

WEST NORTHAMPTONSHIRE COUNCIL

CABINET

11th July 2023

Deputy Leader of the Council and Cabinet Member for Housing, Culture & Leisure: Councillor Adam Brown

Report Title HMO Member Working Group

Report Author Chris Stopford, Head of Private Sector Housing,
chris.stopford@westnorthants.gov.uk

Contributors/Checkers/Approvers

Monitoring Officer	Catherine Whitehead	21/06/2023
Chief Finance Officer	Martin Henry	14/06/2023
Head of Communications	Becky Hutson	14/06/2023

1. Purpose of Report

- 1.1. On 16th December 2021, West Northamptonshire Council Planning Policy Committee resolved to establish a Member Working Group to:
- 1.1.1. Investigate the current rules concerning HMO.
 - 1.1.2. Consider good practice from other similar authority areas.
 - 1.1.3. Consider expert advice, to evaluation options for a way forward.
 - 1.1.4. Review the current rules, in light of evidence gathered, and suggest any amendments to the Planning Policy Committee for its formal consideration; and
 - 1.1.5. Endorses the relevant portfolio holder, Councillor Adam Brown, as the Chairman of the Member Working Group
- 1.2. The report provides a summary of the work of the Member Working Group to the Planning Policy Committee and makes recommendations for the implementation of an Action Plan for Officers of the Council to progress.

2. Executive Summary

- 2.1. The report provides commentary of the work of the Member Working Group against the resolved decision of the Planning Policy Committee in December 2021, reproduced at 1.1 above; and further puts forward a recommended Action Plan for Officers of the Council to implement and take forward the work of the group.

3. Recommendations

- 3.1 It is recommended that Cabinet:

- a) Approves the Action Plan for implementation by Officers of the Council as identified on the Action Plan, subject to separate business cases as identified in the Action Plan.

4. Reason for Recommendations

The recommendation aligns with the 16th December 2021 recommendation of the Planning Policy Committee, in that the report provides the commentary of the working undertaken by the Member Working Group, and the Action Plan provides a structure against which the work of the Working Group can be progressed, and where possible, implemented in the policy and operational practices of the Council.

5. Report Background

- 5.1 West Northamptonshire Council recognises the importance of community cohesion, and it is the case that one of the highest profile issues, in parts of Northampton, is how HMO are managed. This is a locally sensitive issue, but in fact is not unique to Northampton. Many other similar sized local authorities have similar numbers of HMO, and accordingly have similar community tensions and pressures. There is an opportunity to investigate how those other local authorities approach these issues, and to take evidence from a wide range of people and organisations to gain a comprehensive understanding of the issue and choices available to the Council.
- 5.2 The Planning Policy Committee on 16th December 2021 resolved to carry out an investigation into the rules and best practice relating to HMOs, their impact on the community locally, and to make recommendations for the future operation of the rules concerning HMO.
- 5.3 The Member Working Group, chaired by Cllr Adam Brown, includes Members drawn from cross party membership and includes Cllrs Catherine Russell, Bob Purser, Mark Hughes, Sally Beardsworth, Kilbride, Anthony Bagot-Webb, Sam Rumens and Terry Gifford.
- 5.4 The Working Group was supported throughout by Officers from Democratic Services, Housing, and Planning and utilised the skills, knowledge and experience of these officers in gaining an understanding to the regulatory framework and gathering evidence from other external sources.
- 5.5 The Working Group heard from local residents, representing Northampton HMO Action Group; and Ward Councillors (Cllr Danielle Stone, Cllr Zoe Smith) in seeking to understand the perceived

community impact of HMOs, along with representatives from the Northampton Student Landlord Network.

6. Summary of current HMO position across West Northamptonshire

- 6.1 The Member Working Group gathered evidence from Officers of the Council, local community groups, and local residents regarding the current position regarding HMOs.
- 6.2 However, for context for the Planning Policy Committee, and in support of the proposed Action Plan.
- 6.2.1 Members heard from the Head of Private Sector Housing who advised that there are currently 1164 licensed HMOs in the Northampton locality (previously the Northampton Borough Council area), compared with 36 in the Daventry locality (previously the Daventry District Council area), and 12 in the South Northamptonshire locality (previously the South Northamptonshire Council area). This does not include the c150 applications for licenses (either new or renewal applications) that are being processed by the Private Sector Housing Team.
- 6.2.2 In response to the increasing number of HMOs in the Northampton area, in 2020 the Council introduced an Additional Licensing scheme across significant areas of Northampton. This introduced a discretionary scheme where the Council could exercise additional controls over properties providing accommodation for three or four people from two or more households, sharing facilities. This discretionary power can be implemented for a maximum period of five years, and the current scheme operates until 31st January 2025.
- 6.2.3 The Members heard that the Housing Act 2004 only allows for the refusal of a licence where, in the opinion of its Officers, the property is considered to fall short of its mandatory amenities and facilities in terms of room sizes, kitchen and bathroom amenities, and general maintenance; or that the proposed licence holder or property manager is considered not 'fit and proper'.
- 6.2.4 Alongside its licensing process, Members heard that all licenced HMOs are inspected on an intelligence-led approach on a five year inspection cycle. This can be informed by a range of information held by the Council including reactive complaint data from local residents or occupiers of the properties, knowledge about the previous compliance and management history of the landlord, or area based targeted inspection activities by the Team on specific geographic areas.
- 6.2.5 In terms of the Private Sector Housing Team enforcement activities, the Members heard that during 2022/23 financial year the Team dealt with:
- 298 complaints regarding HMO property condition, and behaviours of landlords,
 - 246 complaints regarding properties considered to be operating as HMOs, resulting in 76 being confirmed as not licensable, 66 being brought into the licensing regime, and the balance being subject to continued investigations
 - issues 293 statutory enforcement notices
- 6.2.6 Members heard from the Planning Policy and Heritage Manager who advised that the Council has made a number of Article 4 Directions under the Town and Country Planning Act. In

combination, these Directions remove permitted development rights to convert properties from use as a dwelling houses to use as a small house in multiple occupation (between 3 and 6 unrelated occupiers). All such conversions across the Northampton area are required to apply for planning consent.

- 6.2.7 When drafting the Local Plan Part 2 in 2019, the former Northampton Borough Council had regard to research including work undertaken by Loughborough University. This was used to create the specific policy regarding HMOs, which is contained within the Northampton Houses In Multiple Occupation Supplementary Planning Document (SPD) 2019 which sets a policy position of no more than 10% of the total dwellings in a area of 50 metre radius being HMOs. Members were advised regarding grandfather rights that existed for HMOs operating prior to this policy.
- 6.2.8 Members head from local residents and community groups regarding their consideration of the impact of HMOs on their communities and the issues can be considered to fall within:
- The increasing prevalence of unlicensed HMOs in their communities
 - HMO licensing issues, including the general management of the properties, litter and waste generated by licensed HMOs, and a perception of a low level of enforcement activity by the Council
 - Planning issues, including an increasing prevalence of properties without the necessary planning consent, and a perception of a low level of enforcement activity by the Council
 - A concern that when applying the 10% in 50 metre radius SPD that not all HMOs were being identified, and particularly that suspected HMOs should be included within the assessment
 - General issues regarding parking in those streets that have high densities of HMOs given the number of vehicles associated with the properties
 - General issues of crime and anti-social behaviour associated with HMO style properties
 - A loss of family homes due to the increasing number of properties being bought and then converted to HMO style properties

7. Issues and Choices

- 7.1 West Northamptonshire Council, and indeed the Working Group, recognise the importance of community cohesion, and the impact that HMOs can have on our communities. It also recognises the role that HMOs have as part of the overall housing supply across West Northamptonshire, particularly for people on low incomes, key workers and students. That said, it supports the work done by its Officers in ensuring that HMOs are operated within the appropriate legal frameworks, and that those seeking to exploit their position and operate unregulated properties become the focus of attention of the Council's regulatory and enforcement services.
- 7.2 It remains that some issues are either misunderstood, or are incorrectly conflated in the debate about HMOs, and particularly the unregulated and poorly managed HMOs. The objective review of the Working Group, and its recommendations set out in the Action Plan will seek to provide assurances regarding the current regime, further review regarding additional controls which can be added to the regime, and to ensure that information is available via the Council's website providing details about the enforcement regime, the locations of HMOs, and further options that may be available to local communities.

- 7.3 It is however clear to the Working Group that the effective management of the community impact of HMOs, their regulation, and maintaining their compliance with the regime rests across a number of legislative regimes and requires a multi-agency response spanning across the Council's services and partners. Whilst the lead is being proposed as being within the Council's Planning and Private Sector Housing services, it is clear they will need the support of the Council, its partners, the regulated landlords, and our communities in general to influence significant change.
- 7.4 The recommendation regarding the implementation of an Action Plan as outlined below remains the preferred option, however, other options remain, for example the Council could accept the current position and the constraints of the regulatory regimes. This is not recommended, as it is clear that further investigation and review should be commissioned.

ACTION PLAN

Ref	Issue and Action	Lead Officer / Service	Timescale
1	<u>Litter and Rubbish generated from HMOs</u>		
1a	To ensure the accuracy of the information provided to residents, landlords, and our community generally via the website regarding the appropriate disposal of litter and rubbish	Head of Private Sector Housing	October 2023
1b	To ensure HMO licensing conditions, and the information provided with the HMO licence requires the effective control by property managers and licence holders of litter and rubbish generated from licensed HMOs	Head of Private Sector Housing	October 2023
1c	To increase the level of area-based inspections and 'spot checks' on litter and waste being generated, and not disposed of correctly, from HMO style properties	Head of Private Sector Housing / Head of Environmental Protection	Ongoing
2	<u>General maintenance of HMO properties</u>		
2a	To ensure HMO licensing conditions and guidance mirror the Council's expectations of its licensed landlords	Head of Private Sector Housing	April 2024
3	<u>Storage of waste receptacles</u>		
3a	To ensure the accuracy of the information provided to residents, landlords, and our community generally via the website regarding the appropriate storage of waste receptacles	Head of Private Sector Housing	October 2023
3b	To increase the level of area-based inspections and 'spot checks' targeted on the storage of waste receptacles from HMO style properties	Head of Private Sector Housing / Head of Environmental Protection	Ongoing

4	<u>HMO Room sizes and amenity requirements (licensed HMOs)</u>		
4a	To undertake a review of the existing HMO amenity standards that are published and accompany the HMO licence requirements. To make recommendations for the implementation of any amendments to the amenity standards, having regard to the legal requirements, best practice, and Council aspirations.	Head of Private Sector Housing	April 2024
5	<u>Access to the Register of Licensed HMOs</u>		
5a	To ensure that the access for the general public to the register of licensed HMOs is maintained, to implement any improvements that can be made to improve accessibility. Including consideration of the ability to sort the register by street or postcode.	Head of Private Sector Housing	September 2023
6	<u>Enforcement against unlicensed HMOs</u>		
6a	To continue the Council's intelligence led approach to the identification, regulation and enforcement against unlicensed HMOs seeking to ensure that those who seek to gain advantage by operation of HMOs outside of the regulatory regime face the attention of the Council's enforcement services	Head of Private Sector Housing	Ongoing
6b	To ensure that the Council uses all available powers within the Housing Act 2004, and its associated legislation, to ensure effective regulation of HMOs	Head of Private Sector Housing	Ongoing
6c	To provide information via its website, press releases, and engagement activities to provide assurances that the Council continues to provide effective regulation of HMOs across West Northamptonshire	Head of Private Sector Housing	Ongoing
6d	To increase, with the support of the Member Working Group, the resources within the Private Sector Housing Team by 2 full time officers. These Officers will focus on the determination of unlicensed HMOs, the licensing of HMOs, and the regulation of HMO licence conditions	Head of Private Sector Housing	September 2023, subject to separate business case and recruitment

7	<p><u>Effectiveness of the Housing regulatory regime</u></p>		
7a	<p>To ensure that a timely review of the Council’s Additional HMO Licensing regime is undertaken to ensure that any decisions regarding the continuation of the scheme, and geographical extension of the scheme can be made before the expiry of the current scheme in January 2025</p>	<p>Head of Private Sector Housing</p>	<p>January 2025</p>
7b	<p>To collate the evidence regarding the implementation of a selective licensing regime (the licensing of all private rented accommodation). Subject to the availability of supportive evidence, to make recommendations regarding the design and implementation of a selective licensing regime</p>	<p>Head of Private Sector Housing</p>	<p>January 2025</p>
7c	<p>To consider and make comments to the current consultation by the Department for Culture Media and Sport (DCMS) regarding ‘<i>Consultation on a registration scheme for short-term lets in England</i>’ https://www.gov.uk/government/consultations/consultation-on-a-registration-scheme-for-short-term-lets-in-england/consultation-on-a-registration-scheme-for-short-term-lets-in-england</p>	<p>Head of Private Sector Housing</p>	<p>June 2023</p>
7d	<p>To review the available evidence and best practice and implement a policy (subject to Cabinet approval) to consider the duration of a licence under the Housing Act 2004.</p> <p><i>Note: Licences can be issued for a period of up to 5 years, and default to 5 years on issue of a licence. The Council can implement a policy that informs when licensed will be issued for a shorter period of time, for example, were planning consent has not been achieved</i></p>	<p>Head of Private Sector Housing</p>	<p>December 2023</p>

8	<p><u>Article 4 Directions & Planning Policy</u></p>		
8a	To ensure that planning applications submitted as a result of Article 4 Directions continue to be determined in accordance with planning policy.	Assistant Director Planning & Development	Ongoing
8b	<p>To ensure, as far as practicable and within current resources, the accuracy of the information held to determine the density of HMOs. Ensure that all available and appropriate information regarding the existence of HMOs is available to planning officers in making their recommendations</p> <p><i>Note: The Council to ensure that the information held to assess the 10% within 50 metre radius includes all those properties that hold a HMO licence with the Council, are known to need a licence, have relevant planning consent to operate as a small HMO (C4) or sui generis (large HMO), and that information regarding properties that are exempt from the licensing regime area also identified and included in the assessment.</i></p>	Assistant Director Planning & Development	October 2023
8c	To ensure that information available to residents, communities, property owners, and developers regarding the existence of the Article 4 Directions is accessible on the Council's website	Assistant Director Planning & Development	April 2024
9	<p><u>Planning Enforcement in respect of unauthorised HMOs</u></p>		
9a	To ensure that the Council has regard to its Planning Enforcement Policy	Assistant Director Planning & Development	Ongoing
9b	To provide information via its website, press releases, and engagement activities to provide assurances that the Council continues to provide effective regulation HMOs across West Northamptonshire	Assistant Director Planning & Development	Ongoing

10	<u>Effectiveness of the Planning regulatory regime</u>		
10a	To consider and make comments to the current consultation by the Department for Levelling UP, Housing and Communities (DLUHC) <i>Introduction of a use class for short terms lets and associated permitted development rights</i> https://www.gov.uk/government/consultations/introduction-of-a-use-class-for-short-term-lets-and-associated-permitted-development-rights	Assistant Director Planning & Development	June 2023
11	<u>Parking Issues</u>		
11a	To undertake a further investigation relating to the density of vehicle ownership, including the identification of domestic and commercial ('white van) vehicles, and use across licensed HMO properties and single-family dwellings of comparable size. To consider, as a multi-agency, the impact of vehicle ownership resulting in reported community impact from HMO properties. Make recommendations regarding the provision of information to local communities, or for additional regulatory controls as appropriate.	Highways Team	January 2024, subject to a separate business case
11b	To ensure that information regarding the implementation of residents' controls parking is available on the Council's website, ensuring that local communities and their advocates and Ward Members can make informed decisions regarding the consideration of, and the implementation of such controls	Highways Team	October 2023

8. Implications (including financial implications)

8.1 Resources and Financial

8.1.1 Where the action plan requires the commissioning of further evidence, additional financial resources may be required.

8.1.2 The Action plan identifies the increase in resources for Private Sector Housing by 2 full time equivalent officers. This has a revenue cost to the Council is £100k per annum. The Housing Act 2004 section 63 permits the Council to charge a fee for applications for HMO licences. The fee, mitigated by the Provision of Services Regulations 2009, must be reasonable and proportionate. The Head of Private Sector Housing will produce a separate business case that will consider where elements of this additional cost can be included within the fees and charges for HMO licensing inspections, and enforcement activities.

8.2 Legal

8.2.1 There are no legal implications arising from the proposals to endorse the recommendations of the Working Group and agree an Action Plan approach to the progression of their recommendations.

8.2.2 Legal implications will be considered alongside the implementation of any future matters arising from the Action Plan

8.3 Risk

8.3.1 There are no significant risks arising from the proposed recommendations in this report.

8.4 Consultation

8.4.1 The Working Group have drawn evidence from local communities, Ward Members, members of the Northampton Student Landlord Network, and Officers of the Council.

8.4.2 Where, in the progression of the Action Plan, further consultation is required this consultation will be undertaken

8.5 Consideration by Overview and Scrutiny

8.5.1 Not applicable

8.6 Climate Impact

8.6.1 Not applicable

8.7 Community Impact

- 8.7.1 The proposed Action Plan will relate universally across the whole of West Northamptonshire.
- 8.7.2 The work of the Member Working Group was in direct response to issues raised by our Community. The work of the Working Group and the implementation of the further Action Plan is considered to have positive community impact.

8.8 Communications

- 8.8.1 A communication plan will be developed for the Cabinet meeting outcomes on the 11th July 2023

9. Background Papers

- 9.1 None