

Recommendations	Update as at September 2018 Previous entry struck-through
<p>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.</p>	<p>A draft CPN policy has been produced. Discussion to be had with Rugby Borough Council about an Environmental Enforcement Service delivery model. We have some hot-spots already identified which could be used for trials. Further report to Executive in September to agree final business case and delivery model.</p> <p>A shared environmental enforcement with Rugby Borough Council was agreed at the Executive meeting on 27 September 2017. This will provide a cost effective approach to waste management enforcement and will concentrate on fly-tipping and accumulated waste. RBC is experienced in the use of CPN's and it is anticipated that any formal action required with accumulated waste will involve the use of the CPN route. The Service Level Agreement is currently being finalised between the two authorities and it is anticipated that this should be completed this month.</p> <p>RBC needs Executive approval this month (January 2018) to enter into the formal partnership with WDC. In the meantime Neighbourhood Services have been responding to fly tips, gathering evidence and writing to potential offenders stating the offence, serving the appropriate notice and outlining what needs to be done to ensure compliance. Following formal approval by RBC persistent areas/individuals will be investigated by RBC officers, as resources allow.</p> <p>Further update from Graham Folkes-Skinner:</p> <p>"Rugby Borough Council's Cabinet met on 9 January 2018 and confirmed their commitment to embarking on the enforcement relationship with Neighbourhood Services.</p>

	<p>"Clearly there has been a fair amount of time between our Executive Report which was agreed on 27 September 2018 and this decision. This has been down to a restructure within their Environment and Public Realm Portfolio and an uncertainty over their Warden Service. This has now come to a conclusion and our contacts within RBC have confirmed that they have built resilience into their team and will be working with us.</p> <p>"I completed the various amendments to the SLA and Information Sharing Protocol at the beginning of the year and that is now with RBC's legal department. As you are no doubt aware we have processes in place for the collection and response to evidence found within fly tips and when the SLA has been formally signed we will be in a position to identify areas of the district that RBC's enforcement can concentrate."</p> <p>The Service Level Agreement and Information Sharing Protocol have now been signed by both Warwick District Council and Rugby Borough Council. Gary Charlton met with Rugby Borough Council Officers on 19 March 2018 to discuss the next step forward in the partnership.</p> <p>Officers within Neighbourhood Services, led by the Policy & Performance Officer, have liaised with their counterparts within Rugby Borough Council and provided information on repeat offenders for accumulated waste/fly-tipping. Rugby BC will be writing to these offenders as a first step towards Community Protection Notices.</p>

<p>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.</p>	<p>Actions undertaken this year – Spoke with Uni. Who then e-mailed all 2nd and 3rd year students; social media campaign undertaken; wrote to all landlords; Rapid Response units regularly toured student areas; Officers will be reviewing social media impact. A number of suggestions put forward by residents have been tried previously. Mark suggested that a lot less complaints this year and that backing this up with CPN and red bag approach (used by Sheffield Uni) next year may pay further dividends. Graham to consider the tenant / landlord CPN issue i.e. who legally can the CPN be served on.</p> <p>CPN can be issued against any person aged 16 or over or a body, including a business. Where a body is issued with a CPN it should be issued to the most appropriate person. The issuing officer will have to be able to prove that the person issued with the CPN can be reasonably expected to control or affect the behaviour. As a significant stakeholder, Warwick University is routinely communicated with and approaches to student waste issues agreed.</p> <p>There is and there will be ongoing liaison between Landlords, Private Sector Housing, Warwick University and Rugby Borough Council. Any ongoing issues with HMO's will be dealt with by both WDC and RBC in partnership using the most appropriate legislation available which could include the use of Community Protection Notices. Neighbourhood Services will be proactive in its approach to the student leaving period in May/June/July time.</p> <p>The day-to-day dialogue between Private Sector Housing and Neighbourhood Service continues with any waste related issues discussed and the way forward agreed. Operational colleagues within Neighbourhood Services have set aside time within their diaries to proactively deal with the issues surrounding waste and students departing following the summer academic year. Operational staff within Neighbourhood Services liaised successfully with the main stakeholders for the student departure earlier in the year and plans are in place for their return this September/October.</p>
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<p>2.3 makes improvements to the management of the noise nuisance service by:</p> <p>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</p> <p>b) ensuring the processes and procedures are clear and concise, making these publicly and easily accessible on the WDC website</p> <p>c) ensuring that the responsibilities of landlords within the HMO licensing regulations, for this issue, are enforced, for example through licensing conditions or curtailment</p> <p>d) ensuring appropriate powers are used for HMO noise nuisance by closer coordination between departments</p>	<p>a. Currently reviewing night noise service. Only Friday and Saturday 9-1 at present. Pete and Matt to consider timescales for review.</p> <p>b. Review has been completed and website updated: https://www.warwickdc.gov.uk/info/20109/crime_and_law_enforcement/109/noise_or_neighbour_nuisance</p> <p>c. Legal advice is clear that we cannot prosecute landlord for noise issues but the liaison between teams (see below) will ensure that matters relating to particular properties will be recorded by the Private Sector Housing team.</p> <p>d. Each Monday morning have a night noise meeting and any HMO noise issues will be fed back to the Housing Licensing team.</p> <p><i>Update on above points:</i></p> <p>a. Currently reviewing night noise service. Only Friday and Saturday 9-1 at present. Pete and Matt to consider timescales for review. The review has commenced with an analysis of the night noise records sheets. Hoping to complete in this financial year. No progress since the last update due to other day-to-day work demands.</p> <p>b. Review has been completed and website updated: This should read: Advice on the website has been reviewed and updated including new noise report form. Completed.</p> <p>c. Legal advice is clear that we cannot prosecute landlord for noise issues but the liaison between teams (see below) will ensure that matters relating to particular properties will be recorded by the Private Sector Housing team. No change. Completed</p> <p>d. Each Monday morning have a night noise meeting and any HMO noise issues will be fed back to the Housing Licensing team. Ongoing. This action is ongoing.</p> <p>Update to Action a) Questions regarding the Night Noise Service agreed and now in a survey and available online for 3 months.</p>
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<p>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:</p> <p>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</p> <p>b) giving proper and significant weight to the overall objectives of the policy, notably with regard to the preventative approach to minimising community and longer-term harms specified in 4.61, 4.62 and 4.64 (1ST June 2017 Executive report refers), as per recent legal advice arising from a Complaint</p> <p>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)</p> <p>d) applying clause e) in the H6 policy regarding the provision of adequate waste container storage</p> <p>e) clarifying how Purpose Built Student Accommodation should be counted when applying the '10% rule' for limiting concentrations of HMOs in the designated area</p> <p>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</p>	<p>a. This is now done;</p> <p>b. Officers have received further training and fully appreciate the weight that needs to be given to the various considerations;</p> <p>c. This is being done;</p> <p>d. Agreed. Neighbourhood Services to provide a commentary on the specific application. Condition on any permissions that storage space must be retained in perpetuity;</p> <p>e. There is a note on website clarifying this;</p> <p>f. Will be monitored and reported to O&S after the 12 months.</p> <p>No change.</p>
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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.

~~Executive has committed to developing a Student Housing Strategy and the scope of this work is being scoped by the Housing Strategy & Development Manager. A bid for support from the Local Government Association Housing Adviser Programme (HAP) was made on 11th September.~~

~~The bid to the LGA programme has secured 20 days of free consultancy support to develop the strategy. The LGA has commissioned an independent external consultant with considerable experience of analysing student housing markets and a start to the project is now imminent the project is underway.~~

~~A co-ordinating group has been set up with officers from Housing Strategy; Private Sector Housing; and Planning Policy. Both universities have also been invited to participate.~~

~~The first phase of the work will involve data collection and analysis to build up a picture of the current and future student housing market in the district. This will provide the source information upon which the strategy will be built. Concurrently a model is being built for option appraisal.~~

~~Once all the necessary data has been received/compiled, checked and assimilated the model can be completed and options appraisal can begin.~~

~~Of the 41 local authorities that received HAP funding, the LGA selected seven that had made satisfactory progress and invited them to bid for additional grant funding of up to £14k for 2018/19. Warwick District Council was one of the seven and submitted a bid for the maximum amount of £14,000 which has been successful. This will enable the procurement of external support for the next phase of work once the option appraisal is complete.~~

An updating report on the strategy went to Executive on 31st May 2018. A policy statement and aims have been adopted and two substantial further projects were agreed and are now underway. These are:

- The development of a planning policy Supplementary Planning

	<p>Document on purpose-built student accommodation.</p> <ul style="list-style-type: none"> Community engagement to establish what support services are needed to help maintain community cohesion while planning policies take effect. <p>Development of a draft SPD is underway. This will be taken to Executive to seek approval to go out to full public consultation on the draft.</p> <p>External expertise, WSA Community Consultants, has been procured to undertake the community engagement project and they are currently establishing links with the local community and working towards a scoping meeting with key stakeholders on 6th September.</p>
<p>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:</p> <p>a) adding a condition on HMO licences that they are not operational until appropriate planning consents are in place;</p> <p>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;</p> <p>c) requiring landlords to undertake remedial work within specified timeframes following inspections;</p> <p>d) requiring landlords to incorporate appropriate rules and penalties within their leases so that they can deal</p>	<p><i>Note: Government has not decided when extension will come into effect as yet but probably not until April 2018.</i></p> <p><i>a. Legal advice is that they must be treated as two separate pieces of legislation and so the Council can make two "contradictory" decisions. However, there are a number of unlicensed HMO's that do not have a planning consent and have been referred for enforcement;</i></p> <p><i>b. The team is doing this;</i></p> <p><i>c. The team is doing this and within a specific timescale. Improvement notice is issued if not;</i></p> <p><i>d. Leases cover the responsibility of the tenant regarding nuisance etc. We cannot punish landlords whose tenants are not complying with the terms of the lease where the landlord is taking reasonable steps to deal with the problem.</i></p> <p><i>e. Recommendation to see whether it would be beneficial and practicable to operate.</i></p> <p><i>NB: a list of all non-licensable HMOs, updated quarterly is now published on the website.</i></p> <p>https://www.warwickdc.gov.uk/info/20733/council_policies_and_plans/395/open_data</p>

<p>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;</p> <p>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.</p>	<p>A report will be going to was approved by the Executive on 29 November to enable officers to use new powers contained in the Housing and Planning Act 2016 to apply civil penalties as an alternative to a prosecution in the Magistrates Court for various offences in private sector housing. At the time of writing, this is awaiting ratification by Council on 24th January 2018.</p> <p>The Council approved the report to enable officers to use the new powers to apply civil penalties.</p> <p><i>Still awaiting the decision about when the extension of HMO licensing will come into effect, which is now expected to be April 2018.</i></p> <p>On 28th December 2017 the government confirmed its intention to go ahead with the extension of HMO licensing "subject to parliamentary clearance". Anecdotally April 2018 is still thought to be the target date for commencing this. The announcement says:</p> <p>"The Government will extend the scope of mandatory HMO licensing.</p> <ul style="list-style-type: none"> • It will apply where certain HMOs are occupied by five persons or more in two or more households, regardless of the number of storeys. • This includes any HMO which is a building or a converted flat where such householders lack or share basic amenities such as a toilet, personal washing facilities or cooking facilities. • It also applies to purpose built flats where there are up to two flats in the block and one or both are occupied as an HMO. • The new rules will be introduced in two phases. <p>We will introduce mandatory conditions in licences to regulate the size and use of rooms as sleeping accommodation in licensed HMOs:</p> <ul style="list-style-type: none"> • By prescribing the absolute minimum sizes of rooms that may be used for sleeping. • By introducing a mandatory licencing condition requiring local authorities to specify which rooms in an HMO are suitable for sleeping
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	<p>accommodation, and by how many adults and children.</p> <ul style="list-style-type: none">• Where a room does not meet these conditions, the local authority will be required to give the landlord a reasonable period of time to remedy the failure and during this period they will not face any sanctions for a breach of the condition (unless the breach of condition was deliberate, in which case sanctions apply)." <p>The announcement also confirmed that the government:</p> <ul style="list-style-type: none">• will introduce a mandatory condition in HMO licences requiring the licence holder to comply with their local authority scheme (if any) for the provision of facilities for the proper disposal and storage of domestic refuse;• will not require local authorities to provide discounts for licences issued to certain private providers of purpose built student housing, but will keep this under review. <p>Statutory Instrument published, and the extension of HMO licensing starts from 1 October 2018. Landlords covered by the extension who fail to apply for licenses from the 1 October commit an offence from that date. Further non statutory guidance is expected on the extension of HMO licensing.</p> <p>Consultation has taken place on the proposed new HMO license conditions and on introducing flexibility into the HMO licensing process, by allowing shorter HMO license cycles and higher license costs for landlords causing concern. The consultation involved all District Councillors, Town Councils, the Landlord Steering Group, Local lettings Agents, SoLAR (South of Leamington Area Residents), Warwick University and Warwick Students Union. The consultation responses were wide ranging and it is intended to bring forward a report on these issues to Executive on 31 October 2018.</p>

<p>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:</p> <ul style="list-style-type: none"> 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. 	<p>a. Definition of Fit and Proper to be taken from the legislation whenever this comes in;</p> <p>b. Will see what the regulations say. A bond is not an option;</p> <p>c. Will see what regulations say and if not included will consider options;</p> <p>d. Group were unsure as to what this is getting at so clarification is required;</p> <p>e. This will be set out clearly in the legislation and so the Council will build up a picture of the landlord's behaviours/ actions.</p> <p>Still awaiting decisions about fit and proper person issues, which are now expected to come into effect in April 2018.</p> <p>The Government has now confirmed that it does not intend to change legislation on the definition of "fit and proper".</p> <p>Banning orders and a database of rogue landlords and property agents come into operation on 6 April 2018. The purpose of the database is to help local housing authorities to track landlords or property agents who have been banned, convicted of certain offences or have received two or more civil penalties. There will be a statutory duty on local authorities to record information on the database. At the time of writing we are awaiting further guidance.</p> <p>The proposed new HMO license conditions state that the Database of Rogue Landlords and Property Agents, under the Housing and Planning Act 2016, will be checked before an HMO license is issued.</p>

<p>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:</p> <p>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;</p> <p>b) recording and reporting on the benefits and costs of extending statutory licensing to a further 250-300 premises during 2017;</p> <p>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.</p>	<p>a. Agreed and doing; b. Agreed and will be doing; c. Not resource to do this but there is some funding for a survey of the private sector more generally. Team to consider what this survey covers.</p> <p>The specification for the Private Sector Stock Condition Survey will include surveys of unlicensed and licensed HMO's.</p> <p>Procurement is progressing: discussions have been held with the Procurement Team and a framework agreement has been identified from which a surveyor will be chosen.</p> <p>Detailed discussions on going with a contractor from the framework agreement.</p> <p>A company called Arcus have started the Private Sector Stock Condition Survey.</p>

<p>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.</p>	<p>Report to Executive; Marianne looking at Enforcement across the Council; One Council approach.</p> <p>The enforcement project group is made up of Officers from across the Council whose aim is to review procedures and documents involved in an enforcement process to draw consistency as far as is reasonably practicable i.e. Interview under caution documentation. It does not cover delivery of enforcement services.</p> <p>Would O&S want this to be included into the remit of this group? This group was formed to identify enforcement procedural weaknesses and address those by sharing experience etc.</p>
<p>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.</p>	<p>A report has already been submitted to F&A describing the problems and without a change in Government policy and legislation there is nothing that can be done.</p>
<p>2.11 commends the roll out of the community map app to all Councillors including the full HMO mapping system.</p>	<p>Agreed.</p>
<p>2.12 In addition the Overview & Scrutiny Committee receives a report from officers in twelve months' time, outlining the progress made to date on the above recommendations.</p>	<p>Agreed and regular updates will be given to O&S by DCX (AJ) over the next twelve months.</p>