private Sector Housing 14/15 and 15/16
- H - Landlord Survey
- I - Officers' Comments on draft recommendations
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## **1. Summary**

- 1.1 On 1<sup>st</sup> June 2016 the Overview and Scrutiny Committee agreed the scope for a Task & Finish (T&F) Group on Houses in Multiple Occupation (HMOs)<sup>1</sup> .
- 1.2 This was in response to a number of concerns raised by residents, Councillors, and members of communities across Warwick District, which included complaints to officers, and in the local newspapers. The issues raised crossed departments within Warwick District Council (WDC) as well as external stakeholders.
- 1.3 The T&F Group had a very broad remit covering many aspects of HMOs, from anti-social behaviour such as waste and noise, to tenant concerns of licensing and housing conditions, from concerns of a planning context and concentration of HMOs, to looking at aspects of strategy across the District.
- 1.4 With such a large remit, the Group has heard about, and tried to address, some of the wider issues associated with the properties themselves, and consider all types of HMO across the District.

## **2. Recommendations**

The Task & Finish Group asks that the Overview & Scrutiny Committee recommends to the Executive that it:

- 2.1 supports the draft Community Protection Notices (CPN) Waste Policy being developed by Neighbourhood Services. Following the approval of the Policy by the Portfolio Holder, there should be a cost-effective system developed to pilot this Policy, as soon as possible.
- 2.2 asks officers to work with its existing waste contractors, and others, to develop a scheme for waste/recycling collection from HMO properties at peak end-of-lease times, for use by landlords and tenants; in particular working with local charities and student organisations, as seen in other areas of the country.
- 2.3 makes improvements to the management of the noise nuisance service by:
  - a) reviewing the current process to ensure that noise nuisance can be reported at the time of the nuisance, and that it is followed by prompt action
  - b) ensuring the processes and procedures are clear and concise, making these publicly and easily accessible on the WDC website
  - c) ensuring that the responsibilities of landlords within the HMO licensing regulations, for this issue, are enforced, for example through licensing conditions or curtailment
  - d) ensuring appropriate powers are used for HMO noise nuisance by closer coordination between departments
- 2.4 ensures the H6 Planning Policy is consistently and fully applied, with immediate effect, as laid out; this is in particular respect of the following provisions:
  - a) providing the percentage of all HMOs within a 100m radius at the point of planning validation, and making it publicly visible on the Planning Portal
  - b) giving proper and significant weight to the overall objectives of the policy, notably with regard to the preventative approach to minimising community

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<sup>1</sup> [WDC HMO Task & Finish Group Scoping Document](#)

and longer-term harms specified in 4.61, 4.62 and 4.64, as per recent legal advice arising from a Complaint

- c) where an exception to the policy is recommended by Officers, setting out the reasons and assumptions clearly and in detail (again following legal advice)
- d) applying clause e) in the H6 policy regarding the provision of adequate waste container storage
- e) clarifying how Purpose Built Student Accommodation should be counted when applying the '10% rule' for limiting concentrations of HMOs in the designated area
- f) noting that the concentration of HMOs in areas outside the designated Article 4 area is growing, but is not yet of the type and scale which justifies recommending immediate action; however trends should be carefully monitored and the Overview & Scrutiny Committee should review the position annually

2.5 supports and welcomes the Executive's decision to develop a Student Housing Strategy, and asks officers to urgently develop within this a Student Accommodation Policy to:

- a) facilitate the development of Purpose Built Student Accommodation (PBSA) distributed across suitable District locations, as a better way of meeting need than conversion of existing family properties to HMOs
- b) encourage all PBSAs to include on-site management
- c) review parking policies with PBSAs, in particular on student tenant vehicle use; and provide both adequate off-street parking for all new HMO proposals and adequate, secure cycle parking in all cases

2.6 reviews and adjusts the current licensing and reporting arrangements for HMOs, in the lead up to the extension of statutory HMO licensing, due in 2017. This review should include:

- a) adding a condition on HMO licences that they are not operational until appropriate planning consents are in place;
- b) licensing inspections being given more weight, than at present, to issues that are regarded as unsatisfactory and unacceptable, but are not Category 1 Health and Safety issues, in the approval process;
- c) requiring landlords to undertake remedial work within specified timeframes following inspections;
- d) requiring landlords to incorporate appropriate rules and penalties within their leases so that they can deal effectively with tenants who are causing serious Anti-Social Behaviour (ASB) issues, as identified by the Council and for which landlords are responsible under HMO regulations;
- e) introducing flexibility in the process by allowing shorter licence cycles and higher licence costs for landlords causing concern, and imposing formal conditions on landlords who do not take appropriate and timely action.

2.7 reviews the Council's Fit and Proper Test for licensed HMO landlords, for both new applications and renewals, to include such requirements as:

- a) definition of a fit and proper person;
- b) financial suitability;
- c) a valid formal Disclosure and Barring Service (DBS) check, the cost of which to be borne by the applicant;
- d) honest disclosures of relevant information such as planning decisions

- e) a history of all breaches of regulations, such as those relating to management of waste, provision of waste containers, external condition of property and noise nuisances, whether at the property being licensed or other properties under the same agent/landlord.
- 2.8 asks officers to collect evidence, to enable a rational decision to be made in due course, whether to introduce additional licensing to all HMOs across the District, including:
- a) maintaining, for current and future years, their comprehensive database of inspections of all HMO and Private Sector rented properties, that includes address, name of landlord, type of property (whether it is a licensed or unlicensed HMO), reason for inspection, nature of issues and how quickly they were addressed;
  - b) recording and reporting on the benefits and costs of extending statutory licensing to a further 250-300 premises during 2017;
  - c) undertaking a substantial questionnaire survey of all HMOs, that allows the results between licensed and unlicensed HMOs to be compared, randomly inspecting various HMO properties and recording results, and asking tenants and near neighbours to HMOs about their management.
- 2.9 endorses the work by the Deputy Chief Executive & Monitoring Officer to review enforcement work across the Council, and recommends that co-ordination across the relevant departments is improved to make full use of HMO licensing and regulatory powers.
- 2.10 acknowledges the work of the Finance & Audit Scrutiny Committee that is looking at implications of changing local government financial support to ensure that the Council Tax exemptions on properties continue to be fully funded by government.
- 2.11 commends the roll out of the community map app to all Councillors including the full HMO mapping system.
- 2.12 In addition, the Task & Finish Group asks that the Overview & Scrutiny Committee receives a report from officers in twelve months' time, outlining the progress made to date on the above recommendations.

### **3. Reasons for the Recommendations**

#### **3.1 WASTE**

- 3.1.1 Accumulation of large quantities of rubbish in the vicinity of HMOs has become a considerable concern in some areas of the District. This is often, but by no means limited to, larger, licensed HMOs. In some places, neighbouring residents have expressed considerable displeasure due to hygiene issues, unsightliness and the perception of a lack of care.
- 3.1.2 HMO regulations 2007<sup>2</sup> applying to all sizes of HMO require the landlord to "ensure that—
- 8.(4) (a) outbuildings, yards and forecourts which are used in common by two or more households living within the HMO are maintained in repair, clean condition and good order;*
- (b) any garden belonging to the HMO is kept in a safe and tidy condition" and*

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<sup>2</sup> [HMO regulations 2007](#)

*"10. The manager must—*

*(a) ensure that sufficient bins or other suitable receptacles are provided that are adequate for the requirements of each household occupying the HMO for the storage of refuse and litter pending their disposal; and*

*(b) make such further arrangements for the disposal of refuse and litter from the HMO as may be necessary, having regard to any service for such disposal provided by the local authority".*

- 3.1.3 The landlord of licensed HMOs will have signed the WDC HMO licensing agreement which specifically includes *"refuse and litter must not be allowed to accumulate"* and *"The licence holder/manager must make such further arrangements for the final disposal of refuse and litter"*.<sup>3</sup>
- 3.1.4 Typically, the current process that residents follow is to complain to councillors and Contract Services, then a 'rapid response team' is sent out to deal with the rubbish (if on public land; if on private land, nothing is done). There has been concern that some landlords are happier to allow WDC to have to reactively respond to some HMO litter issues, than to proactively remove rubbish themselves, even though this duty is specified in their licence agreement. Responsibilities on rubbish removal need to be made clearer and enforced, as Officers at present can only use reminders and persuasion, lacking a graduated and cost-effective policy and process to ensure compliance. It is Officers and the Council who have to deal with these persistent nuisances at present, which have a considerable time and resource expense.
- 3.1.5 Experience in other Councils who have implemented provisions of the Anti-social Behaviour, Crime and Policing Act (2014)<sup>4</sup>, including neighbouring Rugby Borough Council, indicates that a system involving Community Protection Notices (CPNs) can be effective in tackling this issue, as it offers a stage in between reminder letters and the courts (**Appendix A**).
- 3.1.6 The Group welcomed the collaborative work since the summer of several departments of the Council, coordinated by Graham Folkes-Skinner (GFS), to review HMO policies relating to waste. In November 2016 GFS presented a draft WDC Policy, November 2016 (**Appendix B**) to the T&F Group, outlining the process whereby a property with persistent refuse problems is sent a warning letter (to both tenants and owner). If improvements are not seen, this can be followed by a CPN, then a Fixed Penalty Notice (FPN), then by formal summons for interview, and then prosecution as a last resort if required. Experience in Rugby is that prosecution has not yet been necessary, although they have prosecuted for failure to attend interview (which is very difficult to argue against). GFS stressed the importance of sufficient training and adequate resources to minimise the risk of legal challenge. Similarly, if breaches of CPNs are not followed up, then the system would quickly fall into disrepute.
- 3.1.7 Rugby Borough Council (**Appendix A**) advised that the extra resources required, after upfront investment in training, were not significant, but they operate a more integrated approach to enforcement than WDC. Greater resources may be required if a) Neighbourhood Services works on this in isolation, and b) the system is rapidly rolled out to the whole of the District. The rationale underlying our recommendations is that Neighbourhood Services works with other Council departments that are experienced in similar enforcement activity, and that the roll out is gradual, starting with just one or two pilot streets (**Appendix B**). Once Officers have confidence in the systems,

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<sup>3</sup> [WDC HMO License Conditions](#)

<sup>4</sup> [ASB Act 2014](#)

and can gauge the level of compliance, roll out could then speed up. It is worth pointing out that the new policy and process, once adopted, would apply to all breaches of waste regulations across the District, not just at HMOs.

### 3.2 END OF TENANCY CLEAROUTS

- 3.2.1 In reviewing the waste issue in HMOs, one resident told the Group of a large HMO where 30 bags of rubbish are typically left in the front garden when tenants leave in July, and that these bags are only cleared when the new tenants arrive, two months later.
- 3.2.2 The T&F Group gathered evidence from other towns with HMOs (**Appendix A**). This appendix gives links to a sample of other towns with a large number of HMOs that have tenancies finishing at the same time, due to those HMOs being occupied primarily by students. In some of these towns, the Councils promote collaborative approaches with Student Unions, Charities, Universities and partner organisations to help reduce this sudden impact at tenancy ends. The Group felt that there were sufficient initiatives out there that have worked to warrant further investigation by Officers.
- 3.2.3 The Group received a presentation by representatives from Warwick Students' Union who discussed the use of technology in other towns and cities to make issues of recycling and waste much easier to understand for people running a household for the first time, or for people who may be living in the country for the first time; these included apps that gave reminders the night before rubbish or recycling collections, and contained instructional guides on what went in which bin, based on the information supplied by the local council. They also mentioned that the Students' Union will be employing a Community Worker, who will be based in Leamington, starting this year to help develop community cohesion between students and non-students.

### 3.3 NOISE

- 3.3.1 The Group received a presentation from the Community Safety team and was encouraged to hear of the successes of the Street Marshals scheme in Leamington, that has been operating for several years and is jointly funded by both Warwick District Council and the University of Warwick (UoW).<sup>5</sup>
- 3.3.2 Several reports of severe Anti-Social behaviour cases that had taken place at HMOs were presented to the Group; this indicated that the process to contact the Council for noise complaints is confusing, complicated and ineffective from a resident's perspective.
- 3.3.3 In addition to the general legislation against Anti-Social Behaviour that can be enforced by the Council's Community Safety Team, there is a specific duty on landlords of licensed HMOs (Housing Act 2004)<sup>6</sup> as follows '*requiring the taking of reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the house*'. This is incorporated in the WDC Licence as "*The licence holder must ensure that the HMO is managed in such a way as to prevent, or deal effectively with any anti-social behaviour by occupiers or their visitors. This includes noise nuisance caused by the playing of loud music at any time of the day but particularly between 23.00 and 8.00am.*"<sup>7</sup>

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<sup>5</sup> [WDC Marshalls scheme](#)

<sup>6</sup> [Housing Act 2004](#)

<sup>7</sup> [Section 4.16 of WDC HMO Licence Documents](#)

3.3.4 In light of these landlord responsibilities in licensed HMOs, it is felt that a coordinated approach to enforcement at those properties should be developed between Community Safety and the Private Sector Housing licensing authority. Persistent infraction of this condition could be regarded as grounds for imposing conditions on and curtailing the duration of a licence.

### **3.4 PLANNING POLICY AND HOW IT IS APPLIED**

3.4.1 The Group reviewed the H6 planning policy (**Appendix C**) on Houses of Multiple Occupation and how it is being applied to current planning applications, by Council Planning Officers. It was noted that there is fuller guidance provided in the Interim Policy on HMO and Student Accommodation, agreed by Council in 2013<sup>8</sup>. Both the policy itself and the guidance seem clear and robust.

3.4.2 Individual Group members have had extensive discussions looking at specific planning cases. Evidence gathered from this work, as well as from local residents and Officers, indicated that there is a case for an urgent review of how the policy is being interpreted and applied, as recommended recently by WCC legal advisors. A report from the Leamington Society indicated the number of approvals converting domestic properties into HMOs has continued to rise in recent years: 59 rooms in 2014, 95 in 2015 and 167 in 2016 (these figures exclude the major PBSAs such as Station House and Alumno but include smaller purpose built HMOs in residential areas).

3.4.3 The Group was not clear about how PBSAs fitted into the calculations of the "10% rule" during planning applications. There was a view that PBSAs are counted in the calculations, at a rate of 1 HMO per 6 bed-spaces; however this can differ with varying applications of the H6 policy. In due course it may be felt necessary to clarify and strengthen some aspects of the policy to help with strategies on over concentration.

3.4.4 A formal residential complaint in 2016 and subsequent legal advice (**Appendix D**) has already resulted in improvements to the way the H6 Policy is implemented along the lines being recommended. Consequently, the Group believes the main priority now is to apply existing policy consistently and robustly.

3.4.5 The Group reviewed the Article 4 directive<sup>9</sup> which currently only covers six District wards of Leamington. There are some 1300 HMOs in Leamington compared with 40 in Kenilworth (but rising), 30 in Warwick and 22 in Whitnash (excluding the 360 University of Warwick and the 11 Warwickshire College on-campus units).

3.4.6 Whilst consultation with Town Councils revealed strong concerns about the potential increase in HMOs, especially in Kenilworth, there is currently insufficient evidence to warrant recommending extension of the Article 4 Directive outside of the current designated area.

3.4.7 However, the Group recognised the particular concern that too high a concentration of HMOs could develop rapidly in a particular neighbourhood, as has happened in the past in Leamington and other towns and cities, unless there is close monitoring and regular reporting on trends (**see Appendix E**).

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<sup>8</sup> [WDC Interim HMO Planning Policy for HMOs and Student Accommodation 2013](#)

<sup>9</sup> [WDC Article 4](#)



### 3.5 STRATEGY & POLICY

- 3.5.1 The Group discussed the view that more Purpose Built Student Housing would relieve pressure from HMO conversions of houses. Developers and some other towns have indicated that this may be the result (**Appendix A**). There were also discussions on why there is the market demand for people to live in the areas of the District that have the highest concentration of HMOs, with indications that these areas had cheaper rents and so were more desirable to some demographics. Purpose Built Student Accommodation could relieve some of the pressure on conversion of existing houses to HMOs, provided that rents were in line with what the market was prepared to pay.
- 3.5.2 Some other important advantages of PBSAs of sufficient scale is their provision of on-site management, which can help deal with welfare and living issues from a tenant's perspective, and help to manage waste, parking, and noise issues from a local community's perspective.
- 3.5.3 The T&F Group was pleased to note on 8<sup>th</sup> March 2017, Executive agreed to develop a Student Housing Strategy to run alongside the Housing & Homelessness strategy.
- 3.5.4 The Group identified the need to have a formal collaborative process with local colleges and Universities in the region to plan for future student accommodation needs due to a large proportion of the residents of HMOs being students, in particular in ways which cater for planned growth with shared responsibilities. The Group was encouraged to learn of two major investments in on-campus student accommodation planned shortly at University of Warwick, and sizeable investment in Coventry City Centre, and believes that more may be needed (**Appendix F**).
- 3.5.5 Evidence gathered from other Towns with a large proportion of students, (**Appendix A**) and from data and views obtained through discussions with UoW, WDC Senior Officers, and Warwick Students' Union (**Appendix J**), indicated that WDC and local universities and colleges are not as far advanced in working together to manage current and future needs as some other towns and cities, and therefore a formal collaborative strategy and student housing policy has been suggested.
- 3.5.6 Consideration must also be given of UoW's Masterplan – due for refresh in 2017<sup>10</sup> and the Chancellors Commission report published in July 2016<sup>11</sup> which stated "The University should hold discussions with the local authorities and Coventry University on the concept of establishing a Joint Housing Task Force or equivalent exercise for the city and district". The Group also discussed the desire for this to be linked with a wider strategy with Coventry University and their plans.

### 3.6 LICENSING AND EXTENDED LICENSING

- 3.6.1 During the work of the T&F Group, government announced its decision to extend mandatory licensing of HMOs, currently for 5+ people in premises of 3 storeys or more, to all premises of 5+ people irrespective of the number of storeys. This will approximately double the number of licensable HMOs in Leamington to almost 600 properties, with around a further 700 smaller HMOs

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<sup>10</sup> [Warwick University Masterplan](#)

<sup>11</sup> [Warwick University Chancellors Commission report](#)

remaining unlicensed (plus the smaller numbers in Warwick, Kenilworth and Whitnash). This is likely to take place during 2017, probably in the autumn.

- 3.6.2 This an opportunity to review the current licence process and conditions. Private Sector Housing will need to work closely with other departments (Neighbourhood Services, Planning Enforcement, Community Safety) to ensure available data are used effectively, adequate data are gathered efficiently for future use, and appropriate powers are used to manage problems. This work will enable the Council to monitor how effectively the licensing process deals with Health and Safety, ASB, waste and noise issues for licensed HMOs in the future.<sup>12</sup>
- 3.6.3 Evidence partly from Private Sector Housing (PSH) (**Appendix G**) and from landlords, tenants and local residents, indicated that some tenants have bad experiences in poorly maintained HMO properties, with unresponsive landlords. Sometimes these amount to Category 1 Health and Safety issues. However, with the demand for accommodation appearing to outstrip supply, some HMO tenants may feel unable to raise a formal complaint about poor conditions.
- 3.6.4 Larger HMOs are licensed and undergo Council inspections at five-year renewal, and sometimes between renewals; others will be shortly, under proposed Government extension.
- 3.6.5 Evidence gathered on HMO Licensing indicated that:
- the processes for inspecting and controlling Category 1 Health and Safety issues are robust
  - insufficient weight appears to be given, in the inspection and approval process, to other aspects of decent standards such as minor repairs, poor state of decor, refuse bins provided and financial fair dealing.
  - little or no weight is given in the Fit and Proper test on landlords and Agents to verifying the honesty of declarations (there is no independent DBS check) nor to any persistent breaches of HMO/environmental regulations in properties owned/managed by the Licensee (see below).
- 3.6.6 Other Councils (e.g. Oxford, Southampton, Wycombe) have shorter licence cycles for properties/landlords where there are concerns. This ensures these properties are inspected on a more regular basis providing greater assurances for the tenant as well as surrounding residents.
- 3.6.7 Quote from Wycombe<sup>13</sup> - *private sector housing enforcement policy on HMOs, that the usual 5 year period for which an HMO licence is issued by that Council may be reduced where there are concerns about management arrangements, or 'if an application has been made for the renewal of a licence and the conditions of the existing licence have not been met at any relevant time during the period of the licence'*. Oxford City Council informed us that good landlords appreciate the lower fees and less frequent inspections enjoyed through this risk-based approach; as well as improvements to their overall image, as rogue landlords are more effectively weeded out (**see Appendix A**).

### **3.7 FIT & PROPER PERSON TESTS**

- 3.7.1 Consideration was given by the Group to the robustness of testing whether a landlord is a 'fit and proper person' as is seen in other WDC licensing schemes

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<sup>12</sup> [Licensing of Houses in Multiple Occupation in England - A guide for Landlords and Managers](#)

<sup>13</sup> [Wycombe Council](#)

such as Taxi Drivers. Charnwood Borough Council, Loughborough has a good checklist (**Appendix A**).<sup>14</sup>

- 3.7.2 Some of the issues and recommendations in this paper overlap with, and complement, the new measures expected to be implemented by Government.<sup>15</sup> This will take a tougher approach to rogue landlords, potentially include DBS checks, maintenance of a database, banning and de-licensing of persistent offenders and the use of civil penalties.
- 3.7.3 The suggested additional measures in 2.7 will add much-needed powers to protect tenants from financial malpractice, which were highlighted in feedback from Warwick Students' Union's representatives.
- 3.7.4 Some large landlords with good reputations would welcome more effective enforcement of the rules and extending licensing to smaller HMOs, in order to manage out the 'rogue landlords' who give good landlords a bad name. Although a landlord/agent consultation was undertaken, the response rate was low and answers mixed. Three out of four respondents did not favour extended licensing on cost grounds (**Appendix H**).

### **3.8 ADDITIONAL LICENSING**

- 3.8.1 In addition to the mandatory *extension* of licensing outlined above, local authorities retain the option to move further by *additional* licensing of all HMOs if they believe it to be justified. The Group looked at the work of the recent Task & Finish Group on Selective Licensing in Coventry.<sup>16</sup>
- 3.8.2 The extension of licensing over the next 12 to 18 months will roughly coincide with the renewal of many existing licences granted on a 5-year cycle. This will greatly increase the workload of relevant officers for at least 12 months and the Group understands the intention is to add temporary staff to cope with the peak (additional licensing revenues will cover the costs in the usual way). It would be inappropriate for the Council to consider any further addition to Licensing workload at this point.
- 3.8.3 Furthermore, the Group believes that the evidence gathered to date to justify licensing all HMOs is indicative but not yet conclusive. Additional Licensing should (and can) only be done if the Council is satisfied that a significant proportion of unlicensed HMOs have problems such as Category 1 Health and Safety issues, or other poor living conditions, or amenity impacts due to mismanagement. After hearing from officers, student tenants, and residents, the T&F Group considers this to be likely due to a) substantial improvement in adherence to licence conditions for the currently licensed HMOs after introduction of the scheme, and b) recent inspections of HMOs with 3 or 4 tenants revealing significant issues (**Appendix G**). However more work is required as proposed in 2.8a, b and c to enable the right decision to be reached during 2018.
- 3.8.4 Further evidence for the benefits of additional licensing comes from several other local authorities that have successfully implemented it such as Oxford, Bath, Portsmouth and Southampton, at no net cost to the authority (**Appendix**

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<sup>14</sup> [Fit and Proper Person Checklist - Charnwood](#)

<sup>15</sup> [Housing and Planning Act 2016](#)

<sup>16</sup> [Selective Licensing - Coventry City Council](#)

**A).** Of 20 authorities surveyed, 10 have introduced additional licensing, four of them of similar size to Leamington.<sup>17</sup>

### **3.9 ENFORCEMENT AND CROSS DEPARTMENTAL WORKING**

- 3.9.1 In the months prior to this final report from the T&F Group, the Deputy Chief Executive has worked to ensure that enforcement is more joined up across departments. This has already led to improved co-operation between Officers to ensure that all areas of enforcement are covered.
- 3.9.2 From meetings with Officers, the T&F Group has found that there are still areas, including HMO licensing, where enforcement action is insufficiently coordinated.
- 3.9.3 The Group feels that it is essential that this work continues to make enforcement more consistent across all areas and so that any breach of an HMO licence is reported, shared and investigated.

### **3.10 COUNCIL TAX**

- 3.10.1 A large number of Council Tax exemptions in Warwick District are on properties that are HMOs, and occupied by students, meaning that WDC do not get Council Tax directly from properties but are compensated by central Government's Revenue Support Grant (RSG).
- 3.10.2 The Group took note of the work of the Finance and Audit Scrutiny Committee, which had commissioned a report from the Finance Manager of the Council regarding some of the impacts that reduced financial support from Government was having at a local level. This included the impact that student council tax exemptions were having on Council Finances.
- 3.10.3 The T&F Group acknowledges the Finance and Audit Scrutiny Committee in this area, which suggests that the Council should be liaising with other similar authorities that have a large number of Council Tax exemptions, to ensure adequate compensation is secured through a clear and fair alternative system, perhaps through Business Rates retention<sup>18</sup>.

### **3.11 COMMUNITY MAPS**

- 3.11.1 Since late summer 2016 some Councillors have had access to a Community Map App which contains a range of maps – including a system showing all licensed and unlicensed HMOs. It is a useful tool to that helps give greater information to Officers and Councillors.
- 3.11.2 In early March 2017, the app was rolled out to all councillors, whatever device they were using. This means that now all councillors can access the information. However, the App is that it is only as good as the information on it. The information is shared by the IT team once they have received it from each department. Therefore, again more work must be done to make sure all departments are providing data in a timely manner.

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<sup>17</sup> Three further Councils have chosen to go further by introducing selective licensing for ALL private landlords in a particular area – Coventry most recently. The T&F Group's remit was on HMOs so it did not consider selective licensing for the entire rental sector

<sup>18</sup> [Finance & Audit Committee report Jan 2017](#)

## 4. **Policy Framework**

### 4.1 **Fit for the Future**

- 4.2 Experience in other Councils indicate that these changes will improve the general environment for both residents and visitors, diminish health risks and, potentially, contribute to a higher quality of housing for our HMO tenant population while enabling the many good landlords in the area to be properly recognised.
- 4.3 The different approach to enforcement will also deliver significant savings in Officer time by delegating much of the responsibility for maintaining standards to landlords.
- 4.4 The changes to planning policy and to licensing aim to encourage more balanced communities, through limiting further conversions of HMOs in areas of high concentration, and attracting well-located, managed PBSA, in order to protect existing dwellings for all-year occupancy by families. As this would not reduce the student population in the town, there should be no adverse effect on the overall size of economic benefits derived from the student population and some overall gain.
- 4.5 **Impact Assessments**  
None made for this report.

## 5. **Budgetary Framework**

- 5.1 Currently considerable officer time is devoted to dealing with HMO issues especially waste and antisocial behaviour. Implementation of these recommendations will incur costs, especially initially. However, experience in other councils indicates that these costs quickly reduce once the systems are working. It is anticipated that overall there will be a reduction in HMO-related issues, improving the quality of life for tenants and their neighbours as well as reducing the demands on officer time.

## 6. **Risks**

### **The main risks to implementing these recommendations are:**

- 6.1 The recommendations in section 2 might be applied inconsistently and therefore may not have the required effects. These risks can be mitigated by a combination of clear processes, where appropriate adoption of best practice and pilot implementation (for example CPN), adequate staff training, and pre-consultation with all interested parties.
- 6.2 Although some upfront and net costs may be incurred in implementing some of the recommendations, these will be offset by more integrated working practices, by reduced Officer time in dealing with complaints (waste, licensing, planning) and by increased revenues (CPN process, licensing).
- 6.3 Consultation with landlords has already taken place during these investigations and has elicited a very low response and mixed views. By focussing resources on the minority of poor landlords as suggested, the risk of broad landlord opposition will be mitigated. Some will welcome the new approaches proposed.

- 6.4 There is a potential risk of increases in costs to tenants/rents if additional licensing was introduced. However there would be no additional costs for well run HMOs, and the cost of licensing is small relative to rents.
- 6.5 Changes in policy may detrimentally affect the geographical spread of HMOs. However the mitigation of this is adequate monitoring and adjustment as required.

**The main risks of failing to implement these recommendations are:**

- 6.6 Continued unplanned growth in HMOs to the detriment of community cohesion and amenity.
- 6.7 Inadequately controlled spread of HMO concentrations to areas which currently have low concentrations such as Kenilworth.
- 6.8 High and growing levels of anti-social behaviour – especially in waste management – in existing high concentration areas and increasingly elsewhere in the District.
- 6.9 Poor, in some cases dangerous, living conditions may not be identified, with risks to tenants' health and safety.
- 6.10 More family housing will be lost to HMOs, adding to housing shortages and cost inflation.
- 6.11 More residents will lose confidence in the ability of WDC to manage HMO pressures and their impact on the local environment. This will cause some reputational damage to the Council and fuel high levels of complaints (and costs).

**7. Alternative Option(s) considered**

- 7.1 No change in current policies and practices. This will not solve the current difficulties for residents, Officers and the environment.
- 7.2 Using existing powers to prosecute more frequently. Officers advise us that this might: damage relationships with landlords and tenants; be seen as disproportionate; and lead to more Court cases being lost.

**8. Background**

- 8.1 The Group has been meeting approximately every 2 weeks since it was formed on 12<sup>th</sup> July 2016.
- 8.2 During and between meetings, the Group gathered and analysed evidence such as policies and procedures from various departments within Warwick District Council (WDC), external organisations and other Local Authorities around the country. Recommendations are based on examples of best practice and knowledge gained from other areas, but primarily on local facts, experience and views.
- 8.3 We have received verbal and/or written submission from the following groups/Officers:  
Mark Lingard – WDC Private Sector Housing  
Graham Folkes-Skinner – WDC Neighbourhood Services

Rajinder Lalli – WDC Planning Enforcement  
Tracy Darke – WDC Head of Development Services  
Pete Cutts – WDC Health & Community Protection  
Ken Bruno – WDC Housing Strategy & Development  
Andy Jones – WDC Deputy Chief Executive  
WDC Electoral Services Team  
Joanne Archer – WCC Highways Officer

#### 8.4 Stakeholder Consultation

Written submissions and presentations to the Group received from:  
Kenilworth Town Council, Royal Leamington Spa Town Council, Warwick Town Council, Whitnash Town Council  
Warwick Accommodation  
Warwick Students' Union  
WCC County Councillors  
Residents Associations including SoLAR, Leamington Society, The Maltings, Rock, St Mary' Residents  
Landlord's Forum

- 8.5 In the scoping document it was proposed that the Group survey tenants living in HMO's; however the Group agreed that an overall view could be obtained from the Student's Union and that we were unable to conduct a survey that was sufficiently robust to provide evidence regarding additional licensing. Therefore future more detailed surveying would be more beneficial (see recommendation 2.8c).
- 8.6 In the scoping document, the issues around electors living in HMO properties was raised as an area to address as there is low registration numbers in these properties. An update was given by the WDC electoral services team about how they engage with students via Warwick University but no further action was agreed.
- 8.7 Advice from Officers has been sought on our draft recommendations and their comments at the time are attached at Appendix I. Where the group felt it was appropriate, these comments were taken on board and alterations made to this report to reflect Officers' feedback.

### **9. Task & Finish Group Members**

The Group had alternating chairs and administrative support was provided by Committee Services Officers Amy Barnes and Graham Leach.

Cllr Pat Cain  
Cllr Ian Davison  
Cllr Hayley Grainger  
Cllr Jane Knight  
Cllr Kristie Naimo  
Cllr Colin Quinney  
Cllr Andrew Thompson