

# **Overview and Scrutiny Committee**

## **Houses in Multiple Occupation and Planning Policy**

**22 June 2010**

### **Report of Head of Legal and Democratic Services**

#### **PURPOSE OF REPORT**

To present the conclusions of the informal Task & Finish Group review of guidance criteria for the planning control of Houses in Multiple Occupation (HMOs) within the district.

This report is public
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#### **Recommendations**

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The Overview and Scrutiny Committee is recommended to agree that:

- (1) The proposed guidance criteria for the planning control of Houses in Multiple Occupation (HMOs) within the district should be referred to the Portfolio Holder, Planning and Housing and the Local Development Framework (LDF) Advisory Panel for consideration and, if accepted, inclusion in the LDF.
- (2) The Portfolio Holder, Planning and Housing should be invited to task the Private Sector Housing Manager to prepare a briefing paper on the options for the implementation of additional discretionary licencing for HMOs.
- (3) The Portfolio Holder, Breaking the Cycle of Deprivation should be invited to consider addressing the existing “community based” problems in Grimsbury as part of the Banbury Brighter Futures project.
- (4) The conservation area issues in Grimsbury should be addressed as part of the separate Overview and Scrutiny Committee review into conservation area policy.

## **Details**

### **Introduction**

- 1.1 In March 2010 the Overview and Scrutiny Committee discussed the issues relating to the control of Houses in Multiple Occupation within the district. They agreed that Councillors Bonner, Clarke, Smithson and L Stratford would meet informally with officers from the planning and housing teams to develop some guidance criteria for the planning control of Houses in Multiple Occupation (HMOs) within the district.
- 1.2 The proposed criteria would be presented to the Overview and Scrutiny Committee. If agreed by the Overview and Scrutiny Committee referred to the Portfolio Holder for Planning and Housing and to the Local Development Framework Advisory Panel for consideration, and if accepted, adopted in the LDF.

### **Proposals**

- 2.1 The informal Task & Finish Group met on 27 May 2010. The following officers were present to facilitate the discussion: Head of Development Control & Major Developments, Head of Planning Policy and Economic Development, Private Sector Housing Manager and Design & Conservation Team Leader.

### **The legislation**

- 2.2 The Task & Finish Group noted that new legislation:
  - Came into effect on 6 April 2010 and introduces Class C4 for “small shared dwelling houses occupied by between 3 and 6 unrelated individuals who share basic amenities”
  - Provides some scope to apply new guidance criteria to planning applications from Class C4 properties
  - However, as the legislation is not retrospective it will not be the solution to the existing problems in particular parts of the district where there are already concentrations of HMOs.

### **Current practice at Cherwell District Council**

- 2.3 The Task & Finish Group noted that:
  - The Council has the power to limit occupation in HMOs according to the floor-space available, by means of Overcrowding Notices. Applicable space standards have been adopted by the Council as part of its adopted *HMO Standards 2008*.
  - HMOs of 3 or more storeys which have 5 or more occupants require a licence.
  - HMOs comprising self-contained flats are not subject to licensing.
  - The licencing and planning regulations can only be applied to those HMOs which come to the Council’s attention. There is no easy way to identify properties which are operating as HMOs “under the radar” without the appropriate licencing or planning authorisations, although proactive

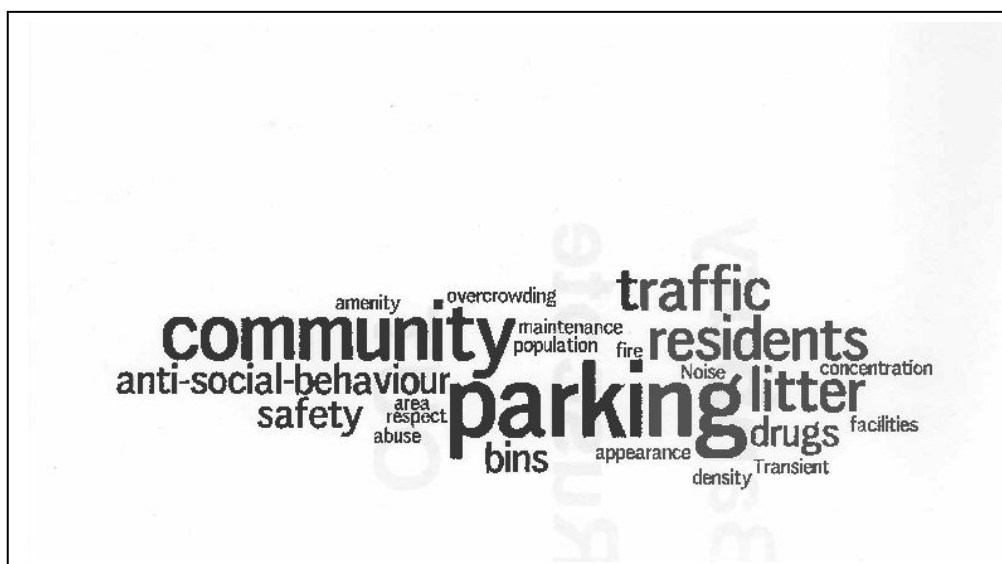
work is undertaken by Housing Services and possible HMOs are investigated.

### **Best practice at other local authorities**

- 2.4 Officers advised that most other local authorities were facing the same problems and frustrations as Cherwell. The majority of local authorities relied on informal planning guidance or reference to formal policies adopted through the Local Plan. Some university towns, such as Oxford or Exeter, had introduced discretionary licencing controls (often linked to geographical areas) as a result of the very high concentration of student HMOs or particular concerns with standards. However, the presence of such formal policies and tighter controls did not necessarily result in the eradication of the problems/concerns associated with HMOs. Housing legislation is essentially concerned with the standard of HMO accommodation not their number or location.
- 2.5 The Private Sector Housing Manager informed the Task & Finish Group that he was preparing a briefing paper for the Strategic Director Housing Planning and Economy on the implications of introducing additional discretionary licencing for HMOs in the district.

### **Houses in Multiple Occupancy ~ the issues**

- 2.6 The Task & Finish Group was asked to identify the main problems that they wanted to solve / eradicate through the introduction of possible planning guidance for HMOs. The full list of the issues identified by the Task & Finish Group is illustrated below:



- 2.7 After lengthy discussion they agreed that the following issues were those that could realistically be addressed by a District Council through the new and existing planning and housing legislation:
- Amenity provision for residents
  - Traffic / Parking
  - Refuse Bins / Litter

- 2.8 They expressed frustration that there was no apparent means by which they could use the current planning or housing legislation to tackle the broader social and community based problems which they believe result from a high concentration of HMOs. They acknowledged that any guidance criteria would need to be reasonable, affordable and enforceable.
- 2.9 The Task & Finish Group were concerned about the long lead time for the adoption of the LDF and the introduction of a formal policy on HMO control. Officers explained that in the meantime the same criteria could be used as informal guidance. This would allow the Council to build up a strong evidence base of cases which were determined using consistent, albeit informal, criteria.

### **Houses in Multiple Occupation ~ possible guidance criteria**

- 2.10 Finally the Task & Finish Group agreed that the consideration of planning applications for HMOs should take as a starting point the following question:
- Does this create a positive living experience?
    - For the occupants?
    - For the immediate neighbours?
    - For the wider community?
- 2.11 They also felt that careful consideration should then be given to the implications and proposed arrangements for traffic flow, parking provision and recycling and waste bins.
- 2.12 The Design & Conservation Team Leader tabled a draft document which is currently being prepared and is intended to be used as informal planning guidance (Sub Division of Buildings for Residential Uses). Although this guidance is primarily aimed at subdivisions to form apartments, it also cover issues relating to HMOs. The Design & Conservation Team Leader explained that this document included the points detailed above. The Task & Finish Group agreed that such a document would be a very valuable tool.

### **Conclusion**

- 3.1 The Task & Finish Group agreed that:
1. Councillors Bonner, Smithson and L Stratford would present the conclusions of the Task & Finish Group to the Overview and Scrutiny Committee on 22 June 2010:
    - a. The Portfolio Holder for Planning and Housing should make resources available to ensure that the informal planning and design guidance document ("Sub Division of Buildings for Residential Uses") is published (following public consultation) and in use for

- planning applications within the District as soon as possible.
- b. Planning Officers should begin to build up a case history/evidence base to demonstrate the precedence given to the informal planning and design guidance document (Sub Division of Buildings for Residential Uses) in determining HMO applications.
  - c. The Portfolio Holder for Planning and Housing and the LDF Advisory Panel should consider whether to develop a formal policy document (or documents) for inclusion in the LDF to be based on contents of the document (Sub Division of Buildings for Residential Uses).
  - d. Planning Committee and Planning Officers should ensure that consideration of planning applications for HMOs takes into account the general amenity provision and the implications and proposed arrangements for traffic flow, parking provision and recycling or waste bins.
2. The Private Sector Housing Manager should prepare a briefing paper on the options for the implementation of additional discretionary licencing for HMOs.
  3. The existing “community based” problems in Grimsbury should be addressed as part of the Banbury Brighter Futures project.
  4. The conservation area issues in Grimsbury should be addressed as part of the separate Overview and Scrutiny Committee review into conservation area policy.

## **Implications**

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<b>Financial:</b>	<p>There are no financial issues arising directly from this report.</p> <p>Comments checked by Karen Curtin, Head of Finance, 01295 221551</p>
<b>Legal:</b>	<p>Any informal guidance criteria for the planning control of HMOs will need to be applied in a reasonable and consistent manner. The legal implications will be assessed against individual planning applications.</p> <p>Comments checked by Paul Manning, Solicitor, 01295 221686</p>
<b>Risk Management:</b>	<p>There are no risk issues arising directly from this report.</p> <p>Comments checked by Rosemary Watts, Risk Management and Insurance Officer, 01295 221566</p>

## **Wards Affected**

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All

## **Corporate Plan Themes**

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A district of opportunity

## **Executive Portfolio**

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Councillor Gibbard, Portfolio Holder for Planning and Housing

## **Document Information**

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<b>Appendix No</b>	<b>Title</b>
N/A	
<b>Background Papers</b>	
N/A	
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