

# Executive

Thursday 1 June 2017

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A meeting of the Executive will be held at the Town Hall, Royal Leamington Spa on Thursday 1 June 2017 at 6.00pm.

## Membership:

Councillor A Mobbs (Chairman)  
Councillor N Butler                      Councillor A Rhead  
Councillor M Coker                      Councillor A Thompson  
Councillor M-A Grainger              Councillor P Whiting  
Councillor P Phillips

## Also attending (but not members of the Executive):

Chair of the Finance & Audit Scrutiny Committee                      TBC  
Chair of the Overview & Scrutiny Committee and Liberal              TBC  
Democrat Group Observer  
Labour Group Observer                      TBC  
Whitnash Residents' Association (Independent) Group Observer      TBC

## Emergency Procedure

At the commencement of the meeting, the Chairman will announce the emergency procedure for the Town Hall.

## Agenda

### 1. **Declarations of Interest**

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be entered on the form to be circulated with the attendance sheet and declared during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter. If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

### 2. **Minutes**

To confirm the minutes of the meetings held on 8 March 2017 (**Pages 1 to 67**)  
and 5 April and 12 April 2017 **(To follow)**



## **Part 1**

(Items upon which a decision by Council is required)

None.

## **Part 2**

(Items upon which the approval of the Council is not required)

### **3. Fit For the Future Change Programme**

To consider a report from the Deputy Chief Executive (AJ) **(Pages 1 to 16)**

### **4. Task & Finish Group review WDC's role in dealing with Houses of Multiple Occupancy (HMOs)**

To consider a report from Overview and Scrutiny Committee **(Pages 1 to 91)**

### **5. Update of Indoor Sports Facilities and Playing Pitch Strategies**

To consider a report from Cultural Services **(Pages 1 to 6)**

### **6. Abbey Fields Footpath Improvements – Feasibility Study**

To consider a report from the Deputy Chief Executive (AJ) **(Pages 1 to 5)**

### **7. General Reports**

**(A) Disposal of WDC land to the rear of 2 - 10 The Square, Kenilworth  
(Pages 1 to 5)**

### **8. Public and Press**

To consider resolving that under Section 100A of the Local Government Act 1972 that the public and press be excluded from the meeting for the following items by reason of the likely disclosure of exempt information within the paragraphs of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below.

Item Nos.	Para Nos.	Reason
9 & 11	1	Information relating to an Individual
9 & 11	2	Information which is likely to reveal the identity of an individual
9, 10, 11 & 12	3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)
11	5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings

9. **Health and Community Protection and Neighbourhood Services – Potential Redundancy**  
To consider a report from Health and Community Protection **(Pages 1 to 3)**  
**(Not for publication)**
10. **Disposal of WDC land to the rear of 2 - 10 The Square, Kenilworth**  
To consider a report from the Assets Team **(Pages 1 to 2)**  
**(Not for publication)**
11. **Note of Decision taken under the Chief Executive’s Emergency Powers**  
To consider a report from Development Services **(Pages 1 to 6)**  
**(Not for publication)**
12. **Confidential Minutes**  
To confirm the confidential minutes of the meetings held on 5 April and 12 April 2017. **(To follow)**  
**(Not for publication)**

Agenda published Monday 22 May 2017

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For enquiries about specific reports, please contact the officers named in the reports  
You can e-mail the members of the Executive at [executive@warwickdc.gov.uk](mailto:executive@warwickdc.gov.uk)

Details of all the Council’s committees, Councillors and agenda papers are available  
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**The agenda is also available in large print, on request, prior to the meeting by calling 01926 456114.**

# Executive

Minutes of the meeting held on Wednesday 8 March 2017 at the Town Hall, Royal Leamington Spa, at 6.00 pm.

**Present:** Councillor Mobbs (Leader); Councillors Coker, Cross, Grainger, Phillips and Shilton.

**Also present:** Councillors; Boad - Chair of Overview & Scrutiny Committee and Liberal Democrat Observer, Mrs Falp - Whitnash Residents' Association (Independent) Observer, Councillor Naimo - Labour Group Observer and Councillor Quinney - Chair of Finance & Audit Scrutiny Committee.

Apologies for absence were received from Councillor Barrott.

## 98. **Declarations of Interest**

There were no declarations of interest made in relation to the items contained within this excerpt of the minutes.

## 99. **Minutes**

The minutes of the meeting held on 8 February 2017 were taken as read and signed by the Leader as a correct record.

### **Part 1**

(Items on which a decision by Council is required)

## 100. **Housing and Homelessness Strategy 2017 -2020**

The Executive considered a report from Housing & Property Services that sought recommendation to Council for a new joint Housing and Homelessness Strategy for the District for the three years 2017 to 2020. The strategy would sit within the wider framework provided by the Council's Sustainable Community Strategy, within which Housing was a key priority.

The production of a Housing Strategy was a discretionary option for local authorities.

However, all district councils were under a legal obligation to have in place a Homelessness Strategy for their District. As with the previous Strategy the Council had sought the help and advice of other local organisations engaged in working with the homeless through the local Housing Sounding Board.

It was considered advantageous to have a joint Strategy combining Homelessness and Housing; which allowed reasonably short and specifically focussed Housing and Homelessness actions to be in place, set within the context of the Sustainable Community Strategy and "Fit

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For the Future”, to guide our deliberations and work on Housing and Homelessness over the medium term.

The proposed Strategy provided a framework which set out a number of headline actions under four broad priorities:

- Providing suitable accommodation, information and advice for the homeless in an effort to prevent and reduce homelessness
- Meeting the need for housing across the District by addressing the need for new home provision
- Improving the management and maintenance of existing housing
- Ensuring people were supported to sustain, manage and maintain their housing

The Overview & Scrutiny Committee Task and Finish Group on HMOs had yet to report, so any recommendations from that Group had not been reviewed or included within the strategy for 2017/18.

The student population, mostly within Leamington and Kenilworth, were an integral part of the local community. As a group the student population had particular requirements from, and potentially gave rise to particular issues for, the local community and it was important to promote harmonious relations between all sections of the community. As such, consideration should be given to developing a policy specifically to address the particularities of student housing within the District.

Alternatively, the Executive could choose not to recommend this and continue with two separate Strategies.

The Overview & Scrutiny Committee supported the report, and in particular, was pleased to see that the Council recognised that action was required on student accommodation as set out in recommendation 2.2 in the report.

The Portfolio Holder for Housing and Property Services, Councillor Phillips, welcomed the report and explained that recommendation 2.2 of the report should be amended to provide clarity, to read:

“The Executive agrees to develop a Student Housing Strategy to run alongside the Housing and Homelessness Strategy”

**Recommended** that Council:

- (1) the new joint Housing and Homelessness Strategy 2017 – 2020, as set out Appendix 1 to the minutes, be adopted; and
- (2) asks the Executive to develop a Student Housing Strategy to run alongside the Housing and Homelessness Strategy.

(The Portfolio Holder for this item was Councillor Phillips)  
Forward Plan reference number 842

101. **Domestic Violence & Abuse Policy**

The Executive considered a report from Housing & Property Services that asked them to recommend to Council that they approve the Domestic Abuse and Violence Policy. This would be a corporate policy, although mainly affecting Housing Services, its scope was wider and could touch on a range of other services.

The Council currently did not have a Domestic Abuse and Advice Policy and, therefore, the introduction of such would remove this gap. It was expected that approval of the Policy would assist in framing new procedures and training for staff and help to improve Council services in this important area.

Domestic abuse was recognised to have a significant impact on the health and wellbeing of residents in the District.

It was expected that the development of the Policy would lead to improved coordination of work across the Council, better liaison with other agencies and improved services in this area. Following approval, an implementation plan would be agreed including planning new procedures, training and communications.

Part of the work in this area was the Council's involvement in Domestic Homicide Reviews. Recommendations from recent reviews indicated some learning for Council teams and improvements required. Whilst these issues had been picked up as they had arisen, the development of this Policy would assist more generally in ensuring good services in this area.

Alternatively, the Executive could decide not to approve this Policy or that no Policy was required, however, it was believed that there were particular benefits of having a Policy covering Domestic Abuse.

**Resolved** that

- (1) the development of the Domestic Abuse and Violence Policy be welcomed; and
- (2) the plans to develop procedure and training for staff in this area, be noted.

**Recommended** that Council approves the proposed Domestic Violence & Abuse Policy, as set out at Appendix 2 to the minutes.

(The Portfolio Holder for this item was Councillor Phillips)  
Forward Plan reference 826

102. **Anti-Social Behaviour Policy (Housing)**

The Executive considered a report from Housing & Property Services which asked them to recommend to Council that they approve the updated Anti-Social Behaviour Policy.

The policy covered the work of Housing and Property Services as it carried out its function as a landlord to tenants in the District. The current Policy was now outdated; the new policy updated and improved the current version. For example the current policy did not reflect new powers that had come into force in the Anti-Social Behaviour and Policing Act 2014.

It was planned that the agreement to the updated Policy would assist in framing new procedures and training for staff and would help improve Council services in this important area of business.

Anti-social Behaviour had a detrimental effect on residents and communities and was not acceptable. This Policy recognised the importance placed on responding to these issues and ensuring communities were safe and that effective responses were in place to manage council tenancies.

The development of the Policy would lead to improved coordination of work, better liaison with other agencies and improved services in this area. Following approval of this Policy, an implementation plan would be agreed including new procedures, staff training and communications.

The Housing Department received reports every week from residents who looked to the Housing Department to take the relevant actions. There was a strong focus on sustaining tenancies and communities; the Policy therefore reflected the importance of resolving anti-social behaviour, making individuals accountable for their behaviour and working with partners to reduce the impact on communities. The Policy would also assist more generally in ensuring good services in this area.

Alternatively, the Executive could decide not to recommend approval of this Policy, that no Policy was required or to amend this policy. It was considered good practice to have policy guidance to our staff on important areas of our work with the approval of the Council.

**Resolved** that

- (1) the development of the Anti-Social Behaviour Policy be welcomed; and
- (2) the plans to develop procedure and training for staff in this area, be noted.

**Recommended** that Council approves of the Anti-Social Behaviour Policy as set out at Appendix 3 to the minutes.

(The Portfolio Holder for this item was Councillor Phillips)  
Forward Plan Reference 826

**103. Revised Call-In Procedure for Warwick District Council**

The Executive considered a report from Democratic Services that brought forward a revised proposal for the call-in procedure for Warwick District Council.

The Council adopted a revised call-in procedure in April 2015, as set out at Appendix 1 to the report. This procedure was not applied until December 2015 when the Leisure Development Programme was called-in. On reflection, it became apparent that the procedure relied on the Monitoring Officer to determine how the decision fell within the policy framework and was, therefore, eligible to be called-in, a process which could be open to interpretation and challenge.

Consequently, Council, as part of the Annual Governance Statement, asked officers to review the current procedure and ensure that a more robust procedure was put in place.

As part of the review by officers it was noted that in addition to the issues identified in the Council Procedure Rules the procedure for call-in of decisions outside the budgetary framework as defined in the Budget or Policy Framework Procedure Rules, as set out at Appendix 2 to the report, should also be updated.

The call-in procedure had been considered by officers and it was recommended that the revised approach, as set out at Appendix 3 to the report, be adopted. This was similar to the model used by Warwickshire County Council (WCC) but had been revised to reflect the decision making arrangements for Warwick District Council.

The proposal provided a clear framework that could be followed for the call-in of decisions and removed the need for the Monitoring Officer to determine if a matter fell inside or outside of Policy or Budgetary Framework. It was considered that this aspect was not required because the Monitoring Officer was obliged under Article 12 of the Constitution to report to Council or Executive if a decision would give rise to unlawfulness or maladministration.

Alternatively, the Council could retain its current procedure but sought amendments to the procedure and flow charts. However, this option was dismissed because at present the call-in procedure required the determination of the Monitoring Officer before it could progress.

In addition, the Executive could ask officers to investigate other call-in procedures, but this was dismissed because the procedure proposed was based on the one already in place at WCC where it was regularly used to call matters in.



**Recommended** that Council approves

- (1) the revised call-in procedure, as set out at Appendix 4 to the minutes; and
- (2) the flow chart of the call-in procedure, set out at Appendix 5 to the minutes, to be appended to the constitution.

(The Portfolio Holder for this item was Councillor Mobbs)

**104. Bereavement Services – enhanced service provision**

The Executive considered a report from Neighbourhood Services that sought approval for improving current service provision through a significant increase in the opening hours of the crematorium and revisions to the staffing establishment to ensure that the longer term need of the district was catered for in regards to cemetery and crematoria capacity.

The proposal sought to improve the flexibility of the service by increasing the number of days Oakley Wood Crematorium operated from five to six days a week. This would enable the facility to better meet the demands on the service, provide more choice to customers, to increase income and to remain competitive.

Whilst the capital building works were carried out to alleviate waiting times, occasional Saturdays were worked during peak times. It was noted that on those particular Saturdays some of the services taking place would have been booked in at another crematorium but families chose to use Oakley Wood instead because of the convenience of having a Saturday service.

There was already an established demand for some services to be provided at weekends. Cremated remains were laid to rest at weekends, however due to the limited hours available families often had to book several weeks in advance. Special events, for example Memorial services, which were usually scheduled for weekends could only be facilitated by voluntary overtime. There was a requirement for the page to be turned on the book of remembrance to “todays” date 365 days to fulfil established expectations and historical agreements with customers who have paid a premium to have their loved-ones’ name entered into the book which was displayed on the anniversary each year.

When the cremators were replaced in 2009, holding over services was approved. However as Saturday was not currently a normal working day, any services taking place on Friday had to be cremated before staff went home on Friday. This led to restrictions on the number of services that could be accommodated on what was the most frequently asked for day; in addition afternoon slots were generally favoured so there was still a burden on staff having to work voluntary overtime, usually in lone

working conditions, beyond their normal hours to complete the cremations.

The nearby crematoria, outside the District, already offered the extra convenience of Saturday services, but were reliant upon staff goodwill and overtime to provide those services. Being conveniently near to motorway links made Oakley Wood an ideal choice for people who had family and friends with great distances to travel.

In order to operate over a six day week and to provide capacity to enable development work, the staff resource would need to be increased.

The existing structure was very flat with all members of staff reporting directly to the Bereavement Services Manager. Creating an operational team leader post would provide staff better support and opportunities for development. Creating a development manager post would improve resilience and business continuity and give increased scope to improve services for the bereaved families.

Subject to Executive approval of the report, and Employment Committee approving establishment changes on 22 March, the six day working rota would commence as soon as possible following job matching for employees in deleted posts and recruitment for newly deleted and created posts.

The changes would maximise the opportunity to generate additional income following the recent capital investment.

The new management structure would allow development of a long term strategic plan to anticipate the future needs for cemetery and crematoria capacity by projecting the impact of changing demographics in the district and surrounding areas. This would include reviewing opportunities to further enhance service provision for customers, improve efficiency and increase income generating potential.

Alternatively the Executive could consider doing nothing. This option had been discounted because maintaining the status quo would not provide opportunities for improvements in service to customers, would not provide additional income for the Council and would not enable future planning to ensure burial provision was available, and would see the service being left behind by increased competition from neighbouring crematoria.

The Executive could consider operating the Saturday service by using overtime. This option had been discounted because it would rely entirely on goodwill and it would not be possible to consistently offer services, it would worsen the work life balance of staff by expecting extra hours to be worked on a regular basis and could cost more because enhanced overtime rates of pay would be required.

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The Executive could chose not to develop a long term strategy. However cemeteries were a finite resource; once all the grave spaces had been used the Council would be left with a statutory and ongoing maintenance liability and no opportunity to generate income to offset that liability. There would be no choice for residents living in the District to choose between burial and cremation of their loved ones, which could infringe upon their ability to practice their particular religious beliefs.

The Finance & Audit Scrutiny Committee fully supported the recommendations in the report.

### **Resolved**

- (1) the operation of the crematorium is extended from five to six days a week;
- (2) subject to the approval by Employment Committee on 22 March 2017 of the revised establishment, the 2017/18 staffing budget is increased by £36,321, as set out in section 5 of the report, and that these costs will be met through the increased fee income that the enhanced service will generate; and
- (3) the work required in developing a long term strategy for the provision of bereavement services, be noted.

The Portfolio Holder for this item was Councillor Shilton  
(Forward Plan reference number 836)

### 105. **Community Forums and Voluntary and Community Sector Spending Review**

The Executive considered a report from the Community Partnership Team that sought approval for a review of Warwick District Council spending on the Voluntary & Community Sector (VCS), and proposed changes to the community forums.

The Community Partnership Team (CPT) currently organised 22 community forum meetings and double the number of planning group meetings across seven locality areas each year.

Changes in the partnership arrangement with Warwickshire County Council (WCC) meant a fluctuating and reduced level of staff resource to facilitate the meetings; to support the planning groups; to follow up the actions generated by the forums; and to administer grant applications and process grant payments. Currently there were two Warwick District Council full-time employees who undertook this work as part of their other duties. There was also part time assistance from WCC employees working with the team to cover forums. WCC also provided 10 hours per

week of administration support to the CPT but this was for all the team's activities.

Officers had reviewed the use of team's available resources to determine if there were opportunities to deliver services in a more efficient, cost effective way. Currently a disproportionate amount of resources went into organising and facilitating the 22 forum meetings per year which was not proportionate to the team's overall impact and outcomes achieved.

The organisation of one forum on average was equivalent to at least 10 working days of officer time plus administrative support. Reduction of forums would enable the redirection of officer resources into the development of key Council work programmes supporting the health and wellbeing, and sustainability agendas.

The Council currently invested £398,400 in the V&CS and various elements of community support (including community forum grants) as detailed at Appendix 1 to the report. Officers considered that savings in this expenditure could be achieved if the investment was looked at "in-the-round" rather than as discrete budget lines and yet still deliver, support and invest in the needs of the community.

In order to identify savings appropriately, and with reference to social value and the returns on investments currently demonstrated, an external resource with expertise in, and knowledge of, how other councils had re-shaped their investments in the VCS and community support, was required to work with officers. An estimated cost for consultancy support would be up to a maximum of £15,000.

Whilst there were concerns about the effectiveness of the community forums it was considered that providing them with grant funding to distribute via an application process was important and so the terms of reference for the consultancy support would confirm that community forum grants must continue as now although the amount of allocation would be up for consideration.

The VCS Commissioning and Grants Panel would input into and influence the review process at key stages. Given the importance of the review and the need to take on board the views of as many stakeholders as possible, it was recommended that the Panel was expanded.

Alternatively the Executive could decide to continue to support the current number of community forums. However continuing to support the current number would impact upon the ability and capacity of the officers involved to deliver on other key work programmes.

Alternatively officers could undertake the review of V&CS and community support spending internally and make recommendations for spending allocations within the proposed new budget. However officers did not have the capacity to deliver this review within the procurement

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timetable required for the commissioned services. In addition they did not have the expertise to assess social value and investment return in a manner that would provide the required understanding.

The Overview & Scrutiny Committee recommended that recommendation 2.6 in the report be amended so that the VCS Commissioning and Grants Panel membership should consist of seven **interested** members, one of which should be the Portfolio Holder. The allocation of seats by party membership should be removed.

It was proposed by the Leader that the recommendation from the Overview & Scrutiny Committee should not be accepted because all Councillors cared about the community and that their intention was to have the Panel membership that reflected the composition of the Council. On being put to the vote it was

**Resolved** that the recommendation from the Overview & scrutiny Committee be rejected for the reason set out above.

The Portfolio Holder for Health & Community Protection proposed the recommendations subject to clarification that one of the Conservative appointments to the Panel must be the Portfolio Holder for Health and Community Protection.

**Resolved** that

- (1) the frequency of community forums be reduced from three times a year to twice a year in each of the seven locality areas whilst ensuring that alternative methods of community engagement are enhanced;
- (2) the Warwick District Council investment of £398,400 annually in the Voluntary & Community Sector and supporting other partnership and community initiatives be noted and
- (3) officers procure external support to review how the VCS contracts (2018/19-2020/21) and community support funding can be more effectively targeted;
- (4) the future level of grant funding for each of the community forums may change, but the forums themselves will still be responsible for deciding grant applications;
- (5) up to a maximum of £15,000 be made available from the Contingency Budget to enable the Head of Health and Community

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Protection to procure the aforementioned external support;

- (6) the total cost of VCS and community support is reduced from its present amount to £350k annually thereby reducing the cost to the Council by £49k, but noting that the level of investment has not been reduced over the last ten years; and
- (7) the VCS Commissioning and Grants Panel (that currently consists of 4 Members - 2 Conservative, 1 Labour and 1 Whitnash Residents Association) oversees the review and is expanded to include 3 more elected Members (1 Liberal Democrat and 2 Conservative).

The Portfolio Holder for this item was Councillor Grainger  
(Forward Plan Reference 833)

### 106. **2017/18 ICT Services Digital Work Programme**

The Executive considered a report from IT that sought approval from the Executive for the 2017/18 ICT Digital Work Programme.

A number of projects detailed in the report had been successfully completed from the 2016/17 Digital Transformation programme.

The main learning points from the 2016/17 Digital Transformation programme were:

- With limited staff resources, it had been challenging for Service Areas to maintain their business as usual service while also releasing sufficient staff to design and test their transformational solutions. A further complication had been aligning resources between the ICT and Service Area teams for the duration of each project;
- When implementing mobile working projects, Service Areas had had to make some significant back office process changes to realise the full benefits;
- Project timelines could be adversely affected by third-party software supplier availability and lead times;
- For transformational projects, which often require iterations based on feedback and learning, capturing all the functional requirements for projects upfront would not always be the most efficient method to use. The project teams would experiment with using Agile methods for some of the 2017/18 programme projects.

Appendix 1 to the report contained the 2017/18 Digital Transformation Work Programme which reflects, in the main, the Business Cases at Appendix 2 to the report.

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The remaining projects had either been carried forward from the 2016/17 Work Programme as a result of supplier delays, or already formed part of the Digital Transformation Business Case that was agreed on the 2 December 2015.

The Work Programme was based on project urgency and importance, internal staff resource / third-party availability and any anticipated procurement requirements.

The report summarised each Business Case and its anticipated customer and business benefits. The individual Business Cases in Appendix 2 to the report provided full list of identified benefits.

The Business Cases at Appendix 2 to the report included anticipated Capital and Revenue costs based on the information that was known about each project. To protect the funds made available for this Work Programme, each Business Case would be subject to a detailed financial review to ensure all costs had been identified, before agreement to release the funds is made by the s151 Officer.

Alternatively, the Executive could decide not to continue down the 'digital route' which was discussed in the 2 December 2015 Executive Report and it was accepted that while there would always be situations when it was entirely appropriate for a customer to transact with a member of staff, many of the Council's services did not need to be delivered in this way. Continuing with the proposed Digital Transformation Programme advocated in this report would be financially efficient and would provide an improved customer experience.

### **Resolved** that

- (1) progress made in 2016/17 towards the ongoing Digital Transformation programme as set out in the 2 December 2015 Executive Report, including a number of learning points, be noted;
- (2) the 2017/18 Digital Transformation Work Programme at Appendix 1, be approved, based on the Business Cases at Appendix 2;
- (3) up to £200,000 for the Programme's delivery, made available from the 2017/18 Budget Report, be noted.
- (4) the release of funds for this Programme will be subject to a detailed financial review of each Business Case and will require sign off by the s151 Officer.

The Portfolio Holder for this item was Councillor Mobbs  
(Forward Plan reference number 845)

**107. Review of Approach to Unauthorised Encampments**

The Executive considered a report from the Chief Executive reviewed the current approach following an increase in the frequency of unauthorised encampments in the District and the recent incursions over the Christmas and New Year Holidays and set out a new approach to help address the issues generated by unauthorised encampments.

Over the past four years there had been 39 unauthorised encampments on 11 Warwick District Council sites, totalling 304 days, an average of 7.8 days (Calculated from the first day of arrival until vacant possession was re-obtained). The report included a table that showed the geographical spread of unauthorised encampments on Council owned land.

However, this was only part of the picture as the data did not include unauthorised encampments on land in other ownerships including on highway land. A second table in the report detailed the overall picture of unauthorised encampments across the County, broken down by District/Borough over the last few years. For Warwick District there was a very clear upward trend and it was clear that Warwick District was experiencing the highest level of unauthorised encampments in the County.

The Council did offer waste receptacles to unauthorised encampments to try to minimise the impact on the cleanliness of the site. The cost of providing this service and any subsequent tidying of the site were included within the Street Cleansing Contract through the provision of Community Cleansing Teams. Section 5 of the report provided an outline of the average annual cost to the Council of dealing with unauthorised encampments.

The situation reached something of a crescendo over the recent Christmas and the New Year break in Warwick. Although this was not the first time the Council had been faced with a large unauthorised encampment, the particular circumstances and timing had attracted much interest. The circumstances as they happened were summarised in Appendix 1 to the report of this report. It was clear that whilst officers did everything that they could as quickly as they could, there were no preventative measures in place to deter the unauthorised encampments and the inability to get a court date earlier than 10 January 2017, meant ultimately that the powers of the Police had to be relied upon. Fortunately, the good liaison between the Council and the Police meant that this was possible. However, for the local community, the perception was that both the Council and the Police were inactive and had not dealt with the issue. There was therefore a need to be able to make the public and local community aware of what powers the Council and Police actually had in such situations, so that expectations could be set. In addition, efforts were to be made to secure quicker access to the courts as a matter of routine. The above learning points would be addressed operationally by officers.



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One of the issues arising from the community's perspective was a lack of understanding of the powers that were available to the Council and to the Police in dealing with such situations. Appendix 2 to the report summarised the powers that were available and why some were preferable to others.

Appendix 3 to the report contained a note on the use of injunctions which would not suggest that this "tool" offered much to the Council in helping to tackle the situations faced but recourse should be made to it as and when the circumstances dictate.

Looking forward in terms of the Council being better able to tackle such situations, the following three-pronged approach seemed appropriate:

1. Develop even closer working relationships with the Police, County Council and other agencies;
2. Consider what the Council could do on its own land to help prevent unauthorised encampments; and
3. Resolve the situation regarding the provision of sites, permanent and transit.

This approach involving a combination of the provision of a site (permanent and transit), installing preventative measures in the most vulnerable open spaces and a clear protocol for dealing with unauthorised encampments had to strike the balance between all needs of both the Gypsy/Traveller community and the local resident/business community and so served as a disincentive to carry out unauthorised encampments in the District and therefore lower the number that occurred.

In order to provide a coordinated response with key partners the Police and Crime Commissioner had proposed the development of an updated protocol, the principles of which were set out in Appendix 4. It was suggested that the Chief Executive, Head of Health and Community Protection in consultation with the Health and Community Protection Portfolio Holder were delegated authority to negotiate the detailed updated protocol and to report back to the Executive to seek approval. Such an updated protocol would help ensure that there was regular dialogue and a clear understanding about expectations with Gypsy & Traveller communities.

There were approximately 180 open spaces owned by Warwick District Council, varying in size, usage and accessibility. These areas included parks, woodlands, wildlife areas, car parks, playing fields, children's play areas, burial grounds and amenity green space. Open spaces, by their nature, were designed to be as accessible as possible to the public, normally offering more than one entrance point, and in some cases allowing access to car parks on the site.

These sites were therefore prone to use for unauthorised encampments, even where existing restrictions such as gates and

bollards were present. A desk top evaluation had been carried out of the security of all WDC sites in the District, which had been categorised as follows:-

Sites with no access/secure	56 sites
Unlikely to be used for unauthorised encampments	89 sites
Open site/possible access	35 sites

Officers had identified a number of Council owned locations that were vulnerable to unauthorised encampments and had estimated the costs as set out in Appendix 5 to the report. If all were protected it would cost a total of £174,000 (when rounded up) plus a contingency allowance of 5%, to rectify the position, which could be funded from the Council's newly established Community Projects Reserve. Such measures could help protect the amenity of these destination parks and car parks in line with works carried out at Harbury Lane supporting residents and local businesses. However, the Executive had to decide if it wished to undertake all the works in the list or only part thereof. Works to protect Newbold Comyn were already being undertaken. It was likely that if a substantial number of sites were proposed for such measures, the work would have to be undertaken over two years. It was proposed that the agreement to the list of sites was delegated to the Chief Executive, Head of Health and Community Protection and Head of Neighbourhood Services in consultation with the respective portfolio holders for those service areas and of Housing and Property Services.

It needed to be noted that it would be impossible to protect all of the Council's open land. Measures to protect certain areas could result in encampments taking up occupation elsewhere in the vicinity that had not been protected. However, there was evidence that installing measures to limit access to certain areas could work. For example, at Harbury Lane there had been a number of unauthorised encampments that had taken place over many years. After each encampment additional measures were introduced. In the autumn of 2012 an investment of £12,000 was made at Harbury Lane to prevent unauthorised encampments. That investment included security gates, fencing, height restriction barrier and heavy duty lock. That investment had been successful in that there had been no unauthorised encampments since (five years) though there had been an increase in the number of unauthorised encampments at other nearby sites.

One of the underlying issues in which the Council had not been successful was locating suitable land for transit sites for many years. Indeed Warwick District was the only local authority area in the County not to have any such site. Whilst it was not possible to prove a cause and effect between that fact and the high number of unauthorised encampments the District was experiencing, it was clear that the lack of available transit or emergency stopping sites did prohibit the use of some powers that the Police possessed and clearly if that changed then there would be an additional "string" to the "bow" of the Police and the Council. It was suggested some caution be used because provision of a

transit site would not necessarily forestall all unauthorised encampments.

Warwickshire County Council was progressing with sites for two emergency stopping places for Gypsy and Traveller communities in transit. One of these stopping places would be in the north of the County, the other in the south (in Stratford District, near Southam). Whilst these would provide important facilities to help manage Gypsy and Traveller encampments, they were insufficient to fully meet the whole of the County's and the District's need for transit pitches. The reason for this was that an emergency stopping place could only be used for 28 days whilst a transit site could be used for three months.

In the context of developing the Local Plan, the Gypsy & Traveller Accommodation Assessment, commissioned in 2012, identified a need for 31 pitches over the next 15 years, 25 within five years, as well as six-eight transit pitches. The District Council would therefore need to provide a further transit site through the Gypsy and Traveller Site Allocation Development Plan. This would need to accommodate approximately seven pitches. At this stage, no site had been identified.

Once in place the Police would be able to direct Gypsies and Travellers, in accordance with their policies and procedures, onto transit or emergency stopping sites if there was space available, making unauthorised encampment in the District easier to deal with. This was particularly so when an unauthorised encampment was situated on highway land as the powers the Police currently exercised to direct trespassers to leave were only exercisable in relation to on highway land. Should they refuse to go to such sites, they could then be directed out of the County by the Police.

It was also be mindful that there was a difficulty of finding landowners (Councils included) to offer land for such sites or for communities to agree to them. However, in the context of recent events it was now imperative that a report be brought forward to resolve the site provision at the earliest opportunity.

Alternatively the Council could develop a policy independent of neighbouring authorities but a joint approach was necessary for intelligence sharing and enforcement. A joint approach should reassure residents and businesses that we were working together and had a coordinated, prompt and effective approach to dealing with unauthorised encampments.

The Council could continue to simply 'move on' but this was not any sort of deterrent. The current approach did not address the responsibilities on this authority or key partners to do all it reasonably could to prevent crime and disorder.

During the recent Christmas/New Year situation calls were made by some members of the community for the Council to adopt the approach

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taken in Harlow. However, the case pursued by the Council was in the context of having had 107 unauthorised encampments in 18 months by the same group. It was very clear from the judgement that the circumstances were considered so extreme as to warrant the steps the Council took in that case and those circumstances did not apply here.

There was some precedent in utilising preventative measures to prevent unauthorised encampments. The alternatives were to add to this list, include all WDC owned amenities, do some sites or do nothing further. The recent incursions and increase in the number of illegal encampments suggested we needed to do more though it was not feasible to protect all of our land.

The Council could decide not to provide any sites, permanent or transit, but the risks set out above suggested that, notwithstanding the difficulties of finding such sites, the risks set out in paragraph 6.4 of the report precluded Officers from recommending such a course of action.

The Finance & Audit Scrutiny Committee supported the recommendations in the report, including the additional recommendation 2.7 as circulated in the addendum. Members highlighted the need to move forward with the identification of suitable sites at the earliest opportunity and welcomed the move to publicise the Council's responsibilities on the website. In addition, Members were pleased that a definitive Agency Contact list would be included in the protocol and requested that this be made available to all Councillors.

Additional information was circulated at the meeting by the Chief Executive including a proposal that an area of land be transferred to the Jockey Club, subject to them installing preventative measures.

The Executive welcomed the report and the comments from the Finance & Audit Scrutiny Committee about this report. While they were supportive of the report they were of the opinion that there should be some amendments to the recommendations in the report. These were that:

- 2.5 being amended so that the measures are implemented over the next 12 months;
- Note that appendix 5, 'Sites proposed for situational measures', should include Newbold Comyn, but that the present costs of this scheme are unknown and therefore, if additional funding was required outside the 5% contingency, a further report would be brought back to the Executive;
- An additional recommendation be added stating that the area shown on Plan 2, as circulated at the meeting, should be included within the lease with the Jockey Club provided that they take responsibility for installing preventative measures as a matter of urgency and subject to an agreement on rent;
- That once the works start all Councillors will be notified of the details and asked if there is further Warwick District land that should be considered for preventative measures.

**Resolved** that

- (1) the trend of increasing number of unauthorised encampments in the District, both on Council owned and other land, be noted;
- (2) the events over the recent Christmas/New Year period as set out at Appendix 1 to the report and the learning points that arise from a review of that situation, be noted;
- (3) the powers that are available to the Council, the County Council and the Police in relation to unauthorised encampments as set out in Appendix 2 of this report and the observation note on use of Injunctions at Appendix 3 to the report, be noted;
- (4) the principles of a new joint protocol with partners as set out in Appendix 4 to the report be approved, and authority be delegated to the Chief Executive, Head of Health and Community Protection in consultation with the Health and Community Protection Portfolio Holder to negotiate a detailed protocol and report back to the Executive for approval;
- (5) authority is delegated to the Chief Executive, Head of Health and Community and Head of Neighbourhood Services, in consultation with the Portfolio Holders for Health and Community Protection, Housing and Property Services and Neighbourhood Services, to agree the prioritisation of the list at Appendix 5 to the report upon which it proposes to install preventative measures over the next 12 months from 1 April 2017, in order to prevent unauthorised encampments, to be funded from the Community Projects Reserve up to a maximum of £174,000 plus 5% contingency;
- (6) Appendix 5 to the report 'Sites proposed for situational measures', is amended to include Newbold Comyn, but that the present costs of this scheme are unknown and therefore, if additional funding was required outside the 5% contingency, a

further report be brought back to the Executive;

- (7) once the works start all Councillors be notified of the details and asked if there is further Warwick District land that should be considered for preventative measures;
- (8) the limitation on the use of powers because of the absence of a transit site within the District and asks Officers to prepare a report on site provision at the earliest opportunity be noted; and
- (9) the area shown on Plan 2, as circulated at the meeting, should be included within the lease with the Jockey Club provided that they take responsibility for installing preventative measures as a matter of urgency and subject to an agreement on rent.

The Portfolio Holders for this item were Councillors Grainger and Phillips (Forward Plan reference number 852)

108. **St Mary's Lands Delivery Plan for 2017/18**

The Executive considered a report from the Chief Executive that sought funding to implement the 2017/18 element of the agreed Delivery Plan for St Mary's Lands in Warwick. This was another step toward making the area a Destination Park for the town of Warwick and indeed the District.

At its meeting on 30 November 2016, the Executive agreed the Delivery Plan for the St Mary's Lands area of Warwick with the intention of being able to implement its vision of making it a destination park. It further agreed to fund £50,000 for 2016/17 and to consider works worth £196,000 and £60,000 in the 2017/18 and 2018/19 years as part of the respective years' budget processes.

For 2017/18 the specific recommendation was as follows:

*"That Executive notes that the following provisions within the Delivery Plan will be considered as part of the 2017/18 budget setting process and, where appropriate, recommendations will be included within the February 2017 report on the proposed 2017/18 General Fund Budget:*

1. *A potential match funding contribution (possibly as in kind) towards the cycleway improvements referred to in 2.7 above. The estimated costs of this project are £80,000 during 2017/18 and the allocation of funding is subject to receipt of a satisfactory safety audit by Sustran's technical engineers.*

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2. *A potential allocation of £18,000 to modify the existing toilets and provide a new disabled toilet and baby change facility within the Golf Centre building in return for a management agreement to provide public access to the toilets.*
3. *A potential allocation of £110,000 to create an additional net 20 parking spaces at the Saltisford Brook car park, subject to consultation with residents of Bread and Meat Close, a satisfactory road safety audit of the proposals and further consideration of the emerging car parking strategy for Warwick.*
4. *A potential allocation of £60,000 for complementing landscape and public realm improvements, subject to the Jockey Club bringing forward proposals, at a cost in excess of £200,000, to replace its existing turnstile building at the entrance to St. Mary's Lands and undertaking their own programme of planting and building works.*
5. *A potential allocation of £8,000 to Racing Club Warwick to support modifications of toilet facilities at the club to provide public facilities for users of the proposed play area and the public."*

The 2017/18 budget decision did not specifically allocate funding for the projects listed in the report but did set up the Community Projects Reserve and this set of works was referred to as an example on what the Reserve could be used.

However, on further examination, item 3 of the list above was not likely to be able to be implemented in the next financial year (17/18) but would, if funded, come forward in the following year. This would allow sufficient time for design and consultation on the detailed scheme and confirmation of funding. In addition, allowing more time would allow the proposal to be considered in the context of a wider car parking strategy report for Warwick. Equally item 1 referred only to a match funding opportunity in kind on which as yet there were no details.

The Jockey Club had now brought forward its proposals for improvements to the racecourse entrance at an estimated cost of over £200,000 which was relevant to item 4 on the list above. This related to its land held under a lease and related to complementary measures on adjoining Council land, which together would help create a much better overall entrance to St Mary's Lands.

It was proposed therefore that items 2, 4 and 5 of the above list were funded from the Community Project Reserve at a total cost of £86,000 and that item 3 (£110,000) was now considered as part of the budget process for 2018/19 or as part of a wider car park strategy report for Warwick. This would further enable the Council to demonstrate its commitment to fulfilling the vision for St Mary's Lands.

In respect of the proposals to facilitate improvements to locally based WC facilities at Racing Club Warwick and the Golf Centre, a legal agreement would be needed to ensure that public access was ensured in return for the capital works. It was proposed that the Chief Executive in consultation with the Business Portfolio Holder be delegated authority to approve such agreements.

Similarly there could be statutory and other consents (including leases) which were needed to implement this set of recommendations and the same delegation as set out in the paragraph above was proposed.

Alternatively the Executive could decide not to pursue any one or all of these proposals. However, given that the Executive had agreed the overall vision and the Delivery Plan, it was considered such a step would therefore not be in step with its own declared policy decisions.

The Finance & Audit Scrutiny Committee supported the recommendations in the report and commended the Working Party for its work to date.

**Resolved** that

- (1) the items listed below totalling £86,000 be funded from the Community Projects Reserve, to be implemented in 2017/18;
  - i. An allocation of £18,000 to modify the existing toilets and provide a new disabled toilet and baby change facility within the Golf Centre building in return for a management agreement to provide public access to the toilets;
  - ii. An allocation of £60,000 for complementing landscape and public realm improvements on public land, subject to the Jockey Club bringing forward proposals, at a cost in excess of £200,000, to replace its existing turnstile building at the entrance to St. Mary's Lands and undertaking their own programme of planting and building works;
  - iii. An allocation of £8,000 to Racing Club Warwick to support modifications of toilet facilities at the club to provide public facilities for users of the proposed play area;
- (2) authority is delegated to the Chief Executive in consultation with the Business Portfolio Holder to enter into appropriate Legal Agreements in relation to ensuring public access to WC facilities in relation to items 1 and 3 of (1) above; and



- (3) authority is delegated to the Chief Executive in consultation with the Business Portfolio Holder to seek any statutory or other consent, including changes to leases, in order to implement the set of recommendations above.

Portfolio Holder for this item was Councillor Butler  
(Forward Plan reference number 856)

**109. Request for Funding for a Community Hub in Norton Lindsey**

The Executive considered a report from the Chief Executive that sought approval of £38,500 to a local community group in Norton Lindsey who have raised funds to buy the vacant village pub and in part convert it into a community hub to provide a range of services and activities to the village.

The scheme was outside the remit of the Council's Rural/Urban Capital Initiative Scheme (RUCIS) but the Council could consider the request via its recently established Community Projects Reserve. The village pub in Norton Lindsey has struggled commercially for a number of years and more recently has become vacant with a consequent fear that it was permanently lost and was redeveloped. The local community being disturbed at the potential loss of such a facility had formed a company the Norton Lindsey Community Pub Ltd (NLCP) and had raised funds of £340,000 to buy it. The purchase was now complete. However, it was intended to widen the remit of the building to act as much as a community hub as a village pub and so the Group were seeking funds of £38,500 to help with its alteration to develop a community shop, in the vein of the one in nearby Barford.

A business plan had been prepared for the overall scheme which was attached at Appendix 1 to the report. Appendix 2 to the report contained the share offer and Appendix 3 to the report outlined the governance arrangements for NLCP. Appendix 4 to the report was more specific about the community shop element. Such a scheme as proposed would normally be one that the Council would look to fund from its RUCIS scheme. However, the scheme as proposed fell outside the remit of that fund because the Group had not existed long enough to provide the three years accounts normally sought and the sum being sought was over the upper £30,000 limit and the maximum 50% contribution to the overall project costs.

However, the Budget report for 2017/18 had established a Community Projects Reserve and it was proposed that the sum sought was funded via that source. If the Executive agreed, then a number of conditions were proposed as set out in the recommendation. It would be managed and monitored as RUCIS schemes normally would be.

Alternatively the Executive could decide not to agree to the request. However, the scheme was very much in the spirit of the RUCIS scheme

to which the Council was very committed, and it was therefore sensible for the Council to consider the scheme in those terms which would otherwise be very supportive.

The Finance & Audit Scrutiny Committee supported the recommendations but raised concerns that due to the request for funding coming from a limited company, which had the ability to sell shares, the Council should ensure its contribution was protected should the premises be sold on in the future. Therefore, the Committee agreed that an additional recommendation should be included as follows: The Finance and Audit Scrutiny Committee recommended that a covenant be added to any agreement to ensure that if the Community Hub were to be sold on in the future, there would be a mechanism to recoup any contributions made by the Council.

The Executive welcomed the suggestion from the Finance and Audit Scrutiny Committee and while they did not agree with the precise wording, they did agree to an additional recommendation that an appropriate agreement be put in place to recover the contribution made by this Council if the venture failed or the property was sold.

Subject to the above, the recommendations in the report were approved.

**Resolved** that

- (1) the funding request from Norton Lindsey Community Pub Ltd (NLCP) for up to (and no more than) £38,500 excluding VAT be funded from the Community Project Reserve subject to the following conditions being met:
  - i. That the works receive planning and any other statutory consent necessary before any drawdown of the funding;
  - ii. That a detailed project plan is submitted, and in particular confirming that the community shop has arrangements in place to operate as a shop, before any drawdown of the funding;
  - iii. That at least 3 quotes for any and all of the proposed works are provided to verify the amount of funding being sought, before any drawdown of the funding;
  - iv. That staged payments are made on production of supplier(s) invoices (that are addressed to NLCP)";

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- v. That due recognition in any publicity is given to this Council's support for the proposal;
- vi. That an annual report is given to the Council for the next 3 years on the performance of the business plan of the facility;
- vii. That any other conditions that normally apply to RUCIS schemes also apply to this scheme;
- viii. an appropriate agreement be put in place to recover the contribution made by this Council if the venture failed or the property was sold;

- (2) the approval of the items listed in (1) above is delegated to the Chief Executive and Head of Finance in consultation with the Finance portfolio holder.

The Portfolio Holder for this item was Councillor Whiting

### 110. **Procurement Exemptions – CIL Viability and Retail Planning**

The Executive considered a report from development services that sought approval for an exemption to the procurement policy to allow the extension of the Community Infrastructure Levy (CIL) Viability and Retail Planning contracts for a year.

The viability contract had been in place since November 2012. During the contract period a CIL viability assessment was undertaken with a number of subsequent updates to reflect changing market conditions. These assessments formed the core evidence base to support the CIL Charging Schedule. It was anticipated that this schedule would be adopted during 2017.

Initially, it was anticipated that the CIL Scheme would be in place prior to the end of the contract. However as it was difficult to implement CIL ahead of the adoption of the Local Plan, delays to the Local Plan have meant that the adoption of CIL had also been delayed.

As a result, it was necessary to extend the current contract until the adoption of the CIL Scheme. This would allow the contractors to provide specialist technical advice on representations made during the consultation period and, if necessary, to appear at the CIL Examination Hearing. It was therefore proposed to extend the contract until 30th November 2017.

After that time it was anticipated that there would be a significantly reduced need for ongoing advice relating specifically to CIL viability and that any advice that was required could be accommodated within the

existing contract for the viability of development proposals with Jones Laing Lasalle.

The retail planning consultancy contract had been in place since October 2012. During the contract period a comprehensive retail study had been undertaken to inform the retail allocations and policies in the new Local Plan. The providers had also provided regular retail advice for planning applications.

During 2017, Development Services would be carrying out a new procurement exercise for this service. However, as the current contractors had been instrumental in supporting the development of the Local Plan, it was suggested that the current contract was extended to a date by which Local Plan adoption was likely to have been achieved. This approach would not only ensure the Local Plan policies were robustly justified, but would also provide continuity of the services to support the Development Management function until such a time that a new contract was in place.

In summary, as the adoption of the Local Plan had taken longer than envisaged when this contract was procured in 2012, the contract needed to be extended to ensure consistency and continuity until the Plan was adopted.

Ideally the two contracts would have been subject to a procurement exercise prior to end of the contracts. However this had not been possible due to the pressure to achieve Local Plan adoption as quickly as possible.

In the case of the CIL viability advice contract, the only alternative option was therefore to proceed through the CIL Examination without expert advice on viability. For the reasons set out above, this was not considered to be appropriate.

In the case of the Retail Consultancy contract, it would be possible to instigate a new procurement exercise now, thereby minimising the length of the gap between contracts without extending the existing contract. However this was considered to be a less desirable option for the following reasons:

- Until the Local Plan was adopted, it was appropriate to ensure retail evidence and advice was consistent with the advice provided for plan preparation. This was best achieved by extending the contract until towards the end of 2017.
- As this was an important contract that would have implications for the quality of planning decisions for years to come, it was considered important to undertake a thorough procurement process and that ample time was allowed for this
- This option would leave the Council vulnerable if an important retail application was submitted in the meantime.

The Finance & Audit Scrutiny Committee supported the recommendations in the report subject to the removal of the repeat wording in recommendation 2.2.

The Executive agreed with the comment from the Scrutiny Committee and

**Resolved** that

- (1) the Extension of the CIL Viability Contract until 30 November 2017, be approved; and
- (2) the Extension of the Retail Planning Consultancy Contract until 30 October 2017, be approved.

The Portfolio Holder for this item was Councillor Cross  
(Forward Plan Reference number 832)

#### **111. Rural and Urban Capital Improvement Scheme (RUCIS) Application**

The Executive considered a report from Finance that sought approval of six Rural/Urban Capital Improvement Scheme grant applications.

The Council operated a scheme to award Capital Improvement Grants to organisations in rural and urban areas. The grants recommended were in accordance with the Council's agreed scheme and would provide funding to help the project progress.

All six projects contributed to the Council's Sustainable Community Strategy.

The Norton Lindsey and Wolverton Cricket Club project contributed to the Council's Sustainable Community Strategy as the introduction of an all-weather practice facility would increase opportunities for the community to enjoy and participate in sporting activity and help to reduce anti-social behaviour and obesity, including in children. This new facility would support the introduction of competitive matches for the junior section and for the first time, entry of a 3<sup>rd</sup> XI in the Cotswold Hills cricket league. This all helped to engage and strengthen the community.

The Barford, Sherbourne and Wasperton Joint Parish Council project contributed to the Council's Sustainable Community Strategy as the introduction of a rubber mulch flooring around the toddler's play area, public seating and recreational area on the village green would ensure that this was a usable facility in all-weather, all-year round which would increase opportunity for the community to enjoy and participate in physical activity and help to reduce anti-social behaviour and obesity, particularly in children. An all-weather facility would enable residents to get out more throughout the year and meet each other which would further strengthen and engage the community.

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The Old Milverton Parish Room project contributed to the Council's Sustainable Community Strategy as without the Parish Room there would be fewer opportunities for the community to enjoy and participate in physical, social, arts and cultural activities which could potentially result in disengaging and weakening the community and an increase in anti-social behaviour and obesity. If the project work was not carried out in the near future the facility would become unusable as the existing flat roof was at the end of its life span; it leaked and had caused damage to the internal structure. Additionally there was no roof insulation which made the kitchen and toilets cold and prone to condensation.

The Warwick Cricket Club project contributed to the Council's Sustainable Community Strategy as without the cricket club there would be fewer opportunities for the community to enjoy and participate in sporting activity which could potentially result in an increase in anti-social behaviour, an increase in obesity (particularly in children) and disengage and weaken the community. The project would enable volunteers to have more time coaching and interacting with people rather than continually repairing existing equipment which was at the end of its useful life span, this would help to further engage and strengthen the community and would also increase opportunity for members of the community to enjoy and participate in sporting activity.

The Kenilworth Wardens Cricket Club project contributed to the Council's Sustainable Community Strategy because without the cricket club there would be fewer opportunities for the community to enjoy and participate in sporting activity which could potentially result in an increase in anti-social behaviour, an increase in obesity (particularly in children) and disengage and weaken the community. If the project work isn't carried out in the near future the outdoor cricket net facilities would become unusable because they were nearing the end of their life span; if they were not repaired and refurbished health & safety issues would increase and make them unusable.

The Stoneleigh Village Hall project contributed to the Council's Sustainable Community Strategy because without the Village Hall and playing fields there would be fewer opportunities for the community to enjoy and participate in sports, arts and cultural activities which could potentially result in an increase in anti-social behaviour and obesity, particularly in children. The redecoration of the interior would keep the hall maintained in a good condition to enable current activities and bookings to continue, possibly attracting more bookings and usage. Additionally, the provision of a new patio area adjoining the hall would enable more activities and events to be held which would increase opportunities for the community to enjoy and participate in physical, social, arts and cultural activities as well as offering further opportunity to reduce anti-social behaviour and obesity.

The Council had only a specific capital budget to provide grants of this nature and therefore there were no alternative sources of funding if the

Council was to provide funding for Rural/Urban Capital Improvement Schemes.

**Resolved** that

- (1) a Rural/Urban Capital Improvement Grant be awarded from the rural cost centre budget for Norton Lindsey and Wolverton Cricket Club of 50% of the total project costs to create a 2 bay outdoor practice net and install an underground power supply from the pavilion to the nets for use of a bowling machine, as detailed within paragraphs 1.1, 3.2 and 8.1 and supported by Appendix 1 to the report, up to a maximum of £17,061 including vat, subject to receipt of the following:
  - Written confirmation from Norton Lindsey Parish Council to approve a capital grant of £5,000 (if the application is declined or a reduced amount is offered the budget shortfall will be covered by the Club's cash reserves which have been evidenced through their annual accounts);
  - Written confirmation from the England Cricket Board to approve a capital grant of £10,000 (or if declined, or a reduced amount is offered, an alternative capital grant provider);
  - Written confirmation from Heart of England Community Fund to approve a capital grant of £2,000 (if the application is declined or a reduced amount is offered the budget shortfall will be covered by the Club's cash reserves which have been evidenced through their annual accounts or alternatively another capital grant provider);
- (2) A Rural/Urban Capital Improvement Grant be awarded from the rural cost centre budget for Barford, Sherbourne and Wasperton Joint Parish Council of 50% of the total project costs to install a rubber mulch all-weather surface around the toddler's play area, public seating and recreational area on the village green, as detailed within paragraphs 1.1, 3.2

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and 8.2 and supported by Appendix 2 to the report, up to a maximum of £5,387 excluding vat;

- (3) A Rural/Urban Capital Improvement Grant be awarded from the rural cost centre budget for the Old Milverton Parish Room of 80% of the total project costs to provide a new flat roof, as detailed within paragraphs 1.1, 3.2 and 8.3 and supported by Appendix 3 to the report, up to a maximum of £4,603 including vat;
- (4) A Rural/Urban Capital Improvement Grant from the urban cost centre budget be awarded for Warwick Cricket Club of 80% of the total project costs to purchase 2 new mowers, as detailed within paragraphs 1.1, 3.2 and 8.4 and supported by Appendix 4, up to a maximum of £7,520 including vat, subject to receipt of the following:
  - Written confirmation from Warwick Town Council to approve a capital grant of £675 (if the application is declined or a reduced amount is offered the budget shortfall will be covered by the Club's cash reserves which have been evidenced through their annual accounts);
- (5) A Rural/Urban Capital Improvement Grant be awarded from the urban cost centre budget for Kenilworth Wardens Cricket Club of 80% of the total project costs to repair and refurbish the 3 lane outdoor practice nets, as detailed within paragraphs 1.1, 3.2 and 8.5 and supported by Appendix 5, up to a maximum of £6,228 excluding vat, subject to receipt of the following:
  - Written confirmation from Kenilworth Town Council to approve a capital grant of £2,000 (or if declined, or a reduced amount is offered, an alternative capital grant provider); and
- (6) A Rural/Urban Capital Improvement Grant be awarded from the rural cost centre budget for Stoneleigh Village Hall of 50% of the total project costs to provide 3 new UPVC doors, create an outdoor patio area and redecorate



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the hall interior, as detailed within paragraphs 1.1, 3.2 and 8.6 and supported by Appendix 6 in the report, up to a maximum of £7,253 including vat.

The Portfolio Holder for this item was Councillor Whiting.

### 112. **Notice of Motion**

To consider a notice of Motion from Councillor Parkins, referred to the Executive by Council on 22 February 2017.

The motion referred to the Executive for consideration was:

*"Warwick District Council support the Warwickshire Energy Plan in the first instance through the establishment of a municipal not-for-profit energy supply service; to work urgently to conclude agreements with Warwickshire County Council so that supply contracts are put in place in relation to housing stock (particularly voids) and registered social landlords to ensure the success of this important initiative and the benefits it will bring to consumers in Warwick District through market-leading tariffs, support for customers switching from costly pre-payment meters to smart pay-as-you-go meters and provision of consistent high quality customer service."*

**Resolved** that a report be brought back to the Executive on the Notice of Motion and recognised that no tenant should be forced to change energy supplier.

### 113. **Public and Press**

**Resolved** that under Section 100A of the Local Government Act 1972 that the public and press be excluded from the meeting for the following item by reason of the likely disclosure of exempt information within the paragraphs of Schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006, as set out below.

Minute Nos.	Para Nos.	Reason
114	1	Information relating to an Individual
114	2	Information which is likely to reveal the identity of an individual
114	3	Information relating to the financial or business affairs of any particular person

114. **Confidential Minutes**

The confidential Minutes of the meeting held on 8 February 2017 were taken as read and signed by the Leader as a correct record.

(The meeting ended at 6.47pm)

## Foreword

# FIT FOR THE FUTURE

SERVICE

PEOPLE

MONEY

I am delighted to introduce the new Housing and Homelessness Strategy for Warwick District Council (WDC); a single cohesive Strategy which has been created in line with current changes to legislation and related policy areas.

**In order to ensure this strategy is effectively implemented and meets its objectives, we will review progress annually during its three year term.**

As a local authority we recognise that access to safe and affordable housing has a far reaching impact not only on the individual or family unit but also on our wider communities and this ethos informs not only this Strategy, but our broader local policy. Housing is a key priority within the *Sustainable Community Strategy* contributing to the vision of making the District a great place to *live, work and visit*. Within this Strategy we aim to promote four themes which affect housing: prosperity, health and well-being, safer communities and sustainability.

Throughout the creation of this Strategy we consulted with our partners and a wide range of stakeholders, and I would like to thank all the many contributors. The responses we received gave a diverse range of views and ideas and have helped shape the strategic objectives within this Strategy for housing:

- § **Providing suitable accommodation, information and advice for the homeless in an effort to prevent and reduce homelessness**
- § **Meeting the need for housing across the District by addressing the need for new home provision**
- § **Improving the management and maintenance of existing housing**
- § **Ensuring people are supported to sustain, manage and maintain their housing**

Warwick District Council intends to work consistently and effectively in partnership with other agencies to ensure these objectives are met and to demonstrate our commitment to building a brighter future.

**Councillor Peter Phillips**

**Housing and Property Services Portfolio Holder**

## Context

### Our District and its demographics

Our District covers an area of 110 square miles in the southern half of the county of Warwickshire in the West Midlands and is home to around 58,700 households (137,600 people).

This area includes the towns of Kenilworth, Royal Leamington Spa, Warwick and Whitnash, accounting for around 80% of the population. The remainder of residents live in a number of villages, many of which are green belt. The District is bordered to the south and west by Stratford-on-Avon District, to the east by Rugby Borough and to the north by Solihull and the city of Coventry.

Our District provides a central location with strategic transport links. There are major routes across the area including the M40 providing direct access to London and indirect links to the north-west via the M6 and M5 respectively. There are junctions outside of our District near Rugby, providing links to the north and east. There are rail services to the rest of the West Midlands and London and the Government's development of the high speed rail line "HS2" will run directly through the District.

Our District has the largest population in the county and the population density of 4.9 people per hectare is the second highest in Warwickshire and above national/regional averages. The population grew over the ten years from 2001 to 2011 by over 9%, a faster rate than England and Wales and the West Midlands and the second only to Rugby in the county.

Our District has the highest proportion of non "White-British" people in the county at 16.6% but this is still lower than the national and regional average. The largest ethnic groups in the District after White-British are "Asian/Asian British: Indian" (4.9%) and "Other White" (4.2%). Rugby (11.7%) and Warwick (11.6%) have the highest proportions in the county of people who have come from abroad but these percentages are still below the national average.

The average age of the District population is 39.7 and Warwick is not significantly different from the country as a whole (but it is the lowest in Warwickshire). The only noticeable variations are slightly fewer people aged 0-14 and slightly more people aged 30-44.

At 28% in 2011 Warwick has the smallest proportion of population aged 55 or more in the housing market area, and this is projected to increase by 37.6% by 2031.

Our District is among the top 10% in the country for the highest proportions of full time students; this accounts for noticeable differences with the national, regional and county wide figures and provides an above average number of single-person households, the highest in the county.

As a consequence we have the lowest proportions in the county for each of the following categories: married/civil partnership; separated; divorced and widowed.

There have been big increases locally in both the numbers of homelessness applications received and the numbers accepted by the council. Both rose by a higher proportion than was the case nationally. The number of cases where homelessness was either prevented or reduced increased by 39% from 2010-2014; it fell significantly in 2014/15 and despite a small rise in 2015/16 it is still well below the 2014 level.

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Based on a recent “Rough Sleepers” count carried out by P3 in late 2016, there were an estimated 18 individuals, identified as sleeping rough within our District as a whole at the time of the estimate.

### **Our local economy and its social indicators**

The local economy is diverse although three sectors account for over 60% of employment: “public administration, education and health”; “wholesale and retail, including motor trades” and “financial and other business services”.

Throughout the period from 2004 to present, our rate of unemployment has been considerably lower than the national and regional average, while average earnings for employees living in the District were higher at £32,582 in 2015.

The level of people owning a vehicle in the District is relatively high at 81.5%: with 44% of people travelling to work by car; higher than regional and national average but the lowest percentage in Warwickshire. Over 10% of people travel to work on foot or bicycle, the highest in Warwickshire and well above the national and regional figures.

The population of the District is relatively healthy with 84.5% of the population being in good or very good health, the highest in the county and better than the national and regional averages. This is also true of the narrower age band: those aged 16 to 64.

Across the District 14.8% of people are estimated to have a long-term health problem or disability (LTHPD) and 22% of households include someone with LTHPD. More than 90% of people do not provide unpaid care, again the highest figure in the county exceeding national and regional averages.

According to government figures the District is ranked 267th out of 326 local authority areas in England for deprivation, where 1st would be the most deprived. In creating this ranking relatively small areas are also considered and one such area in our district, Lillington East, was ranked in the 10% most deprived areas of England.

The 2015 Department of Health profile for Warwick stated that “The health of people in Warwick is generally better than the England average. Deprivation is lower than average, however about 10.3% (2,400) children live in relative poverty. Life expectancy for both men and women is higher than the England average.” Across 30 different indicators Warwick was “significantly better than England average” on 18 indicators and not significantly different on the remaining 12. Local health priorities were identified as addressing alcohol misuse, smoking in pregnancy, and tackling obesity.

### **Our housing**

Across the whole of Coventry and Warwickshire there is an objectively assessed need for 4,272 new homes per annum from 2011 to 2031. Of this total Warwick District’s objectively assessed housing need is 600 new homes per year.

In addition to meeting its own housing need, Warwick District’s Draft Local Plan is accommodating 332 new homes per year to address unmet need from Coventry. This means the total annual housing provision in Warwick District will be 932 homes per year. Based upon the definition of affordable housing set out in the National Planning Policy Framework (NPPF) 2012 (i.e. not including starter homes) the annual affordable housing need is 1,462 new homes across Coventry and Warwickshire and 280 in Warwick District. As Warwick is accommodating a proportion of Coventry’s overall housing need, it follows that it should, as part of the overall need, also accommodate some of the City’s affordable need.

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The Council has therefore reached an agreement with Coventry City Council to accommodate 94 affordable dwellings per annum from Coventry. This makes a total affordable housing requirement for Warwick District of 374 dwellings per annum (280 + 94), equivalent to 40% of the District's overall housing requirement of 932 new homes per year.

Council Tax band data shows Warwick to have 61,386 properties on the Valuation List as at 2015, an increase of almost 1,000 properties (1.6%) since the census in 2011.

The census in 2011 found that there were 60,427 dwellings in the district. 18.5% of the stock is flats or maisonettes and a further 4.6% is flats in converted or shared houses, easily the highest in the county on both indicators: the overall figures for Warwickshire are 12.5% and 2.2% respectively.

Data from recent stock condition surveys shows that the housing stock is mainly post-war with 73% of private housing and 85% of council housing having been built since 1945, compared to 59% and 81% respectively nationwide. In relative terms this is quite a "young" profile but it is worth noting that many of these post-war dwellings are now over 50 years old.

Housing standards and conditions are generally good with only just over two per cent of households in the District lacking central heating, lower than national and regional averages. Three per cent of households are overcrowded; the highest in the county but this is still well below national and regional figures.

In Warwickshire our District has: the highest proportion of one-bed properties and of two-bed properties; a significantly smaller proportion of three-bed properties and the second highest proportion of properties with more than three bedrooms: the most balanced mix of properties in the county.

When making comparisons the relatively high proportion of flats has a distorting effect. When this is removed and houses and bungalows only are considered the spread of terraced (28%), semi-detached (40%) and detached (32%) is broadly similar to the county average.

Warwick differs from the rest of the county in that it has the lowest rate of owner-occupation (67%) and the highest rate of private renting (18%), both figures being higher than the national averages. The amount of social rented housing (13%) is the second lowest in Warwickshire and around 4% below the national average.

In 2015/16 there were around 8,250 rented homes in the District owned by affordable housing providers (i.e. the Council or a housing association) and around 450 further homes owned by affordable housing providers where a share of the property had been sold to the resident (known as "shared ownership").

At any point in time the number of affordable homes empty and available for rent is much smaller than is the case in either the "for sale" or the private rented market. In the whole of the last full financial year for which data is available (2014/15) there were 667 lettings of affordable homes for rent; the estimated number of student properties was 999. This compares with well over 2,000 homes sold in the same year. Full year lettings data for the private rented sector is not available but the survey mentioned earlier found around 280 properties available at a single point in time.

As at January 2017 there were 4,843 tenants of the council or a housing association who were in receipt of Housing Benefit support towards their rent. This is around 63% of all such tenants in the District, well below the England figure of approximately 83%.

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Of the rented homes 93% were in the towns and 7% were in rural areas. The overwhelming majority of the properties were let at a social rent with a little over 200 being on the new (more expensive) affordable rent tenure.

There are estimated to be around 42,500 homes in the owner-occupied sector in the district (67%) and the “for sale” market is very strong, characterised by high and rising prices for all property types. Data from Hometrack showed that the average price for a home in the district was £338,600 compared to a regional average of £205,200. Prices had risen by 12.3% over the 12 months to November 2015, properties were taking just 2.3 weeks to sell and the selling prices obtained were 99.3% of the asking price. The ratio of house prices to average earnings in the District was 9:1.

Extra Care Housing (ECH) is now available in all five Boroughs and Districts, with 9 schemes for those aged 55+ now in operation across Warwickshire, yielding a total of 631 units of which 442 are rental units. In January 2017 a scheme was delivered in Leamington Spa; providing 15 one bedroom flats for individuals with a Learning Disability. Further schemes are planned for delivery in 2017/18.

The overall objective of developing ECH in Warwickshire is to modernise housing with care and support services by offering older people a very real alternative to a residential care home – a ‘home for life’ – as well as responding to current demographic pressures and changes. (*Extra Care Housing in Warwickshire*, October 2016, Warwickshire County Council)

## The policy framework

### The national housing policy agenda

Since the last Housing Strategy was developed there have been substantial revisions due to new legislation in housing and related policy areas. This body of law sets the national policy framework within which local policies and strategies must operate.

The Housing and Planning Act 2016 is a major piece of legislation for the housing sector and for this Strategy as it sets the future direction for government housing policy. It contains wide-ranging changes in all housing tenures; however much of the detail is left to regulations which have not been published at the time of writing.

On owner occupation it introduces the “starter home” which is a new home available to first time buyers at a discount of at least 20% of the market value and a price (after discount) of less than £250,000 outside Greater London, with the buyer having to be between 23-39. Councils are put under a duty to promote the supply of starter homes through the planning system and will only be able to grant planning permission on most housing sites where a specified proportion of starter homes has been included.

In the Autumn statement 2015 the then Chancellor announced that Housing Benefit for council and housing association rents (both social and affordable) will be capped at the same level as applies to the private rented sector for the area, known as the Local Housing Allowance rate. In Warwick District this is £106 per week. It also includes restricting Housing Benefit for single people younger than 35 to the rate for a shared room rather than a self-contained flat.

In December 2015 the government consulted on a number of changes to the NPPF with proposals to broaden the definition of affordable housing for planning purposes so that it

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encompasses a wider range of low cost housing opportunities for those aspiring to own their own home, including “starter homes”.

Other proposals included: increasing the density of development around commuter hubs; supporting sustainable new settlements; development on brownfield land and small sites; delivery of housing allocated in plans, and supporting delivery of starter homes. Final decisions are still awaited.

Phillip Hammond (current Chancellor of the Exchequer) announced in the Autumn 2016 statement – “A £2.3bn housing infrastructure fund to help provide 100,000 new homes in high-demand areas with £1.4bn to deliver 40,000 extra affordable homes.”

"I can also announce a large-scale regional pilot of Right to Buy for Housing Association tenants - and continued support for homeownership through the Help to Buy: Equity Loan scheme and the Help to Buy ISA."

The Chancellor also announced a ban on upfront fees charged by letting agents in England, to be introduced "as soon as possible."

As this Strategy was being finalised, the Housing Minister launched a new Housing White Paper, entitled “Fixing our broken housing market”. Given the early stages of the consultation on the White Paper, our Strategy does not directly reflect any changes proposed by the Government. Any impact and effect will be included in the annual review of the progress of the Strategy.

### Our vision

Our vision for Warwick District, as set out in the Sustainable Community Strategy, is “to make Warwick District a great place to *live, work* and *visit*”.

The Sustainable Community Strategy is a long term strategy; set out in 2010 and refreshed in 2013, it continues to lie at the heart of our plans to improve the overall quality of life in the District.

The following are our key strategic priorities:

**Supporting prosperity:** seeking to support the District’s economic prosperity by promoting opportunities for businesses to grow and relocate; supporting employment, vibrant town centres and a strong cultural and tourism offer.

**Providing homes:** Supporting housing providers in delivering the housing needed in response to the District’s changing and growing population in accordance with the Local Plan; ensuring the delivery of high quality and affordable housing that meets the needs of everyone, including those with specialist housing needs.

**Supporting sustainable communities:** (including health and wellbeing and community safety): to work in partnership to reduce violent crime; providing spaces and services to enable healthy and safe lifestyles. Promoting the regeneration and enhancement of existing communities and environments; ensuring the protection of the natural and built environment; minimising our use of natural resources and CO2 emissions and improve water efficiency of our buildings and operations.

### Objective 1

**Promoting the provision of suitable accommodation, information and advice for the homeless in an effort to prevent and reduce homelessness**

**Achieving this outcome, will contribute to ensuring Warwick District is a great place to live, work and visit by:**



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Effectively working in partnership to develop a coordinated approach; supporting all sections of the community by signposting support, including alcohol addiction and mental health resources

Improving access to accommodation which helps prevent and reduce the risk of homelessness

Enabling the housing and support needs of vulnerable people to be met

Ensuring and promoting accessible and effective advice and support services are available for homelessness and housing

### **Why is this important?**

As a District, it is important we strive to meet the needs of all sections of our community and ensure we promote a balanced and sustainable approach.

The vast majority of people are able to locate and maintain their own home; however there are still a significant number of people who require some form of help or support to access suitable accommodation.

As a local authority we recognise the detrimental effects that homelessness can have on an individual's life; it can affect their health and well-being, their ability to find and maintain employment, to access learning and to maintain vital relationships. Given the adverse effects of homelessness, not only on the individual but their wider community, it is essential that services are provided to prevent homelessness wherever possible.

### **The key responses we received from our consultation, which give an insight into the perception of residents of the state of the local market, are as follows:**

Leamington Spa residents are very upset by the number of homeless people sleeping in the town centre and hope that Warwick District Council achieve some very quick results in reducing this, in liaison with the police, local voluntary bodies and other relevant parties.

A further priority should be to extend the legal duty to house the homeless to all homeless including single people.

The high visibility of homeless people/rough sleepers is causing great concern, both to the retail sector and to residents. There is a need to provide somewhere for people to sleep, and associate, and have access to WC and showering facilities, which is not in residential areas and activate the objectives in your 2nd year strategy on homelessness.

Long term and effective solutions to homelessness needs to be prioritised. ANY homeless person should be able to find the resources and services to help them get them moved off the streets and the relevant support to remain in safe accommodation.

It needs a combined approach with all agencies to offer a one stop help and advice service. A review of types of accommodation available with both WCC and WDC working together to maximise resources and assets. A coordinated delivery of emergency help with the night shelter and other voluntary providers.

To provide support to not just the people who are deemed most vulnerable. To implement meaningful policies including finding accommodation for homelessness people after one night below freezing, not three.

**For a full list of consultation responses, please see our supporting documents.**



### What have we achieved so far?

Drop in surgeries have been introduced at the *Salvation Army*  
Links have been established with the emerging homeless in ethnic minorities, via the local Sikh temple and the Sydni Centre

Front line staff are now attending visits to our partner agencies as part of their induction

Partnership meetings have been set up involving Police, Way Ahead, Helping Hands, Housing, Health and Community Protection and the Night Shelter

We secured funding via central government and have introduced online housing applications from 2016/17

WDC staff took part in a "Sleep Out" which supported Helping Hands to raise vital funds for their work with homeless and vulnerable adults in the District. The main theme of the event was to raise awareness of the fact that 1 in 10 rough sleepers across the country are ex-forces, which is why the event took place on Friday 11th November on Armistice Day

We secured Warwickshire Together Homelessness Early Intervention Project funding to develop a countywide system ensuring early identification of residents at risk of homelessness and the tailoring of support services to address the issues which could result in the resident becoming homeless



### **Objective 1: Action Plan**

#### **1.1 Implementing the extension of our legal duties to the homeless, including single people under the Homelessness Reduction Bill.**

**Resources / Funding:** Housing and Allocation time commitment / Existing budget within General Fund with the possibility of Central Government funding for the extension of duties within the bill

**Manager:** Housing Advice and Allocations Manager - Elaine Wallace

#### **1.2 Developing a Mental Health Protocol for homeless people.**

**Resources / Funding:** Existing staff / General Fund

**Manager:** Housing Advice and Allocations Manager – Elaine Wallace

#### **1.3 A coordinated delivery of emergency help with the night shelter and other voluntary providers.**

**Resources / Funding:** Housing Advice and Allocations staff time, as and when required / General Fund

**Manager:** Housing Advice and Allocations Manager – Elaine Wallace

#### **1.4 Improving the provision of adequate transitional accommodation for the homeless in general and the vulnerable in particular.**

**Resources / Funding:** Housing Advice and Allocations staff time commitment / General Fund

**Manager:** Housing Advice and Allocations Manager – Elaine Wallace

#### **1.5 Participate in the “Warwickshire Together Homelessness Early Intervention Project” to develop a countywide system ensuring early identification of residents at risk of**

**homelessness and tailored support services to address the issues which could result in the resident becoming homeless.**

**Resources / Funding:** Staff time commitment / Warwickshire Together Homelessness Early Intervention Project Funding

**Manager:** Housing Strategy and Development Manager – Ken Bruno

**1.6 We will continue to work collaboratively with other districts and agencies to explore and pursue bids for Government funding for initiatives on homelessness.**

**Resources / Funding:** Staff time commitment / Existing budgets

**Manager:** Housing Strategy and Development Manager – Ken Bruno

**1.7 Ensure good advice on housing options is available by the provision of staff that are well trained, supported by good publicity materials.**

**Resources / Funding:** Homelessness and Housing Advice Officer/ Assistant time commitment / Existing budgets

**Manager:** Housing Advice and Allocations Manager – Elaine Wallace

**1.8 Review and improve our system for tackling rough sleeping.**

**Resources / Funding:** Existing budget and staff commitment

**Manager:** Housing and Allocations Manager – Elaine Wallace

**1.9 To improve financial difficulty prevention work between WDC Income Team and the Housing Advice team to reduce the number of evictions and prevent homelessness.**

**Resources / Funding:** Existing resources / General Fund

**Manager:** Housing Advice and Allocations Manager – Elaine Wallace

## **Objective 2**

**Helping delivery of meeting the need for housing across the District by addressing the need for new home provision**

**Achieving this outcome, will ensure WDC is a great place to live, work and visit by:**

Promoting a range of new housing opportunities which meet the affordable housing needs of our District

Supporting the sustainability and improvement of our local communities

Managing the continued economic and population expansion of the District

### **Why is this important?**

As a local authority we recognise that; “unaffordable housing affects household budgets, health and education and the ability to gain and sustain employment. A balanced approach to developing housing that will maximise productivity, mobility and choice involves giving attention to the contributions of both new and existing housing. Investment to upgrade unhealthy older housing will generate substantial and continuing savings in the cost of health care and contribute to better education and employment outcomes. Policy action to improve older housing will generate savings in expenditure elsewhere and contribute to wider policy effectiveness. “(The Academic-Practitioner Partnership: Good Housing: Better Health, July, 2016)

**The key responses we received from our consultation, which give an insight into the perception of residents of the state of the local market, are as follows:**

We are not building enough affordable housing and 40% should be the bare minimum for developers, not less.

Build more social housing, encourage developers to ensure they have meaningful affordable housing.

A good (student) Housing Strategy should have greater community cohesion at the heart of its objectives; otherwise there is little point in having such a Strategy.

Not enough social housing, and too many unregulated private stock and poorly managed properties.

**For a full list of consultation responses, please see our supporting documents.**







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## What have we achieved so far?

We have continued to build on our working relationship with the University of Warwick; in relation to student housing in the District we have attended a Student Housing Day at the University and have worked with the Students' Union housing advisor on specific cases. We have also completed joint work with the University's lettings company to try and tackle refuse problems and Houses of Multiple Occupancy (HMO) issues

Work through W2 continues and has achieved 161 new homes with a further 230 affordable homes in the pipeline

We incorporated the Joint Strategic Housing Market Assessment (JSHMA) findings into our requirements for new affordable housing schemes from 1<sup>st</sup> April 2014 and an update to the JSHMA was completed in September 2015

We have expanded our partner housing agencies to include Fortis Living, who joined the partnership on the 1<sup>st</sup> April 2015

We have assessed available data from our council tax regarding empty homes and decided that the number of properties involved did not warrant developing a revised Strategy

The new allocations policy went live in June 2016 and now gives tenants greater priority for vacancies and introduces local connection policies

We have delivered Sayer Court, a flagship development of new council apartments for the over 55s situated on Tachbrook Road. Included in the development are five purpose built bungalows, specifically designed to meet the needs of someone living with a disability or mobility issue. These high quality properties, a range of 1 and 2 bed apartments, together with 2 and 3 bed bungalows were available to rent from Autumn 2016

## Objective 2: Action Plan

### **2.1 Ensuring that housing schemes of more than 10 dwellings include an appropriate proportion of affordable housing and a sustainable mix of property types and sizes.**

**Resources / Funding:** Housing Strategy and Development Officer time commitment, as and when required / General Fund

**Manager:** Housing Strategy and Development Officer – Charlotte Rowan-Lancaster

**2.2 Reviewing the W2 Partnership during 2017.**

**Resources / Funding:** Staff time within the parameters laid down by the Joint Venture and subject to ongoing monitoring by the Project Board / General Fund

**Manager:** Head of Housing and Property Services

**2.3 Once all government proposals around housing tenure have been confirmed considering whether we have a sufficiently wide range of options as regards social landlords to meet the identified needs of the District.**

**Resources / Funding:** Existing resources / General Fund

**Manager:** Housing Strategy and Development Officer – Charlotte Rowan-Lancaster

**2.4 Once all government proposals around housing tenure have been confirmed, review and update our housing market assessment.**

**Resources / Funding:** Existing budgets / General Fund

**Manager:** Housing Strategy and Development Officer - Charlotte Rowan-Lancaster / Policy and Projects Manager - Dave Barber

**2.5 Investigate the financial capacity of the Housing Revenue Account to support a programme of new council house ownership and/or building with or without the creation of a housing company, subject to the impact of the High Value Voids levy.**

**Resources / Funding:** Existing resources – Housing Revenue Account

**Manager:** Head of Housing and Property Services

**2.6 Assessing council-owned land for potential housing developments.**

**Resources / Funding:** Housing Revenue Account - Existing budgets

**Manager:** Housing Strategy and Development Officer – Charlotte Rowan-Lancaster

**2.7 Commissioning rural housing needs surveys at parish level to inform proposals for rural developments.**

**Resources / Funding:** Rural community contract via existing budgets / General Fund

**Manager:** Housing Strategy and Development Officer – Charlotte Rowan-Lancaster

**2.8 Monitoring the impact of welfare reforms on housing demand and adjusting requirements if necessary.**

**Resources / Funding:** Existing budgets from General Fund

**Manager:** Housing Strategy and Development Officer – Charlotte Rowan-Lancaster

**2.9 Continue to work with Warwickshire County Council to look at bringing forward an Extra Care housing scheme for Kenilworth.**

**Resources / Funding:** Existing budgets from General Fund / Capital Programme

**Manager:** Housing Strategy and Development Officer - Charlotte Rowan-Lancaster

**2.10 Begin strategic discussions with Coventry City Council, around housing allocations, in light of local plan land allocations, to address unmet need from the City.**

**Resources / Funding:** Existing resources – General Fund

**Manager:** Housing Strategy and Development Manager / Policy and Projects Manager

**2.11 Establish a housing market sounding board; meeting regularly with local developers to monitor the market condition.**

**Resources / Funding:** Housing Strategy and Development Officer time /General Fund

**Manager:** Housing Strategy and Development Manager - Ken Bruno

**Objective 3: Improving the management and maintenance of existing housing**

**Achieving this outcome, will ensure WDC is a great place to live, work and visit by:**

Making best use of existing stock  
Improving overall health and wellbeing

**Why is this important?**

As a local authority we recognise that; “while in most cases it is reasonable to expect the owners of existing housing to maintain and improve properties, it is evident that some do not do so and this generates persistent and costly hazards. There is a need to identify where policy interventions are necessary to encourage and enable owners to carry out work to mitigate hazards and to protect the residents of these properties.” (The Academic-Practitioner Partnership: Good Housing: Better Health, July, 2016)

**The key responses we received from our consultation state:**

Spot checks by councillors of cheap rented accommodation, private or otherwise?  
A list of approved landlords?  
Provide services that enable people to sustain their homes.  
Provide debt management services, on a one to one basis.

**What have we achieved so far?**

Following the completion of the new stock condition survey the results are being analysed to enable the new Asset Management Strategy to be prepared during 2017  
We have reviewed our management of leaseholder properties  
We have set up the Warwick District Landlord’s Blog, publishing a newsletter for private landlords, with a website containing relevant information to disseminate good practice through the Landlord Steering Group and Forum  
We have had several meetings since November 2015 with Community Protection, Neighbourhood Services and Warwick Accommodation regarding student refuse and HMO issues  
We have set up the Task & Finish Group to investigate the issues around HMOs and to formulate proposals for dealing with them.  
We have prosecuted landlords who fall below acceptable safety standards

**Objective 3: Action Plan**



**3.1 Further develop the council's approach to regulating private sector Houses in Multiple Occupation (HMO's) in light of consideration by the Executive of the findings of the Task and Finish Group, currently investigating this subject.**

**Resources / Funding:** Existing staffing / General Fund

**Manager:** Private Sector Housing Manager - Mark Lingard

**3.2 If and when they are confirmed, review how to implement the Government's proposals on extending licensing of HMO's.**

**Resources / Funding:** Existing resources potentially supplemented by fee income

**Manager:** Private Sector Housing Manager – Mark Lingard

**3.3 We will continue to engage with the University of Warwick and residents on the issues surrounding student accommodation from a housing and planning perspective and consider the development of a Student Housing Strategy.**

**Resources / Funding:** Existing staffing and budgets

**Manager:** To be confirmed

**3.4 Reviewing the working of the new allocations policy in June 2017.**

**Resources:** Existing resources

**Manager:** Housing and Allocations Manager – Elaine Wallace

**3.5 Implement fixed term tenancies for council tenants, in line with Government legislation.**

**Resources / Funding:** Existing budgets / Housing Revenue Account

**Manager:** Sustaining Tenancies Manager - Simon Brooke

**3.6 Commission a new private sector stock condition survey to provide updated intelligence on the state of private housing in the District.**

**Resources / Funding:** Existing resources / General Fund

**Manager:** Private Sector Housing Manager – Mark Lingard

**3.7 Continue to work towards the regeneration of the Lillington area.**

**Resources / Funding:** to be identified through project planning process

**Manager:** Business Manager – Projects – Philip Clarke

**3.8 Looking at how to creatively manage our housing assets by developing a new Asset Management Strategy.**

**Resources / Funding:** Existing budgets / Housing Revenue Account

**Manager:** Asset Manager - Russell Marsden

**3.9 To plan to get into the top half with a stretch objective of top quartile of all Local Authorities (LAs) in our Key Performance Indicators (KPIs) for empty property management, repairs satisfaction, and income management.**

**Resources / Funding:** Existing budgets / Housing Revenue Account

**Manager:** Housing and Property Management Team

**3.10 To report on the possibilities for separating service costs and rents and the implementation of service charges.**

**Resources / Funding:** Existing resources / Housing Revenue Account

**Manager:** Sustaining Tenancies Manager - Simon Brooke

**3.11 Reviewing the approach to the management of council tenancies for people leaving and entering prison, building links with relevant persons within the criminal justice and prison systems.**

**Resources / Funding:** Existing budget / Housing Revenue Account

**Manager:** Sustaining Tenancies Manager - Simon Brooke

## Objective 4

### Support people to sustain, manage and maintain their housing

**Achieving this outcome, will ensure WDC is a great place to live, work and visit by:**

Supporting all sections of the community, including homeless people and those with specific needs, to quickly and effectively resolve housing issues

Helping improve living conditions for residents of the District

Integrating housing into the local community to ensure a co-ordinated approach to tackle wider community issues

Improving the aesthetic appeal of the built environment

### Why is this important?

We recognise that; “effective coordination between housing and other services (e.g. Citizens Advice Bureaux, local colleges, council housing services and social services) can be critical.” (Housing providers and youth poverty, CCHPR, November 2016)



### The key responses we received from our consultation state:

Provide early referrals to relevant agencies for both young people and parents.

Provide accessible and relevant information through education institutions to pupils and parents. Educate all agencies to recognise signs of family friction and

rebellion. Include links to services on WCC website for agencies such as family services and mediation and community support.

I do not think it is fair that people are allowed to run up rent arrears; at the end of the day we all have to pay our way. If people fall on bad times and need help that is fine but at some point they should pay something back to the council.

**For a full list of consultation responses, please see our supporting documents.**

## What have we achieved so far?

We are working with Breathing Space to offer financial debt advice to all residents of the District regardless of tenure

A joint approach has been adopted with Warwickshire County Council (WCC) to address the needs of individuals with housing related support needs. WCC are now procuring providers for services it has identified as being a continued priority

A task and finish group has been set up to explore the issues surrounding HMOs

We are working with WCC to examine the setting up of a viable Credit Union in the District and we are working to develop our partnership with Citizens Advice Bureau (CA)

Provision of grants is available in special circumstances, to assist tenants to complete essential repairs or rectify dangerous conditions

We have a service level agreement with Act on Energy to give free energy-saving advice to local householders and training for staff

We are now part of a county-wide partnership funded through Public Health Warwickshire called "Warm and Well in Warwickshire"

Since Summer 2015 we are completing annual customer visits to gain a better understanding of the support needs of our tenants

We have adopted a corporate policy on enforcement across all relevant enforcement services from October 2014

We are continuing with our pilot scheme for remodelling Home Improvement Agency services across southern Warwickshire, due to be completed in March 2017

### Objective 4: Action Plan

**4.1 To investigate the potential to introduce/attract a sustainable credit union into the District.**

**Resources / Funding:** Existing resources / General Fund / Housing Revenue Account

**Manager:** Income Recovery and Financial Inclusion Manager - John Gallagher

**4.2 Introduce the Rental Exchange (RE) into Warwick District to improve the credit ratings of our tenants and their ability to access cheaper rates of interest in respect of goods and services.**

**Resources / Funding:** ICT / Existing budgets

**Manager:** Income Recovery and Financial Inclusion Manager - John Gallagher

**4.3 Implementing, monitoring and evaluating the new Home Environment Assessment & Response Team (HEART) which delivers aids, adaptations and Disabled Facilities Grants through a single delivery vehicle serving the whole of Warwickshire.**

**Resources / Funding:** Existing capital and revenue resources / General Fund / Housing Revenue Account / Disabled Facilities Grant

**Manager:** Private Sector Housing Manager - Mark Lingard

**4.4 Encourage and develop Money Advice services across the District, including our own, online services, CA and Brunswick Hub.**

**Resources / Funding:** Existing resources

**Manager:** Income Recovery and Financial Inclusion Manager - John Gallagher / Brunswick Hub – Sue Howarth

**4.5 Monitor government proposals for the funding of housing-related support services and work with other relevant agencies to implement the resulting legislation.**

**Resources / Funding:** Existing resources unless government provides resources for implementation

**Manager:** To be confirmed

**4.6 To complete a review of support to residents in WDC supported housing following the withdrawal of Supporting People funding, to maximise the use of any remaining Housing Related Support funding from WCC and make changes to staffing affecting our supported housing and our Lifeline services.**

**Resources / Funding:** Existing budgets / Housing Revenue Account

**Manager:** Sustaining Tenancies Manager - Simon Brooke

**4.7 To improve awareness of WDC Lifeline services in both the public and private sectors and their value to vulnerable people.**

**Resources / Funding:** Existing resources / Housing Revenue Account

**Manager:** Sustaining Tenancies Manager - Simon Brooke

**4.8 To work with DWP and voluntary agencies to ensure residents are aware of Welfare Reform changes, especially the introduction of Universal Credit and minimise the impact on the sustainability of tenancies.**

**Resources / Funding:** Existing budgets / Housing Revenue Account

**Manager:** Sustaining Tenancies Manager - Simon Brooke

**4.9 To develop regular meetings regarding financial inclusion in partnership with other agencies across the District.**

**Resources / Funding:** Existing resources

**Manager:** Income Recovery and Financial Inclusion Manager - John Gallagher

**4.10 To improve support to existing tenants by identifying those at risk of not sustaining their tenancies and having action plans and support provided to ensure tenancies do not fail.**

**Resources / Funding:** Existing budgets / Housing Revenue Account

**Manager:** Sustaining Tenancies Manager - Simon Brooke

**4.11 To ensure that we have a clear set of policies and procedures affecting the management of our housing stock.**

**Resources / Funding:** Existing resources

**Manager:** Housing Property and Management Team

**4.12 To ensure our estates are safe with effective liaison with the Police and other agencies and effective action taken on any reports of anti-social behaviour.**

**Resources / Funding:** Existing resources

**Manager:** Sustaining Tenancies Manager - Simon Brooke

**4.13 To review the cleaning of our blocks to ensure all are adequately cleaned.**

**Resources / Funding:** Existing budgets / Housing Revenue Account

**Manager:** Sustaining Tenancies Manager - Simon Brooke

**4.14 Take forward any housing related actions arising from the results of the Warwick District armed forces survey.**

**Resources / Funding:** Existing resources / General Fund

**Manager:** Housing Advice and Allocations Manager - Elaine Wallace

## The strategic process

Taking into consideration the strategic context within which we are operating we decided to develop a single overall strategy which offered a longer-term solution.

We publicised and circulated the previous key priorities from both the Homelessness and Housing Strategy to various stakeholders for comment:

- Parish, town, District and county councillors;
- Warwick District Council housing staff and tenants' representatives;
- The Housing Sounding Board (which includes a range of voluntary sector organisations);
- Warwickshire County Council's Public Health, Supporting People and Social Care teams;
- Local housing associations' development and management staff;
- Warwickshire Rural Community Council;
- Neighbourhood forums;
- Neighbouring local authorities;
- Landlord Steering Group; and
- The Local Enterprise Partnership.

In addition to this an article was placed on our website inviting views from all staff; a press release was issued inviting views from the public and an alert was placed on Twitter.

We met with the Housing Sounding Board to gather feedback from a range of voluntary sectors and stakeholders.

A wide range of background information was gathered to complement the views collated via consultation, and this document was published on our website for public review.

The online survey on our website ran for 12 weeks, so as to gather further responses.

There were a large number of responses from both our survey and consultations; these comments were analysed to identify key themes and issues and which helped develop our strategic objectives.

## Agenda Item 2

In January 2017 the draft Strategy was presented at the Health and Wellbeing Scrutiny Panel and at the Housing Advisory Group. Further work was then carried out to draw up the detailed action plan in this document.

Approval for this Strategy will be sought from the Executive and the Council in March 2017 with the action plan to be reviewed on an annual basis (2017-2020) to ensure it meets its given objectives, reflects any significant changes and to ensure its priorities remain relevant.

### Background references and further reading:

- *Local Plan* – Warwick District Council, April 2014; as amended in 2017
- House of Commons Library Briefing Paper: Number 6080, 8<sup>th</sup> August 2016 *“Paying for Supported Housing”* by Wendy Wilson
- House of Commons Library Briefing Paper: Number 05638, 8<sup>th</sup> August 2016 *“Housing benefits and measures announced since 2010”* by Wendy Wilson, Cassie Barton and Richard Keen
- House of Commons Library Briefing Paper: Number 06416, 15<sup>th</sup> June 2016 *“Stimulating Housing Supply – Government Initiatives”* (England) by Wendy Wilson
- The Academic – Practitioner Partnership, July 2016 *“Good Housing: Better Health”*
- House of Commons, Third Report of Session 2016-17 *“Homelessness”*
- Warwickshire County Council - *“Extra Care Housing in Warwickshire”* October 2016
- Warwick District Council *“Housing and Homelessness Strategy 2017-2020 Evidence Base”*
- *“Social Housing Written Statement”* – HLWS274 – Lord Bourne of Aberystwyth, 21<sup>st</sup> November 2016
- *“Desperate to Escape: the experience of homeless families in emergency accommodation”*, Shelter, November 2016
- The role of housing and housing providers in tackling poverty experienced by young people in the UK: Summary and Conclusions; Cambridge Centre for Housing and Planning Research, November 2016
- *“The Homelessness Reduction Private Members Bill”*, Department of Communities and Local Government, 24<sup>th</sup> October 2016
- *“New measures to tackle overcrowded housing”* Department for Communities and Local Government, 18<sup>th</sup> October 2016
- Shared ownership: *Ugly sister or Cinderella?* By Anna Clarke, Andrew Heywood and Peter Williams, October 2016
- *Autumn Statement*, 23<sup>rd</sup> November, 2016

**Warwick District Council**

# **Domestic Violence and Abuse Policy**

**v.4 2017**



## 1. OBJECTIVES

The Council sets out the following objectives in its response to Domestic Violence and Abuse:

- To understand and recognise the scale of incidents of domestic violence and abuse when determining actions in response to these issues.
- To support prevention efforts to reduce the number of incidents and the impact on victims.
- To ensure that the Council plays its part, by working in partnership with other agencies, in providing those affected by domestic violence and abuse with effective support and remedies to stop further abuse.
- To ensure that services relating to domestic violence and abuse are publicised and staff are trained to advise victims of the services that are available.

## 2. DEFINITION

The Government has defined domestic violence and abuse as any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members, regardless of gender or sexuality. The abuse can include, but is not limited to:

- Psychological;
- Physical;
- Sexual;
- Financial;
- Emotional.

Controlling behaviour is a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.

Coercive behaviour is an act/pattern of acts of assault, threats, humiliation and intimidation or other abuse used to harm, punish or frighten. This also includes so called honour based violence and forced marriage.

Domestic violence and abuse affects men and women regardless of age; race; gender; sexuality or wealth. It is a crime. Victims are understood to be vulnerable and scared, often with low self-esteem. A person suffering abuse needs a supportive environment where they can make informed decisions to secure their safety. Over half of incidents of domestic violence and abuse are not reported to the Police.

## 3. POLICY STANDARDS

### 3.1 Our approach

- Domestic violence and abuse is totally unacceptable and we will promote values that recognise that everyone has the right to live free from violence and abuse in any form.



## Agenda Item 2

- We will ensure we meet our statutory responsibilities in dealing with domestic violence and abuse. This includes responsibilities to investigate homelessness due to incidents of domestic violence and abuse and provide accommodation where we find a duty under the Housing Act. This also includes our duty to prevent crime and disorder.
- We will take a victim centred approach to those experiencing domestic violence and abuse. We will therefore take reports of abuse seriously, supporting victims reporting domestic violence and abuse.
- Where we are the landlord as the Housing Authority, we will take firm action against the perpetrators liaising with the victim and the Police where appropriate.
- We will provide an empathetic service and, where victims feel able to, provide time to talk in a safe and confidential setting.
- We will ensure our staff dealing with customer queries and reports of domestic violence and abuse are trained in our policy and procedures. Staff will deal with victims in a sympathetic manner and be knowledgeable about the legal framework, local support agencies and remedies and actions that can be taken.
- We are committed to working with partner agencies working within our district area to reduce incidents of domestic violence and abuse; to ensure the best outcomes for victims and to ensure effective action against perpetrators.

### 3.2 Support for victims

We will take a victim centred approach to those experiencing domestic violence and abuse. This means that we will take time to listen to those affected, we will take reports of violence and abuse seriously and we will consider the victim's needs and input in discussing any actions we can take or advice we can give.

We will prioritise the safety of the victim and any children involved. Where the safety of children or vulnerable adults is of concern, Warwick District Council will act in accordance with Warwickshire County Council's safeguarding arrangements including referring cases to Social Services and or the Police.

We will support victims to remain in their own home so that they are not forced to flee without support. In cases where it is not safe or appropriate for them to remain in their home we will provide support and assistance for rehousing opportunities.

We will accommodate victim's wishes where the victim would prefer to speak to an officer of the same gender, wherever possible, recognising the sensitivity of the matter.

We will advise victims on the range of actions that are available, so that they can have all information available at their disposal and contribute their views as to what might be a suitable course of action in their circumstances. This will include information on:

- Police powers and possible criminal actions
- Non molestation orders (injunctions secured in the Family Courts)

- Occupation Orders (a court order to exclude the perpetrator and allow the victim to return home)
- Tenancy transfer orders
- Rehousing options including Homelessness duties
- Sanctuary schemes (measures to improve security in the home)
- Support and further advice on specialist services
- Referral to Warwickshire's Multi Agency Safeguarding Hub or Multi Agency Risk Assessment Conference

### 3.3 Assessment

We will ensure that we give victims time to recount their circumstances. We recognise that reports by victims of domestic violence and abuse may not reveal the full facts and details and the abuse. Our staff will be mindful of the potential dangers that those reporting abuse will face when dealing with them. We will advise them of the confidentiality of the information they are providing.

We will use agreed assessment tools to ensure that we have established the case in detail. We will assess the risks victims are exposed to, so that we can assess any actions to be taken.

We will ensure that staff will be available to deal with any reports of domestic abuse/violence as an emergency the same day in most cases and if staff are not available, within 24 hours. We have emergency arrangements 24 hours every day where we can receive reports of homelessness and deal with those in accordance with the urgency of the situation.

### 3.4 Dealing with the perpetrators

We will examine all avenues to stop domestic violence and abuse occurring. This will include the use of injunctions, enforcement of tenancy conditions, liaison with the Police and other agencies where criminal proceedings are being considered and pursued.

We will send clear messages to the perpetrators that they will be accountable for their actions and that the victims are never to blame.

We will inform perpetrators of advice and support they can access to address their offending behaviours.

### 3.5 Working with partners

We recognise that a range of agencies are working to reduce incidents of domestic violence and abuse. We are committed to working closely with these agencies to ensure a joined up approach and to maximise our impact.

We have joined together with other agencies in the Multi Agency Risk Assessment Conference (MARAC) to report and discuss cases that have come to our attention in our capacity as a District Council to ensure each case is effectively managed and that there is a clear framework and understanding as to each agency's agreed

actions to safeguard victims of domestic violence and abuse, in accordance with their powers and duties.

We will signpost victims to other agencies or to information that is available so that victims of domestic violence and abuse are aware and informed of support and services at their disposal. Where required, we will use our best endeavours to assist victims in accessing support, services and information from other agencies.

The Council supports the South Warwickshire Community Safety Partnership. This includes assisting in its statutory duties to carry out Domestic Homicide Reviews, providing information and detail where available and undertaking to learn and accord with recommendations, applicable to us, that may arise from the completion of the Domestic Homicide Review. We endeavour to do so in a timely fashion in accordance with recommended timeframes for completion.

We support a joined up approach towards addressing domestic violence and abuse across Warwickshire and in particular, act in accordance to “Warwickshire’s Violence Against Women and Girls Strategy”.

### 3.6 Publicity

This policy and general advice information will be published on our web site. Printed copies will be available at public access points in the District.

We will ensure that publicity around domestic abuse/violence is available to residents across Warwick District.

## **4. EQUALITY AND DIVERSITY**

In developing this policy we have undertaken an Equality Assessment.

In operating this policy we are committed to promoting equality and recognising the diversity of our communities and will work to ensure all parts of our community are treated fairly.

## **5. MONITORING AND REVIEW**

This policy will be reviewed every 3 years or earlier if there are significant changes required in the light of best practice and any changes to legislation and Government guidance.

We will monitor incidents of domestic abuse and report on these regularly.

## **6. ASSOCIATED DOCUMENTS**

Housing Act 1985  
Homelessness Act 2002  
Housing Act 1996 Part VII  
Family Law Act 1996  
Protection from Harassment Act 1997

Domestic Violence, Crime & Victims Act 2004  
Serious Crime Act 2015 s76  
Anti-social Behaviour Crime and Policing Act 2014  
Ending Violence Against Women and Girls Strategy 2016/20  
Warwickshire's Violence Against Women and Girls Strategy  
Warwick District Council - Policy on Anti-Social Behaviour  
Warwick District Council - Housing and Homelessness Strategies

**Warwick District Council  
Housing and Property Services**

# **Anti-Social Behaviour Policy**

**v.3 2017**



1. **OBJECTIVES**

The Council acknowledges the importance that our tenants place on the ability to live peacefully in their homes. Anti-social behaviour includes a broad range of disruptive behaviour and can cause misery and distress.

The objectives of this policy are:

- To enable Council tenants and their families to live peacefully in their homes.
- To take all possible steps to prevent and tackle behaviour that causes problems for others in order to create a safer environment.
- To take prompt and effective action to investigate all allegations of anti-social behaviour. To ensure effective action is taken against the perpetrators of anti-social behaviour wherever possible. To establish clear guidelines and procedures for staff.
- To support the victims of anti-social behaviour by listening to their concerns, providing good advice and effective remedies wherever possible.
- To work closely with other agencies, to ensure the most effective actions are taken.

2. **DEFINITION**

This policy covers all forms of anti-social behaviour (ASB) within and in the locality of Council owned homes.

This policy applies to any ASB which affects Warwick District Council's services as a Registered Landlord. This includes ASB which is caused by Warwick District Council Tenants, their households or their visitors and ASB which is capable of affecting Warwick District Council tenants, members of their households or Warwick District Council staff in relation to the fulfilment of their duties.

Warwick District Council acknowledges the definition of ASB which is found in Section 2(1)(c) of the Anti-Social Behaviour, Crime and Policing Act 2014: "conduct capable of causing housing-related nuisance or annoyance to any person", as well as anti-social behaviour directed at our staff and contractors working for us.

The Anti-Social Behaviour, Crime and Policing Act 2014 was introduced to streamline the existing tools and powers available to deal with Anti-Social Behaviour, Home Office guidance states:

Anti-social behaviour is a broad term used to describe the day to day incidents of crime, nuisance and disorder; that makes many people's lives a misery. Consequently, the responsibility for dealing with anti-

social behaviour is shared between a number of agencies particularly the Police, Councils and Social Landlords.

A useful categorisation defines anti-social behaviour (ASB) in three different ways:

- **Personal** behaviour that targets a particular individual or specific group or is aimed at having an impact on a particular individual or incident rather than a community at large.
- **Nuisance** individuals or incidents that cause trouble, annoyance, inconvenient offence or suffering to people in the local community in general rather than targeted at an individual.
- **Environmental** incidents and actions which impact on the surroundings including the natural built and social environments. Anti-social behaviour may or may not amount to a criminal act; what is important is establishing the effect the behaviour has on others.

### **3. POLICY STANDARDS**

#### **3.1 Our approach**

We will look to prevent anti-social behaviour wherever possible. We will therefore ensure that all tenants are aware that we take reports of anti-social behaviour seriously. We will ensure that our policy and procedures are clear and understood.

We will look to work with other agencies as partners to prevent and take action on reports of anti-social behaviour. It is recognised that anti-social behaviour is not just a housing management problem and that a strategic and holistic approach must be adopted. The Council will work in partnership with Police, other responsible authorities and agencies to reduce crime and disorder, anti-social behaviour and the fear of crime in Warwick District.

We have information sharing agreements and measures in place in order to work together with the Police and other partners.

The Council will adopt a victim led approach and ensure that a prompt and sympathetic manner is adopted when dealing with cases of alleged harassment, nuisance and anti-social behaviour. The council will endeavour to provide the victim(s) and or witnesses with the appropriate level of support and guidance to enable them to co-operate fully with any investigation.

All of the remedies used by the Council will be subject to human rights considerations. There will be a balancing exercise between the rights of the victim and the perpetrator as well as the community in general and an assessment of whether the remedy is proportionate to the outcome sought.

We will where possible and appropriate, encourage reporters of anti-social behaviour to approach the perpetrator of nuisance first, before we intervene. We recognise that our intervention can exacerbate low level incidents of anti-social behaviour although we recognise that in some situations our intervention is required at the outset.

Warwick District Council considers that the following are examples of activities do NOT normally constitute ASB that we can take action on:

Day to day activities within the home at reasonable times of the day, such as moving furniture, opening and closing doors, talking, smoking, footfall, babies/children crying

Use of domestic appliances at reasonable times of the day, washing machines, dish washers, boilers, flushing toilets, vacuum cleaners, using gardening equipment.

Legally parked cars, shared access ways being left open/closed, children playing in a garden or public space.

We recognise that many incidents of anti-social behaviour can involve vulnerable people. Some perpetrators and/or victims will have physical and/or mental health conditions or social care needs. We will treat all with respect and work with agencies who can assist in treating underlying problems to resolve matters in the most effective way.

Where the alleged perpetrator is a child the Council will consider any safeguarding issues and where appropriate make a referral to Social Services to ask them to make an assessment.

### **3.2 Witness assistance**

Warwick District Council will seek to maintain the confidentiality of a complainant's identity as far as possible. We will endeavour to support victims and witnesses of ASB. Examples of support include target-hardening measures, assistance throughout a court hearing, regular contact with a named officer and referrals to appropriate agencies.

Warwick District Council will not routinely offer alternative accommodation to a victim of ASB, we will normally try to resolve the matter and moving the victim is usually avoided.

### **3.3 Intervention**

When Warwick District Council initially receives a report of ASB it will log the incident and respond initially to the complainant within 5 working days.

Warwick District Council will give the complainant advice on how to speak to an alleged perpetrator in a constructive manner or will offer to assist with a restorative meeting or mediation process between parties.



This may not always be appropriate if either party is vulnerable or potentially aggressive.

All cases reported to us will be subject to a risk assessment. High risk cases will be reported to a Case Management Meeting involving all agencies including the Police, Social Services, Youth Offending Team, Probation etc. This will look to manage any risks in an appropriate manner.

Warwick District Council will consider the use of other non-legal interventions for example: warning letters, trespass letters, acceptable behaviour contracts, undertakings in conjunction with the police and partner agencies, mediation, providing support and advice to an alleged perpetrator.

Warwick District Council will consider the use of legal powers available to them where required, including injunctions, tenancy demotions, closure orders and possession proceedings (including mandatory possession powers). We will aim to ensure that all decisions made will be fair and proportionate based on the facts available throughout the course of legal proceedings, where these are initiated.

All open cases of anti-social behaviour will be regularly reviewed by our Officers with victims updated at each stage of the case. Before closing a case the parties to the case will be advised and the complainant sent a satisfaction form.

Each month the manager will audit all open cases to review that effective actions have been taken.

### **3.4 Aggravated incidents of harassment**

Harassment can be extremely upsetting for anyone experiencing this behaviour and we will treat any incidents seriously.

Harassment based upon someone's race, religion, disability, sexuality will be considered as aggravated incidents that can cause further distress. We will make clear that any behaviour directed against a person because of their race, religion, disability, sexuality will not be tolerated and we will take immediate steps to support the victim and consider what actions can be taken to stop any harassment.

### **3.5 Working with others**

Warwick District Council are committed to working with our partners to deal with anti-social behaviour. We believe that by working with others we are better able to find to resolve issues that do not just affect one agency.

We have therefore developed relationships with the Police, Social Services, Health services, other social landlords, as well as support and advice agencies.

We work within a number of multi-agency arrangements and are committed to working well within these structures. These include MARAC (multi agency risk assessment conference), monthly anti-social behaviour meetings as well as Case Management Meetings to discuss high risk cases.

### **3.6 Community Trigger**

The Anti-social Behaviour, Crime and Policing Act 2014 introduced the Community Trigger. This is designed to give victims the ability to demand action, starting with a review of the case, where a locally set threshold is met. Warwick District Council will publicise details of this mechanism and work with other agencies where the trigger is met, to ensure agencies work together to find a solution.

### **3.7 Domestic Abuse/ Violence:**

Effective liaison with the multi-agency risk assessment conference ensures that victims are supported in accessing appropriate remedies; measures available to deal with associated anti-social behaviour and prevent impact on the wider community are considered only after consultation with MARAC. (Please see our Domestic Abuse and Violence Policy.)

### **3.8 Publicity**

We will promote our policy and practice widely, promoting good standards of behaviour across our estates.

This Policy and a summary of our procedures will be published on our web site. Printed copies will be available at public access points.

Successful resolution of cases will be publicised and press releases will be made in specific cases of enforcement action, where this is deemed appropriate. The identity of those individuals involved both victims (with their agreement) and perpetrators may be made public by the Council.

### **3.9 Protection of Staff**

The Council keeps a list of potentially violent members of the public. The Council will ensure that the list, designed to make staff aware of known perpetrators of violence, is regularly updated and distributed to appropriate members of staff likely to have contact with members of the public.

All members of staff dealing with anti-social behaviour will receive training for lone working including where lone working is not appropriate and dealing with people in stressful and difficult situations where conflict may arise.

Appropriate legal action will be taken against those individuals who threaten, abuse or harm staff or our contractors. This may include the enforcement of the Council's conditions of tenancy via possession proceedings, the seeking of injunctions to restrain individuals or supporting criminal proceedings where appropriate.

**4. EQUALITY AND DIVERSITY**

We work in accordance with the Equality Act 2010 to assess whether alleged perpetrators are vulnerable so that we can identify the most appropriate support to help them change and modify their behaviour.

**5. MONITORING AND REVIEW**

This Policy will be reviewed every 3 years or earlier if there are significant changes required in the light of best practice and any changes to legislation and Government guidance.

**6. ASSOCIATED DOCUMENTS**

Housing Act 1985  
Housing Act 1996  
Housing Act 2004  
Crime and Disorder Act 1998  
Anti-social Behaviour Act 2003  
Anti-social Behaviour Crime and Policing Act 2014  
Anti-social Behaviour Crime and Policing Act 2014 Statutory guidance for frontline professionals  
Care Act 2014  
Warwick District Council Housing and Homelessness Strategies

### **Proposed Call in procedure for Warwick District Council**

- 1 This call-in procedure can apply to any decision taken by the Executive which is not a recommendation to Council. It will not apply to:
  - a decision which has been defined as urgent under Council Procedure Rule 26;
  - a decision that has previously been called-in or is of the same subject matter of an item that has been called-in within the previous 6 months;
  - any decision relating to a non-Executive function, whether taken by a Committee or an officer under delegated powers; and
  - a decision made by or is the responsibility of the Council.
- 2 Any decision taken by Executive shall be published on the Council's website, normally, within two working days of the decision being made. Notification of the publication of the decision will be sent to all Warwick District Councillors via email.
- 3 The decision will come into force and may then be implemented after 5.00pm on the expiry of the fifth working day after the date of electronic publication of the decision, unless the Monitoring Officer receives a written request as set out in 4 below.
- 4 If, before the expiry of the period referred to in 3 above, the Monitoring Officer receives a written request from at least three non-Executive members of the Council to call-in an Executive decision, setting out the nature of their concern and the reasons for the call-in, then the matter shall be treated as "called-in"
- 5 Any such request must provide a reason for the call-in. This should specify why the decision:
  - is considered to be contrary to the normal requirements for decision-making; or
  - is considered to be contrary to the Council's agreed policy framework and/or budget; and/or
  - what further information needs to be provided by the Executive to explain why the decision was taken.
- 6 If an item is "called-in" the Monitoring Officer will notify all Councillors, the Corporate Management Team and relevant Head of Service(s) that the decision has been called-in.
- 7 Where it is cited that the decision is contrary to the Policy or Budget Framework the Monitoring Officer will consider this under Article 12 and will advise the Overview & Scrutiny Committee in the covering report for when they consider the called in item, that either:
  - (i) the decision complies with Policy & Budgetary Framework; or
  - (ii) the decision does not comply with Policy & Budgetary Framework and therefore should be recommended to Council for consideration.

## Agenda Item 2

- 8 The Overview & Scrutiny Committee will meet to consider a report on the called-in item within 10 working days of the item being called-in. The Committee will decide to either:
  - (i) refer it back to the Executive for reconsideration, setting out in writing the nature of its concern; or
  - (ii) decide to take no action; or
  - (iii) refer the matter to Council for debate.
- 9 The outcome of the Overview and Scrutiny Committee consideration will normally be published electronically within two working days of the meeting and all Councillors will be notified of this.
- 10 If the Overview and Scrutiny Committee decide to take no action, the original decision shall take effect at 5.00pm on the expiry of the fifth working day from the date of publication of the outcome, unless a request has been made as set out at 11 below.
- 11 Any six non-Executive members of the Council may, by written notice to the Monitoring Officer before 5.00pm on the fifth working day after the date of publication of the outcome of the Overview and Scrutiny Committee meeting, require the decision (either refer to Executive or take no further actions) to be referred to a meeting of the Council. The Council will meet to consider the decision no later than 10 working days after the fifth working day following publication of the decision by the Overview & Scrutiny Committee. Any such request for a referral of the decision must set out the nature of the concern and the reasons for the referral.
- 12 Council will meet to consider the called-in item, that has been referred to them, within 10 working days of the item being referred to them. Council can determine:
  - (i) to take no action . (If this is the case the decision can be implemented the next working day); or
  - (ii) refer the matter to the Executive for reconsideration setting out in writing the nature of its concerns; or
  - (ii) make the decision with or without amendment, if the Monitoring Officer has determined that it falls within the Council's power to do so. (If this is the case the decision can be implemented the next working day)
- 13 When the matter is referred back to the Executive the decision will be reconsidered at a meeting of the Executive no later than 10 working days after receipt of the matter was referred to them. The Executive will:
  - (i) Confirm the original decision – it then takes effect on the day after that reconsideration and cannot be called in, or
  - (ii) amend their original decision in anyway – in which case the decision can be subject to a further call in as detailed above.





<b>Title</b>	Fit For the Future Change Programme
<b>For further information about this report please contact</b>	Andrew Jones (01926) 456830 <a href="mailto:Andrew.jones@warwickdc.gov.uk">Andrew.jones@warwickdc.gov.uk</a>
<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>	Executive 2 <sup>nd</sup> June 2016 (Min 6)
<b>Background Papers</b>	See above

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan? (If yes include reference number)</b>	Yes Ref 839
<b>Equality &amp; Sustainability Impact Assessment Undertaken</b>	No
Not applicable.	

<b>Officer/Councillor Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive	19 <sup>th</sup> April 2017	Chris Elliott
CMT	24 <sup>th</sup> April 2017	Chris Elliott, Bill Hunt, Andrew Jones
Section 151 Officer	5 <sup>th</sup> May 2017	Mike Snow
Monitoring Officer	18 <sup>th</sup> April 2017	Author
Portfolio Holder(s)	15 <sup>th</sup> May 2017	Councillors Mobbs & Coker
<b>Consultation &amp; Community Engagement</b>		
<b>Final Decision?</b>	Yes	

## **1 SUMMARY**

- 1.1 The report provides an update of the Council's Fit For the Future Change Programme which has been developed to address the significant reduction in funding from central government, maintain or improve service provision, and support and invest in the Council's staff.

## **2 RECOMMENDATIONS**

- 2.1 That Executive agrees the additions to the Fit For the Future (FFF) Change Programme set out in Table 1.
- 2.2 That Executive notes the latest position of the outstanding initiatives of the previously agreed Change Programme set out in Table 2.
- 2.3 That Executive notes the financial savings from initiative FFF16 (Tender of Leisure Centre management contract) at Table 2 which will see the Council making average ongoing savings of £1,380,000 for the next ten years as against the £800,000 anticipated in the FFF Change Programme.
- 2.4 That Executive notes that a three-year Major Sites Delivery Officer post to support new development in and around Kenilworth will be funded by agreed Section 106 obligations although any shortfalls/delays in this funding will have an impact on the General Fund.
- 2.5 That Executive notes that officers will utilise the existing delegated authority arrangements to draw funding from the Service Transformation Reserve (STR) as and when required to support additional entrepreneurial activities, subject to consultation with the Leader and Finance Portfolio Holder.
- 2.6 That Executive agrees to the release of £24,000 from the Planning Appeal Reserve (PAR) to finance the unbudgeted costs of the Local Plan process.
- 2.7 That Executive notes the letter from the Council's Section 151 (S151) Officer to the Department for Local Communities & Government's (DCLG) Director of Planning at Appendix 1 accepting the proposed 20% increase in planning application fees and agrees to increase the Council's income by £165,000 with a commensurate increase in expenditure and that consequent budget apportionments are determined by the S151 Officer in consultation with the Council's Senior Management Team.
- 2.8 That Executive agrees to release £10,000 from the Council's Contingency Budget to support the Business Festival sponsored by Coventry and Warwickshire Local Enterprise Partnership (LEP).
- 2.9 That Executive notes the updated savings profile as shown in paragraph 5.4 which incorporates the new FFF projects and the table in paragraph 5.9 which shows the Council's financial position should the various current initiatives, detailed in this report, not be achieved.
- 2.10 That Executive notes the expenditure that is not funded as part of the Medium Term Financial Strategy (MTFS), and how additional funding will be required to meet these future liabilities so as to ensure future service provision (paragraph 5.10).



### 3 REASONS FOR THE RECOMMENDATIONS

#### 3.1 Recommendation 2.1

3.1.1 In order to deal with the significant changes anticipated for local government, the Council agreed a FFF Change Programme in 2010 covering three interrelated strands:

- Service
- People
- Money

3.1.2 The *Money* element of the programme is to produce initiatives that would either save money or increase income whilst at the same time not impacting upon the quality or breadth of services provided by the Council. This strand has delivered significant savings/ increased income since 2010 (in the region of £10m) but as the amount of grant from central government continues to reduce there is an ongoing requirement to produce further initiatives. Following consultation with respective Portfolio Holders it is recommended that the initiatives included in Table 1 below are now included in the FFF Change Programme. Where the level of savings/ increased income cannot currently be determined, it is recommended that this information is provided in future *Budget Review* reports from the S151 Officer. However, Members should also note that even where amounts of savings are included, these are early estimates as reviews and/ or business cases will be ongoing or required.

3.1.3 Members will note that there are initiatives in the proposed programme that will neither generate income nor reduce cost and may actually add to cost. Officers have identified specific council functions where it is considered that extra resource is required if the Council is to maintain or improve its service (a strand of FFF) and so proposes the extra investment. Full business cases will be submitted to Executive before any changes are made.

#### 3.1.4 Table 1 - Additions recommended to the FFF Change Programme

Reference	Initiative	Savings/ income/cost	Commentary on initiative
<b>Initiatives intended to produce savings and/ or generate income</b>			
FFF1	Review One Stop Shop Service	Unknown at this point.	Although this initiative is already in the programme the terms of reference of the review have now been fully determined following Executive approval in February 2017.
FFF2	Review CCTV Service	Unknown at this point.	Review of delivery options and service scope began in March 2017. Report to be submitted to Executive should any material changes be proposed.
FFF3	Review approach to car parking charges	Unknown at this point.	Modelling being undertaken to determine appropriate car parking regime. Report to be submitted to Executive.
FFF4	Introduce a local good cause lottery	Savings: £30k	Business case to be worked up. Lotteries run elsewhere raise income for good causes (organisations not currently being funded) and a central fund (able

Reference	Initiative	Savings/ income/ cost	Commentary on initiative
			to reduce the core funding provided to organisations).
FFF5	Combine Tourism/VIC services to bring about cost reduction	Savings: £15k	Although this initiative is already in the programme no savings have previously been identified. At the minimum it is assumed that the saving of the former grant to Warwick Town Council can be made.
FFF6	Restructure – Assets Team	Savings: £30k	An element of the Assets function is already in the programme but the scope has been extended to include all of the Service.
FFF7	Advertising opportunities	Unknown at this point.	Contract with a company trading as Publitas finalised. Audit of potential opportunities to be undertaken at which point an advertising income figure will become clearer.
FFF8	Reduce B&B placements	Savings: £60k	All B&B placements currently discontinued. Continued resilience and cost reduction will be achieved through use of an HRA property in Willes Road as additional temporary accommodation from June 2017.
<b>Initiatives intended to improve service</b>			
FFF9	Restructure - Development Management Team	Cost: £30k	An element of the Development Management function is already in the programme but the scope has been extended to include all of the Service. The Council has submitted a business case to Government accepting the proposed increase in planning fees and this along with a restructure will bring about an improved service.
FFF10	Restructure – Neighbourhood Services	Cost: £50k	An element of Neighbourhood Services is already in the programme but the scope has been extended to include all of the Service (bar Bereavement Services). This will bring about an improved service but at increased cost.
FFF11	Review Procurement Service	Savings: Nil	Review commenced to explore the delivery model options for the Procurement function. The terms of reference of the review include a cost neutral outcome.
FFF12	Restructure - Benefits Team	Savings: Nil	With substantial elements of Benefits work to remain with the Council (all pensioners, council tax reduction and support to Universal Credit), no net savings are anticipated because of the vulnerability of the Government’s administration grant.

3.1.5 The savings identified at Table One amount to a net figure of £55k. Whilst this figure is not significant when there is further information in respect of initiatives FFF1, FFF2, FFF3 and FFF7, it is hoped that there will be a further positive impact on the Council's financial position.

### 3.2 Recommendation 2.2

3.2.1 The Council's FFF Change Programme has now been in place for seven years and has enabled the Council to continue to deliver a full range of services without large increases in council tax or charges. The Programme's progress has been reported annually to Executive throughout the seven year period and at Table 2 below, the latest position is provided on each of the initiatives where an update has not previously been reported.

#### 3.2.2 Table 2 - Fit For the Future Change (FFF) Programme's latest position on outstanding initiatives

<b>Reference</b>	<b>Initiative</b>	<b>Anticipated savings when programme agreed</b>	<b>Latest savings</b>	<b>Update as at June 2017</b>
FFF13	Review of financial contribution to Shakespeare England	£25k	Nil	Review completed. Executive decided to continue payment at previous level (£75,000 per annum) on the proviso that certain key performance indicators were achieved, and reported back to Overview & Scrutiny Committee.
FFF14	Review of Concurrent Services and parish support	£145k	£145k	Changes to schemes agreed by Council November 2016 realise savings of £145k which have been profiled within 17/18 Budget and MTFS.
FFF15	Review of One Stop Shop service	£50k	£50k	Also see initiative FFF1 above. Savings of £50k already achieved by removing two vacant posts from the Council's staffing establishment. Factored into 17/18 Budget and MTFS.
FFF16	Tender of Leisure Centre Management contract	£800k	£1,380k	Average ongoing savings over the next ten years of £1,380,000 (when measured against 2014 project commencement figures) with effect from 1 <sup>st</sup> June 2017. Savings and concession fee profile factored into the MTFS.

<b>Reference</b>	<b>Initiative</b>	<b>Anticipated savings when programme agreed</b>	<b>Latest savings</b>	<b>Update as at June 2017</b>
FFF17	Restructure - Arts/Entertainm't services - Phase I	£40K	£40k	Ongoing increased income of £40k factored into 17/18 Budget and MTFS.
FFF18	Arts/Theatre staff review - Phase II	Unknown at that point		On hold whilst the Council seeks a partner for its Leamington Creative Quarter feasibility study.
FFF19	CCTV staff overlap period review	£15k	Nil	A Feasibility study established that a reduction in staff time would have seen an unacceptable diminution to the service provided. This initiative has been removed but see FFF2 at Table 1.
FFF20	Senior Management Review	£200k	£200k (anticipated)	Not programmed until 2019/20 so no work started as yet.
FFF21	Increase in income from Crematorium	£60k	£44k	Executive agreed business case in March 2017 to generate additional net income of £60k (£44k of this had already been factored into the MTFS).
FFF22	Review of HR & Media Team	Unknown at that point		Review to be completed by March 2018.
FFF23	1% reduction in Council's discretionary spend	£100K	£100k (anticipated)	2017/18 £25k budget reduction and three lots of £25k (2018/19, 2019/20, 2020/21) have been included in MTFS.
FFF24	Review of Voluntary & Community Sector (VCS) and community support	£50k	£50k	Executive agreed in March 2017 to reduce investment in VCS and community support by £49K with effect from April 2018. Factored into the MTFS.
FFF25	Review delivery model for Enterprise Team's work	Unknown at that point	Nil	Report to be submitted to Executive when due diligence concluded.
FFF26	Revised staff terms & conditions	£145k	£178k	£135k saving achieved for 16/17 and £43k factored into 17/18 budget.

Reference	Initiative	Anticipated savings when programme agreed	Latest savings	Update as at June 2017
FFF27	HQ Relocation	£300k	£300k (anticipated)	Planning applications for Covent Garden site (full) and Riverside House site (outline) to be submitted 30/6 for consideration by Committee 12/9. Marketing and procurement exercises to be completed post-planning to fix receipt and cost figures respectively for final viability assessment and report to Full Council in early 2018. Estimated completion of on site now end of Q3 19/20 for occupation of offices and opening of new car park.
FFF28	Town Hall Transfer	£85k	£85k (anticipated)	Realisation of savings dependent on FFF27 and, consequently won't be until final quarter of 19/20. Options for future use of building being explored through Creative Quarter initiative.
FFF29	Member Allowances	£15k	£15k (anticipated)	Executive to consider a report on 28 <sup>th</sup> June from the Independent Remuneration Panel.

3.2.3 Members will note that since last reporting, many of the initiatives have either been completed or business cases approved by Executive with savings/ increased income factored into the 2017/18 Budget or MTFS as appropriate. Initiatives FFF20, FFF27 and FFF28 amounting to £585k of savings, are still to be delivered and need to be monitored very closely. Section 5 describes the latest MTFS position in detail but Members will note that the Strategy does not reflect funding for potential projects such as the Europa Way development, Kenilworth Leisure Centre enhancements and Linen Street Multi-Storey Car Park (MSCP) re-provision. There are also emerging pressures around salary review (local and national) and enforcement activity. As these matters come forward, they will need to be considered in the context of the Council's overall financial position.

### 3.3 Recommendation 2.3

3.3.1 Members will be aware that the work on the Leisure Management contract has now concluded and the savings/ increased income that this initiative has produced are now clear.

- 3.3.2 In 2014 approval was granted to start work on the consideration of an external operator for the Leisure Centres. In agreeing this, the in-house team were asked to put together an offer that could be considered when making any decision about seeking an external partner. The in-house team responded to the challenge and by getting on a more commercial footing the budgets saw a net reduction in cost of some £285,000.
- 3.3.3 Having considered the in house figures, it was felt that the enhanced commercial approach an external operator would be able to bring could not be ignored and should be tested through a comprehensive OJEU compliant procurement process.
- 3.3.4 Following the conclusion of this process, the average full year savings from this exercise, and on-top of that already achieved by the in-house team, will be in the order of £1,095,000.
- 3.3.5 This will mean that the Council will be able to repay the annual borrowing costs for the Leisure Centre improvements of £483,000 and have a further £612,000 to use for other purposes.
- 3.3.6 The concessions from the operator increase over the period of the contract from £610k in 2019/20 to £1,389k in 2026/27 (subject to index linking). This is well in excess of the £600k per annum included in the MTFS in February.
- 3.3.7 The process in total will have improved the Council's financial position by £1,380,000 on an average annual basis.

#### 3.4 Recommendation 2.4

- 3.4.1 Members will be aware that the Local Plan proposes significant growth to the south of, and to the east of Kenilworth. Experience gained from the development of the sites to the south of Warwick, Leamington and Whitnash is that significant organisational and community benefits can be gained through the Council working with developers to produce a co-ordinated approach to delivery.
- 3.4.2 It is therefore proposed that a Major Sites Delivery Officer is recruited to consider the issues arising from the cluster of sites in Kenilworth and provide additional support for other developments taking place within the town centre.
- 3.4.3 The cost of a three-year temporary post should be able to be funded from Section 106 obligations between the Council and various other parties. However, this will need to be closely monitored for any potential shortfalls or delays in the predicted funding as this could require an element of the costs of the post being met by the General Fund. In such a scenario the appropriate report would be brought to Executive setting out the implications for the MTFS.

#### 3.5 Recommendation 2.5

- 3.5.1 Members will recognise that with the FFF change programme being in place for seven years and numerous initiatives already having taken place to either reduce cost or increase income, it becomes increasingly challenging to identify new studies or projects to bring forward. More recently officers have brought forward projects that seek to put the Council on a more entrepreneurial footing i.e. leisure management contract, crematorium improvements, use of

advertising, development of the Creative Quarter initiative. However, it is considered that expert support is needed to examine further commercial opportunities such as:

- Investment in Council assets to increase income;
- Purchase of assets to generate ongoing revenue;
- Borrow to invest.

3.5.2 The Council does have a joint venture arrangement Limited Liability Partnership (LLP) with Public Sector Plc to ensure that the Council is able to maximise the value that it is able to drive from complex development and regeneration projects and ensure additional value is created above and beyond what other delivery mechanisms could provide. However, part of the rationale for establishing the LLP was this form of joint venture would provide the Council with maximum flexibility for future projects and there would be no requirement or assumption that all development or investment opportunities would be delivered through this vehicle. Consequently the Leisure Centre investment does not involve the LLP but they are leading on the HQ relocation project. It was originally envisaged that the LLP could lead on assessing how the Council can maximise the return on all its assets but officers believe that its energies need to be wholly devoted to the HQ relocation project which, as shown in Table 2, will not be completed until the end of 2019.

3.5.3 It is therefore proposed that officers adopt a different approach to obtaining the specialist advice that is required to enable the Council to take full advantage of emerging commercial and entrepreneurial opportunities. Recent work undertaken to assess potential asset acquisitions has identified the need to commission commercial property valuations, retail market assessments of future letting potential and financial assessments of potential yield, specialist skills that are not available within the Council's workforce. Based on this experience the likely cost of each individual feasibility investigation is between £1,000 and £5,000 depending on the extent and nature of the work required.

3.5.4 Officers will therefore utilise existing delegated authority arrangements to obtain the necessary advice. The Chief Executive and s151 Officer are able to authorise expenditure of up to £20,000, drawn down from the Service Transformation Reserve under delegated powers and Executive is asked to note that officers will utilise these arrangements to support the adoption of a more entrepreneurial approach to the way that the Council manages and potentially re-configures its existing asset base.

3.5.5 Officers believe that this proposed approach to exploring potential commercial opportunities is a more cost-effective option, allowing specialist work to be commissioned as and when required, than seeking to recruit an officer or officers with the necessary skill set(s).

3.5.6 Fleetness of response is clearly an important consideration for the Council as it develops this entrepreneurial approach to its asset management strategy. Officers will, therefore, seek to identify appropriate framework agreements to allow the necessary advice to be commissioned speedily, in response to market pressures and opportunities. Funding for this is proposed to be using the existing delegations, with the addition of consultation with the Leader and Finance Portfolio Holder.

### 3.6 Recommendation 2.6

3.6.1 At its meeting on 2<sup>nd</sup> June 2016, Executive agreed to set aside a sum of £95,000 from the PAR to support the Local Plan process. This sum was added to funds that has already been set aside from the PAR (see report to Executive 28<sup>th</sup> January 2015) to provide a budget of £215,000 for the Local Plan. This was made up of three main elements:

- Inspector Costs: £150,000
- Programme Officer Costs: £35,000
- Consultants costs: £30,000

3.6.2 As at 31<sup>st</sup> March 2017, the Inspector's costs were £139,058. Given that this does not include the costs of his time to analyse the Main Modifications consultation and to prepare his final report and conclusions, it is highly likely that the sum of £150,000 that had been set aside will be insufficient. It is therefore proposed that a further £24,000 be set aside from the PAR (which currently has an unallocated balance of £159,000, see paragraph 5.12) to support the Local Plan. This additional sum of £24,000 will be added to the sum of £10,942 already set aside for the Inspector and an existing balance £16,000 which had been set aside for Local Plan consultancy. This provides for a total budget of £51,000 to cover the Inspector's costs through to the adoption of the Local Plan thereby ensuring that the Council has a spatial plan in place to deliver its Sustainable Community Strategy and Fit For the Future objectives.

### 3.7 Recommendation 2.7

3.7.1 Recognising the increasing demands on local authority planning teams along with the reduction in Government grant, Central Government has agreed that Councils can increase planning application fees by 20% subject to a business case being approved. On 10<sup>th</sup> March 2017, the S151 Office wrote to DCLG accepting its proposal to increase fees and provided a business case detailing where the increased income would be sent.

3.7.2 The Council now awaits formal confirmation of the increase but assuming that this is confirmed, the S151 Officer has estimated that the Council will raise an extra £165,000 during 2017/18 and it is therefore proposed that the Council's Chief Officers work with the S151 Officer to determine precisely where the increased income will be allocated so that commensurate expenditure can be made.

### 3.8 Recommendation 2.8

3.81 In November of this year the LEP's Growth Hub will be sponsoring a Business Festival with the aim of delivering:

- regional conferences, exhibitions and trade fairs;
- sector specific days – addressing key SME challenges;
- networking and new business opportunities.

3.82 The company delivering the Festival has recently completed such a Festival in Leicester and Leicestershire. Having considered what the company had delivered, the Managing Director of the Growth Hub approached the Chief Executives of the Warwickshire Councils recommending that the LEP supports a similar initiative. Following a meeting between the Managing Director and senior officers of this Council, it is considered that an investment of £5,000 to support



the Festival itself and a further £5,000 for any other opportunities that the Festival generates should be made available.

- 3.83 Ordinarily the Growth Hub sets-out a fully costed programme of work at the beginning of the financial year, however, the Festival proposition arrived after budgets had been set and so it is unfunded although the Growth Hub will be going ahead with it anyway hoping that an element of the funding can be recouped from various public and private sector sources.

#### **4 POLICY FRAMEWORK**

- 4.1 The Council's Sustainable Community Strategy (SCS) has five thematic priorities and three cross-cutting priorities areas. The recommendations in this report are consistent with the strategy as they ask Members to agree a programme of work which to a greater or lesser degree touches on all areas of the strategy.

- 4.2 Underpinning the SCS is the Council's Fit For the Future (FFF) Change Programme which consists of three strands:

Service - Delivering customer focused services by: using customer measures, helping to build trust, continuously improving, understanding our customers, and using systems thinking.

People – Valuing our staff, empowering our staff, supporting our staff through change, ensuring our communication is clear and regular.

Money – Managing the resources appropriately to balance our budget, ensuring our assets work for us, ensuring our town centres are vibrant and create solutions to increase our revenue.

- 4.3 The recommendations within this report are consistent with all three strands but particularly in relation to the *Money* strand as the Council's Change Programme seeks to deliver the necessary savings/ increased income which will enable the current basket of services to be maintained.

#### **5 BUDGETARY FRAMEWORK**

- 5.1 The Council's Medium Term Financial Strategy (MTFS) was last presented to members in February 2017 as part of the Budget report. At that time the profile of savings required over future years was as follows:-

	<b>2017/18</b> <b>£'000</b>	<b>2018/19</b> <b>£'000</b>	<b>2019/20</b> <b>£'000</b>	<b>2020/21</b> <b>£'000</b>	<b>2021/22</b> <b>£'000</b>
Deficit-Savings Required(+)/Surplus(-) future years		412	201	-202	830
Change on previous year		412	-211	-403	1,032

- 5.2 The figures above include many savings that have been agreed to be made in future years, including:-

- £300k Office relocation
- £85k Town Hall Transfer

- £80k Changes to Members Allowances
- £200k Senior Management Review
- £75k Further reductions in Discretionary Spend
- £42k A review of Community Partnership spending

If the above savings are not achieved, the savings needed to be found will increase accordingly.

- 5.3 The MTFS has now been reviewed to take account of latest information and updated assumptions. It has also been rolled on a further year to include 2022/23. The new FFF initiatives in Table 1 earlier, and updates to the initiatives in Table 2 have been factored in. The main changes to the Strategy are as follows:-
- 5.3.1 Pensions – Pension contribution increases in the period 2017-2019 of £250k were included in the February MTFS. Following the results of the 2016 Pension Fund Revaluation, the increased contributions are still required within the MTFS, although it has been possible to spread them over the full 5 years of strategy.
- 5.3.2 Leisure Options – as discussed in paragraph 3.3 the Leisure Options (FFF16) work has enabled substantial savings to be factored into the MTFS. Some of these savings have been made in recent years and already included within the current and previous years’ budgets. Also, some of the savings were anticipated on the letting of the management contract for the leisure centres, with estimated recurring future savings of £600,000 per annum included in the MTFS as at February 2017. The concession due to be received from SLM is in excess of this, with the increased concession contributing a further £600k on top of the assumed £600k towards the savings required to be found by the Council.
- 5.3.3 Due to delays to the Office Re-location project, with its knock-on impact on the realisation of savings from the Town Hall Transfer, due to a number of factors including the uncertainty caused by the conflicting advice received from the Environment Agency on the extent of the development area at Riverside House (ultimately requiring the viability assessments to be comprehensively re-worked) the assumptions on when the savings from these projects will be available has been re-profiled. Originally anticipated as being achievable from April 2019, they have now been re-profiled to commence nine months later from January 2020.
- 5.3.4 Business Rates Retention – the projected income for future years has been reviewed based on latest information, appeals and 2016/17 outturn. Overall the net business rates, including contributions to/from the Business Rates Retention Volatility Reserve have remained unchanged. At the end of the period of the MTFS, there is estimated to be £0.5m in the reserve. With the introduction of 100% Business Rates Retention expected by 2020/21, the figures are likely to face substantial changes in future years.
- 5.4 Taking into account all these changes, the updated savings profile is as follows:-

	<b>2018/19 £'000</b>	<b>2019/20 £'000</b>	<b>2020/21 £'000</b>	<b>2021/22 £'000</b>	<b>2022/23 £'000</b>
Deficit-Savings Required(+)/Surplus(-) future years	272	221	-494	309	536
Change on previous year	272	-51	-715	803	227

5.5 It will be noted that for 2018/19, with the inclusion of the new FFF projects (Table 1), the Council still needs to secure additional savings of £272k. Officers will undertake further work to identify how savings/ increased income can be achieved for inclusion in the 2018/2019 budget.

5.6 The inclusion of the year 2022/23 increases the savings requirement as the estimated income does not keep pace with estimated increases in expenditure. By 2022/23, the Council still faces needing to find further savings of over £500k, although it will be noted that this is an improved position from that presented in February 2017.

5.7 The above savings profile assumes many savings previously agreed by members which still need to be achieved. These include:-

£300k – Office relocation  
£85k – Town Hall Transfer  
£200k – Senior management review

5.8 The above savings profile also includes the following new FFF savings projects:-

£30k - Introduce a local good cause lottery  
£15k - Combine Tourism/VIC services to bring about cost reduction  
£30k - Restructure – Assets Team  
£60k - Reduce B&B placements

These projects will all require further consideration by members prior to their implementation. Similarly, the further Discretionary Savings (FFF23 £75k) and Review of Members' Allowances (FFF29 £15k) will require member endorsement.

5.9 If the savings referred to in paragraphs 5.7 and 5.8 above are not made, this will significantly impact upon the MTFs. The resultant updated savings figures would be as follows:-

	<b>2018/19 £'000</b>	<b>2019/20 £'000</b>	<b>2020/21 £'000</b>	<b>2021/22 £'000</b>	<b>2022/23 £'000</b>
Deficit-Savings Required(+)/Surplus(-) future years	432	718	314	1,118	1,345
Change on previous year	432	286	-404	804	227

5.10 Alongside the MTFs, members continue to need to pay attention to the liabilities that are not fully funded in the medium term. These include the funding of corporate assets, ICT, and Equipment Renewals. In addition, members will need to consider the Car Park Strategy, where further funding issues need to be considered. It should be noted that, whilst the MTFs makes some provision for

ICT and Equipment Renewals, there is no on-going funding to the reserves that the Council holds.

- 5.11 Recommendation 2.4 requests funding for a 3 year Major Sites Monitoring Officer. The estimated cost of this is £135k. Currently the Council holds £104k S106 contributions unused from developers which may be used towards this. Further funding is expected to be due over the next two years which should fully cover the cost of the three year post. If there is any delay in this funding being received, it will be necessary for this to be funded by the General Fund.
- 5.12 Recommendation 2.6 includes allocating £24,000 for further Local Plan Inspection costs. These are proposed to be funded from the Planning Reserve. On closing the 2016/17 Accounts £150,000 has been allocated to the Planning Reserve, bringing the unallocated balance on the reserve to £159k (excluding the S106 monitoring contributions of £104k). This allocation will reduce the unallocated balance on the Planning Reserve to £135k. Full details of Final Accounts and the outturn position will be reported to Executive in July.
- 5.13 Recommendation 2.8 recommends an allocation from the Contingency of £10,000. The current unallocated Contingency balance is £171,000.

## **6 RISKS**

- 6.1 This report relates to all aspects of Council Service delivery. The Council has a strong risk governance framework in place from the Significant Business Risk Register through to the individual Service Risk Registers and on to day-to-day risk assessments. Individual projects have their own Issues and Risk logs and there is regular reporting either to Project Boards and/or Executive.
- 6.2 The experience of the last 7 years for local government is that the funding situation gets worse than anticipated. There is therefore a risk that even though there is a plan for delivering savings/ increased income, even more is required. It is therefore prudent to put plans in place which deliver savings/ increased income in excess of the current known requirement. Consequently, Members will need to consider very carefully all areas where the Council is able to increase its income.

## **7 ALTERNATIVE OPTIONS CONSIDERED**

- 7.1 No alternative options to the recommendations in this report have been considered as the FFF Change Programme has proved very successful in delivering the Council's Services whilst reducing its costs and increasing its income.

**Finance**  
**Mike Snow - Head of Service**

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**our ref:MS/  
your ref:**

10 March 2017

Dear Simon Gallagher

**Annex B: Template Letter for s151 Officers to Sign**

In reply to your letter of 21 February 2017 I am writing to certify that Warwick District Council has determined to:

Accept the proposed 20% increase in planning application fees .....√.....

Reject the proposed 20% increase in planning application fees.....

If accepting:

I confirm that the amount raised through these higher fees will be spent entirely on planning functions.

I can also confirm that the full legal name for this authority to be used in regulations is

Warwick District Council



INVESTORS  
IN PEOPLE



Please also confirm this legal name in the table in Annex C and return to [planningresources2@communities.gsi.gov.uk](mailto:planningresources2@communities.gsi.gov.uk) with this letter.


I submit the following, as requested:

	2016/17	2017/18
Estimated expenditure in development management	£1,507,800	£1,548,000
Estimated income generated from planning application fees	£1,094,800	£1,100,000
Estimated additional income generated from higher planning fees	N/A	£165,000 from 1 July 2017 £220,000 full year

Yours sincerely



Mike Snow  
Head of Finance and s151 Officer

	<b>Executive</b> <b>1 June 2017</b>	<b>Agenda Item No.</b> <b>4</b>
<b>Title</b>	<b>Task &amp; Finish Group 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 June 2016, item 9, scoping document first established Overview & Scrutiny Committee 28 June 2016, item 8, membership agreed Overview & Scrutiny Committee 26 July, Verbal update Overview and Scrutiny 27 September 2016 – Interim Report Overview & Scrutiny 4 April 2017 – Final 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	

<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	09/05/2017	Chris Elliott
Head of Service	09/05/2017	Bill Hunt
CMT	09/05/2017	
Section 151 Officer	09/05/2017	Mike Snow
Monitoring Officer	09/05/2017	Andrew Jones
Finance		Mike Snow
Portfolio Holder(s)		Councillor Phillips, Councillor Cross, Councillor Butler

#### 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
- J – Warwick Student Union's Response



## **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.
- 1.5 The final report was brought to the Overview & Scrutiny Committee on 4 April 2017 where the recommendations were fully supported for the Executive to consider.

## **2. Recommendations**

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:

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

- 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 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 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—

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

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 "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

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

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

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, 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 Marshalls 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*

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

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

*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>

- 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.

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

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

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



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**).

### 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.

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

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

### 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 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

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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](#)



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 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

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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](#)

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 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

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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](#)

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.

#### **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

## How HMOs are managed in other University Towns

### EXECUTIVE SUMMARY

1. Most towns and cities – 17 from 20 surveyed – have brought in **Article 4 direction** controls on HMOs.
2. On licensing, 10 have introduced **additional licensing** of HMOs (4 of them of similar size to Leamington), and a further 3 have opted for selective licensing of ALL private sector landlords in a defined area (Coventry most recently).
3. Several are already successfully using **ASB enforcement** on waste, flytipping etc eg Rugby's process developed by Lorna Hudson, now working for WDC, often working closely with Police and University/Student Union.  
*(More are probably using ASB - gaps in data in table below reflect lack of time to complete research on this).*
4. Several Councils pursue a strategy of encouraging **well-located PBSA's** rather than HMOs, often working closely with the main University.
5. **Additional Licensing** researched by telephone in four authorities. Key findings are:
  - a. Experience has been very beneficial for tenants – small HMOs were too often in breach of minimum safety and health standards.
  - b. Landlord accreditation schemes did not work.
  - c. After launch period, additional licensing becomes cost-neutral – some upfront investment is needed
  - d. Important to engage properly with landlords – most then appreciate benefits
  - e. Best to set charges on a 'polluter pays' basis, with good landlords paying less and with less frequent renewals/inspections. Poor landlords can be licensed year by year.
  - f. To manage problems Councils use specific conditions on licences & management orders...prosecutions and withdrawal of licence are certainly applied as 'last resort' measures.
  - g. Planning enforcement generally prosecutes landlords who seriously flout the rules on conversions – and the HMO licensing authority is then able to use the conviction in the 'fit and proper person' test.

Town	Planning (Article 4)	Licensing (Additional)	Use of ASB notices ?	Other Enforcement ?	Other – Waste etc
Aberystwyth (Ceredigion)	No record found	Yes in 2014			
Bath (full report below)	Yes whole City	Yes from 2014			
Birmingham	Yes in 2014 but Selly Oak already 55% HMO	Currently in consultation			Major HMO landlord charges tenants £5 per waste bag he handles
Brighton & Hove	Yes in 2013	Yes in 2012			Excellent strategic approach Careful encouragements of PBSA's. See link 1 below

Canterbury	Yes in 2015	No record found			PBSA's have been encouraged and HMO pressure is said to be easing (local Councillor information)
Coventry	No record found	No but selective licensing of all landlords in an area			PBSA's have been encouraged and HMO pressure is said to be easing
Durham	In 2015 - 50% houses in centre already HMO	No but Uni now aim to increase on-campus accomm by 10%	Yes - by police. Also Designated Public Place Orders (DPPO) for noise and waste	Use of FPN's for littering & waste. Use of a 'points' system - persistent offenders put on training workshop	Close working between police and Uni...data-sharing protocol Waste & Recycling Champion - Uni pays End of year campaign
Exeter	Yes in 2011-13	Yes but limited		Use of FPN's and training workshops	Use of App for bin collections. Close work with Student's Union. Involve academic experts in designing campaigns on alcohol, waste etc
Leeds	Yes in 2012	Yes in 2009		Prosecutions and fines	Uses both selective and HMO licensing powers to protect vulnerable and raise standards. Voluntary accreditation scheme. <a href="#">See link 2 below</a>
Newcastle	Yes in 2011-13	No but selective licensing of all landlords in an area 2011 extended 2016			Major HMO landlord has 'no party' clause in rental contracts. Recycling for BHF charity through year & year-end. Uni invested in JV off-campus PBSA which regenerated Gateshead centre.

Northampton	Yes in 2011 & 2012	Yes in 2014			
Nottingham	Yes in 2012	Yes in 2014	Yes – same system as Rugby & Durham		Major HMO landlord has 'no party' clause in rental contracts
Oxford (full report below)	Yes in 2012	Yes in 2015 Higher fees/1 year licenses for non-compliant landlords	Yes - Community Response Team for Cat 3 ASB's – can issue FPN's		
Portsmouth (full report below)	Yes in 2011	Yes in 2013			50m radius policy See link 3 below
Preston	Yes in 2013	No record found		£5k max fine for breaching waste rules, inc state of garden/yards £50k for flytipping	Normal household waste volume is foc. Extra receptacles & disposal are HMO Manager responsibility & cost.
Rugby (full report below)	No - considering	No	Yes – enforces against both landlords and occupants	Council leads police on FPN policy/use and enforces against waste, garden & flytipping nuisances both HMO and other	Is concerned about on-street parking and County parking permit policy.
Sheffield	Yes in 2011	No but selective licensing of all landlords in an area 2014	ASB Closure Order S11B for up to 3 mths in extreme cases	Landlords' licence at risk if ASB not managed	Snug scheme Uni, Council, Student Union tests 'Fit & Proper', Council inspection 100% before going live on Student website. See link 4 below
Southampton (full report below)	Yes in 2011	Yes – considered using Interim & final Mgmt Orders (Housing Act 2004) but went for add'l		Council checks all new Uni accredited houses with StreetCred allies Fire, Police, residents and	Integrated neighbourhood nuisance service operated Excellent 2016 summary of impact and adjustments to Article 4 policy eg



		licensing		Council to visit, inform and identify problems	new 40m radius policy See link 5 below
York	Yes in 2012	No record found			

Many other authorities have of course brought in Article 4 planning policies and additional licensing – especially in London. These give a fair overview outside London, with those highlighted in grey perhaps being closest in size to Warwick/Leamington.

#### LINKS to

1. Brighton 2015 Housing Strategy [http://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/1%20Housing%20Strategy%202015%20\(review%20draft\).pdf](http://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/1%20Housing%20Strategy%202015%20(review%20draft).pdf)
2. Leeds Landlord Newsletter  
<http://www.leeds.gov.uk/docs/LLAS%20Spring%202015%20v1.pdf>  
Winter and Summer newsletters also on file
3. Portsmouth <https://www.portsmouth.gov.uk/ext/documents-external/pln-hmo-supplementary-planning-document-24jun13.pdf>
4. Sheffield <https://www.sheffield.gov.uk/in-your-area/housing-services/private-sector-housing/private-landlords.html>
5. Southampton [https://www.southampton.gov.uk/policies/Final-HMO-SPD\\_tcm63-383554.pdf](https://www.southampton.gov.uk/policies/Final-HMO-SPD_tcm63-383554.pdf)

#### ASB ENFORCEMENT - case study

Full telephone interview with Sean Lewis, Officer in **Rugby** performing similar role to Pete Cutts, and detailed email exchanges produced following more detailed information:

1. Has used Community Protection Notice system for about 3 years not just on HMOs. 90%+ success rate with formal warnings and notices against all concerned parties – occupants and landlords. Has significantly changed behaviours, especially HMO and other landlord behaviours.
2. Developed Fixed Penalty Notice policy and process, mainly for own use but also police, levying standard fines of £100 but also all costs of clearance, invoicing etc are charged and recovered. There have so far been zero court cases.
3. Flytipping is always a waste authority responsibility wherever it is found (alleyways, footpaths, roads, open ground etc). County responsibility is simply to deal with waste so cleared.
4. Communities have been encouraged to monitor the high-risk properties, usually HMOs and notify council of specific flytipping going on.
5. Landlords will usually respond fast to an informal warning from the Council to avoid risk of cost charges and fine. Increasingly landlords are being successfully encouraged to cooperate to clear major waste into shared skips eg at ends of terms/years.
6. Deals with regular difficulty of having indicative but not solid evidence against fly tipper/litterer by using a s108 notice under the environmental Protection Act, requiring the recipient to attend Council Offices and be questioned under caution. That often results in admission and agreement to pay standard £400 fine, sometimes just a stiff warning that changes behaviour. Occasionally there is non-attendance in which case they are prosecuted for failure to obey the notice, and are invariably fined by the Court for this offence NOT flytipping itself, and all Council costs are covered. That sends a strong message.

7. Fit and proper person test for landlords is not formal and written, but PSH and waste teams are in the same department and office, and log all appropriate records of breaches and behaviours in a shared database. They do not seek DBS checks at present.
8. Parking permits control on-street parking in central parts of Rugby but the Council is unhappy with the way an HMO conversion can multiply the number of permits granted. It is considering lobbying for the number for students to be limited to pre-conversion numbers only.
9. Public Spaces Protection Orders (PSPO's) are a very flexible tool for use in a wide range of suitable policies. Rugby mainly uses it to control alcohol consumption and similar behaviours in parks and town centre.

### **Additional Licensing – Notes from other Councils**

01865 252307 **Oxford** City Council

[https://www.oxford.gov.uk/info/20113/houses\\_in\\_multiple\\_occupation/905/hmo\\_additional\\_licensing\\_designations\\_2015](https://www.oxford.gov.uk/info/20113/houses_in_multiple_occupation/905/hmo_additional_licensing_designations_2015)

Catherine Coney [kconey@oxford.gov.uk](mailto:kconey@oxford.gov.uk)

Since 2012 – across whole of city as HMOs widespread. It is self-funding.

Started by doing annual licensing – re-inspection. Makes non-compliant landlords pay higher licensing fees – polluter pays – see attachment

Licenses can be for 5 years for compliant landlords – 1 year for non-compliant and re-inspection fee.

Most HMOs are 2-storey – poor standards coming up regularly

Has improved standards but is ongoing – no regrets. Lots of basic H&S safety stuff – lots of poor management standards. Prosecutes at least 10 each year. Still coming across many illegal non-licensed properties, five years on.

Lots of volume at beginning – admin is a problem to start with.....communicate upfront

Company with bespoke software is being considered – details to follow

Fit & Proper – self-declaration, no background checks, would be too slow and costly. If mandatory though would be good.

Article 4 planning – if found operating HMO illegally – enforcement notice from planning. If failed to do this and prosecuted then not fit and proper.

01225 396444 **Bath** <http://www.bathnes.gov.uk/services/housing/houses-multiple-occupation>

Jeremy Manners. Since 2014 [jeremy\\_manners@bathnes.gov.uk](mailto:jeremy_manners@bathnes.gov.uk) Happy for Officers to get in touch in the future.

Additional Licensing in 2.5 wards – Article 4 covers whole of Bath City. One-off cost to set system up but good results. Is cost-neutral ongoing.

Implementation – lots of work in order to meet legislative requirements and consultation phase – a year from start to finish. Evidence gathered was to prove significant no. of properties not being managed sufficiently well. Had evidence from complaints, from mandatory licensing, house conditions survey in 2012. Most of it was from own databases. Also some doorstep surveys including Ward Councillors. Accumulation of smaller issues. Fire incidents, complaints.

Also had to look at other options. Had accreditation scheme in place – but was not adequate, only good landlords decided to join. Engage with landlords/forums as early as possible. 90% of residents were supportive.

Successful in identifying property issues through 100% inspection upfront – many properties required some work, one third needed enforcement work. So lots of properties needed conditions put on licences eg 50% needed work on fire protection.

5 year licences, compliance audits 25% halfway risk-based. Worked well.

**Portsmouth** <https://www.portsmouth.gov.uk/ext/housing/shared-houses-additional-licensing-of-houses-in-multiple-occupation.aspx>

Licence Fees are at <https://www.portsmouth.gov.uk/ext/documents-external/hou-hmofees.pdf> 02392 688369 Michael Conway Additional Licensing restricted to 3 Post Codes. Fees are set as cost-neutral. Licence is for 5 years.

Also covers wholly tenanted s257 flats – ie those which are self-contained but do not conform with current Building regs

Must have good evidence – high density, ASB and safety. Implementation complicated, can be lengthy. Approved by Council. Then Appeal and consultation time. Database of complaints.

Residents supported – doorstep work needed. Landlords were lukewarm – some thought accredited scheme was adequate, better ones reasonably happy to be licensed in order to control rogues.

100% inspection upfront. Main concerns are overall management. Provides education for landlords. Also prosecute. Should require information regularly from HMOs on their understanding of management regulations just as check on how good the management is.

They do remove landlords who fail to comply. Issue management orders.

**Southampton** <https://www.southampton.gov.uk/housing/landlords/houses-multiple-occupation/licensing-houses-in-multiple-occupation/default.aspx> 02380833006 then 6 Sam Ings

Senior HMO Licensing Officer. [sam.ings@southampton.gov.uk](mailto:sam.ings@southampton.gov.uk)

Primary objective to ensure HMOs are safe – successful. Additional licensing from 1<sup>st</sup> July 2013 covers key areas only. Will extend scheme.

80% of properties failed on 100% initial inspection usually on safety issues.. Lots of other benefits such as using other tools for letting boards, rubbish accumulations – mix of officers work on team, eg surveyors and wardens. Use community payback – picking up bulk waste with people doing community service.

Other ASB issues dealt with in conjunction with other powers. Emphasis is on pressure from landlords by Council – place conditions on licence. Risk is prosecution and then withdrawal of approval. Has prosecuted 14 cases for failure to license and handful of other cases for other breaches. Fee structure is polluter pays – if people come forward without chasing by Council. Does reduced licence period for people who have poor management/breaches. New licensing regime will raise no from 700 to 2000 but leaving 5000.

Advice is to create a fee structure – review points. Should have had start-up capital to get things started soon enough – paid back out of fees in due course. Each licence only lasts for duration of scheme.

Landlords resistant at first but very helpful and now supportive as scheme has developed.

**Wycombe** <https://www.wycombe.gov.uk/uploads/public/documents/Housing/HMOs-protocol-for-licensing.pdf> have shorter licence cycles for properties/landlords where there are concerns

which ensures these properties are inspected on a more regular basis – providing greater assurances for the tenant as well as surrounding residents.

Quote from Wycombe - *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'.*

**'University and Community Matters'**

National Conference at Durham University 20<sup>th</sup> July 2016

The purpose of the conference was to share experiences, ideas and plans on the impact of universities on accommodation, community relations and the local economy.

It was generously hosted by the University and jointly organised with the National Association of Resident's Associations (NORA).

Almost 100 delegates attended from some 18 different University towns and cities across the country, representing residents, local authorities, students, law enforcement and of course the Universities themselves both individually and from their national grouping, Universities UK.

Our own District was well represented by two Council officers, a Councillor, a police officer and two members of Warwick University staff. As a forum for learning about best practice, different approaches to similar problems and where to find further information it was an exceptional event.

Graham Towl, Pro-Vice-Chancellor of Durham, chaired proceedings and ensured there was very widespread participation from the floor, after each of the 10 or so speakers had delivered their short addresses, covering issues from almost every angle.

Whether delegates left feeling buoyed up by the progress being made and solutions found or daunted by the scale of the challenges – and obstacles – was not clear. For me it was a mix of both.

Personally I was encouraged to find that Warwick seems to be ahead of other towns in some ways (for example the street marshal scheme), in the middle of the pack in most others perhaps (adoption of Article 4 planning controls on HMOs – licensing not yet extended to smaller HMOs) and lagging in others (dealing with HMO waste, enforcement methods).

Only a few Universities seem so far to have clear student accommodation strategies agreed with local communities, businesses and Councils – Northumbria is the most notable. It has been willing to invest directly in halls of residence not just to maintain but to increase the proportion of students 'on campus' and so ease the pressure on local housing. They have regenerated a central area, please residents, local businesses and council – and made a decent return.. Durham has possible plans to follow this example. We heard of no others with this degree of commitment. Neither wish to encourage private schemes (Purpose Built Student Accommodation – PBSA's) - but they are there and growing.

Other cities are not opposed to PBSA's and all are seeing growth but there were mixed views about what they do to rents and the student experience on the one hand, and their impact on easing pressures on HMOs/local communities on the other.

One area, Sheffield, has a particularly strong 3-way formal partnership between Council, Student Union and University, to check HMO quality on a two year 100% inspection cycle. The partnership called SNUG also includes community and landlord representation. Only SNUG-approved properties can be advertised on the student website and use the brand. Bath is also said to have an effective collaborative model.

There are other good ideas and practices which I am sure those of us who attended will be wanting to follow up over the coming months, especially perhaps through the Task & Finish

working group to review many HMO-related issues, recently set up by Warwick District Councillors.

Some of the most challenging may be how to incorporate PBSA beds in our planning policy (fortunately other Councils already do); how to ensure landlords as well as occupants meet their responsibilities on waste, recycling, property appearance and noise (again we heard of some good approaches elsewhere to draw on); and whether we should extend licensing to smaller HMOs (other areas have and claim clear community benefits).

Some are beyond our scope locally – for example whether Universities UK might wish to issue clear guidelines to its members on planning on-campus/PBSA accommodation. Another hot potato which was discussed is to what extent Councils are still compensated by government for the loss of Council Tax on all student HMOs and may be in the future.

I look forward to us making progress locally over the next 12 months and being able to share positive experiences once more in a year's time – perhaps somewhere more central next time, such as Warwick !

Colin Quinney  
Warwick District Councillor  
23.07.16

### **Some University Towns with successful collaborative 'end of year' waste collection Campaigns**

Newcastle – see Durham conference report  
Durham – see Durham conference report

Bangor - <https://www.bangor.ac.uk/news/university/bangor-students-tackle-waste-problems-8468>

Reading <https://www.reading.ac.uk/news-and-events/releases/PR635005.aspx>

Bath <http://www.bathchronicle.co.uk/students-urged-clear-gardens/story-11339913-detail/story.html>

Approaches differ but key common themes are:

- Collaboration between Students Union, Local Council, often with local Charity ...sometimes University itself, Neighbourhood group
- One/two week end of year campaign...sometimes end of other terms
- Large teams of volunteers
- Often a specialised van to pick up larger items
- Strong recycling and 'cleaner community' messages
- Striking sometimes humorous posters and leaflets

## Durham Conference – detailed notes for Task & Finish Group

This highlights some specific information at the Conference which may be relevant to our Task & Finish Group which is not covered or only briefly mentioned in the summary paper. Have taken the opportunity to add other relevant information (*in italics*).

### 1. Anti-Social Behaviour - Enforcement

Durham police have taken over enforcement action against Anti-Social Behaviour from University Security. CPO's do the work.

They use Designated Public Place Orders (DPPO's) and issue Community Protection Warnings (CPW) for a first offence and a CP Notice (CPN) for a second, offence. Sometimes use dispersal powers and very occasionally arrests.

A number of CPW's have been issued to discourage external waste

Fixed Penalty Tickets used to deter public nuisances, which includes littering.

CPW's are issued to houses but with named occupants so that subsequent Notices are valid.

Their philosophy is to insist on apologies from perpetrators and to give full feedback to victims and residents. Also to issue 'points' and 'encourage' persistent offenders to attend training workshops.

They work very closely with University and have a data-sharing protocol to avoid any DPI challenges and enable University disciplinary pressure also to be applied.

They also monitor bars to block irresponsible drink promotions and encouragement of Anti-Social behaviour – use FPN's, occasional licence revocations.

Results of this relatively new initiative have been extremely positive as word has spread and the number of CPN's required has halved.

Exeter have developed various programmes with the student's union based on experiments and psychological research which are producing results

- Carefully targeted and positive poster campaigns
- Streetwise fund to bring communities together – Good Neighbour Award
- Addaction – to tackle addictions including alcohol. Fines and workshops which are now carefully tailored with great success
- Pro-social communications include a specially developed app which among other important information has an instant link to bin collection days !!

Nottingham One landlord has a contractual clause in his leases banning parties

*Coincidentally Pete Cutts mentioned a very recent briefing by a lawyer who supports many Councils including Rugby along similar lines – combining these ASB powers with Council powers under s46 on HMOs and s215 on general external appearance, served principally on landlords. 80% success rate apparently. T&F should perhaps get briefing on what he and other Officers think is right way forward after Durham and lawyer inputs.*

### 2. Waste & Recycling

Several initiatives which may be of interest to WDC:

Exeter – see above

Newcastle Major ongoing campaigns backed by student union to encourage recycling for charity (British Heart Foundation bags, and skips). Big drive with volunteers for last two weeks of every year. 2 community student reps cover main HMO areas.

Durham Similar end of year campaign using purple bags and a Reuse campaign

Student Warden Champion funded for 3 years by Uni, works closely with police to control waste issues.

Birmingham One landlord charges occupants £5 for every bag of waste he is obliged to pick up (presumably this is in the lease).

### 3. HMO Article 4 Planning Policies

Most towns now have this in place but in all cases it seems to have been too late to prevent serious community imbalance.

Durham has a population of 40k plus 15k students of which around 10-12k live outside University accommodation. As a result about half of all dwellings in the city Centre are now HMOs. There are only 2 PBSA's in the city. Article 4 policy was only introduced here last year. A big effort is now being made by the University to involve residents' groups. Council was until recently unsympathetic but this has changed. Councillors were not helpful, either too remote (Unitary authority across whole County) or often employees of the University ! Durham Uni now wants to increase % of in-house accommodation by 10%.

Birmingham has the policy in place in Selly Oak but the Ward closest to the University, already with 55% HMOs, it is too late. Residents have started to employ a barrister to fight planning applications with a much improved success rate.

On the issue of how to adjust HMO policy which seeks to protect balanced communities, in order **to allow for PBSA's**, I was informed that it is possible to supplement the '10% of dwellings' in a given area approach by applying a '20% of population' test in parallel. An attempt was made in Durham, based on Manchester's policy but this seems to have failed formally so far. Manchester's is not too clear - but may have some clauses from which we may learn. Both are attached.

### 4. Additional Licensing

Several authorities have introduced additional licensing or are about to do so. Southampton's has been in for two years and they claim to see an improvement in their intelligence enabling policies to be enforced and in the quality of accommodation due to regular inspections by an HMO warden, paid for from the licensing revenue.

Attendees recommended Portsmouth as a good operator for the last three years so links are given in the box below:

*ADDITIONAL LICENSING - Portsmouth*

<https://www.portsmouth.gov.uk/ext/housing-and-council-tax/housing/shared-houses-additional-licensing-of-houses-in-multiple-occupation.aspx>

*We also perhaps need to understand more clearly the S257 HMO category -*

<https://www.portsmouth.gov.uk/ext/documents-external/hou-hmomanagementofsection-257.pdf>

*although this may not be a major issue in our area - pre-1992 conversion of flats.*

*Some very useful background on this and other matters is in*

<https://www.portsmouth.gov.uk/ext/documents-external/hou-hmolicensefaqs.pdf>

*Fees charged are*

<https://www.portsmouth.gov.uk/ext/documents-external/hou-hmofees.pdf>

*Landlord's national association view of Licensing - main concerns seem to be inconsistency and inadequate enforcement by Councils.(It also covers selective licensing of private rented accommodation which is outside the scope of this Group)*

<http://www.landlords.org.uk/sites/default/files/NLA%20Licensing%20Report.pdf>

*Background legislation and regulation links are*

<http://www.legislation.gov.uk/ukpga/2004/34/contents>

<http://www.legislation.gov.uk/uksi/2006/372/contents/made>



# Community Protection Notices Waste

## Warwick District Council Policy

**November 2016**

DRAFT

Graham Folkes-Skinner Waste Policy and Performance Officer
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Email: <a href="mailto:graham.folkes-skinner@warwickdc.gov.uk">graham.folkes-skinner@warwickdc.gov.uk</a>
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## 1. About Community Protection Notice, Vision and Purpose

One of the five priority themes within the Councils Sustainable Community Strategy is termed “Safer Communities” and its strategic aim is to “work in partnership to reduce crime, anti-social behaviour and re-offending”

Community Protection Notices (“CPNs”) were introduced by the Anti-Social Behaviour Crime and Policing Act 2014 (“the Act”) and are intended to stop individuals (aged over 16), business or organisations from committing anti-social behaviour which spoils the quality of life of the local community.

The following document has been developed to provide a framework for Warwick District Council to deal with on-going problems of nuisance originating from waste and recycling issues which have a negative effect on the community’s quality of life.

The Warwick District Council Enforcement Policy should be read in conjunction with this Policy and it must be followed when issuing CPNs and taking enforcement action.

### **Purpose**

The CPN will direct the individual, business or organisation responsible to stop causing the problem and it could also require the person responsible to take reasonable steps to ensure that it does not occur again.

Breach of a CPN is a criminal offence.

### **Who can use this power?**

The following organisations can issue Community Protection Notices:

- Borough and District councils in Warwickshire, following appropriate internal delegation
- Warwickshire Police uniformed officers and PCSOs where authorised.
- Registered Social Landlords, where powers are delegated by the local Borough or District council

### **Delegation of Powers**

The powers under the ASB Crime and Policing Act 2014 are granted to local borough and district councils. Delegation of authority to relevant senior and front-line officers to use the powers must be sought through the appropriate committees and senior management teams within Warwick District Council

### **Existing Local Authority Powers**

The CPN powers are designed to complement rather than replace existing powers and it remains a principle of law that a specific power should still be used where appropriate and if the threshold for use of that specific power is met.

Some of the specific powers available to Councils are as follows:

- Cleaner Neighbourhoods and Environment Act 2005: This gives borough and district councils the power to issue fixed penalty notices (FPNs) for a range of offences under the Cleaner Neighbourhoods Act 2005, e.g. dog fouling, littering, fly-tipping.
- Environmental Protection Act 1990: Local authorities can also issue Abatement Notices for statutory nuisance. Statutory nuisance has a higher threshold than CPNs; therefore CPNs will be targeted at the lower level nuisance that does not constitute a statutory nuisance. Should an authorised officer witness a statutory nuisance, then they are duty bound to serve an abatement notice.
- Town & Country Planning Act 1990: Section 215 permits the service of a Notice on an owner or occupier where the local amenity is affected by the condition of land

### Information Sharing

Close liaison between the relevant Service Areas with the District and potentially the police, landlords, University and Letting Agents is essential when issuing a warning letter or CPN to ensure the most effective power is used to protect victims. It also ensures all parties are aware of the conditions placed on an individual or body so that enforcement/compliance of the warning or the notice can be monitored. The Act requires any person issuing a CPN to inform any individual or body that person thinks appropriate.

### Threshold

A CPN can only be issued by a local authority or a designated person if they are satisfied on reasonable grounds that the conduct of the individual, business or organisation is:

- Having a detrimental effect on the quality of life of those in the area
- Persistent or continuing in nature, and
- Unreasonable

CPN's are designed to have a broad application and should focus on how individuals and communities are affected by particular conduct. They should not be issued lightly for conduct that is benign or trivial and they are not designed for single, one off incidents. The detrimental conduct of an individual or organisation can also include acts of omission.

Officers will investigate whether a CPN is appropriate by speaking to potential victims in order to obtain first-hand accounts of the conduct and understand the wider harm to the community. Officers will form an objective opinion and will consider the nature of the conduct, its frequency and duration and the seriousness and breadth of its impact.

### Who can you issue a CPN to?

A CPN can be issued to any person aged 16 or over, a business, or an organisation. If a young person is aged 16-18 years then the Warwickshire Youth Justice Service will be consulted before the Notice is issued.

If a CPN is being issued to a business or organisation, it will be issued to the most appropriate person who can reasonably control or affect the behaviour, either in person or posted to them e.g. shop owner of a small shop, store manager of a major supermarket.

If the owner or occupier of premises that are responsible for causing a detrimental effect cannot be determined, the issuing officer can post the CPN on the premises. The Council will undertake reasonable enquiries to identify the owner or occupier. This may include checks with the Land Registry or public registers or a formal request for information using powers within section 16 of the Local Government (Miscellaneous Provisions) Act 1976

### CPN Procedure

#### The Written Warning

Before a CPN can be issued, a written warning must be issued to the person committing the anti-social behaviour. There is no prescribed content for the written warning but guidance indicates that it should contain:

- The name and address of the person to whom it is issued
- An outline of the conduct considered to be causing the detrimental effect
- An outline of the detrimental effect
- The time period within which the behaviour or its impact is expected to have ceased
- A warning that if the effect has not ceased within the specified time limit then a CPN will be issued
- An outline of the effect of a CPN and potential sanctions on breach
- Date of issue and name and authority of the issuer.

It is a matter for the issuing officer to decide how long should be given for the matter to be dealt with. For example in the case of a CPN requiring waste to be cleared several days or weeks may be deemed reasonable depending upon the level of the work involved. In other cases the issuer could require the behaviour to stop forthwith.

In certain circumstances the issuing officer may decide to issue more than one Warning Letter before considering issue of a CPN.

To ensure a consistent approach between Service Areas, a template Warning Letter is provided in Appendix One for authorised persons to use.

#### Issuing a CPN

If the recipient of the Warning Letter has not ceased their behaviour within the timescales set, a CPN can be issued. The CPN may be issued to a person by:

- Handing it to the person, or
- Leaving at the person's proper address

- In the case of a company it will be addressed to the company secretary or clerk and sent to the company's registered office.
- In the case of a partnership it will be addressed to the person having control or management of the partnership business and sent to the principal office of the partnership

Where a CPN has been issued by post it will be deemed served the second day after it was posted, provided that day is a business day. If that day is not a business day then it will be the next business day after that business day.

Where the detrimental effect arises from the condition of premises or the use to which premises have been put and the name of occupier (if occupied) or the owner (if unoccupied) cannot be found after making reasonable enquiries then the authorised person may post the CPN on the premises. The CPN will be deemed issued at the time the CPN is posted onto the premises.

#### Content of a CPN

The aim of the CPN is to stop behaviour and put in place steps to ensure it will not reoccur. It should be adapted to the situation and can include any or all of the following:

- A requirement to stop doing specific things
- A requirement to do specific things
- A requirement to take reasonable steps to achieve specific results within the set timescales.

The requirements of a CPN will vary according to the nature of the detrimental effect that it seeks to address. Requirements will be clear, specific, reasonable and proportionate. They should not duplicate or conflict with other enforcement action being taken by the Council.

#### **Appeals**

A person served with a CPN may appeal to a Magistrates Court against the CPN within 21 days of it being issued on any of the following grounds:

1. That the conduct specified in the CPN ;
  - did not take place; or
  - has not had a detrimental effect on the quality of life of those in the locality; or
  - has not been of a persistent or continuing nature; or
  - is not unreasonable; or
  - is conduct that the person cannot reasonably be expected to control or affect
2. That any of the requirements of the CPN , or any of the periods within which or times by which they are to be complied with, are unreasonable
3. That there is a material defect or error, in connection with the CPN.
4. That the CPN was issued to the wrong person

Once an appeal is lodged then a requirement imposed by the CPN to stop doing a specified thing remains in force but any other requirement imposed by the CPN has no effect until the appeal is determined or withdrawn. For example if a CPN requires a person to stop putting rubbish in a front garden and clear the rubbish then whilst an appeal is in progress the person will have to stop adding to the rubbish but will not be required to clear the rubbish until the appeal has been heard and the CPN has been upheld.

On appeal against a CPN the court has the power to quash the CPN, modify it or dismiss the appeal and uphold the CPN.

### **Failure to comply with a CPN**

Failure to comply with a CPN is a criminal offence under Section 48 of the Act. Section 52 of the Act allows for a Fixed Penalty Notice of not more than £100 to be issued as an alternative to prosecution.

The Council will investigate and act in accordance with its enforcement policy when deciding what action is appropriate against a person or organisation that fails to comply with a CPN. The following action may be taken:

- **Prosecution:** If an individual is convicted of failing to comply with a CPN they can be fined a maximum level 4 fine (currently up to £2,500). A business or organisation can be fined a maximum of £20,000. There is a defence where the person served can show that they took all reasonable steps to comply with the notice or had some other reasonable excuse for failing to comply with it. The Council will usually invite potential defendants to attend an interview under caution as part of the investigation.
- **Issue of a Fixed Penalty Notice ("FPN"):** The Council has discretion to issue an FPN as an alternative to prosecution. The potential defendant has the opportunity to pay a fixed sum of £100 within a fixed period of time. Payment of the FPN within the specified period discharges any liability to conviction for the offence. Where an FPN is not paid the Council will usually prosecute for the failure to comply with the CPN.
- **Caution:** The Council may issue a simple caution for the offence where this is deemed appropriate. Cautions are likely to only be appropriate where the offence is minor, the level of harm is low and it is a first offence. The offender must also admit guilt and formally agree to accept a caution.
- **Remedial Action.** The Council may carry out work to remedy the failure to comply with a CPN where the work is on land open to the air. The Council has a power of entry to this land in order to carry out the work. Where the work involves premises not open to the air the Council can issue the recipient of the CPN with a Notice specifying the work it intends to carry out and an estimate of its cost. The recipient or owner of the premises is then invited to grant permission for the work to be carried out. If permission is given by one of them the Council may proceed with the work. Once the work is completed the Council is required to notify the person issued with the CPN of the work done and the cost. The person issued is then liable to pay the Council the amount specified subject to a 21 day right of appeal to Magistrates Court on the grounds that the cost of the work is excessive. Subject to any decision by the Magistrates the costs of the remedial work will be recoverable by the Council from the person issued with the CPN as a civil debt.
- **Seizure:** Where an officer of the Council provides Information on Oath to Magistrates and they are satisfied that there are reasonable grounds for suspecting that an offence has been committed under section 48 of the

Act and an item used in the commission of the offence is present on specified premises then the Magistrates can grant a warrant of entry for an authorised person to enter the premises, by force if necessary, for the purpose of seizing the item. Items seized in this way must be returned within 28 days unless criminal proceedings under section 48 of the Act are commenced within that time.

### **Orders following Conviction**

On conviction the Council as prosecuting authority can ask the Court to make one of the following orders in addition to any penalty imposed by the court;

- Remedial Order  
This may require the defendant to carry out specified work (typically the CPN's requirements) or to allow specified work to be carried out by, or on behalf of the local authority which issued the CPN. The defendant's consent is required where work is to be carried out to any accommodation where he usually lives or is living at the time of the work however obstructing a Court Order constitutes contempt of court which may be punished by imprisonment.
- Forfeiture Order  
The Court may order the forfeiture of any item used in the commission of the offence.

### **Publicity and communication**

The Community Protection Notice process will be actively promoted, both internally and to the public.

### **Monitoring and Review**

Community Protection Notices will be reviewed monthly at the most appropriate group within Warwick District Council. Any learning points will be shared with the group. A summary report will be submitted quarterly to ??



**Community Protection Notices**

Unreasonable behaviour is occurring that is affecting a community's quality of life



Warning Letter Issued



Does the behaviour involve young people **between the ages of 16 to 18?**

Yes

No

Liaise with Warwickshire Youth Justice Service before CPN issues

Discussion with Legal and Service Area colleagues



Unreasonable Behaviour continues



Community Protection Notice issued  
Explaining what individual, business or organisation must do to stop affecting the community's quality of life



Unreasonable Behaviour continues – CPN is breached  
Possible sanctions include: fixed penalty notice; up to a level 4 fine (on conviction); paying for remedial work; forfeiture of items



Monthly review

**What is the test?**  
Behaviour has to: have a detrimental effect on the quality of life of those in the locality; be of a persistent or continuing nature; and be unreasonable

## Appendix A

**Community Protection Notice - Warning  
ASB Crime and Policing Act 2014**

Date:

Dear:

**Re: Warning Letter – Community Protection Notice  
(In accordance with Section 43 of the Anti Social Behaviour Crime and Policing Act 2014)**

*Insert issuing agency name* is satisfied that you are responsible for unreasonable behaviour which is persistent and/or continuing in nature and is having a detrimental effect on the quality of life of others.

This unreasonable behaviour includes:

*Briefly detail behaviour including dates and locations and the detrimental effect it is having on the life on those in the locality*

This letter is formal notification that you are required to stop behaving in the manner described above to avoid further consequences. Please ensure that you take the following actions within the timescales identified.

Action you must take:	Deadline for when you must do this by:

If you fail to comply with the above requirements within the timescales given then *insert issuing agency name* will consider serving you with a Community Protection Notice (CPN). This notice will tell you the things that you **must** do to put these problems right. If you still fail to do so without reasonable excuse:

1. You may be issued with a fixed penalty notice.
2. You may be prosecuted. If you are prosecuted and convicted the maximum penalty is a fine not exceeding level 4 on the standard scale (currently £2,500 for an individual, and up to £20,000 for a business or organisation?)
3. The court may make whatever order the court thinks appropriate to ensure that what the notice requires to be done is done.
4. A court order may require you to:
  - a. Carry out specified work, or
  - b. Allow specified work to be carried out by, or on behalf of *insert issuing agency name*.
5. The court may require you to surrender possession of any item used in your failure to comply with the Notice, to a constable or to a person representing the local authority. The court may require this item to be destroyed or disposed of. A justice of the peace may issue a warrant, authorising a constable or authorised person to enter your premises to seize the item.
6. Social Landlords may offer a responsible tenant reward scheme which could ne compromised if further action is taken.

*Insert issuing agency name* will also consider what other action may be required to stop the problems, such as applying for an ASB Injunction, Premises Closure Order, or notifying your landlord (where relevant) if *insert issuing agency name* consider that breaches of your tenancy agreement/lease have occurred. Your details will also be passed on to the local Community Incident Action Group who will consider a multi-agency response to the anti-social behaviour that has led to this warning being issued.

You are advised to refer to the extract from the ASB Crime and Policing Act 2014 provided.

Signed:	Name:
Job Role:	Issuing agency:
Contact Details:	

**Extract from the Anti-social Behaviour, Crime and Policing Act 2014**46. Appeals against notices

(1) A person issued with a community protection notice (CPN) may appeal to a magistrates' court against the notice on any of the following grounds. 1 That the conduct specified in the CPN did not take place; has not had a detrimental effect on the quality of life of those in the locality; has not been of a persistent or continuing nature; is not unreasonable, or is conduct that the person cannot reasonably be expected to control or affect. 2 That any of the requirements in the notice, or any of the periods within which or times by which they are to be complied with, are unreasonable. 3 That there is a material defect or error in, or in connection with, the notice. 4 That the notice was issued to the wrong person. (2) An appeal must be made within the period of 21 days beginning with the day on which the person is issued with the notice. (3) While an appeal against a CPN is in progress (a) a requirement imposed by the notice to stop doing specified things remains in effect, unless the court orders otherwise, but (b) any other requirement imposed by the notice is of no effect. For this purpose an appeal is "in progress" until it is finally determined or is withdrawn. (4) A magistrates' court hearing an appeal against a CPN must (a) quash the notice, (b) modify the notice (for example by extending a period specified in it), or (c) dismiss the appeal.

47. Remedial action by local authority

(1) Where a person issued with a CPN ("the defaulter") fails to comply with a requirement of the notice, the relevant local authority may take action under subsection (2) or subsection (3) (or both). (2) The relevant local authority may have work carried out to ensure that the failure is remedied, but only on land that is open to the air. (3) As regards premises other than land open to the air, if the relevant local authority issues the defaulter with a notice (a) specifying work it intends to have carried out to ensure that the failure is remedied, (b) specifying the estimated cost of the work, and (c) inviting the defaulter to consent to the work being carried out, the authority may have the work carried out if the necessary consent is given. (4) In subsection (3) "the necessary consent" means the consent of (a) the defaulter, and (b) the owner of the premises on which the work is to be carried out (if that is not the defaulter). Paragraph (b) does not apply where the relevant authority has made reasonable efforts to contact the owner of the premises but without success. (5) A person authorised by a local authority to carry out work under this section may enter any premises to the extent reasonably necessary for that purpose, except that a person who is only authorised to carry out work under subsection (2) may only enter land that is open to the air. (6) If work is carried out under subsection (2) or (3) and the relevant local authority issues a notice to the defaulter (a) giving details of the work that was carried out, and (b) specifying an amount that is no more than the cost to the authority of having the work carried out, the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection (7)).(7) A person issued with a notice under subsection (6) may appeal to a magistrates' court, within the period of 21 days beginning with the day on which the notice was issued, on the ground that the amount specified under subsection (6)(b) is excessive. (8) A magistrates' court hearing an appeal under subsection (7) must (a) confirm the amount, or (b) substitute a lower amount. (9) In this section "the relevant local authority" means (a) the local authority that issued the CPN; (b) if the CPN was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could have issued it.

48. Offence of failing to comply with notice

(1) A person issued with a CPN who fails to comply with it commits an offence. (2) A person guilty of an offence under this section is liable on summary conviction (a) to a fine not exceeding level 4 on the standard scale, in the case of an individual; (b) to a fine not exceeding £20,000, in the case of a body. (3) A person does not commit an offence under this section if (a) the person took all reasonable steps to comply with the notice, or (b) there is some other reasonable excuse for the failure to comply with it.

49 Remedial orders

(1) A court before which a person is convicted of an offence under section 48 in respect of a CPN may make whatever order the court thinks appropriate for ensuring that what the notice requires to be done is done. (2) An order under this section may in particular require the defendant (a) to carry out specified work, or (b) to allow specified work to be carried out by or on behalf of a specified local authority. (3) To be specified under subsection (2)(b) a local authority must be (a) the local authority that issued the CPN ;(b) if the CPN was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could

have issued it.(4) A requirement imposed under subsection (2)(b) does not authorise the person carrying out the work to enter the defendant's home without the defendant's consent. But this does not prevent a defendant who fails to give that consent from being in breach of the court's order. (5)In subsection (4) "the defendant's home" means the house, flat, vehicle or other accommodation where the defendant--(a) usually lives, or (b) is living at the time when the work is or would be carried out. (6)If work is carried out under subsection (2)(b) and the local authority specified under that subsection issues a notice to the defaulter (a) giving details of the work that was carried out, and (b) specifying an amount that is no more than the cost to the authority of having the work carried out, the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection (7)).(7) A person issued with a notice under subsection (6) may appeal to a magistrates' court, within the period of 21 days beginning with the day on which the notice was issued, on the ground that the amount specified under subsection (6)(b) is excessive. (8) A magistrates' court hearing an appeal under subsection (7) must (a) confirm the amount, or (b) substitute a lower amount.

#### 50. Forfeiture of item used in commission of offence

(1) A court before which a person is convicted of an offence under section 48 may order the forfeiture of any item that was used in the commission of the offence. (2) An order under this section may require a person in possession of the item to hand it over as soon as reasonably practicable (a) to a constable, or (b) to a person employed by a local authority or designated by a local authority under section 53(1) (c). (3) An order under this section may require the item (a) to be destroyed, or (b) to be disposed of in whatever way the order specifies. (4) Where an item ordered to be forfeited under this section is kept by or handed over to a constable, the police force of which the constable is a member must ensure that arrangements are made for its destruction or disposal, either (a) in accordance with the order, or (b) if no arrangements are specified in the order, in whatever way seems appropriate to the police force. (5) Where an item ordered to be forfeited under this section is kept by or handed over to a person within subsection (2) (b), the local authority by whom the person is employed or was designated must ensure that arrangements are made for its destruction or disposal, either (a) in accordance with the order, or (b) if no arrangements are specified in the order, in whatever way seems appropriate to the local authority.

#### 51. Seizure of item used in commission of offence

(1) If a justice of the peace is satisfied on information on oath that there are reasonable grounds for suspecting (a) that an offence under section 48 has been committed, and (b) that there is an item used in the commission of the offence on premises specified in the information, the justice may issue a warrant authorising any constable or designated person to enter the premises within 14 days from the date of issue of the warrant to seize the item. (2) In this section "designated person" means a person designated by a local authority under section 53(1) (c). (3) A constable or designated person may use reasonable force, if necessary, in executing a warrant under this section. (4) A constable or designated person who has seized an item under a warrant under this section (a) may retain the item until any relevant criminal proceedings have been finally determined, if such proceedings are started before the end of the period of 28 days following the day on which the item was seized; (b) otherwise, must before the end of that period return the item to the person from whom it was seized. (5) In subsection (4) "relevant criminal proceedings" means proceedings for an offence under section 48 in the commission of which the item is alleged to have been used.

## Community Protection Notice

Date:

Dear:

**Re: Community Protection Notice****(In accordance with Section 43 of the Anti-Social Behaviour Crime and Policing Act 2014)**

Take notice that *insert issuing agency name* is satisfied on reasonable grounds that the conduct of *insert name and address of individual and/or business/organisation* is having a detrimental effect on the quality of life of those in the locality, that it is persistent and continuing in nature and the conduct is unreasonable.

The nature of the conduct which is having a detrimental effect is as follows:

*Briefly detail behaviour including dates and locations and the detrimental effect it is having on the life of those in the locality*

You have previously been given a written warning on, *insert date warning letter was issued*, that a Community Protection Notice will be issued unless your unreasonable behaviour, detailed above, ceases. *insert issuing agency name* is satisfied that, despite having had enough time to deal with the matter, your unreasonable behaviour continues.

**You are hereby required to comply with the following requests:**

a) A requirement to stop doing specific things
b) A requirement to do specific things
c) A requirement to take reasonable steps to achieve specific results

**If you still fail to comply with these requests, without reasonable excuse:**

1. You may be issued with a fixed penalty notice.
2. You may be prosecuted. If you are prosecuted and convicted the maximum penalty is a fine not exceeding level 4 on the standard scale (currently £2,500 for an individual, and up to £20,000 for a business or organisation)

3. The court may make whatever order the court thinks appropriate to ensure that what the notice requires to be done is done.
4. A court order may require you to:
  - a. Carry out specified work, or
  - b. Allow specified work to be carried out by, or on behalf of *insert issuing agency name*.
5. The court may require you to surrender possession of any item used in your failure to comply with the Notice, to a constable or to a person representing the local authority. The court may require this item to be destroyed or disposed of. A justice of the peace may issue a warrant, authorising a constable or authorised person to enter your premises to seize the item.
6. Social Landlords may offer a responsible tenant reward scheme which could be compromised if further action is taken.

*insert issuing agency name* will also consider what other action may be required to stop the problems, such as applying for an ASB Injunction, Premises Closure Order, or notifying your landlord (where relevant) if *insert issuing agency name* consider that breaches of your tenancy agreement/lease have occurred. Your details will also be passed on to the local Community Incident Action Group who will consider a multi-agency response to the anti-social behaviour that has led to this warning being issued.

#### **Breach of a Community Protection Notice is a Criminal Offence.**

You are advised to refer to the extract from the ASB Crime and Policing Act 2014 provided.

Signed:	Name:
Job Role:	Issuing agency:
Contact details:	

#### **Extract from the Anti-social Behaviour, Crime and Policing Act 2014**

##### 46. Appeals against notices

(1) A person issued with a community protection notice (CPN) may appeal to a magistrates' court against the notice on any of the following grounds. 1 That the conduct specified in the CPN did not take place; has not had a detrimental effect on the quality of life of those in the locality; has not been of a persistent or continuing nature; is not unreasonable, or is conduct that the person cannot reasonably be expected to control or affect. 2 That any of the requirements in the notice, or any of the periods within which or times by which they are to be complied with, are unreasonable. 3 That there is a material defect or error in, or in connection with, the notice. 4 That the notice was issued to the wrong person. (2) An appeal must be made within the period of 21 days beginning with the day on which the person is issued with the notice. (3) While an appeal against a CPN is in progress (a) a requirement imposed by the notice to stop doing specified things remains in effect, unless the court orders otherwise, but (b) any other requirement imposed by the notice is of no effect. For this purpose an appeal is "in progress" until it is finally determined or is withdrawn. (4) A magistrates' court hearing an appeal against a CPN must (a) quash the notice, (b) modify the notice (for example by extending a period specified in it), or (c) dismiss the appeal.

##### 47. Remedial action by local authority

(1) Where a person issued with a CPN ("the defaulter") fails to comply with a requirement of the notice, the relevant local authority may take action under subsection (2) or subsection (3) (or both). (2) The relevant local

authority may have work carried out to ensure that the failure is remedied, but only on land that is open to the air. (3) As regards premises other than land open to the air, if the relevant local authority issues the defaulter with a notice (a) specifying work it intends to have carried out to ensure that the failure is remedied, (b) specifying the estimated cost of the work, and (c) inviting the defaulter to consent to the work being carried out, the authority may have the work carried out if the necessary consent is given. (4) In subsection (3) "the necessary consent" means the consent of (a) the defaulter, and (b) the owner of the premises on which the work is to be carried out (if that is not the defaulter). Paragraph (b) does not apply where the relevant authority has made reasonable efforts to contact the owner of the premises but without success. (5) A person authorised by a local authority to carry out work under this section may enter any premises to the extent reasonably necessary for that purpose, except that a person who is only authorised to carry out work under subsection (2) may only enter land that is open to the air. (6) If work is carried out under subsection (2) or (3) and the relevant local authority issues a notice to the defaulter (a) giving details of the work that was carried out, and (b) specifying an amount that is no more than the cost to the authority of having the work carried out, the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection (7)). (7) A person issued with a notice under subsection (6) may appeal to a magistrates' court, within the period of 21 days beginning with the day on which the notice was issued, on the ground that the amount specified under subsection (6)(b) is excessive. (8) A magistrates' court hearing an appeal under subsection (7) must (a) confirm the amount, or (b) substitute a lower amount. (9) In this section "the relevant local authority" means (a) the local authority that issued the CPN; (b) if the CPN was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could have issued it.

#### 48. Offence of failing to comply with notice

(1) A person issued with a CPN who fails to comply with it commits an offence. (2) A person guilty of an offence under this section is liable on summary conviction (a) to a fine not exceeding level 4 on the standard scale, in the case of an individual; (b) to a fine not exceeding £20,000, in the case of a body. (3) A person does not commit an offence under this section if (a) the person took all reasonable steps to comply with the notice, or (b) there is some other reasonable excuse for the failure to comply with it.

#### 49 Remedial orders

(1) A court before which a person is convicted of an offence under section 48 in respect of a CPN may make whatever order the court thinks appropriate for ensuring that what the notice requires to be done is done. (2) An order under this section may in particular require the defendant (a) to carry out specified work, or (b) to allow specified work to be carried out by or on behalf of a specified local authority. (3) To be specified under subsection (2)(b) a local authority must be (a) the local authority that issued the CPN; (b) if the CPN was not issued by a local authority, the local authority (or, as the case may be, one of the local authorities) that could have issued it. (4) A requirement imposed under subsection (2)(b) does not authorise the person carrying out the work to enter the defendant's home without the defendant's consent. But this does not prevent a defendant who fails to give that consent from being in breach of the court's order. (5) In subsection (4) "the defendant's home" means the house, flat, vehicle or other accommodation where the defendant--(a) usually lives, or (b) is living at the time when the work is or would be carried out. (6) If work is carried out under subsection (2)(b) and the local authority specified under that subsection issues a notice to the defaulter (a) giving details of the work that was carried out, and (b) specifying an amount that is no more than the cost to the authority of having the work carried out, the defaulter is liable to the authority for that amount (subject to the outcome of any appeal under subsection (7)). (7) A person issued with a notice under subsection (6) may appeal to a magistrates' court, within the period of 21 days beginning with the day on which the notice was issued, on the ground that the amount specified under subsection (6)(b) is excessive. (8) A magistrates' court hearing an appeal under subsection (7) must (a) confirm the amount, or (b) substitute a lower amount.

#### 50. Forfeiture of item used in commission of offence

(1) A court before which a person is convicted of an offence under section 48 may order the forfeiture of any item that was used in the commission of the offence. (2) An order under this section may require a person in possession of the item to hand it over as soon as reasonably practicable (a) to a constable, or (b) to a person employed by a local authority or designated by a local authority under section 53(1) (c). (3) An order under this section may require the item (a) to be destroyed, or (b) to be disposed of in whatever way the order specifies. (4) Where an item ordered to be forfeited under this section is kept by or handed over to a constable, the police force of which the constable is a member must ensure that arrangements are made for its destruction or disposal, either (a) in accordance with the order, or (b) if no arrangements are specified in the order, in



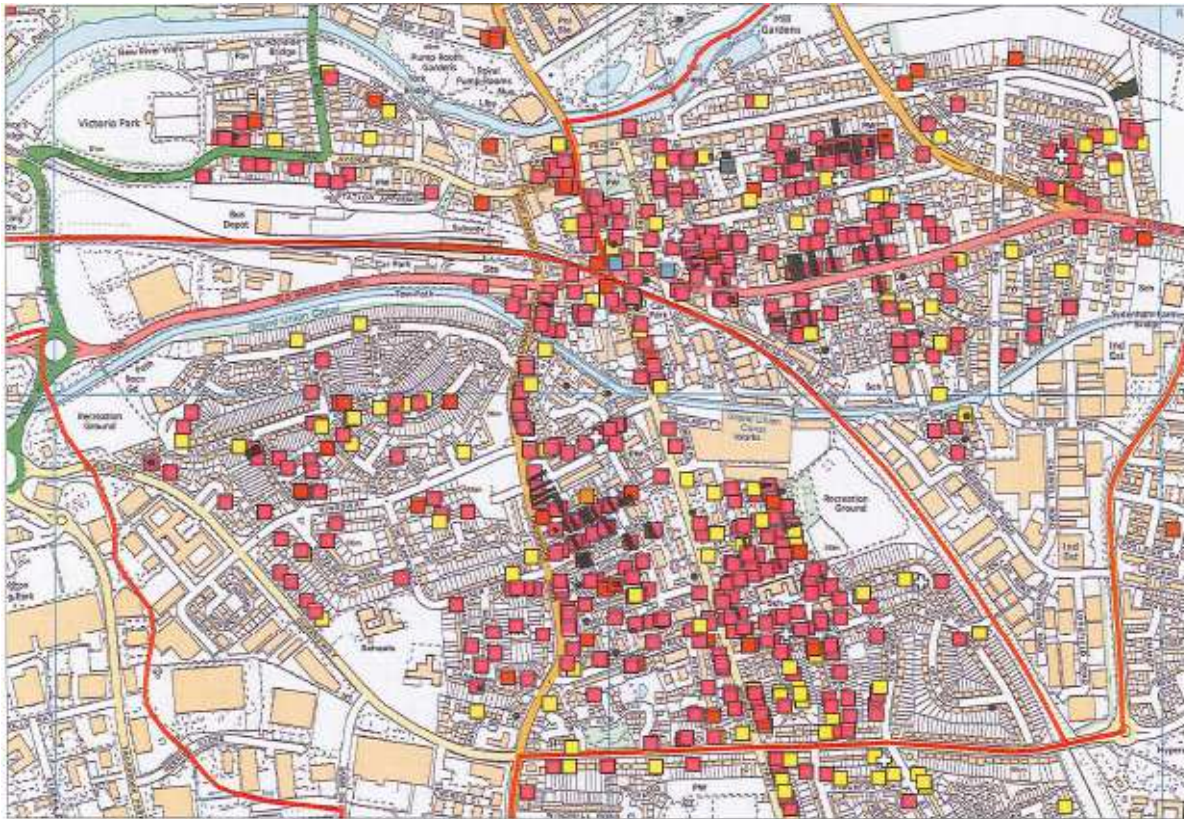
whatever way seems appropriate to the police force. (5) Where an item ordered to be forfeited under this section is kept by or handed over to a person within subsection (2) (b), the local authority by whom the person is employed or was designated must ensure that arrangements are made for its destruction or disposal, either (a) in accordance with the order, or (b) if no arrangements are specified in the order, in whatever way seems appropriate to the local authority.

51. Seizure of item used in commission of offence

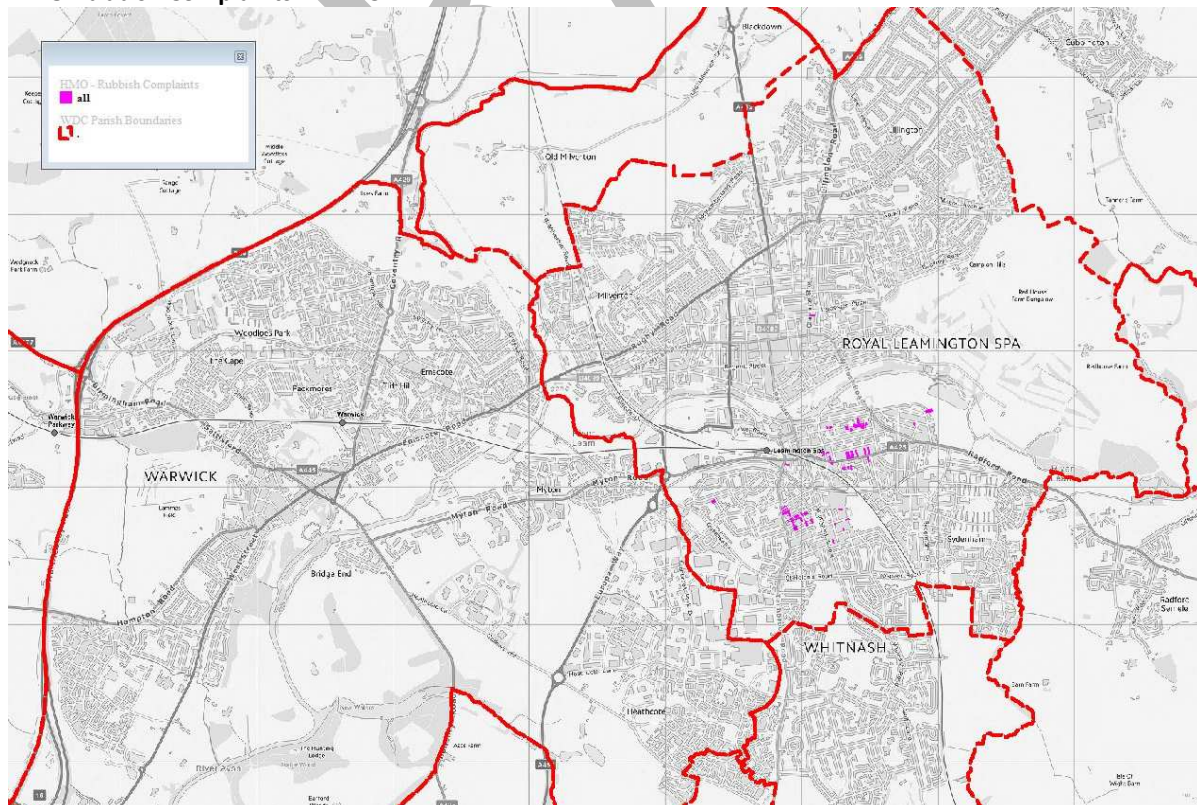
(1) If a justice of the peace is satisfied on information on oath that there are reasonable grounds for suspecting (a) that an offence under section 48 has been committed, and (b) that there is an item used in the commission of the offence on premises specified in the information, the justice may issue a warrant authorising any constable or designated person to enter the premises within 14 days from the date of issue of the warrant to seize the item. (2) In this section "designated person" means a person designated by a local authority under section 53(1) (c). (3) A constable or designated person may use reasonable force, if necessary, in executing a warrant under this section. (4) A constable or designated person who has seized an item under a warrant under this section (a) may retain the item until any relevant criminal proceedings have been finally determined, if such proceedings are started before the end of the period of 28 days following the day on which the item was seized; (b) otherwise, must before the end of that period return the item to the person from whom it was seized. (5) In subsection (4) "relevant criminal proceedings" means proceedings for an offence under section 48 in the commission of which the item is alleged to have been used.

DRAFT

A map showing 'hot spots' in South Leamington. Indicates a pilot around the areas with black splodges could be trialled.



### HMO Rubbish Complaints in WDC



- 4.57 In determining planning applications for all types of specialist housing for older people, the Council will give particular consideration to the provision for Primary Health Care facilities and will consult with the appropriate health service provider. This is because older people account for a large proportion of GP appointments. There is, therefore, a clear need for adequate, accessible GP services in the locality.
- 4.58 The Council will consider how a proposed scheme contributes towards the identified need for accommodation for older people in the District. This will include consideration of the type and tenure of the accommodation in relation to past provision and future needs. The Council will monitor the provision of accommodation for older people and may refuse permission if the scheme does not meet projected needs. Warwick District Council is a popular location for different models of specialist housing for older people and whilst there is a clearly identified need for this type of housing, the supply of housing land is limited and care is required to ensure that a significant over-provision is not made at the expense of general housing.
- 4.59 In accordance with national planning guidance, housing provided for older people, including, including residential institutions in Use Class C2, are counted towards the housing requirement. The Council's approach follows that agreed by the local planning authorities in the Housing Market Area.

#### **H6 Houses in Multiple Occupation and Student Accommodation**

Planning permission will only be granted for Houses in Multiple Occupation, including student accommodation, where:

- a) the proportion of dwelling units in multiple occupation (including the proposal) within a 100 metre radius of the application site does not exceed 10% of total dwelling units;
- b) the application site is within 400 metres walking distance of a bus stop;
- c) the proposal does not result in a non-HMO dwelling being sandwiched between 2 HMO's;
- d) the proposal does not lead to a continuous frontage of 3 or more HMOs; and
- e) adequate provision is made for the storage of refuse containers whereby -
  - the containers are not visible from an area accessible by the general public, and
  - the containers can be moved to the collection point along an external route only



Exceptions to a) may be made where the application site is located:

- i. on the campus of the University of Warwick or Warwickshire College or;
- ii. on a main thorough fare in a mixed use area where the proposal would not lead to an increase in activity along nearby residential streets (for example, by way of pedestrian movements between the application site and the town centre or car parking)

Exceptions to e) may be made if alternative arrangements for the storage and movement of containers are agreed in writing by the Council's Contract Services section.

### Explanation

- 4.60 National planning policy includes the aim to "always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings". Further, planning should "enhance and improve the places in which people live their lives". National planning policy also supports the need to make places better for people. This includes "safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion".
- 4.61 The recent increase in the number of Houses in Multiple Occupation (HMO's) in Royal Leamington Spa has led to a fall in the standards of amenity experienced by residents in parts of the town where HMO's have concentrated. This is largely a result of:
- a relatively large proportion of young, single people with student lifestyles which conflict with the lifestyles of more settled residents; and
  - a relatively large proportion of privately rented accommodation, with short term tenancies, which often leads to a lower standard of upkeep of property and the loss of a sense of belonging within the community.
- 4.62 About 81% of HMOs in the District comprise of accommodation for students, most of whom attend the University of Warwick in Coventry. The areas around central and south Royal Leamington Spa have the greatest concentrations of HMOs. These areas are popular with students and young people because the town centre provides a good range of facilities for young people and a thriving evening economy. In addition, the housing stock lends itself well to the provision of shared houses and flats. However, one of the main problems for more settled residents living in these areas is the anti-social behaviour in the streets in the early hours of the morning as young people return from the pubs and clubs, often on mid-week mornings. Other issues include noise from neighbouring properties, poor attendance to waste storage, increased burglaries, increased street parking, and poor property maintenance. The University and the Council work together to resolve these issues, but the Council is firmly of the view that restricting further concentrations of HMOs will help prevent a worsening of the situation.

- 4.63 In response to concerns by residents the Council agreed an Article 4 Direction in April 2012 the purpose of which was to remove permitted development rights, in Royal Leamington Spa only, for a change of use from a single dwelling to a small HMO (uses class C4). The need for planning permission would enable the Council to control further concentrations of small HMOs since nearly 81% of HMOs in the District comprised shared houses (use class C4).
- 4.64 The purpose of this policy is to control the location of new HMOs in order to prevent these uses from either exacerbating existing concentrations or leading to new concentrations. Additional HMOs can impact on local amenity where they lead to concentrations at either the neighbourhood level or in very localised situations. The policy aims to prevent concentrations at both levels by ensuring that within a 100 metre radius of the proposal not more than 10% of dwellings are HMOs and also, at a more localised level, by preventing the “sandwiching” of a non-HMO between 2 HMOs or a continuous frontage of 3 or more HMOs. It is not the intention of the policy to restrict further growth in HMOs. The Council recognises the importance of HMOs and the private rented sector generally in the housing stock but seeks to ensure that the amenity of more settled residents is not compromised. The policy also aims to ensure that there is satisfactory provision for the storage of waste, since a house occupied as an HMO generates more waste than a family or couple. In addition, the policy also aims to ensure that new HMOs are within reasonable walking distance of a bus stop because access to public transport is essential for most University of Warwick students due to the restrictive parking arrangements on campus.
- 4.65 The policy makes exceptions to the application of the 100 metre radius test to allow for HMOs or student accommodation in areas which would not impact on existing residential areas. Since one of the main problems is anti-social behaviour and noise on routes home from the town centre, these criteria are intended to allow HMOs in locations where residential areas would not be affected. Main thoroughfares will normally be defined as A and B roads and mixed use areas are defined as areas with a predominance of non-residential uses.
- 4.66 The Council supports the provision of student accommodation on the University campus which falls within Warwick District. The number of full-time University students increased by 29% in the five years up to 2011/12. A large proportion of this increase has been in international students who are more likely to prefer purpose-built accommodation. Approximately 225 flats for students, along with some flats for staff and visitors, received planning permission in 2009 as part of the University’s Master Plan. Of these, 59 have been completed and the remainder are expected to be built in the first phase of the plan period. An additional 4,440 sq. m. of existing student accommodation is the subject of an application for redevelopment & replacement. The Local Plan allows for further expansion of the University within Warwick District and this is likely to include further accommodation for students.

**Complaint by Mr Paul Cox against  
Warwick District Council**

**Report on Investigation**

**Warwickshire Legal Services  
Warwickshire County Council  
Shire Hall  
Warwick  
CV34 4RL**

## 1. Introduction

1.1 This report relates to a complaint made by Mr Paul Cox to Warwick District Council (“the Council”) in respect of the grant of planning permission for development at 10 Newgale Walk, Leamington Spa (the “Planning Permission”). The development consists of a change of use of a property at 10 Newgale Walk, Leamington Spa from use as a single dwelling house to a four bedroom house in multiple occupation (“HMO”).

1.2 On 20 December 2016 I was instructed to investigate this matter by the Council in accordance with Stage 2 of its Corporate Complaints Procedure. Helpfully, Mr Cox had already set out a summary of his complaint in an email to the Council of the same date. The summary is as follows;

*1. You failed to follow Council policy (the Article 4 direction) and failed to give due weight to the reasons the Council enacted that policy i.e that HMO's are inherently problematic and therefore, by definition, not like family homes. This is perverse.*

*2. You have created your own unofficial "policy" which runs counter to Council policy i.e. because there were no objections to this application, you decided to apply your own 'made-up' criteria without any evidence to support them i.e. (a) that an HMO is "little different" to a family home and (b) that an action which breaches the '10% rule' by 50% is okay. This is unjustifiable.*

*3. You have created a Catch-22 situation for local residents, in that you have a process which is determined by whether you receive objections yet deny residents the information they need to consider whether objections are justified under the Article 4 direction - specifically, withholding the details of where unlicensed HMO's (i.e. the overwhelming majority of HMO's) are located. This is unfair and unreasonable. Whilst Data Protection is cited as the reason, the release of simply the addresses of the unlicensed HMO's and the number of tenants they house would deal with the data protection issue and give residents the information they need to consider an objection.*

*4. You failed to consider 3. (above) as a significant reason for why there may have been no objections in this specific case. (How can I, or anyone else, consider objecting if I don't know where most of the HMO's in Sydenham are?) You also disregarded the very well-known concerns of residents about the proliferation and impact of HMO's. You*

*therefore reached the unreasonable and contrary conclusion that there was "no sense of concern."*

1.3I subsequently spoke with Mr Cox on the telephone on 13 January 2017 and agreed to investigate the complaint on the basis of this email, in addition to one other ground of complaint raised initially by Mr Nick Bond in an email to the Council dated 1 January 2017.

1.4The additional ground of complaint raised by Mr Bond is that a representation made by Leamington Town Council was not taken into account, because it arrived after the Planning Permission was issued. It is alleged that this is because the Town Council was not advised that there would be any difficulty in submitting its representation on 9 December, after its meeting on 8 December. It is suggested that if the Town Council had been made aware that this would have been too late, it would have made arrangements for its representation to have been submitted earlier.

1.5I also agreed to take into consideration other comments made by Mr Bond in his email of 1 January 2017, which largely support and expand upon the complaint of Mr Cox, particularly in relation to Grounds (1) and (2).

1.6As part of my investigation, in addition to speaking with the Complainant on the telephone, I held separate meetings with Mr Andrew Jones (WDC Deputy Chief Executive and Monitoring Officer), Mr Gary Fisher (WDC Development Control Manager) and Mrs Tracy Darke (WDC Head of Development Services). I corresponded with Mr Paul Hughes (WDC Private Sector Housing Officer) by email in respect of Ground 3 and spoke with Graham Leach (Democratic Services Manager & Deputy Monitoring Officer), also in respect of Ground 3. The Case Officer is no longer employed by the Council and so it has not been possible for me to speak with him.

1.7Before dealing with the individual grounds of complaint, it is perhaps helpful to summarise the basis upon which the Council must determine applications for planning permission.

1.8In dealing with any application for planning permission the Council, as local planning authority, is required to have regard to the provisions of its "Development Plan" so far as



it is material to the application. Further, the determination must be made in accordance with the Development Plan unless “material considerations” indicate otherwise.

1.9 “Material considerations” are matters which relate to development and the use of land. They can include, but are not limited to, matters such as parking, highway safety, noise and loss of light. Examples of considerations that are not usually material to planning include loss of property value or private disputes between neighbours. Importantly, for the purposes of this report, emerging policies in a *draft* local plan are capable of being material considerations.

1.10 Case law has established that a local planning authority must interpret its planning policies correctly, and it must also determine;

(a) whether the individual material policies support or count against the proposed development, or whether the development is consistent or inconsistent with them and;

(b) whether or not the proposed development is in accordance with the development plan as a whole.

1.11 Against that background, I set out my findings and conclusions below in the order in which they appear in Mr Cox’s email.

## 2. **Ground 1.**

**“You failed to follow Council policy (the Article 4 direction) and failed to give due weight to the reasons the Council enacted that policy i.e that HMO’s are inherently problematic and therefore, by definition, not like family homes. This is perverse”.**

2.1 Mr Cox’s reference to the “Article 4 Direction” means Article 4 of the General Permitted Development Order 2015 (“the “GPDO”).

2.2 The GPDO is national legislation which effectively grants planning permission for certain forms of development which would otherwise require express planning permission from the Council.

2.3 Article 4 of the GPDO enables the Local Planning Authority (“LPA”) to stipulate that certain classes of development will require express planning permission notwithstanding the permission granted by the GPDO. Effectively, it allows the Council to regain local control over certain forms of development where it is satisfied that it is expedient for it to do so.

2.4 Change of use of a building from use as a single dwelling house to use as a small house in multiple occupation<sup>1</sup> is one of the classes of permitted development granted planning permission by the GPDO<sup>2</sup>. Consequently, such changes of use do not normally require an application to be made to the LPA.

2.5 On 25 March 2011 Warwick District Council made an Article 4 Direction (“the Direction”) in respect of changes of use of single dwelling houses to small houses in multiple occupation. As a consequence of the Direction, such changes of use now require express planning permission from the Council.

2.6 The Direction is not planning policy. Its sole effect is to require that changes of use from dwelling houses to small HMOs are subject to a planning application to the Council. It does not have any impact on how those applications are to be determined. Therefore, to the extent that the complaint is that the Council failed to follow the Direction “as policy”, it is misconceived.

2.7 However, as Mr Cox clarified on the telephone, at the heart of this ground of complaint is the suggestion that the Council made the Direction because it considered that HMOs are inherently more likely to give rise to adverse impacts such as increased noise, litter and anti-social behaviour than family homes. It is alleged that the grant of the Planning Permission and, more particularly, the Council’s reasons for granting permission in this instance, represents a departure from, and is inconsistent with, the Council’s previously expressed views on the impact of HMOs.

2.8 Put simply, this ground of complaint is that the Council failed to have regard to the views it adopted when making the Direction, i.e. that HMOs are inherently more likely to give rise to adverse effects that harm local amenity than single dwelling houses. Instead, it is

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<sup>1</sup> A House in Multiple Occupation with no more than six residents.

<sup>2</sup> Town and Country Planning (General Permitted Development) (England) Order 2015/596 Schedule 2 Part 3 Class L

suggested that the Council has now adopted a different view, i.e. that HMOs have no adverse impact on amenity beyond that of a family home. The complainant is concerned that this sets a precedent for the way such applications will be dealt with in future.

2.9 In terms of the reasons for making the Direction, the Council's web site states that;

*Most HMOs in the District are small shared houses occupied by up to 6 people. They are concentrated in certain parts of Leamington Spa and these concentrations have lead (sic) to issues such as pressures on parking, noise, increased crime and a decline in the more settled population. Whilst the Council accepts that HMOs play an important role in providing low cost housing, particularly for young people, it wishes to ensure that HMOs are more evenly dispersed throughout the town.*

2.10 On 26 January 2011 the Council took a report to its Executive Committee, which decided to make the Direction. The report stated that;

*A concentration of HMOs can harm residential amenity, particularly by way of increased noise nuisance, anti-social behaviour, incidences of crime and adverse impacts on the physical environment. This is largely due to:*

- *an imbalance in the mix of the population with higher proportions of young, single people living student lifestyles, and*
- *a high proportion of privately rented accommodation with short-term lets where the standards of upkeep of the property are generally lower.*

*Research by Officers shows that there is clear evidence of harm to local amenity where student accommodation is concentrated. This research is documented in the report attached as Appendix 1.3.6 It should be noted that an Article 4 Direction does not prevent the development to which it applies, but instead requires that planning permission is first obtained from the local planning authority. In the case of Leamington Spa, an Article 4 Direction will enable the authority to prevent existing concentrations from worsening and prevent new concentrations forming in other areas.*

(my emphasis)

2.11 The report expresses the Council's concern that concentrations of HMOs may cause cumulative harm and unbalanced communities. It makes clear that the Direction does not prevent new HMOs, but has the effect that they will require planning permission from the Council.

2.12 Turning now to the Officer's Report, in respect of likely harm to amenity, it states;

*It is not envisaged that a four bedroom HMO is likely to generate significantly more noise than the existing house. Consequently, it is contended that allowing it to be so used is unlikely to harm the amenities of neighbouring residents.*

2.13 The report does not make any reference to the Direction. As it is not planning policy there is no requirement for it to do so. Further, in my view, there is no necessary inconsistency between the conclusion as to harm reached in the Officer's Report, in relation to a proposal for a particular HMO, and the making of the Direction.

2.14 This is because the objective of the Direction is to avoid harmful concentrations of HMOS, which may have cumulative adverse effects. However, it is conceivable that there will be circumstances in which a proposed HMO will not, in fact, cause more harm to local amenity than a dwelling house, or add unacceptably to the cumulative impacts of HMOs in the vicinity. This will depend on the particular facts of the case.

2.15 That is not to say that the conclusions as to the likely harm to amenity in respect of 10 Newgale Walk are correct. This is a planning judgement for the Council on which I am unable to comment. However, as a matter of law, the Council is not bound to conclude that every HMO will give rise to increased harm to local amenity simply because of the making of the Direction.

2.16 Further, the Council is not bound to have regard to the reasoning behind the making of the Direction when determining individual planning applications. That reasoning may not be applicable to specific planning applications submitted after the making of the Direction. Each planning application must be treated on its merits.

2.17 In conclusion on this ground;

- (a) The Direction is not Planning Policy to which the Council must have regard when determining individual planning applications;
- (b) The making of the Direction does not mean that the Council *must* conclude that every change of use from a dwelling house to a small HMO will cause harm to amenity. This is a something that must be determined on the facts pertaining to individual applications;
- (c) there is no necessary inconsistency between the Case Officer's conclusion that this particular HMO would not cause unacceptable harm to amenity and the reasons for making the Direction;
- (d) The complaint on Ground 1 is not upheld.

### 3. **Ground 2.**

**“You have created your own unofficial "policy" which runs counter to Council policy i.e. because there were no objections to this application, you decided to apply your own 'made-up' criteria without any evidence to support them i.e. (a) that an HMO is "little different" to a family home and (b) that an action which breaches the '10% rule' by 50% is okay. This is unjustifiable”.**

3.1 The only official policy that the Council has in relation to HMOs is Policy (H6) in the Council's *emerging* Local Plan (“ELP”).

3.2 How much weight is to be attached to policy in an ELP will vary, and will depend on factors such as what stage the plan has reached in the adoption process and the level of objection to the particular policy during the consultation stage.

3.3 The Council's ELP has undergone examination by the Secretary of State in a Public Inquiry and is likely to be adopted before the summer, subject to modifications to be made at the request of the Planning Inspector.

3.4 Consequently, it is accepted by Mrs Darke and Mr Fisher that the HMO Policy in the ELP is uncontentious, and almost certain to form part of the new Local Plan. Therefore, they are both of the view that emerging Policy H6 should be afforded significant weight in the decision making process.

3.5 Policy H6 states that Planning Permission will only be granted for Houses in Multiple Occupation, including student accommodation, where:

- (a) the proportion of dwelling units in multiple occupation (including the proposal) within a 100 metre radius of the application site does not exceed 10% of total dwelling units;*
- (b) the application site is within 400 metres walking distance of a bus stop;*
- (c) the proposal does not result in a non-HMO dwelling being sandwiched between 2HMO's;*
- (d) the proposal does not lead to a continuous frontage of 3 or more HMOs;  
and*
- (e) adequate provision is made for the storage of refuse containers whereby the containers are not visible from an area accessible by the general public, and the containers can be moved to the collection point along an external route only*

3.6 The Officer's report acknowledges that criterion (a) would not be met but, at the same time, expresses the view that the application would meet the requirements of the policy. It says;

*Policy H6 of the Emerging Local Plan relates to proposals for Houses in Multiple Occupation. It is considered that this proposal will essentially meet the requirements of this policy for the following reasons:-*

*Whilst slightly more than 10% of the dwelling units within a 100 metre radius of these premises will be in use as an HMO if this application is approved this figure will not be greatly exceeded. In those circumstances the figure will be approximately 15%.....*

*The proposal is considered to be in accordance with the requirements of.....Policy H6 of the emerging Warwick District Local Plan 2011 – 2029*

(my emphasis)

- 3.7 In fact, given the Council's conclusion that granting the application would result in more than 10% of the properties within a 100m radius of the application premises being in use as HMOs, the application is plainly not in accordance with emerging Policy H6.
- 3.8 Both Mrs Darke and Mr Fisher agreed that the proposal is not in accordance with emerging Policy H6. They both also confirmed that there is no "unofficial policy" to the effect that HMOs should be treated as "little different to family homes" or that it is "okay" to breach the emerging policy.
- 3.9 Mr Fisher, the supervising officer who checked and signed off the report, acknowledged that, with the benefit of hindsight, the report should have been drafted so as to make it clear that the application was not in accordance with the emerging policy.
- 3.10 However, Mr Fisher's view is that the Case Officer was aware of the breach of emerging policy H6, but decided that departure from it was justified by his view that the proposal was unlikely to cause any additional harm to local amenity. Whilst the report should have been clearer as to the breach of emerging Policy H6, Mr Fisher is of the view this is down to poor drafting rather than the Case Officer misdirecting himself as to the meaning of the policy.
- 3.11 Mrs Darke and Mr Fisher both expressed the view that each case must be treated on its merits and that, whilst Policy H6 will be the starting point for HMO applications, there will be cases where the likely harm of a proposal will mean that it should be refused even though it does not breach emerging policy H6. Equally, they take the view that there will be cases where it is appropriate to grant planning permission even though Policy H6 is breached, either because it can be demonstrated that the proposal would not add to the potential cumulative harm of HMOs in the area, or because any potential harm is outweighed by other material considerations specific to a particular development.
- 3.12 In my view, it is correct to say that (even when it becomes adopted policy) there is no absolute "10% Rule", in the sense that there may be instances where other material considerations mean that it is appropriate to grant planning permission, even though the development is not strictly in accordance with the policy. For example, it may be either that a particular development is not considered to add to the cumulative impact of HMOs in the area, or that any harm is outweighed by other material considerations specific to the development.

3.13 Having said this, the Council has decided, as a matter of policy, that concentrations of HMOs above 10% in a 100m radius are to be avoided due to the likely cumulative adverse effects of such concentrations and this must be given weight in the decision making process. The explanatory text to emerging policy H6 sheds some light on what these cumulative impacts may be;

*One of the main problems for more settled residents living in these areas is the anti-social behaviour in the streets in the early hours of the morning as young people return from the pubs and clubs, often on mid-week mornings. Other issues include noise from neighbouring properties, poor attendance to waste storage, increased burglaries, increased street parking and poor property maintenance*

3.14 This being the case, it would have helped local residents to understand the Officer's decision had his report contained a fuller explanation of why he considered that this particular HMO would not add to these cumulative impacts and should be treated as an exception to the policy. This could, perhaps, have been done through an analysis of reported issues in the vicinity of the proposal, the way in which the HMO was to be run, or proposed mitigation or control measures.

3.15 For example, whilst the officer concludes that "amenities" would not be harmed, the only specific type of harm to amenity directly addressed in the report (save for parking) is the potential harm arising from noise, in respect of which the report says only that "it is not envisaged" that the proposal will generate significantly more noise than the existing use as a family home. No further explanation is given for this conclusion, and what it does not appear to address is the potential cumulative impacts (anticipated by emerging Policy H6) of a 15% concentration of HMOs, in addition to the potential impact of this development taken in isolation.

3.16 If the Council has accepted that concentrations above the level of 10% in a 100m radius should normally be refused due to their cumulative adverse impact, then, in my view, the reasons for allowing that concentration to be exceeded in this case should, ideally, have been subject to fuller explanation and justification.

3.17 In summary, planning applications must be determined in accordance with the local plan unless material considerations indicate otherwise. Consequently, (once H6 becomes adopted policy) the correct approach would seem to be;



(a) for the Council to decide whether or not the application is in accordance with Policy H6 and the development plan as a whole and;

(b) if it finds that it is not in accordance with the development plan, then it must it then go on to consider other material considerations and decide whether they are sufficient to justify a departure from the development plan in all the circumstances of the case. If they are not, then the application should be determined in accordance with the development plan and refused.

3.18 In this case, in terms of (a), it is accepted that the application was not in accordance with Policy H6. The Officer's Report ought to have made this clear and, given the weight to be attributed to the emerging policy, gone on to provide a clearer and more detailed justification for departing from it.

3.19 In conclusion on this Ground;

(a) The Officers Report is incorrect in stating that the application is in accordance with emerging Policy H6;

(b) It was open to the Case Officer to legitimately conclude that other material considerations justified a departure from emerging policy H6 in the particular circumstances of the application;

(c) However, the officer's reasons for departing from emerging Policy H6 should have been fuller and clearer. In particular, given that the HMO would have resulted in a concentration of HMOs in excess of that set out in emerging Policy H6, the Report should have explained why it was considered unlikely that this HMO would add to the cumulative impact of the HMOs already in the vicinity;

(d) There is no evidence to suggest that the officer was of the view that it would always be "okay" to exceed the "10% Rule" or that the Council has an unofficial policy to the effect that HMOs have similar impacts to family homes;

(e) The complaint on Ground 2 is upheld to the extent that the Officer's Report states that the application would comply with emerging Policy H6 when in fact it would not, and on the basis that the justification for departing from the emerging policy should have been expressed clearly and in more detail.

#### 4. **Ground 3**

**“You have created a Catch-22 situation for local residents, in that you have a process which is determined by whether you receive objections yet deny residents the information they need to consider whether objections are justified under the Article 4 direction - specifically, withholding the details of where unlicensed HMO's (i.e. the overwhelming majority of HMO's) are located. This is unfair and unreasonable. Whilst Data Protection is cited as the reason, the release of simply the addresses of the unlicensed HMO's and the number of tenants they house would deal with the data protection issue and give residents the information they need to consider an objection.”**

4.1 During our telephone discussion, Mr Cox confirmed that he has not made a formal request for disclosure of information held by the Council in respect of HMOs. However, he has been made aware that Warwick District Councillors have been given a list of unlicensed HMOs in the District. When asked to provide the list to members of the public, Councillors are said to have advised that it cannot be disclosed due to restrictions in the Data Protection Act 1998.

4.2 Mr Cox confirmed that he has no interest in the disclosure of particular landlords' or tenants' details. He and other local residents would simply like to be able to ascertain how many unlicensed HMOs there are in a particular area, for the purposes of determining whether planning applications are in accordance with emerging Policy H6.

4.3 In respect of this ground of complaint, I spoke with Paul Hughes (WDC Private Sector Housing Officer) and Graham Leach (WDC Committee Services Officer).

4.4 Mr Hughes confirmed that there is no duty on landlords of non-licensable HMOs to notify the local authority of their existence. He stated that the Council has had many requests from Councillors and the general public to disclose details of all HMOs. However, the internal advice from Mr Leach (given on the basis of the Council's legal advice) was not to disclose the list of unlicensed HMOs due to the fact that it contained personal data, such that disclosure would breach restrictions in the Data Protection Act.

4.5 However, it was agreed that some lists and maps specific to certain electoral wards could be provided to Councillors of those wards, on the understanding that they did not make the information public.

4.6 Mr Leach has confirmed that the effect of the advice is that it may be possible to disclose the list whilst redacting personal data.

4.7 Mrs Darke acknowledges that it would be helpful if residents could be provided with some information on the number of HMOs within the vicinity of a proposed development. She confirmed that it is the Council's intention to publish information in relation to whether the "10%" element of Policy H6 would be infringed at an early stage in the application process, in order to give the public an opportunity to comment.

4.8 I accept that it won't be possible for the Council to disclose a list of unlicensed HMOs which the Council believe to be in a particular area where that list contains personal data. However, where such information is held, it may be possible for the Council to provide a redacted list containing only the locations of HMOs in a particular vicinity.

4.9 In conclusion on this ground;

- (a) the decision to refuse to disclose the information held as to the locations of unlicensed HMOs was based upon reasonable concerns about the protection of personal data;
- (b) however, it appears that there may be ways of assisting residents in obtaining sufficient information for them to be in a position to make fully informed representations on planning applications. This may be possible either through the planning process (as suggested by Mrs Darke) or by the disclosure, in suitably redacted form, of information held by the Council as to the location of unlicensed HMOs.
- (c) This ground of complaint is not upheld, but the disclosure of the location of unlicensed HMOs should be subject to a review by the Council with the objective of providing local residents with the required information where it is legally possible to do so.

5. **Ground 4**

**“You failed to consider 3. (above) as a significant reason for why there may have been no objections in this specific case. (How can I, or anyone else, consider objecting if I don't know where most of the HMO's in Sydenham are?) You also disregarded the very well-known concerns of residents about the proliferation and impact of HMO's. You therefore reached the unreasonable and contrary conclusion that there was "no sense of concern."**

5.1 The Officer's Report makes no reference to public objections to the Application, save for saying “None” under the heading of “Public Response”. The Case Officer makes no comment in relation to the existence, or non-existence, of a “general sense of concern” about HMOs. As I have been unable to speak to the Case Officer, it is not possible for me to draw a conclusion as to what weight, if any, he attached to the lack of public response to the application.

5.2 Mrs Darke, in an email to the complainant dated 18 December 2016, advised that;

*We often find that on HMO applications where there is significant concern, we are usually inundated with objections very early on in the process (and on some occasions even before the application hits our desk). We had no sense of concern on this particular application, and so the officer made his assessment balancing it against the policy and the lack of objection at that time.*

5.3 Mr Cox is of the view that the Council should have considered the fact that the list was unavailable to local residents as an explanation for the seeming lack of concern about the application.

5.4 However, there is no suggestion that the planning application was not publicised in accordance with the statutory requirements, and the Case Officer is entitled to rely on the responses to the statutory consultation without being obliged to investigate the reasons for a lack of responses.

5.5 I can draw no conclusion in respect of whether there would have been more representations had it been widely known that it would have resulted in a breach of emerging policy H6.

5.6 The other element to this ground of complaint is that the Council disregarded the “well known concerns of residents about the proliferation of HMOs”.

5.7 Mrs Darke has stated that her view that there was “no general sense of concern” was expressed against the background of other applications for HMOs where there have been a significant number of objections, and that it was not intended to dismiss general concerns over the number of HMOs in the District. However, her view is that this general concern is not a matter to be dealt with at the level of individual applications, but at policy level.

5.8 I agree with this view, to the extent that generally expressed concerns cannot be treated as a “standing objection” to each individual application for an HMO. Officers’ Reports on specific planning applications are not all required to refer to the fact that unspecified general concerns have been expressed about the number of HMOs in the District.

5.9 Rather, the Council’s response to the “sense of general concern” has been the introduction of emerging policy H6 and the making of the Direction. This has resulted in changes of use from single dwelling houses to small HMOs falling under the control of the Council, and means that those applications must take account of the cumulative impact of HMOs in the area.

5.10 In conclusion on Ground 4;

- (a) The Case Officer was not obliged to go behind the reasons for the lack of objections to the applications provided that the statutory consultation had taken place;
- (b) A “general level of concern” about the number of HMOs in the District, without further specificity, is not something that had to be expressly referred to in the Case Officer’s report;
- (c) This Ground of complaint is not upheld.

## 6. **Ground 5**

6.1 In summary, this ground of complaint is that the Town Council objection was not taken into account because it arrived at the Council after the decision was made. The Town

Council has previously advised the Case Officer that it would not be in a position to respond to the complaint until 9 December, and had not been advised that this would present any difficulties. It is suggested that a response should have been sent to the Town Council to enable it to make arrangements to submit its response sooner, or alternatively that the decision should have been delayed until the response had been considered.

6.2 On 16 November 2016 an email was sent by Katherine Geddes, Democratic Support Officer at Leamington Spa Town Council to the Case Officer. The email states;

*“Dear Ian*

*The above application arrived too late to be included for discussion at the Planning Meeting due on Wednesday 16 November. It will now be discussed on Thursday 8 December 2016.*

*I should be grateful if you would note your records accordingly.”*

6.3 No reply was sent to this email, and Mr Fisher and Mrs Darke confirmed that the Case Officer sent his report to Mr Fisher for checking on 6 December. The Decision was subsequently published on 9 December without further reference to the Town Council.

6.4 On 12 December, the Town Council sent a further email to the Case Officer ;

*“Good morning Ian,*

*I was very surprised to see the town council’s comments had not been shown on this decision. I informed you as below that the town council could not consider the application until the 8th December as it arrived too late for the November meeting. I entered a “no objection subject to not breaking the 10% rule” on Friday 9th December. This is not showing on the portal despite me being able to enter comments on Friday.*

*You did not inform me that submitting comments after the 6th December would be a problem – if you had, I would have tried to contact my members about it urgently. Please let me know that the 10% rule has not been breached here.”*

6.5 The Council has statutory targets for the time period in which it determines planning applications, and it must not determine the application until the statutory consultation period has expired. However, the Council is not obliged to contact consultees to chase

them should no response be received within the statutory period. It is the responsibility of the Town Council to ensure that it has internal arrangements in place to ensure that it can respond to planning applications in a timely manner.

6.6 However, on this occasion, the Town Council explicitly advised the Case Officer that it was not in a position to respond by the 9 December deadline. In these circumstances, it was reasonable for it to expect a response from the Case Officer in the event that he intended to publish the decision before then. Mrs Darke and Mr Fisher agreed that a response should have been sent to the Town Council before the decision was issued.

6.7 In conclusion on Ground 5;

(a) The Case Officer should have responded to the Town Council to advise them that they would need to submit their representation sooner than 9 December.

Alternatively, the Council should have delayed issuing the decision until it had received the Town Council's response;

(b) This ground of complaint is upheld to the extent that a reply should have been sent to Ms Geddes' email of 12 December.

## **7. Summary**

7.1 The complaint is upheld in part.

7.2 Ground 2 of the complaint is upheld to the extent set out above.

7.3 Ground 5 of the complaint is upheld for the reasons set out above.

7.4 Grounds (1), (3) and (4) are not upheld for the reasons set out above.

## **8. Recommendations**

8.1 Mr Cox has confirmed that he is not directly affected by the grant of Planning Permission and does not seek financial recompense.

8.2 Ideally, Mr Cox is of the view that the Planning Permission should be revoked, but he understands that this may not be possible in the circumstances.

8.3 Mr Cox is concerned that the Planning Permission will set a precedent for the way that similar applications are dealt with in future.

8.4 I cannot recommend revocation of the planning permission, as it involves an assessment of the planning merits of the development and this is a matter for the Council. It should be noted that, whilst my report is critical of the way in which parts of the report were drafted, this does not necessarily mean that planning permission should not have been granted, or should be revoked. In this respect, the Council has expressed the view that, notwithstanding the drafting of the Officer's Report, planning permission is likely to have been granted for the development. It should also be noted that, if the change of use has already occurred, then the planning permission cannot be revoked.

8.5 However, I recommend that;

8.5.1 within 3 months, the Council provides internal guidance or training to planning officers in respect of how the application of Policy H6 is addressed in Officer's Reports;

8.5.2 within 2 months, the Council undertakes a review in respect of how it can provide local residents with meaningful information on the number of unlicensed HMOs in the vicinity of proposed developments, and advises the Complainant of the outcome of this review;

8.5.3 within 2 months, the Council reviews its internal procedures to ensure effective communication with Parish and Town Councils where they have advised that they cannot comply with the deadline for responses to consultations. I would make clear that this does not mean that the Council are obliged to chase Parish and Town Councils where no communication has been received from them, or that the Council is under an obligation to extend the deadline for responses when asked to do so.

**John Gregory**  
**Senior Solicitor**  
**27 January 2017**



**KENILWORTH TOWN COUNCIL RESPONSE**

GRI 17 Jan 17

**HMOs in Kenilworth**

1. Whilst Kenilworth currently has few HMOs when compared with Leamington Spa, there are about 30-40 at least in the town already. Many, but not all, will be occupied by students from the University of Warwick. There are also approved plans to build student accommodation in Talisman Square and for two small hotels to convert to student accommodation.
2. Currently these students have no obvious presence and presumably make a positive contribution to the economy and community of the town in the same way as any other young resident. Because of the cost of accommodation and the style of social facilities in Kenilworth many are postgraduate students and this may be a reason why they are currently absorbed successfully.
3. There are two possible issues to do with the future development of HMOs:
  - a. Proliferation
  - b. Rubbish
4. Any attempt to control, for whatever reason, HMOs in Leamington could result in their displacement to alternative locations such as Kenilworth, and the town obviously has no wish to inherit the issues which caused the need for restrictions.
5. It is necessary therefore to anticipate any controls so that the entire District is covered. This cannot be done under the present system of Article 4 Directives as that requires clear evidence of the problem existing to justify any action. In other words the stable door may only be closed after the horse has bolted.
6. A first step should be to carefully monitor the number of HMOs everywhere and for that purpose it is unfortunate that only the larger ones require planning permission and even licencing.
7. Rubbish is already a problem at some HMOs in Kenilworth where occupants seem quite unable to present and retrieve bins or even present black bags on the appropriate days with consequent impact on the street scene. It is unfortunate that landlords cannot be made more liable for such matters.

**ROYAL LEAMINGTON SPA TOWN COUNCIL RESPONSE****OBSERVATIONS TO TASK AND FINISH GROUP ON HOUSES IN MULTIPLE OCCUPATION (HIMO'S)****1. PREAMBLE**

1.1 We are pleased to give our views to the Task and Finish Group of Warwick District Council.

1.2 The views that are expressed in this response are not motivated by any "anti-student" feeling. On the contrary, the Town Council recognises that our student population brings significant economic advantages and many students as individuals often contribute to a host of voluntary activities while they are resident here.

1.3 The Town Council Planning Committee considers all applications for HIMOs in some detail. We have recognised for some time that HIMOs, either for students or for professionals, are having a dramatic effect on the housing/accommodation available for local families and the cohesion of local communities. In addition, the Town Council has recently considered this issue at a full meeting in response to a letter from a resident, asking for the Council to consider measures to limit the numbers of new HIMOs. Through the preparation of our Neighbourhood Plan initial feedback from the public has indicated that issues connected with HIMO's are one of the predominant concerns of residents in South Leamington

1.4 We are pleased that the Town Council Planning Committee will now have sight of all HIMOs registered within the radius of the property. Recent Planning Committee meetings have been frustrated by the lack of information. Additionally, within the process of consultation on planning applications, the Town Council would wish to emphasise the importance of minimising the delay between validation of an application by the Planning Department and consultation with statutory consultees in relation to applications for new HIMOs or change of use.

1.5 This document aims to provide constructive suggestions to enable the Task and Finish Group to come to conclusions that are as effective as possible and provide an enduring solution to this critical issue. Three principal areas for focus are identified:-

- Creating a Coordinated Student Accommodation Strategy
- Improving and ensuring proper implementation of the Current Policy for HIMOs and Student Accommodation
- Additional licencing arrangements

## **2. CREATING A CO-ORDINATED STUDENT ACCOMMODATION STRATEGY**

2.1 We are clear that there is a need to focus on HIMOs specifically for students, as this particular form of student accommodation has been shown to have a significant impact on the Town. We wish to work with Warwick District Council and Warwick University to develop a Student Accommodation Strategy for Leamington as per the resolution of the Town Council of 9<sup>th</sup> January 2017.

2.2 The statistics below demonstrate the ever rising impact of student properties:

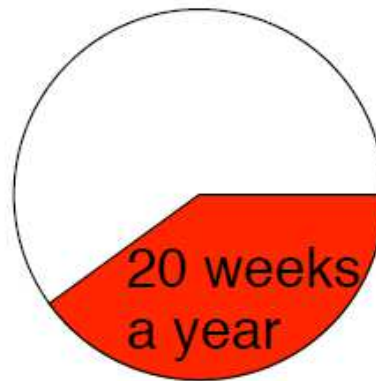
- The number of HIMOs in Warwick District has increased by 170 (15%) over the last seven years.
- The number of 'bed-spaces' has increased by 2,135 (48%) in this period.
- 413 of these are in large student blocks, and the average HIMO has 31% more people in than 7 years ago
- 71% of the HIMOs and 70% of the bed spaces are in South Leamington.

(source Warwick District Council)

2.3 Leamington is not alone in identifying the increasing number of HIMOs as an issue – there is much evidence that there is a problem in all towns and cities that are associated with a local University.

2.4 Inspectors have acknowledged "Excessive concentration of student accommodation is harmful to the well-being of local community" - Appeals Casebook Bulletin, December 2016.

2.5 Action for Balanced Communities, (ABC), an initiative in the City of Bristol, has relevant information on the impact of student populations on existing neighbourhoods:



### ***Term-time impacts***

- **Disturbed nights**
- **Overcrowded & littered streets**
- **Stress on council services**

### ***Vacation impacts***

- **Empty homes**
- **Letting boards & dumped rubbish**
- **Out-of-season economy**

Any strategy should also include consideration of students from Coventry University, and Warwickshire College.

2.6 We do not intend to reproduce all the documentation and research that is available on the damaging effects of increases in HIMO's, or the effect on towns of 'studentification' as we know members of this Group have access to it. Nor will we forward all the correspondence from residents that we receive, as we understand that members of the Task and Finish Group will already be acquainted with it. However should the Group wish to see this evidence, the Town Clerk will willingly submit it.

2.7 We understand that officers from WDC meet with officers from Warwick University on a regular basis. Indeed, we were invited to the Chancellor's Commission last year, where we confirmed our concern at the lack of consultation on student housing in Leamington. We believe that Councillors from Leamington, and particularly South Leamington, should be party to these meetings.

2.8 This strategy could include a coordinated long term plan (approximately 10 years) for the number of students present in the District based on the planned growth of local academic institutions and scenario projections for where these students would reside. This will enable the local authorities to identify potential issues far in advance and implement mitigation strategies (such as introducing new licencing arrangements) prior to local communities being further impacted.

### **3. THE CURRENT POLICY FOR HIMOS AND STUDENT ACCOMMODATION AND IMPLEMENTATION**

3.1 This policy was most recently updated in 2013. It followed the Article 4 Direction adopted in April 2012, which extended the requirement for all HIMOs to apply for Planning permission, to enable there to be a check on the local density of HIMOs.

3.2 We are concerned that the original policy was written before the development of large purpose built blocks of accommodation. We now have at least three finished properties (Station House, Wise Terrace/Tachbrook Road, Union Court); Alumno is due to be completed in August, and more are being considered. The current policy does not address the issue of large blocks of student accommodation, which effectively turn parts of our town into a mini-campus.

3.3 In any work on student accommodation policy, we will be strongly urging that all student accommodation housing eight or more people must be required to have an on-site designated person to manage the property.

3.4 We therefore suggest that the policy is inadequate in its current form and for the period covered by the Local Plan; for effective implementation it should be extended to all other towns in the District.

3.5 Recent concerns also include the way in which the HIMO policy is applied. It is not clear, to either residents or the Town Council, how the policy is being operated, particularly with reference to the definition of residential/mixed housing, and the need to demonstrate 'harm'. It seems to us that this inadequate clarity and application of the policy demonstrates a failure to appreciate the effect this is having on settled residents. This is causing consternation expressed in letters to both local and national newspapers.

3.6 The ABC study quoted above, suggests that planning officers and committees need stronger policies to contain an aggressive student housing market. They quote Loughborough, Nottingham and Leeds as cities that have introduced more robust policies, and operated them for years.

3.7 Stronger measures could include acknowledgement of a saturation point, where no more HIMOs will be considered; a moratorium on any more purpose built student block accommodation until a strategy has been agreed; and ending any exceptions to the 10% rule, especially exemption 3 (ii) – (applied in a mixed use area).

3.8 Additionally, the 10% rule is not taking into account unregistered HIMOs. These properties, together with those that are the subject of retrospective planning permission and have been *de facto* HIMOs for several years, make the mapping of HIMO distribution and the application of the rule inaccurate.

3.9 We strongly urge that the policy is operated to deliver the intention/aims stated:

**1.1 *"The main aim of the policy is to control existing concentrations of HIMOs, including student accommodation, and to ensure that other such concentrations do not occur elsewhere. Existing concentrations in parts of south Leamington have led to a significant loss of amenity for more settled residents."***

This means that exceptions must be exceptions, such that no applicants can quote precedent.

3.10 It also requires that in the event of an appeal, Officers produce the most robust evidence and case for the original decision. We believe that Inspectors in planning appeals do consider the effect of decisions on communities and neighbourhoods, if the appropriate information is supplied and policies are applied consistently.

3.11 The Town Council has reason to believe that WDC is now considering enforcement measures when landlords do not operate within their licence requirements. We welcome this, particularly in relation to refuse storage and noise. There are HIMOs that are properly managed and where neighbours have no complaints. Many complaints regarding HIMOs are matters of compliance with licence conditions therefore regular and effective inspection of these premises is essential.

3.12 We would like to be reassured that all departments of WDC will be informed of their responsibilities in the HIMO policy. We believe that Planning, Licensing, Private Sector Housing, ASB, Waste Management and Environmental Health, must act in an appropriately co-ordinated manner.

#### **4. ADDITIONAL LICENSING ARRANGEMENTS**

4.1 We need to ensure that we are up to speed with strategies to prevent a worsening of the situation. Many cities and towns are already taking steps, e.g. Cardiff, Brighton, and Exeter.

4.2 We most strongly suggest that the Task and Finish Group give due consideration to the viability of an additional Licensing Scheme for South Leamington. For example such a scheme operates in two wards of Cardiff. This Scheme extends the scope of licensing of HIMOs to rented property with 3 or more occupiers, which form 2 or more households, regardless of the number of storeys.

**Royal Leamington Spa Town Council  
February 2017**

### **Warwick Town Council Response**

1. Following a discussion, it was resolved to support the District Council in their investigation. We look forward to seeing the results and recommendations. The Town Council would like to see Article 4 extending across the whole of the District.

Regards

*Jayne Topham*

Town Clerk  
Warwick Town Council  
The Court House  
2 Jury Street  
Warwick

### **Whitnash Town Council Response**

23<sup>rd</sup> January 2017

#### **Houses in Multiple Occupation**

Whitnash Town Council would like to express our dismay at the short time afforded to Town Councils, i.e. 6 days to review Houses in Multiple Occupation within our town; and the lack of detail and reference to work undertaken by the Task and Finish Group, to enable us to comment.

The views of Whitnash Town Council Members are:

1. Councils need to lobby government to make landlords pay tax to pay for the services provided.
2. The rule restricting how many houses in a road can be Houses in Multiple Occupation should be restricted if there is evidence of problems.
3. All houses with three or more unrelated occupiers should be included within the Article 4 declaration and be subject to licensing.
4. Warwick District Council should maintain a spreadsheet, accessible by Councillors, of addresses, landlord details, and contact telephone numbers etc. so that they can be identified and contacted to resolve problems with their tenants.
5. Houses in Multiple Occupation for student accommodation should make business rates contributions towards local authority services.
6. Houses in Multiple Occupation tend to mean more cars, more waste, and means another house that a family who would be keen to buy being unavailable to buy in the town.
7. More cars, means parking on the roads / kerbs etc., and more obstruction of both the roads and the footpaths. On cul-de-sac roads, this can mean permanent residents struggling to find somewhere to park.
8. More waste / rubbish, means more strain on recycling and rubbish collections, and more bins and bags being left outside. This could attract vermin.
9. It may be contentious, but it has been known that many landlords do not look after the properties, in terms of maintenance / appearance and general decor, in a manner that would be reasonable to do. This is evident in all cities London, Coventry and even in Whitnash over

the years. The tenants have no interest in maintaining the appearance of the property or gardens either, and they end up looking untidy and unloved. Add to this the multitude of cars and general rubbish generated and you are into the realms of the property bringing down the tone of the area. This in turn puts people off buying houses in that area, apart from investors, and you then get more and more rented housing and Houses in Multiple Occupation. The downward spiral then begins!!! This is ultimately un-neighbourly, not just on behalf of the tenants (who may actually keep the place in good order, but then again perhaps not), but also the (absent) landlords.

10. With Warwick District Council approving various student Houses in Multiple Occupation developments in Leamington Old Town, residents there are continuously highlighting, in the press, the issues which they face, but they seem to be largely ignored. However, in Whitnash, I think we are talking about houses being converted to house more people than there are bedrooms for, and this restricts supply of homes to buy to live in.

11. How will Warwick District Council manage and identify the unregistered Houses in Multiple Occupation and our concerns about parking and waste collection, especially student accommodations at end of terms?

12. Houses in Multiple Occupation do not pay rates and this puts more pressure on refuse collections and parking with no increase in rates revenue as these houses are being run as a business. It is unfair that landlords are running a business and do not pay rates!

13. Whitnash currently has approximately 11 Houses in Multiple Occupation that we are aware of and think this should be the maximum allowed.

Hopefully the Task and Finish Working Group will take on board the above comments in producing a Policy.

The Policy should ensure that Warwick District Council's Planning Department Officers do not have the authority to approve all planning applications for Homes in Multiple Occupation as they have done with housing developments in the District.

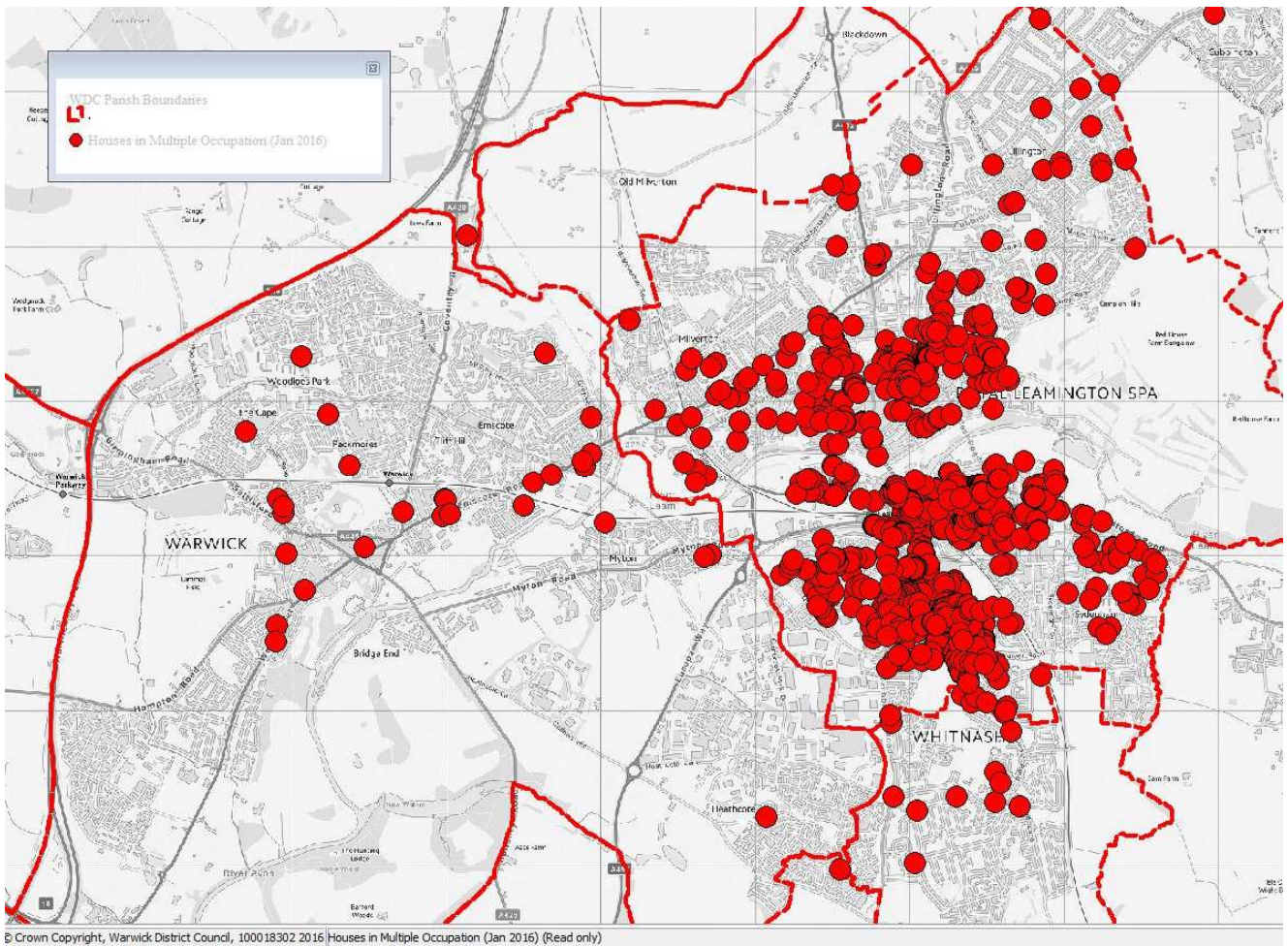
Yours sincerely

Jenny Mason

TOWN CLERK

Maps of HMOs in Warwick District







### Warwick University Statement

- The University of Warwick is a significant contributor to employment and the economy in South Warwickshire. As one of the world's top 100 universities it remains highly attractive to staff, students, and commercial partners. Despite its continued success and growth the University is ***not*** seeking to significantly expand the number of students resident in the Warwick District Council area.

The University has in fact made it a major strategic objective to invest in the creation of new accommodation on its campus in order to cater for any future student demand. Around £90 million pounds will be invested on new accommodation on campus and the first 270 new rooms in this plan will be ready for occupation in October this year (2017). A further scheme consisting of circa 700 beds on campus is ready to be submitted for planning approval and if approved would be due to become available over the period 2018 -2020.

- To ensure that we cater for anticipated demand for our 2017 intake, we are also reserving 477 additional rooms in already existing bespoke student accommodation in Coventry.
- The University also wishes to work with Warwick District Council and local residents in order to build and sustain a consistent community focused approach student housing in the District. However one challenge to that work is the fact that only a minority of properties housing students in the District are part of the University's own managed student accommodation service, Warwick Accommodation.
- The University will therefore shortly be embarking on an advertising campaign which will be directed specifically at private landlords in the District who operate ***already existing*** student HMO (Houses of Multiple Occupancy) to encourage them to become part of the University's managed student accommodation service, and we would very much welcome the District Council's support in encouraging already existing student HMO Private Landlords to join that scheme.
- The scheme gives more certainty and peace of mind to both landlords and local residents. Landlords have a guaranteed income with less worry about their properties and neighbours of those properties would welcome the fact that University will be more empowered to deal with any issues that may arise with the students tenants in those properties. We hope that many current private landlords of student HMO will see the advertising campaign and engage with the University possibly through our accommodation office in Leamington Spa.
- The University is committed to working collaboratively in a range of ways with the Council for the benefit of the communities, the landlords and the tenant students. We believe that through our actively managed accommodation service the University can exert greater influence on issues such as: nuisance and long term over-crowding. We also continue to support and fund the Street Marshall scheme in Leamington with the Council which aims to protect students and encourage more responsible student behaviour late at night.
- In addition to the above, the University remains happy to discuss any proposals that might help shape the future of student accommodation in the District and which would help reduce the impact on existing residential areas, especially South Leamington.

**PRIVATE SECTOR HOUSING INSPECTIONS AND SERVICE REQUESTS 19/11/14 to 19/11/15**

**INSPECTIONS/VISITS**

REACTIVE (SERVICE REQUESTS)	
ADVISORY VISIT	25
WARNING VISIT	1
MONITORING VISIT	103
INSPECTIONS	105

HMO & non

HMO LICENSING	
INITIAL INSPECTIONS	41
RE-INSPECTIONS	5
COMPLIANCE INSPECTION	30

NON LICENSABLE INSPECTION PROGRAMME	
INSPECTIONS/VISITS	22

HMO's

LLEWELLYN ROAD SURVEY	
INSPECTIONS/VISITS	23

Mix of HMO's

SECTION 257 HMO SURVEY	
SURVEYS	12

Unlicensed

<b>TOTAL NO. OF INSPECTIONS/VISITS</b>	<b>367</b>
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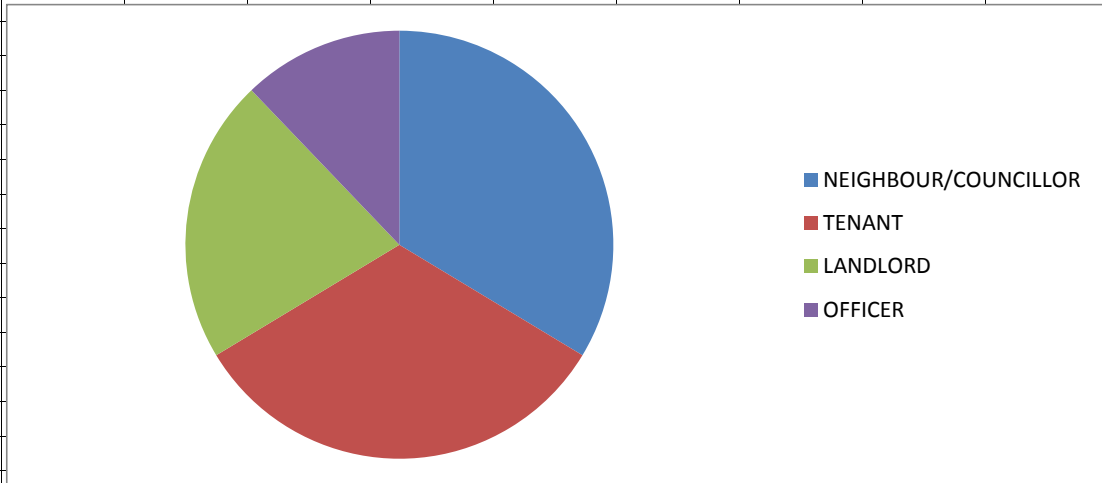
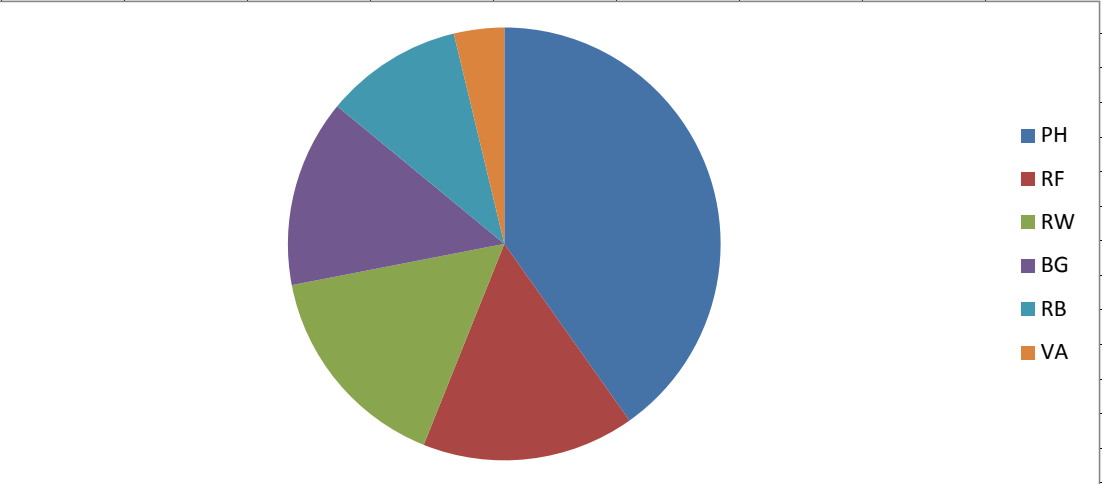
**REQUESTS**

SERVICE REQUESTS RE: PRIVATE RENTED PROPERTY	321
BREAKDOWN OF PRIVATE RENTED SERVICE REQUESTS	
Harassment/illegal eviction	31
HMO	78
non HMO HHSRS	143
Overcrowding	10
Miscellaneous	30
Landlord & tenant advice	29

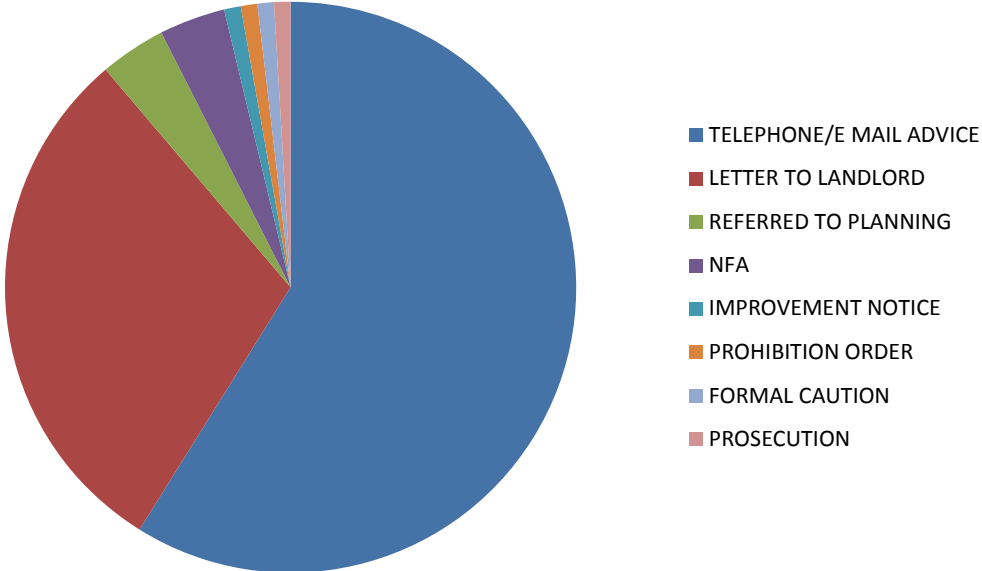
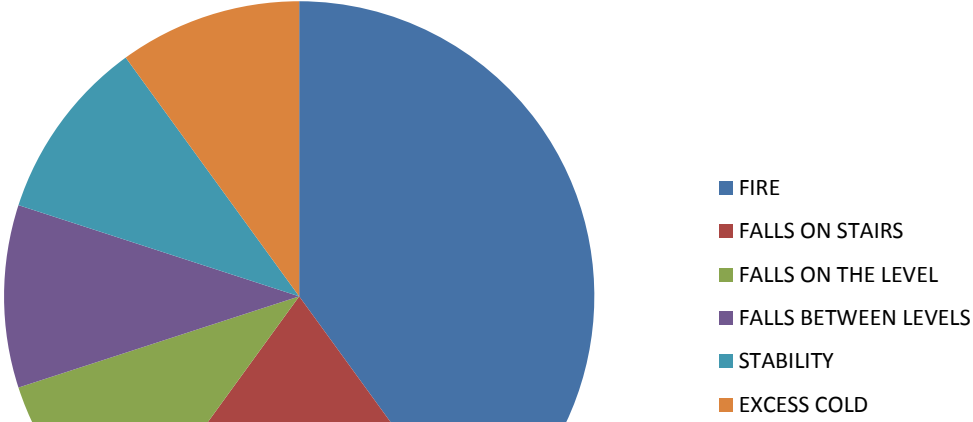
H&S

Mark Lingard looking for analysis of outcomes on this and all recent requests/visits to the three categories of HMO, current licenced, new licenced and non-licenced.

PSH SERVICE REQUESTS & INSPECTIONS 15/16																				
<b>RFS BY OFFICER</b>																				
PH	43																			
RF	17																			
RW	17																			
BG	15																			
RB	11																			
VA	4																			
Total	107																			
<b>RFS BY ENQUIRER</b>																				
NEIGHBOUR/COUNCILLOR	36																			
TENANT	35																			
LANDLORD	23																			
OFFICER	13																			
<b>RFS REQUIRING INSPECTION</b>																				





<b>OUTCOMES</b>		
TELEPHONE/E MAIL ADVICE	63	
LETTER TO LANDLORD	32	
REFERRED TO PLANNING	4	
NFA	4	
IMPROVEMENT NOTICE	1	
PROHIBITION ORDER	1	
FORMAL CAUTION	1	
PROSECUTION	1	
		
<b>CAT 1 HAZARDS</b>		
FIRE	4	
FALLS ON STAIRS	2	
FALLS ON THE LEVEL	1	
FALLS BETWEEN LEVELS	1	
STABILITY	1	
EXCESS COLD	1	
		



	<b>1. Across all three categories of the 100 HMO's inspected, 10% had a category 1 hazard, more in the unlicensed than the licensed.</b>												
	<b>2. Of the 138 'issues' identified overall</b>												
	<b>65 were in the 45 non-licensable properties (average 1.5 per property) - included 5 Cat 1 Hazards or 11%</b>												
	<b>25 were in the 15 properties about to be subject to 'extended licensing' (average 1.65 per property) - -included 1 Cat 1 hazard or 7%</b>												
	<b>50 were in the 40 currently licensed larger HMO's (average 1.25 per property) - included 4 Cat 1 hazards - 8%</b>												
	<b>So problems are rather worse in the non-licensed properties</b>												

## Landlords Survey

### **How many HMO properties do you manage?**

Most respondents had 6 or more properties, 1 had only 1

### **How many of these properties are licensed?**

Half said none, half had some

### **What are the benefits to you as a landlord/agent of having a licence?**

Awareness that the property has reached Warwick District Council's requirements for HMO Licensing approval. It helps to improve housing standards in the private rented sector.

I currently do not need a licence for my student properties. I have 4 students in each of my properties over two floors. I can't think of any benefits of having a licence other than a further income stream for a cash strapped Council. It appears to me that local authorities often extend schemes to raise funding to counter austerity cutbacks and for local political window-dressing.

Keeps on top of landlords managing standards, and keeps on top of safety in properties.

being in the clear as to letting arrangements/standards/compliance reassurance for tenants

### **What are the negatives of having a licence?**

None

1. The licence standard would be much lower than the standards that I apply to my HMOs, so why do I need a licence? Extending schemes of this kind will see responsible landlords paying for expensive licences, while the criminals will continue to operate under the radar. 2. Complex regulatory systems are pushing up rents and preventing more investment in the private rented sector at a time when it needs to expand to help tackle the housing crisis. It would increase my rents by at least an additional £20 per month to include fees and my administration charges. As a long distance landlord who manages my own properties, for example, I would travel a round journey of around 360 miles to open a property for the Council to view. Though I am happy for the Council to view my student properties in Leamington. 3. Criminal landlords often continue to operate as local authorities fail to use their enforcement powers. Let's get the existing legislation working to route out poor quality landlords. Councils already have enforcement powers to take action against those who act illegally and bring the whole sector into disrepute, but are failing to use them, with only 827 prosecutions against landlords over the last five years. 4. Yet more paperwork. Already introduced recently - right to rent booklet, immigration checks, higher taxes etc. 5. The licensing scheme is not fully supported by recognised landlord associations. For example, the RLA objects to local authority proposals for discretionary licensing – particularly with regard to the fee levels imposed and are speaking out against schemes across the country. 6. Local authorities already have the powers needed to effectively monitor landlords through council tax documentation. 96% of councils ask for landlords' data on these forms.

Sometimes less important areas are focussed on and still don't cover some fundamental common issues, such as damp & condensation

Costs



**Would you support the idea of extending licensing to ALL HMOs?**

Yes  
 No  
 No  
 No

**In relation to your answer for question 5, please explain why.**

Your survey assumes we know anything about the licence, so essentially, I don't know.

1. The Council should offer benefits and incentives to good landlords to improve properties. There was an excellent, free to join Student House Accreditation Scheme, which WDC abandoned. This scheme incentivised landlords over time to develop their properties through gaining more stars for improvements. I imagine cost was a factor that stopped the Council from continuing with this excellent scheme? It should be re-introduced, free, as a local initiative and incentive for good landlords.  
 2. Co-regulation should be an alternative to licensing. Such a scheme would commit its members to providing high standards of housing. This should be available as an alternative to the council's own licensing scheme. I believe in self-regulation for compliant landlords.  
 3. Licensing penalises good landlords. My properties are already considerably higher in standard than a licence would require. The additional expense of applying for a licence would be passed to the tenant. For example, in my unlicensed properties I already have hard wired smoke/carbon monoxide detectors, fire doors to bedrooms, coded burglar alarm, 5 lever locks external doors, window locks, double glazed, external security light, security chain on external door, fire extinguishers and fire blanket, annual gas landlord gas service/certificate, 5 year electrical certificate, annual PAT of my electrical equipment, risk assessment, smoking not permitted in house etc  
 4. Licensing provides a spot check in time - anything can happen in the 5 year intervening period between when the licence is granted to when it is renewed. How often do the Council check on a property, once it is licensed?  
 5. Landlords may wait until the licence is up for renewal before they make any necessary improvements. I make annual improvements regardless.  
 6. There is no national system of setting licence fees, a minority of landlords might migrate to cheaper licence fee areas.  
 7. The Council already has sufficient powers to investigate and bring to account poor landlords.

this would increase costs and put up rents, i dont think this is needed in smaller hmos

**Have you had to apply for change of use under Warwick District Council's HMO Article 4 Direction?**

No  
 No  
 No  
 Yes  
 No

**Do you know how to find information about Warwick District Council's HMO licensing and/or planning process?**

Yes  
 No

Yes, but I am a long distance landlord and although my correspondence address is known by Warwick District Council, I never receive any information directly either by email or post from WDC other than that which I receive as a Landlord Steering Group member.

Yes via website

Yes

**Please add any additional comments**

I rent out a house I used to live in. A HMO opposite forced me to move as student lifestyles are simply incompatible with the rest of the population. Who do the HMOs suit? The big landlords, but not the residents. Students simply keep different hours to working people and families. When they live together in large groups the anti-social nature of this is exacerbated. Eg. if they are going out they may not leave their premises until 11 or 12 at night, and then this can be in very large (therefore noisy) groups. I am essentially anti, any further HMO developments. The ones that exist should also have to provide a concierge/security to ensure that students impact on the neighbours is minimal. It is possible to coexist but HMOs make it harder. A HMO on George St has 40+ residents, the footprint of the building allows for 3 or 4 cars. So that has an impact, why does a student need a car? The buses run to Warwick Uni extremely regularly. Most students I have spoken to are decent people and the policy is not their fault. But genuine acceptance of student lifestyle has to go hand in hand with these developments. They go out in groups, leaving late, and coming back in the early hours. This is often midweek, as town is considered safer by them then. Did you know that the council noise pollution team doesn't work late midweek? Just when you need them, it's simple observations like that which could help if HMOs must exist at all. Personally, I'd have them all on campus, just saying.

1. The Council should look for positive ways to incentivise landlords. 2. It would be helpful, for example, if the Council recognised that some landlords who volunteer to sit on the Landlord Steering group travel very long distances. I have a round journey of approximately 360 miles and it takes me at least 6 hours to travel to and from a meeting. The Council could find, a very small sum, to pay a reasonable mileage allowance to reward landlords who give up their time to assist the Council at Landlord Steering Group meetings. 3. In my view a well run local self regulation scheme involves landlords. A licensing scheme does little to involve landlords. In several ways it alienates landlords. 4. The Council already has sufficient powers to deal with poor landlords. 5. Have you evaluated the success or otherwise of your licensing scheme? What effect has it had, when compared with, for example, the Student House Accreditation Scheme? There seems little point in introducing an extension, if there has been little effect with the licensing scheme. 6. Time to think outside the box? Self-regulation?

## Comment from Officers at Draft Recommendations given on 21<sup>st</sup> 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 31<sup>st</sup> 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](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](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 4<sup>th</sup> 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.

### Warwick Students' Union Response

#### **HMO Task & Finish group**

*Report from Luke Pilot (President) & Becky Gittins (Democracy & Development Officer), Warwick Students' Union.*

#### The Students' Union's interaction with the community and accommodation issues:

In our SU Advice Centre, we predominantly receive complaints from students regarding issues with their accommodation. We are able to help students recover thousands in deposits and compensation every year and are also often able to help relocate students in extreme circumstances. Our recorded data unfortunately does not record housing complaints in specific categories, but we are aware of landlords and lettings agents who frequently cause issues for our members. We also have a strong relationship with Warwick Accommodation and have communication with some landlords and lettings agents.

The Students' Union has traditionally, and will continue to, run a series of 'Students as Good Neighbours' and 'Leave Leam Tidy' campaigns to encourage community cohesion and mitigate the ramifications of the student end of term departures from Leamington. We have recently recruited a Community Project Worker, who will be based primarily in Leamington and will liaise with multiple community stakeholders to ultimately advocate for and benefit the lives of students in the local community, by developing integration methods and embedding an understanding of community and a collaborative relationship between all stakeholders. We have also been lobbying the University on the community and student accommodation issues.

#### Our response to the current context:

Warwick SU warmly welcomes Warwick District Council's decision to develop a student housing strategy. We cannot express in stronger terms the necessity for both the University of Warwick and Warwick Students' Union to be involved in the development of this strategy.

We believe a fundamental issue lies with the enforcement and monitoring of Houses in Multiple Occupation (HMOs) and their landlords, with the dominant market forces, a lack of responsibility on the part of the University of Warwick and a surplus in demand contributing to both an issue in community relationships, but also accommodation problems for our students. We do not however believe this discussion should focus solely on capacity on the University of Warwick campus or whether students should live in Leamington Spa. Given the University intends to expand their student numbers, and Coventry University is constantly expanding and pushing more Warwick students out of Coventry, it is highly likely more students will look to live in Leamington Spa.

Leaving allocation of housing to the market doesn't work when you have surplus demand. The market cannot drive up standards in the absence of consumer choice, thus a lack of housing and increasing student numbers means there's no motivation for landlords to provide good quality housing.

Rogue landlords not only have no incentives to maintain housing quality, they also have no binding duty to the local community - some of them even live remotely themselves. This means they are often oblivious, or negligent towards, the problems faced by student residents and other member of the community when their properties are not appropriately looked after.

We believe widespread application of selective licensing on HMOs and charging business rates for refuse collection and other services to HMOs are insufficient solutions. It is our understanding the Council does not have the resources to enforce these rules and that these measures still do not put

the responsibility on the landlord for the maintenance of the property. Student tenants, the majority of whom are not equipped to take certain refuse or recycling to a recycling centre or to conduct DIY work on a property, would end up shouldering the responsibility, when this responsibility should lie with the landlord. Equally, landlords are far more likely to pass the expense of selective licensing and business rates on services like refuse collection onto the student tenants. Students do not have the financial ability to afford this.

We further believe that the application of Community protection Notices (CPNs) is a blunt instrument. We understand these are supposed to have a bearing on landlords too, but we believe it is all too easy for the student tenants to be burdened with handling the consequences of a CPN and the financial penalty and stress and time demanding- nature of interacting with the court process is too great a wellbeing issue and intrusion on students' time, particularly during exams and deadlines seasons.

New regulations will also require students to gain references from their landlords when looking for new accommodation. This will leave students in an incredibly vulnerable position. Not only will they be afraid to request repairs from their landlord for fear of receiving a bad reference, or no reference at all, but they will incur backlash from the community or a CPN if they choose not to request repairs from their landlord.

The transient nature of the student community, paired with a saturated local housing market and a dire national context (for housing) means we are left with very little choice and we are squeezed into a tight living situation. The lack of community cohesion and resistance towards students due to their living conditions, which they have no control over, sees some students lack the sense of duty to be an active resident and a good neighbour. This is not helpful without a required induction by landlords or induction-style introduction from the University or long term residents.

Students are also in competition with other young and transient populations. Young professionals and young people on internships and graduate schemes with companies like Jaguar Land Rover (JLR), who can either be in Leamington for short term periods (6 months) or for the long term, contribute to a surplus in demand. They are also in danger of pricing students out of 'affordable' accommodation as these young professionals are more likely to be able to afford higher rents. It must be noted these young professionals are also likely dealing with similar HIMO issues as students and contributing to tensions in the community.

It is apparent that when students graduate and choose to remain in Leamington however, there is profound economic and local benefit. Students are less likely to remain if they do not feel welcome or if they have had problems with their accommodation arrangements. It would therefore seem pertinent to develop a housing strategy, and a response to HIMOs, which encourages students to become long-term residents. The question should perhaps change from "how can we stop students living in Leamington" to "how do we facilitate students integrating into the community" and "how do we keep students in Leamington after they graduate?"

The Postgraduate issues we witnessed in September, for the 3rd year in a row, where new postgraduates arrived at the University but had nowhere to live, demonstrates the situation is not being managed properly.

What is also unhelpful is uncoordinated growth of properties and proposals for purpose built student accommodation. Coordinated resistance to all of these is also unsustainable and unhelpful. Residents, the District Council and the University need to engage in a town planning operation in which new blocks of accommodation and HIMOs are approved in an appropriate and sustainable



manner, such that the student population can be located in planned zones, potentially even in mixed economies.

It is clear several actions need to be taken:

- Standards in HMOs need enforcing, but in a way that does not impede students but does attribute responsibility to landlords
- A strategy which adequately accommodates affordable family housing, student accommodation (HMOs and not), social housing and homelessness is a necessity
- A student housing strategy which includes HMOs and purpose-built student accommodation needs formulating so their construction can be facilitated in the appropriate places

“Let the market regulate itself” is no longer an acceptable option. It is clear a joint University, local and regional engagement strategy is necessary, a strategy which also addresses the needs for an infrastructure strategy to mirror it, ensuring the community can accommodate the student population. It is imperative all stakeholders are involved in developing this strategy and that students’ voices are heard.

 <b>Executive – 1<sup>st</sup> June 2017</b>		<b>Agenda Item No.</b>  <b>5</b>
<b>Title</b>	Update of Indoor Sports Facilities and Playing Pitch Strategies	
<b>For further information about this report please contact</b>	Stuart Winslow <a href="mailto:Stuart.winslow@warwickdc.gov.uk">Stuart.winslow@warwickdc.gov.uk</a> 01926 456228 Rose Winship <a href="mailto:Rose.winship@warwickdc.gov.uk">Rose.winship@warwickdc.gov.uk</a> 01926 456223	
<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>		
<b>Background Papers</b>		

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	Yes
<b>Key Decision?</b>	Yes
<b>Included within the Forward Plan? (If yes include reference number)</b>	Ref: 868
<b>Equality Impact Assessment Undertaken</b>	n/a

<b>Officer/Councillor Approval</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive/Deputy Chief Executive	9/5/2017	Andrew Jones
Head of Service	9/5/2017	Rose Winship
CMT	9/5/2017	
Section 151 Officer	9/5/2017	Mike Snow
Monitoring Officer	9/5/2017	Andrew Jones
Finance	9/5/2017	Mike Snow
Portfolio Holder(s)	9/5/2017	Cllr Coker
<b>Consultation &amp; Community Engagement</b>		
<b>Final Decision?</b>		Yes
<b>Suggested next steps (if not final decision please set out below)</b>		

## 1. **Summary**

- 1.1 The Council adopted the Playing Pitch and Outdoor Sport Strategy (PPS) and Indoor Sports and Leisure Strategy in 2015. The documents have both been essential in providing evidence for the Local Plan and the negotiation of Section 106 contributions from developers. The strategies also informed the detail of Phase I of the Leisure Development Programme, the investment in Newbold Comyn and St Nicholas Park Leisure centres, and the successful award of the £2 million Sport England grant.
- 1.2 The strategies are both informed by data on supply and demand of sports facilities in the district and therefore there is a need to ensure that this data is up to date and relevant. Hence this request to update the data and refresh the strategies so that they remain current and robust documents that can be used as evidence for future plans.

## 2. **Recommendations**

- 2.1 Members approve the allocation of up to £30,000 from the Contingency Budget to allow for the data collection and analysis for outdoor sports provision, and the production of a revised Playing Pitch Strategy, and for the re-run of the Sport England Facilities Planning Model (FPM) for Kenilworth to allow the Indoor Sport and Leisure Strategy to be revised where necessary.
- 2.2 Members approve an exemption in line with the Code of Procurement Practice to allow the contract for the work to be awarded to Neil Allen Associates (NAA) who carried out the original work in 2013/14.

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

- 3.1 The Council engaged Neil Allen Associates in 2013 to undertake facility and pitch audits across the district to establish the levels and quality of provision of indoor and outdoor sports. Standard methodologies were used to gather baseline information and analyse the results of these audits, using the Sport England Facilities Planning Model, and then to develop two strategies, an Indoor Sport and Leisure Strategy and a Playing Pitch and Outdoor Sport Strategy. As noted in the summary to this report, these strategies have both provided a robust evidence base for the development of the Local Plan, the negotiation of Section 106 contributions, and the evolution of Phase I of the Leisure Development Programme.
- 3.2 Both strategies were formally adopted by the Council in 2015, however, the data upon which they are based was largely collected in 2013/14 and therefore is reaching the end of its validity. Since the data was collated there have been significant developments which will have had an impact on the data:
  - 3.2.1 Revision of the Local Plan with particular reference to Kenilworth and the area south of Coventry which will as above result in significant growth in population and therefore increased demand on sporting facilities.

- 3.2.2 The changing picture in the north of the district is also compounded by the improved and expanded sports facilities at Warwick University which are currently in construction and due for completion in 2018, and a commitment to significant capital investment in sporting infrastructure by Coventry City Council. We know from the previous audit that there is significant migration across the district boundary between the Kenilworth area and Coventry and therefore it is essential that we consider the impact of this when planning for future provision in the north of the district.
- 3.2.3 Phase I of the Leisure Development Programme is now underway and will see by Spring 2018, vastly improved and extended leisure centres in Leamington and Warwick. Any updated audit would recognise these new facilities and the impact that they will have on local residents in terms of opportunities for participation in physical activity.
- 3.2.4 It is also worth noting that alongside the expansion of Council facilities there has been an increase in private health & fitness provision in the area since 2013/14. The intervening years have also seen new trends in physical activity come and go, and notably a new focus and strategy from Sport England, "Towards and Active Nation", which recognises the need to widen the scope of what is considered to be "sport and fitness" to include more informal recreation, outdoor exercise, and volunteering in the sector and make sport more accessible for all. These changes should be considered in any refreshed strategy or action plan that the Council adopts in the future.

3.3 The following timeline is proposed for the works described in the report:

Summer 2017	Re-run the FPM for Kenilworth and north of district
Oct 2017 – Feb 2018	Site visits and data collection for outdoor sports
Summer 2018	Site visits for summer outdoor sports
Autumn 2018	New PPS produced

### 3.4 Playing Pitch and Outdoor Sport Strategy

- 3.4.1 In light of the changes outlined in 3.2.1 – 3.2.4, officers, in consultation with Sport England and NAA, have discussed the best approach to updating the two strategies. It is considered that the Playing Pitch Strategy (PPS) is in need of a complete refresh to reflect the new methodology from Sport England and the changes in demand and provision in the district.
- 3.4.2 The PPS Action Plan has been monitored by the Council in partnership with key National Governing Bodies (NGBs) from football, hockey, rugby and cricket. The "PPS Group" which brings together officers, NGB regional representatives and the County Sports Partnership (CSW Sport) is seen as an exemplar of how a PPS should be owned by the range of partners and be a live document that evolves over time.
- 3.4.3 It is proposed that working in partnership with the NGBs, the provision of playing pitches is re-audited in order to refresh the baseline data. Recommendation 3.1 seeks approval for a budget to engage NAA to gather the

new data on behalf of the Council, use the data and the Sport England methodology, to develop a revised PPS and associated action plan that reflects the most up to date position.

### 3.5 Indoor Sport and Leisure Strategy

3.5.1 The Indoor Sport and Leisure Strategy was reviewed in 2015 just prior to adoption by Members and was considered to be sound, despite the University of Warwick and Coventry sports infrastructure developments. Having taken advice NAA it is considered that the Indoor Sport and Leisure Strategy largely remains valid and has now moved into the implementation phase. Therefore the advice is that it is not necessary to re-write this Strategy.

3.5.2 However, in order to pick up the developments detailed in 3.2.2 it is proposed that the Sport England Facility Planning Model is re-run just for the north of the district (Kenilworth) to capture the current position and the impact of the recent developments and proposed housing growth in this part of the district and allow the Indoor Sport and Leisure Strategy Action Plan to be updated.

### 3.6 Procurement

3.6.1 Recommendation 2.2 asks Members to approve an exemption from the Code of Procurement Practice (COPP) in order for the Council to commission Neil Allen Associates (NAA) who carried out the original work in 2013/14, to undertake this latest work. NAA were originally procured through a full procurement process and were selected following a detailed evaluation of their submission.

3.6.2 The COPP states that Executive approval is required for an exemption where the total contract value exceeds £20,000. The cost of the works described in this report has been estimated at £20,000 to £30,000 depending on the detail of the project specification which will be confirmed once the Executive have considered this report.

3.6.3 An exemption is sought for the following reason:

Where new works or services are required which are a repetition of works or services carried out under the original contract. For E U contracts, the new works or services must be required within 3 years of the original contract, and the contract notice must have stated that a new contract might be awarded by negotiation.

3.6.4 NAA is considered to be market leaders in undertaking this type of work. They work closely with Sport England in the development of methodologies that allow organisations to undertake the type of work that is proposed in this report. Working with NAA and Sport England, the Council has the opportunity to be at the forefront of developing a new approach that encompasses new Sport England methodology to ensure appropriate and modern facilities are provided for local people to participate in their chosen activity.

## 4. **Policy Framework**

4.1. **Policy Change;** the recommendations of the report do not conflict with any of the current statutory policies within the council`s policy framework.

4.2. **Policy Development;** the recommendations proposed strengthens the evidence base for Infrastructure Development which is a key component of the emerging Local Plan.

#### 4.2 **Fit for the Future (FFF)**

4.2.1 **Aligning Strategies;** the development of a clear Vision and Principles for the district for Sports & Leisure which is aligned with the FFF Vision for the district ensures the council`s role and investment in this area is appropriate and supports future progress.

4.2.2 **Sustainable Community Strategy;** the proposed Vision and Strategy will directly support the delivery of the Sustainable Community Strategy priorities and actions;

##### **Prosperity Theme;**

- Ensuring the right infrastructure is available.....
- Making better use of public sector assets .....
- ....use of cultural activities and events..
- ..attract visitors to spend within the district...

##### **Health theme & Wellbeing Theme;**

- Increasing opportunities for everyone to engage in sports...
- Reducing obesity .....
- .. introduce a new leisure centre programme...
- .. implement our new arts strategy, indoor sports strategy and playing pitch strategy

4.2.3 **Compliance with FFF;** the proposals within the report are fully in support of the strategic direction set out within the 3 strands of the FFF programme. By refining service provision and making sure that the local sporting infrastructure is appropriate it is consistent with the **Service** strand of the FFF programme. By virtue of inclusion within the IDP, there is the opportunity to ensure appropriate levels of funding to deliver the infrastructure so it is in line with the **Money** strand of the FFF Programme. The strategy is not directly relevant to the **People** strand but is certainly not in conflict with it.

#### 5. **Budgetary Framework**

5.1 New PPS data and revised PPS produced – budget estimate £15,000 to £20,000  
Re-run of FPM for Kenilworth – budget estimate £5,000 - £10,000  
Final costs will be confirmed once the detailed scope and methodology of the work is agreed and, subject to members approval of Recommendation 2.2, a quote for the work received from NAA.


5.2 The work outlined in this report would be funded from the Contingency Budget, the balance of which stands at £180,500 prior to the approval of any reports on the agenda for this meeting.

## **6. Risks**

6.1 There are no significant risks related to the recommendations in this report.

## **7. Alternative Options**

7.1 A decision could be taken not to update the baseline data that informs the PPS and continue to deliver on the Action Plan included in the 2015 strategy. As the district grows and provision evolves, both the PPS and the Indoor Sports and Leisure Strategy will become out of date and irrelevant. Both documents would no longer be considered to be robust evidence to underpin negotiations with developers, and requests for S106 requirements in planning decision. Without this robust evidence the Council would not be able to secure financial contributions to deliver the necessary infrastructure to support new developments that are being delivered through the Local Plan. The Council would also be in a weaker position in working with Sport England and a range of NGB's to deliver quality sports provision across the district both in terms of the delivery of sport but also in terms of securing any future financial contributions from Sport England or individual NGBs.

 <b>EXECUTIVE</b> <b>1<sup>st</sup> June 2017</b>		<b>Agenda Item No.</b>  <b>6</b>
<b>Title</b>	Abbey Fields Footpath Improvements - Feasibility Study	
<b>For further information about this report please contact</b>	Andrew Jones (01926) 456830 <a href="mailto:Andrew.jones@warwickdc.gov.uk">Andrew.jones@warwickdc.gov.uk</a>	
<b>Wards of the District directly affected</b>	Abbey	
<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>	N/A	
<b>Background Papers</b>	See above	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	No
<b>Included within the Forward Plan? (If yes include reference number)</b>	Yes
<b>Equality &amp; Sustainability Impact Assessment Undertaken</b>	No
Not applicable.	

<b>Officer/Councillor Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive	31 <sup>st</sup> March 2017	Chris Elliott
CMT	26 <sup>th</sup> April 2017	Chris Elliott, Bill Hunt, Andrew Jones
Section 151 Officer	26 <sup>th</sup> April 2017	Mike Snow
Monitoring Officer	30 <sup>th</sup> March 2017	Author
Head of Service	26 <sup>th</sup> April 2017	Rob Hoof
Portfolio Holder(s)	15 <sup>th</sup> May 2017	Councillor Thompson
<b>Consultation &amp; Community Engagement</b>		
To be undertaken with: Historic England; Kenilworth Town Council; The Parochial Church Council; Friends of Abbey Fields; The Kenilworth Civic Society; Kenilworth History & Archaeology Society; An Archaeologist from Archaeology Warwickshire; Natural England; Sensory Trust		
<b>Final Decision?</b>	Yes	



## **1 SUMMARY**

- 1.1 The report recommends officers undertake a feasibility study of improvements to a specific path in Abbey Fields and should the outcome of that study prove positive, works are commissioned to undertake those improvements.

## **2 RECOMMENDATIONS**

- 2.1 That Executive agrees that officers should consult and engage with all interested parties to determine the feasibility of improving the footpath in Abbey Fields, Kenilworth as identified at Appendix A.
- 2.2 That subject to agreeing recommendation 2.1, Executive agrees to £55,000 (estimated costs plus 10% contingency) being released from the Community Projects Reserve to undertake the improvements but should the cost be more than this, authority is delegated to Deputy Chief Executive (AJ) and Section 151 Officer, in consultation with the Portfolio Holders for Neighbourhood Services and Finance, to agree additional funds up to a total maximum of £100,000.

## **3 REASONS FOR THE RECOMMENDATIONS**

- 3.1 Abbey Fields is set in the valley of the Finham Brook and enjoys views of the historic town and Kenilworth castle. Grassy slopes, a lake, historic buildings and veteran trees recall Abbey Fields' past as the farmland of St Mary's Abbey, whose ruins adjoin the park. Because of its important heritage, Abbey Fields is a Scheduled Ancient Monument (SAM).
- 3.2 Running from Kenilworth High Street, a footpath of approximately 260m extends to an area which includes the swimming pools, play area and tennis courts. With a drop in levels of 11m (36 ft) from High Street to the area described above, the majority of the drop occurs in the first 60m. The footpath has been highlighted by park users as in need of improvement. It has also been reported that the path is difficult to negotiate for those with mobility and sensory impairment and those with prams or wheelchairs.
- 3.3 There may well be constraints imposed on any improvements as the area is designated as a SAM which imposes severe restrictions on any ground disturbance earthworks and excavations. Any new pathway proposals and/ or alterations to the existing path would require the prior permission of Historic England.
- 3.4 Although there is no specific legislation on the Disability Discrimination Act compliance of pathways and outdoor access (Building Regulations are only applicable to Buildings and immediate site access) there is a number of published guidance on the issue:
- Historic England:- *Easy access to Historic landscapes.*
  - The Country Side Agency (now Natural England):- *By all reasonable means: Inclusive access to the outdoors for disabled people.*
  - Sensory Trust:- *Creating accessible and engaging outdoor experiences.*
- 3.5 The Sensory Trust guidance is in particular useful as this gives specific recommendations for gradients, length and rest areas. A principle point in this

guidance is that gradient and length of slope must be considered together. At times a slightly steeper gradient over a shorter distance may be more acceptable than a gentle one over a longer distance. Sustained gradients of more than 1 in 20 must be interrupted by level rest areas at maximum distances of 30 metres.

- 3.6 Given the status of the site in question, there are many organisations that will need to be consulted during the feasibility study. Officers propose to engage and consult fully with those interested parties and only proceed with the works should there be a consensus as to the way forward. Deputy Chief Executive (AJ) will be responsible for leading the consultation in collaboration with the Portfolio Holder for Neighbourhood Services.
- 3.7 An initial estimate of costs indicates that to remove and relay the existing footpath increased to 1.2m wide is c£25,000.00. Should the consultation determine that an additional graded route, to meet the needs of those with mobility problems is required, then this is estimated at c£25,000.00
- 3.8 If the scheme was to proceed, location of a new route and groundworks involved would require detailed design, consent from Historic England and quotations for work to be obtained. Consequently whilst officers have been able to provide an estimated cost based on an initial idea for footpath improvement, it is not possible to say at this point definitively what would be the cost of the improvements. Therefore recommendation 2.2 proposes a degree of latitude thereby enabling work to progress if considered appropriate.

#### **4 POLICY FRAMEWORK**

- 4.1 The Council's Sustainable Community Strategy (SCS) has five thematic priorities and three cross-cutting priorities areas. The recommendations in this report are consistent with the strategy as they ask Members to agree
- 4.2 Underpinning the SCS is the Council's Fit For the Future (FFF) Change Programme which consists of three strands:
- Service - Delivering customer focused services by: using customer measures, helping to build trust, continuously improving, understanding our customers, and using systems thinking.
- 4.3 Extant Local Plan (1996-2011) Policy SC4, Supporting Cycle and Pedestrian Facilities, protects identified routes but allows for any development that provides benefits in terms of encouraging cycling and walking where these outweigh any adverse impacts.  
Policy DAP11 Protecting Historic Parks and Gardens, resists development that risks the historic structure, character, principal components and setting of such spaces. Abbey Fields is included in the Local Register of parks and gardens where the planning authority will consult Warwickshire Gardens Trust where an application is made which affects the open space.
- 4.4 The emerging Local Plan (2011-2029) Policy HS2, Protecting Open Space, Sport and Recreation Facilities, protects open spaces from changes of use and development, only permitting development where the proposal is of sufficient benefit to outweigh any loss.

Whilst Abbey Fields remains in the Local List of parks and gardens in the new Local Plan, the Inspector has deleted the supporting policy in the Main Modifications, currently out to consultation.

## **5 BUDGETARY FRAMEWORK**

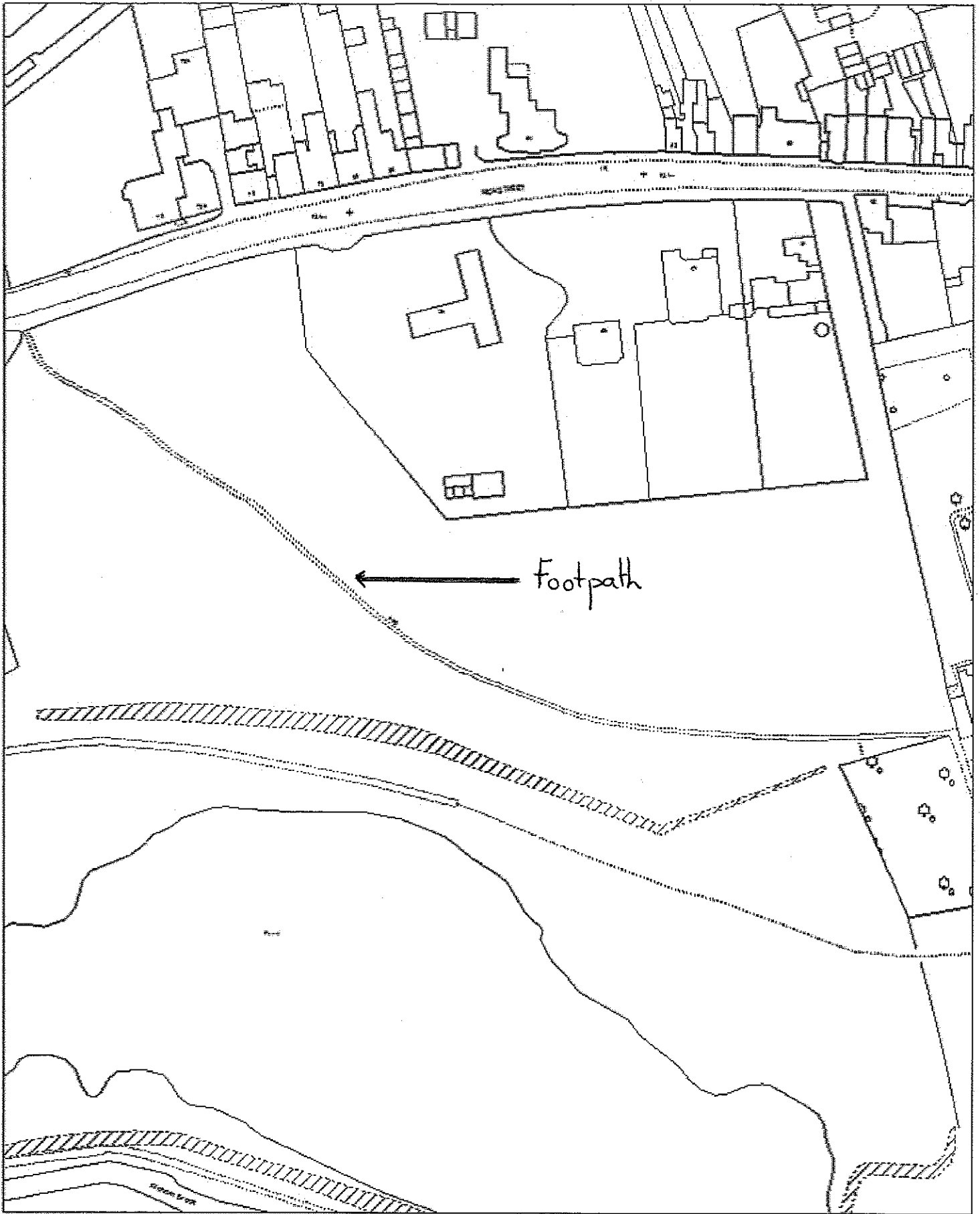
- 5.1 The balance on the Community Projects Reserve is currently £319,000. Agreeing to the recommendations in this report could potentially reduce the balance to £264,000.


## **6 RISKS**

- 6.1 The permission to undertake the works cannot be assumed as Historic England strictly controls such activity and similar requests in the past have been refused. This would apply also to any proposed widening and improvements to the existing path.
- 6.2 There are many organisations with an interest in Abbey Fields. The process of engagement and consultation may reveal bona-fide reasons why improvements should not take place.

## **7 ALTERNATIVE OPTIONS CONSIDERED**

- 7.1 No alternative options to embarking on a comprehensive consultation process were considered.



 <b>WARWICK DISTRICT COUNCIL</b>	<b>EXECUTIVE</b> <b>1 JUNE 2017</b>	<b>Agenda Item No.</b> <b>7A</b>
<b>Title</b>	Disposal of WDC land to the rear of 2-10 The Square, Kenilworth	
<b>For further information about this report please contact</b>	Chris Makasis, Estates Manager	
<b>Wards of the District directly affected</b>	Kenilworth Abbey	
<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 but a linked confidential report appears elsewhere on the agenda	
<b>Date and meeting when issue was last considered and relevant minute number</b>	None	
<b>Background Papers</b>	None	

<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 &amp; Sustainability Impact Assessment Undertaken</b>	No

<b>Officer/Councillor Approval</b>		
With regard to officer approval all reports <i>must</i> be approved by the report authors relevant Deputy Chief Executive, Head of Service, Finance, Monitoring Officer and the relevant Portfolio Holder(s).		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Chief Executive/Deputy Chief Executive	8/5/17	Bill Hunt
Head of Service	15/5/17	Robert Hoof
CMT	9/5/17	
Section 151 Officer	9/5/17	Mike Snow
Monitoring officer	9/5/17	Andrew Jones
Finance	9/5/17	Mike Snow
Portfolio Holder(s)	15/5/17	Cllr. Grainger
<b>Consultation Undertaken</b>		
Please insert details of any consultation undertaken with regard to this report.		
<b>Final Decision?</b>	Yes	
<b>Suggested next steps (if not final decision please set out below)</b>		

## 1. **SUMMARY**

- 1.1 This report proposes the disposal of land adjoining the rear of 2-10 The Square, Kenilworth.

## 2. **RECOMMENDATION**

- 2.1 That the Executive approve the disposal of the land at the rear of 2-10 The Square, Kenilworth, hatched on the plan attached as Appendix One, subject to terms & conditions listed in the Private & Confidential report elsewhere on the agenda.

## 3. **REASONS FOR THE RECOMMENDATION**

- 3.1 The land in question, shown hatched on the plan at Appendix One, covers an area of approximately 89 square metres and is located to the rear of 2-10 The Square, Kenilworth, shown in cross-hatch on Plan 2 attached. It is owned by WDC and currently used as a landscaped area of open space at the entry to the Council owned Square West pay & display surface car park. A 'Square West Pay & Display Car Park' sign is currently located on this land.
- 3.2 The owners of 2-10 The Square approached the Council towards the end of 2016 with a proposal to purchase the land, in order to assist them with the refurbishment of a disused outbuilding at the rear of their properties (shown on Appendix One) by providing access and egress to the rear and/or potential additional car parking spaces for both the refurbished outbuilding and 2-10 The Square. These proposals would allow their existing access from The Square public highway to be retained, creating a safer one way traffic stream to and from 2-10 The Square and the future refurbished outbuilding.
- 3.3 Access to and from the Square West car park is via a private driveway owned by Warwickshire County Council (WCC). Consequently any agreement on the proposed new access arrangements at the rear of 2-10 The Square, utilising the land in question, would also require approval for access over WCC's land. Discussions have been held with WCC who are prepared to give their consent, subject to them receiving a third of the consideration that this Council receives for the sale of the land in question.
- 3.4 Terms & conditions for the sale of the land in question have been negotiated between WDC and the owners of 2-10 The Square. These are private & confidential as they fall within the provision of information that relates to the financial or business affairs of any particular person, including the authority holding that information, hence are set out in full in the Private & Confidential report elsewhere on this agenda.
- 3.5 The proposal will make good use of land without detriment to the operation of the car park. There will be a small saving on grounds maintenance and a small parcel of land would be retained by the Council to enable the car park entrance sign to be retained in this location. This retained area would also have the capacity to accommodate footpath access to the car park from The Square, if this is required in the future.

## 4. **POLICY FRAMEWORK**

- 4.1 The proposal would support the Council's Fit for the Future programme, through the Money strand, by allowing the Council to secure a capital receipt for the

General Fund and making best use of our assets which include open space such as these.

- 4.2 The proposal also supports the Prosperity theme of the Sustainable Community Strategy by supporting development within the Kenilworth town centre.

## 5. **BUDGETARY FRAMEWORK**

- 5.1 The proposal shall provide this Council with a Capital Receipt & reduce its Grounds Maintenance costs, assisting it to achieve a sustainable balanced budget. Details of the proposed receipt are set out in the Private & Confidential report.

## 6. **RISKS**

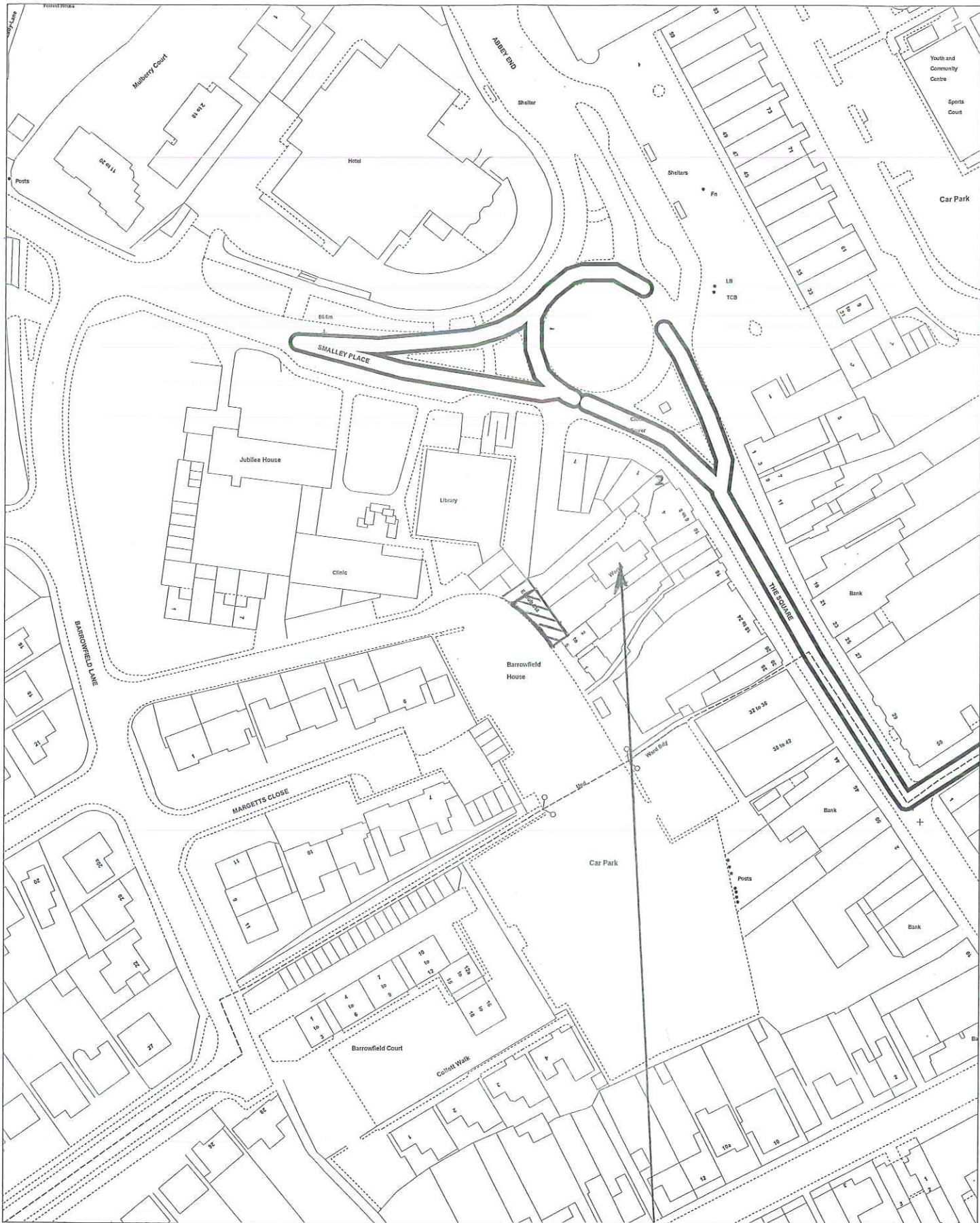
6.1

<b>Risk</b>	<b>Possible Trigger</b>	<b>Possible Consequences</b>	<b>Risk Mitigation / Control</b>
<b>Refuse to Dispose of Land</b>	The land will remain within ownership & responsibility of WDC	Reduced Capital Receipt  WDC continue to pay Grounds Maintenance costs of the Public Open Space & continue to insure/indemnify WDC against any claims that may be brought against it due to injuries/damages that may occur on the land.	Approve disposal of the land

## 7. **ALTERNATIVE OPTIONS CONSIDERED**

- 7.1 The alternative is not to proceed with the proposed disposal. This is not recommended as it would not deliver the benefits set out in section 5.

# APPENDIX 1



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Date: 26/04/2017  
OS Tile: SP2871NE



Land in question

Disused Outbuilding



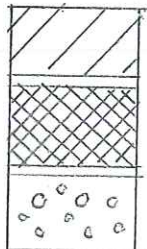


# PLAN 2



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 Date: 26/04/2017  
 OS Tile: SP2871NE



= LAND IN QUESTION

= 2 - 10 THE SQUARE

= WCC PRIVATE ACCESS

