

**Response from the meeting of the Executive on the
O&S Committee's Comments – 18 March 2021**

Step Back Review Task and Finish Group on the Council's response to Covid-19

The Executive considered a report from the Deputy Chief Executive (BH) that brought forward the recommendations from the Overview & Scrutiny Committee as a result of the work of the Step Back Review Task & Finish Group of the Council's response to the Covid-19, undertaken by Councillors Ashford, A Dearing, Jacques, Kohler, Milton and Nicholls.

The Executive approved the recommendations set out in Appendix 1 to the report.

Item Number: 5 – HMO Licensing and Planning Permission

Requested by: Councillor Milton and the Green Group.

Reason Considered:

Councillor Milton: Because of the public and District wide focus and for answers to questions around clarity on drafting.

Green Group: This policy has a significant impact on residents where there are high concentrations of HMOs.

We would like to thank officers for bringing forwards this important policy which closes an unfortunate loophole by which some properties have operated as unauthorised HMOs leading to loss of amenity for their neighbours. Our concerns centre around the implementation of the policy referred to in recommendation 2.1 and described in Appendix A:

1. Please clarify whether H6 of the local plan requires all new HMOs in the district to obtain planning permission. If so, shouldn't this policy apply to all new HMOs with 5 or more tenants? Note that smaller HMOs (3 or 4 occupants) don't need a licence, although they do need planning permission.
2. "Landlords making an HMO license application for the first time be given two months to submit a valid planning application" seems to contradict the intention of this policy. Can this sentence be re-written to avoid possible confusion, for example "The council will refuse to process HMO licence applications until planning permission has been obtained and will refer any existing HMOs without consent to planning enforcement."
3. "landlords of properties where an HMO license needs to be renewed, must submit a valid planning application before the current license expires." suggests a lack of urgency, whereas we know from an unfortunate recent case that waiting may mean the unauthorised HMO has operated for 10 years and so the council is powerless to take enforcement action.

In addition

1. Recommendation 2.3: can 'apply' be changed to 'obtain', as surely planning permission is required, not simply the act of applying (ideally a timeframe would be included, too).

2. Recommendation 2.4: why is this required as planning enforcement already has powers to act? Is Housing going to take enforcement action independently? Or is this new policy designed to join up the dots between licensing and planning enforcement, so that licensing informs enforcement action?

Scrutiny Comment:

Following suggestions made prior to the meeting by the Head of Housing Services and the Portfolio Holder, Housing and Culture, the Overview and Scrutiny Committee **recommended** that wording in Appendix A to the report and Recommendation 2.3 in the main report, be amended:

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

Current wording:

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

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

- Landlords making an HMO licence application for the first time be given two months to submit a valid planning application.
- Landlords of properties where an HMO licence needs to be renewed, must submit a valid planning application before the current licence expires.

Recommended wording:

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

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

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

Recommendation 2.3 in the main report:

Current wording:

- 2.3 Note that landlords of relevant properties that require an HMO license and do not have planning permission will face enforcement action if they do not apply for permission.

Recommended wording:

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

Recommendation 2.4 in the main report

The Head of Housing Services in liaison with the Portfolio Holder, were both asked to take appropriate advice, legal or otherwise, and re-word Recommendation 2.4 in the report which would then be presented to Executive for approval on 18 March 2021. It was felt that the current wording of the recommendation was not making clear which policy was being referred to for the requirement that planning permission be obtained.

Executive Response:

The recommendations made by Overview & Scrutiny Committee were accepted.