

Comment from Officers at Draft Recommendations given on 21st February 2017

1. Summary

1.1 This report sets out the findings and recommendations from Task & Finish Group on Houses of Multiple Occupation (HMOs) for consideration by the Overview & Scrutiny Committee.

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

a) i) supports the draft Community Protection Notices Waste Policy, being developed by Neighbourhood Services (**Appendix A attach draft CPN**) and following approval of the Policy by the Portfolio Holder develops a cost-effective system to pilot this Policy as soon as possible with a report being brought to Executive should the implementation of the Policy require additional financial resources.

(b) 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 elsewhere, **See appendix B (attach comparison with other universities eg Exeter, Durham, Newcastle /Durham briefing note)**

(c) makes improvements to the management of the noise nuisance service by:

- i) reviewing the current process to ensure they meet the need (**Appendix C Local Case studies of incidents on Radford Road 31st Oct**) **We are not sure what the reference is to appendix C, as the incident at Halloween in 2016 on Radford Road which was subject to the stage 1 complaint was a police matter it was not a failing to deal with noise nuisance or failure to deal with the landlord of a HMO. Notwithstanding this, we have begun the process of reviewing the night noise service but this was put on hold whilst the redesign of other elements of Health & Community Protection took place. This work can now recommence. Currently the service runs only two nights per week (Friday and Saturday). The officers volunteer to do the work i.e. it is not a contractual obligation so we would need to go through a consultation process to change this. It currently requires two officers per shift and cannot run if it cannot be resourced. The service did run on a Thursday night but was stopped due to the lower level of demand on this night compared to the others.**
- ii) formalising the processes and procedures to ensure they are as clear and concise as possible, and making these publicly accessible on the WDC website.
- iii) ensuring landlords' responsibilities for this issue within the HMO management regulations are clarified and enforced, for example through licensing conditions (**The Management of Houses in Multiple Occupation (England) Regulations 2006 <http://www.legislation.gov.uk/ukxi/2006/372/contents/made>)** **Happy to pick up this last point in the review of licence conditions – section (f)**

(d) ensures the H6 Policy (**see appendix D H6 policy**) is consistently and fully applied with immediate effect, as laid out, in particular, in respect of the following provisions:

- i) providing the percentage of HMOs within a 100m radius at the point of planning validation, by making it publicly visible on the Planning Portal
- ii) giving proper and significant weight to the overall objectives of the policy, notably the community and longer-term harms specified in 4.61, 4.62 and 4.64 as per recent legal advice arising from a Complaint (**See appendix XX**);
- iii) where an exception to the policy is recommended by Officers, setting out the reasons and assumptions clearly and in detail (again following legal advice);

- iv) applying clause e) in the H6 policy regarding the provision of adequate waste container storage;
- v) clarifying how larger developments should be counted when applying the '10%' count for limiting concentrations of HMOs in the designated area
- vi) noting that the concentration of HMOs in areas outside the designated Article 4 area is growing (**Article 4 https://www.warwickdc.gov.uk/info/20794/guidance_and_policies/272/hmo_article_4_direction**), 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 (**see Appendix XX- maps of Warwick, Kenilworth and Whitnash?**) **Officers are happy with the points in this recommendation.**

(e) Develops a **Student Housing Strategy** similar to other towns with high concentrations of students (**Brighton & Hove http://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/SP070%20University%20of%20Brighton%20Accommodation%20Strategy_0.pdf** and other uni towns student housing strategies), and as part of this strategy, asks officers to develop a **Student Accommodation Policy** to:

- i. facilitate the development of Purpose Built Student Accommodation (PBSAs) across suitable District locations, as a better way of meeting need than conversion of existing family properties;
- ii. encourage all Purpose Built Student Accommodation to include on-site management;
- iii. 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 cycle racks in all cases. **The Housing and Homeless Strategy will commit to developing a Student Housing Strategy.**

(f) 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. (**Licensing of Houses in Multiple Occupation in England A guide for landlords and managers <https://www.gov.uk/government/publications/licensing-of-houses-in-multiple-occupation-in-england-a-guide-for-landlords-and-managers>**). This review should include:

- i. adding a condition on the licence that the licence is not operational until appropriate planning consents are in place; **Licensing and Planning decisions are based on totally separate legislation. Planning is not mentioned at all as a factor in determining HMO license applications. Therefore whilst I clearly understand the desire and the need to link these processes, I think we will need some legal advice before responding to this issue.**
- ii. licensing inspections giving 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; **We do focus on Cat 1 and Cat 2 hazards, as we are required to do. In the review we will need some specifics around the unspecified unsatisfactory and unacceptable behaviour issues.**
- iii. requiring landlords to undertake remedial work within specified timeframes following inspections; **Already do this.**
- iv. requiring landlords to incorporate appropriate rules and penalties within their leases so that they can deal effectively with tenants who are causing serious ASB issues, as identified by the Council and for which landlords are responsible under HMO regulations;; **The terms and conditions of tenancy agreements already cover ASB issues. We would need legal advice about any new clauses in respect of can we impose them, will they be enforceable and to ensure that they not an unfair contract term.**

- v. introducing flexibility in the process (**as other authorities do Appendix X**) 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. **This approach could leave the Council open to a legal challenge. The preferred, and our current, response to concerns would be to visit more frequently and serve Notices and then ultimately prosecute if the landlord does not cooperate.**

(g) reviews the Council's Fit and Proper Test for licensed HMO landlords, (**Rogue landlord provisions - Housing & Planning Act 2016** <https://www.publications.parliament.uk/pa/bills/lbill/2015-2016/0087/16087.pdf>), for both new applications and renewals, to include such requirements as:

- definition of a fit and proper person; **This would need to be the legal definition when the detailed Housing and Planning Act regulations are available, probably in April 2017.**
- financial suitability; **We can ask but the reality is that we will not know a landlord's financial position.**
- a valid formal Disclosure and Barring Service (DBS) check, the cost of which to be borne by the applicant; **We hope and expect that this will be in the detailed Housing and Planning Act regulations.**
- honest disclosures of relevant information such as planning decisions; and
- 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. **To link with Neighbourhood Services action via CPN's.**

(h) asks officers to collect evidence, to enable a rational decision to be made in due course whether to extend licensing to all HMOs across the District (additional licensing), including:

- i. maintaining for current and future years a comprehensive database of inspections of all HMO's, that includes address, type of property, reason for inspection, nature of issues and how quickly they were addressed (Appendix XXX); **Information already collected but will need to be reorganised to separate out unlicensed HMO's.**
- ii. recording and reporting on the benefits and costs of extending statutory licensing to a further 250-300 premises during 2017;
- iii. undertaking a substantial survey of smaller HMOs including inspecting the properties and asking tenants and near neighbours about the HMO and its management. **Internal resources not available for this work due to the peak of existing HMO licence renewals and the extension of statutory licensing in 2017.**

(i) 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.

(j) endorses the work of the Finance & Audit Scrutiny Committee that is looking at implications of the reduced revenue support on such matters as the statutory reduction in Council Tax for student properties; and to monitor the planned new system of financial compensation together with other University town authorities to ensure WDC is not put at a financial disadvantage. (**see report on 4th Jan 2017 at** <https://estates4.warwickdc.gov.uk/cmis/MeetingDates/tabid/149/ctl/ViewMeetingPublic/mid/637/Meeting/2512/Committee/44/Default.aspx>)

(k) commends the roll out of the community map app to all Councillors

- 2.2 That a report be brought back to the Overview & Scrutiny Committee in 12 months outlining the progress made to date on the recommendations from the Task & Finish Group.