

Executive

Minutes of the meeting held remotely on Thursday 18 March 2021 at 6.00pm, which was broadcast live via the Council's YouTube Channel.

Present: Councillors Day (Leader), Cooke, Falp, Hales, Matecki and Rhead.

Also Present: Councillors: Boad (Liberal Democrat Group Observer), Davison (Green Group Observer), Mangat (Labour Group Observer), Milton (Chair of Overview & Scrutiny Committee) and Nicholls (Chair of Finance & Audit Scrutiny Committee).

98. **Declarations of Interest**

There were no declarations of interest made in relation to the Part 1 items.

Part 1

(Items upon which a decision by the Council was required)

100. **HMO Licensing and Planning Permission**

At the beginning of this item, the Leader informed Members that, the addendum which was circulated prior to the meeting included an additional recommendation, the report which was a request to Council to update the Constitution. As a result of this, if approved that request would need to be passed to Council on 14 April 2021.

The Executive considered a report from Housing proposing a policy which linked the granting of licences for houses in multiple occupation (HMO) with the need to have planning permission for HMOs within Leamington Spa, and for larger HMOs within Warwick District (seven or more occupants).

References to planning permission in the report also included a certificate of lawful development. This would be granted by the Planning Enforcement Team if a property had been operating continuously as an HMO from before 1 April 2012, or for a period of at least 10 years for larger HMOs.

HMO licensing and planning permission had legally been two separate pieces of legislation and one could not be used to enforce the other. The Government had subsequently given guidance to help resolve this issue and together with case law and specialist Counsel's opinion meant that the proposed policy was now available to resolve the conflict between HMO licensing and planning permission.

Consultation was carried out on the following options to link HMO licensing and planning permission. 180 responses were received, a summary of which could be found at Appendix B to the report.

- Option 1 - HMO licence applications would not be processed until planning permission had been obtained for the property – 86.6% in favour of this option.
- Option 2 - HMO licences would be granted for one year to allow time for planning permission to be applied for and a decision made on the application 13.4% in favour of this option.

For the new policy to be effective, enforcement action had to be available for landlords of HMOs that required a licence and continue to operate without applying for planning permission.

So that the policy could be applied quickly and efficiently, once adopted, it was proposed that the Head of Housing Services should be granted the authority to decide on the most appropriate enforcement action.

In terms of alternative options, the Executive could choose not to take the opportunity, that was now available to resolve the previous long-standing conflict between HMO licensing and planning permission. Given the reasons set out in section 6 in the report, this was not a viable option.

An addendum circulated prior to the meeting advised Members of proposed revisions to the Policy, appended to the report, following several requests for clarification. Furthermore, it had not been identified that the recommendation for the delegated authority required the Executive to make a recommendation to Council.

Following suggestions made prior to the meeting by the Head of Housing Services and the Portfolio Holder for Housing and Culture, the Overview and Scrutiny Committee recommended that the wording in Appendix A to the report and Recommendation 2.3 in the main report, should be amended to read, as follows with the additions in bold:

"Appendix A "Warwick District Council HMO Licensing and Planning Permission Policy – Private Sector Housing", section 3.0 – Implementation"

When an HMO licence application is received for the first time or in advance of an HMO licence being renewed the Private Sector Housing Team will check the planning status of the property with the Planning Enforcement Team.

Where planning permission is needed the landlord will be required to apply for planning permission within the following **time** scales:

- Landlords making an HMO licence application for the first time **where there are no current residents will be advised to obtain planning permission before their licence can be issued.**
- **Landlords making an HMO licence application for the first time where residents are currently in occupation to be given two months to submit a valid planning application before enforcement action is taken.**
- **Landlords making an HMO licence application who submit a planning application within the required time but then who fail to provide any required documentation within a two month period will be subject to enforcement action.**
- Landlords of properties where an HMO licence needs to be renewed, must submit a valid planning application **in time for this to be considered** before the current licence expires. **A new licence will not be issued without planning permission being in place**

Recommendation 2.3 in the report

Note that landlords of relevant properties that require an HMO licence, **where those properties have residents occupying and using the premises as an HMO**, and do not have planning permission will face enforcement action if they do not apply for permission **within the required timeframe**.

Recommendation 2.4 in the report

That, subject to approval of recommendation 2.1, Executive approves the delegation of authority to the Head of Housing Services to take appropriate action under this policy to ensure compliance with all its requirement, including the need to obtain planning permission, and asks Council to update the Constitution to reflect this change.”

The addendum also advised of a general observation, following advice received from the Head of Housing Services the following day, “license” should be spelt “licence”, and it was suggested by the Overview and Scrutiny Committee that this correction should be made to the policy document.

Councillor Matecki thanked the Overview and Scrutiny Committee for their useful recommendations, and the members of the public who had shown an interest in the report and for their depth of knowledge. He accepted the recommendations from the Overview and Scrutiny Committee and proposed the report as laid out.

Recommended to Council that the Constitution be amended to record the delegated authority from the Executive as follows: authority be delegated to the Head of Housing Services to take appropriate action under this policy to ensure compliance with all its requirement, including the need to obtain planning permission.

Resolved that

- (1) the policy contained at Appendix A to the report, subject to the revisions set out above, (not to process relevant HMO license applications unless planning permission has been obtained) and for it to come into force on 1 April 2021, be approved;
- (2) the outcome of the HMO license and planning permission consultation, be noted; and
- (3) landlords of relevant properties that require an HMO licence, where those properties have residents occupying and using the premises as an HMO, and do not have planning permission will face enforcement action if they do not apply for permission within the required timeframe, be noted.

(The Portfolio Holder for this item was Councillor Matecki)
Forward Plan Reference 1,179

(The meeting ended at 7.01pm)