



## **Policy issues relating to Homes in Multiple Occupation (HMOs)**

### **Report by the Director for the Economy**

#### **1.0 Summary**

- 1.1 Following a request to the Executive Member for Regeneration and Planning by the Chairman of Planning Committee, this report considers the scope for a policy to ensure the provision of high quality Homes in Multiple Occupation (HMO's) and seeks to control their location within the town.
- 1.2 The report concludes that there are other powers available to secure good quality accommodation and that, at the present time, there is insufficient evidence to justify that HMO's are causing significant loss of amenity to justify specific policies seeking to influence where they are located.

#### **2.0 Introduction**

- 2.1 The Planning Committee will recall recent planning applications for additional HMO's and the concerns raised by local residents about the impact of an over concentration of such types of residential accommodation on residential amenity, parking and the level of management of this type of accommodation in the future.

#### **3.0 What is an HMO?**

- 3.1 Whilst there are different definitions used for HMOs (see below) in simple terms they can be defined as homes that provide shared accommodation (either purpose built or converted) for a group of individuals who do not live as a single household but share basic amenities such as kitchen areas and bathroom facilities. They are often termed bedsits or sometimes flatlets.

### ***Planning Definition***

- 3.2 In 2010 a number of changes were made to the planning system (Use Classes Order and General Permitted Development Order) in relation to HMOs in response to concerns around the impact of concentrations of HMOs, principally through the *studentification* of neighbourhoods in towns and cities with large student populations and to clarify the definition of such homes.
- 3.3 Government Guidance contained within *Changes to Planning Regulations for Dwellinghouses and Houses in Multiple Occupation* (Circular 08/2010) explains the amended system of Use Class classification in the Order for Dwellinghouses (C3 Class); small HMOs (C4 Class) and large HMOs (Sui Generis) and sometimes related uses of residential institutions (C2 class) as follows:

#### ***Class C3 (dwellinghouses)***

- 3.4 This class is now formed of three parts:
- C3(a): those living together as a single household as defined by the Housing Act 2004 (basically a 'family')
  - C3(b): those living together as a single household and receiving care, and
  - C3(c): those living together as a single household who do not fall within the C4 definition of a house in multiple occupation.
- 3.5 For the purposes of C3(b) and (c) single household is not defined in the legislation. There is no limit on the number of members living within a single household under C3(a). The limit for C3(b) and (c) is no more than six people.
- 3.6 A single household under C3(a) is formed by a family (a couple whether married or not with members of the family of one of the couple to be treated as members of the family of the other), an employer and certain domestic employees (such as an au pair, nanny, nurse, governess, servant, chauffeur, gardener, secretary and personal assistant), a carer and the person receiving the care and a foster parent and foster child.

- 3.7 C3(b) continues to make provision for supported housing schemes, such as those for people with disabilities or mental health problems. It remains the case that in small residential care homes or nursing homes, staff and residents will probably not live as a single household and the use will therefore fall into the residential institutions class (Class C2), regardless of the size of the home. Local planning authorities should include any resident care staff in their calculation of the number of people accommodated.
- 3.8 C3(c) allows for groups of people (up to six) living together as a single household. This is to allow for those groupings that do not fall within the C4 house in multiple occupation definition to be provided for e.g. a small religious community may fall into this section as could a homeowner who is living with a lodger.
- 3.9 The term 'dwellinghouse' is not defined in this part of the Use Classes Order. The question of whether a particular building is a dwellinghouse will therefore depend on the facts of that case.
- 3.10 The common feature of all premises which can be generally be described as dwellinghouses is that they are buildings that ordinarily afford the facilities required for day to day private domestic existence. It is recognised that unlikely or unusual buildings, such as churches or windmills, have been used as, or adapted to become, dwellinghouses. Whilst such premises may not be regarded as dwellinghouses in the traditional sense, they may be so classified for the purposes of the Use Classes Order.
- 3.11 The criteria for determining whether the use of particular premises should be classified within the C3 use class include both the manner of the use and the physical condition of the premises. Premises can properly be regarded as being used as a single dwellinghouse where they are:
- a single, self contained unit of occupation which can be regarded as being a separate 'planning unit' distinct from any other part of the building containing them;
  - designed or adapted for residential purposes-containing the normal facilities for cooking, eating and sleeping associated with use as a dwellinghouse;

- 3.12 This would not include bed-sitting rooms. Here the planning unit is likely to be the whole building which would therefore be classified as a HMO.

***Class C4: Houses in multiple occupation (3-6 occupants)***

In broad terms, the new C4 class covers small shared houses or flats occupied by between three and six unrelated individuals who share basic amenities. Small bedsits will be classified as C4.

- 3.13 To fall within the 'house in multiple occupation' definition a property must be occupied as the main residence. Guests visiting for short periods should not be included in any calculation of number of occupants. Students, migrants and asylum seekers who do not occupy the property all year will be considered as occupying the property as their main residence and should be included in any calculation of occupant numbers.
- 3.14 Social housing is excluded from C4 as are care homes, children's homes and bail hostels. Properties occupied by students which are managed by the education establishment, those occupied for the purposes of a religious community whose main occupation is prayer, contemplation, education and the relief of the suffering are also excluded. Some of these uses will be in C3, others will be in other use classes or fall to be treated as sui generis.
- 3.15 Properties containing the owner and up to two lodgers do not constitute a house in multiple occupation for these purposes. To classify as a house in multiple occupation a property does not need to be converted or adapted in any way.

***Large Houses in Multiple Occupation***

- 3.16 Large houses in multiple occupation – those with more than six people sharing – are unclassified by the Use Classes order and are therefore considered to be 'sui generis'.
- 3.17 Although the control limit of six persons defines the scope of the C3 (b) and (c) dwellinghouses and C4 houses in multiple occupation classes, this does not imply that any excess of that number must constitute a breach of planning control. A material change of use will occur only where the total number of residents has increased to the point where it can be said that the use has intensified so as to become of a different character or the residents in relation to C3 no longer constitute a single household.

- 3.18 Hostels were excluded from the Use Classes Order in 1994 (by SI 1994/724) and are therefore 'sui generis'.
- 3.19 There is no definition of 'hostel' within planning law. A hostel usually provides overnight or short-term accommodation which may be supervised, where people (including sometimes the homeless) can usually stay free or cheaply. Hostels may provide board, although some may provide facilities for self-catering. The element of supervision should not be relied upon as a determining factor but as a factor to take into account in consideration of the use class of the premises. Occasionally, hostels are used to provide longer-term accommodation, although it should be stressed that a hostel is not a residential care home, irrespective of any supervision it may have. If there is an element of care in the service provision, this might mean that the premises became a C2: Residential Institutions use.

### ***Permitted Development***

- 3.20 The same changes to the Use Classes Order introduced changes to Permitted Development rights as set out in The Town and Country Planning (General Permitted Development) Order 1995, as amended. They allow certain building works and changes of use to be carried out without having to make a planning application.
- 3.21 The change of use from a dwellinghouse to a C4 HMO and back from a C4 HMO to a C3 dwelling house has permitted development rights and a planning application is therefore not normally required.
- 3.22 A planning application will be required for a change of use to a larger HMO (sui generis) from any C3, C4 (or C2) use and likewise backwards.

### ***Article 4 Directions***

- 3.23 In areas where there is a problem arising from HMOs, local authorities can use an Article 4 direction to remove these permitted development rights and require planning applications for such changes of use.
- 3.24 Brighton, Southampton, York, Hatfield and Sheffield have Article 4 directions in place for change of use to C4 HMO. They have also issued planning guidance which seeks to restrict conversions to HMOs where certain proportions of the building stock within a local radius are HMOs. These are areas with large student populations. However the Government recognises that high numbers of HMO also arise in coastal towns.

- 3.25 Paragraph 038 of the Planning Practice Guidance highlights that the use of Article 4 Directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. The potential harm that the Direction is intended to address should be clearly identified. This evidence is also important to ensure planning decisions are justified and defensible.
- 3.26 There is no fee for making planning applications required because of an Article 4 Direction and compensation may be payable for refused or restricted applications made within 12 months of the Order.

### ***Housing Act Definition***

- 3.27 The definition under Housing legislation is similar to use class C4 and is set out in Section 254 of Housing Act 2004. It stipulates a HMO is a building or part of a building which:
- Is occupied by at least three persons who do not form a single household;
  - Is occupied as their only or main residence;
  - Rents are payable by at least one of those occupying the property; and
  - Two or more households share one or more basic amenities (where basic amenities are defined as a toilet, personal washing facilities or cooking facilities).
- 3.28 HMOs are typically categorised into the following:
- Shared houses – occupants will typically have own bedroom but will share a kitchen, bathroom and possibly another living space.
  - Bedsits – occupants will typically have own kitchen area within accommodation but will share a bathroom, or it will not be contained within the dwelling.
  - Section 257 HMOs – Defined by Section 257 of the Act, these are properties that have been converted into self-contained flats, but would not comply with 1991 Building Regs. More than 1/3 of the flats are tenanted. This type of property makes up the majority of the HMOs recorded.
- 3.29 Some buildings are exempt as HMOs under the Act. e.g. buildings occupied by religious communities.

### ***Mandatory Licensing***

- 3.30 The Housing Act 2004 introduced mandatory licensing of HMOs that are three storeys or more and have five or more occupants. This means a property may need to be licensed even if it is converted under permitted development rights.

### ***Council Tax Definition***

- 3.31 Local Authorities are required to hold the owner rather than the occupiers responsible for Council Tax on houses in multiple occupation (HMO). The owner is normally the person who has a lease or, if none exists, a freehold interest in the whole dwelling. This is in accordance with The Council Tax (Liability for Owners) Regulations 1992. A HMO is any type of dwelling which:

- (a) was originally constructed or subsequently adapted for occupation by persons who do not constitute a single household; or
- (b) is occupied by one or more people, each of whom is a tenant or licensee of part only of the house, flat etc.(e.g. renting a room only) or has a licence to occupy the dwelling as a whole but who does not pay rent or licence fee for the whole dwelling.

- 3.32 To highlight the complex nature of HMOs a different definition is used for Building Control and Census purposes.

## **4.0 National Policy Guidance**

### ***National Policy - Planning***

- 4.1 Government planning policy is set out in the National Planning Policy Framework (NPPF). Paragraph 50 seeks to “deliver a wide choice of high quality homes, widen opportunities for homeownership and create sustainable, inclusive and mixed communities....” The NPPF also states that local planning authorities should “plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes)”.

## ***National Policy - Housing***

- 4.2 HMOs are guided by separate legislation under the Housing Act 2004. This sets out the definition of HMOs and controls the standard and safety of accommodation. Internal requirements for cooking/washing facilities are outside of the control of the planning system, but these matters fall under the relevant management regulations and are assessed on a property by property basis using the Housing Health and Safety Rating System.
- 4.3 The Housing Act also includes provisions for large HMOs to be licensed. This is often referred to as mandatory Licensing. Licences are required for HMOs which have three or more storeys - this may include a basement or attic in some circumstances - and are used to accommodate five or more tenants, belonging to two or more households.
- 4.4 Both criteria must apply for the HMO to be licensable. A licence holder must ensure that the dwelling is compliant with national minimum standards relating to sanitary conveniences and personal washing facilities. These are prescriptive standards and in licensable HMOs the Council must consider and apply these when setting the number of occupants permitted in the property.
- 4.5 Owners/managers of all HMOs (except Section 257 HMOs) are required by the Management of Houses in Multiple Occupation (England) Regulations 2006 to ensure that the property is maintained in a safe condition, that gas and electricity supplies are maintained and that reasonable standards of management are applied. Section 257 HMOs are covered by the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006. A person who fails to comply with the Management Regulations commits an offence and is liable on summary conviction to an unlimited fine.
- 4.6 It is an offence to operate a licensable HMO that is not so licensed, and it is also an offence to allow a licensed property to be occupied by more than the number of people specified in the licence. A person who commits either of the above offences is liable on summary conviction to an unlimited fine. A person who fails to comply with a licence condition commits an offence and is liable on summary conviction to an unlimited fine.



## **Role of HMOs in meeting Housing Needs**

- 4.7 Houses in Multiple Occupation (HMOs) provide an important source of low cost accommodation for a number of sections of society including students, temporary workers, those on low incomes and/or benefit and young professionals. They play a particularly key role in the context of housing affordability, where open market housing is increasingly unaffordable and social housing unavailable for a growing number of people living in or seeking to live/work in the Borough.
- 4.8 HMOs remain an important and appropriate and necessary part of the housing market, providing accommodation for a range of household types. As a result of changes to the housing benefit system this form of accommodation is often the only option available for specific parts of the housing market.

## **Impact of a High Concentrations of HMOs**

- 4.9 Whilst, HMOs are an important type of housing, poorly designed and managed HMOs can lead to problems both for the occupants and for neighbours, due to the large number of people living in high density housing. HMO's can have higher concentrations of more vulnerable and transient young people and this can, in itself, raise concerns for existing communities.
- 4.10 The Government report 'Evidence Gathering – Housing in Multiple Occupation and Possible Planning Responses' (CLG 2008) looks at the problems caused by high concentrations of houses in multiple occupation and considers the current and potential mechanisms to address these problems. Within this report, the following issues are associated with high concentrations of HMOs:
- anti-social behaviour, noise and nuisance;
  - imbalanced and unsustainable communities;
  - negative impacts on the physical environment and streetscape;
  - pressures upon parking provision; increased crime;
  - growth in private rented sector at the expense of owner-occupation;
  - pressure upon local community facilities; and
  - restructuring of retail, commercial services and recreational facilities to suit the lifestyles of the predominant population.

## **5.0 Local Context**

### *Housing Stock*

- 5.1 Although various departments collect information on the tenure of property, the exact number of HMOs within Worthing Borough is still not fully known. The Council has a good idea that they are mostly concentrated around Worthing Town Centre although there are several within the Broadwater area catering for college students.
- 5.2 There are currently 39 HMOs that have been mandatory licensed by the Private Sector Housing team in Worthing. As the majority of HMOs are currently outside of the description of those properties that require a mandatory licence, these properties make a small percentage of the total number of HMOs in the Borough.
- 5.3 In 2015 Planning and Private Sector Housing carried out a desktop exercise for a small area of Worthing Town Centre. The area selected was perceived to have a high level of HMOs and that this was contributing either directly or indirectly to problems with anti-social behaviour. The area in question had a total of 2,505 properties made up of residential and commercial property. Of these, 40 were identified as bedsits or shared houses, making up 1.6% of the total available accommodation.
- 5.4 In June 2016 the Private Sector Housing team carried out a further desktop exercise to attempt to find and map all known HMOs in Adur and Worthing. The information used is held on the Local Land and Property Gazetteer (LLPG) records.
- 5.5 The following table shows the number of HMOs recorded across Worthing and identified within each ward:

<b>Area</b>	<b>Number</b>	<b>As a % of available accommodation*</b>
Worthing	675	1.38
Central ward	232	0.47
Heene ward	210	0.43
Selden ward	114	0.23
Gaisford ward	59	0.12

\*There are approximately 49,000 units of living accommodation of all tenures in the Borough.

- 5.6 The results of this exercise confirm that HMOs make up a very low number of the total households in Worthing. It would be helpful if we were able to separate the Section 257 HMOs (**described in 4.5 above**) from the results to give a better representation of the 'true' HMO distribution and numbers, but unfortunately the data that informs the software is not captured in such a way as to allow this.
- 5.7 As the Section 257 HMOs make up the majority of all recorded HMOs then removing this data would significantly affect the results number of recorded HMOs. The data held was also missing some known bedsits and shared houses. This highlights the need for better collection and sharing of data by the different departments, and clearly there is further work necessary to understand the overall number of HMO's.
- 5.8 Council Tax records highlighting properties recorded as HMOs in Worthing have recently been provided to the Private Sector Housing team, and these identify 152 HMOs of all descriptions. It is likely that this number is lower than those recorded by the LLPG records in part because it does not contain all of the Section 257 HMOs as the individual flats would be liable for their own Council Tax.
- 5.9 An exercise is currently underway by the Private Sector Housing team to cross-reference those properties identified on the Council Tax list with the team's electronic complaint management system to prioritise those HMOs for inspection.
- 5.10 A stock modelling condition survey commissioned by the Private Sector Housing team was produced in 2012. The report, which was carried out by the BRE and utilised credit rating data, showed that the highest concentrations of people in receipt of Housing Benefits were located to the east and west of the town centre.
- 5.11 Properties located around the town centre are typically large Victorian or Georgian houses that lend themselves to conversion into smaller units of accommodation. Smaller units of accommodation are more likely to be affordable to families or individuals with a low income. Such accommodation is also sustainably located within close reach of all amenities and services.
- 5.12 The evidence does not suggest that there is an over concentration of HMO accommodation although it is apparent that HMO's exists in areas where there is generally a higher proportion of rented housing of lower quality.

## **Tenure**

- 5.13 Housing tenure is changing within Worthing. Levels of home ownership have fallen whilst private renting has increased. More people are finding it difficult to buy their own home.
- 5.14 With 932 households estimated to need accommodation in the Borough the delivery of affordable housing has never been more important. Since the 2008 credit crunch and the following economic downturn affordable housing is in greater demand. This demand has increased for a number of reasons including:
- the increasing affordability gap as housing costs continue to rise faster than household incomes;
  - the more cautious approach to mortgage lending which has resulted in lower income multiples being approved for mortgages and the need for larger deposits to secure a mortgage;
  - the difficulties for households in getting onto the property ladder and facing more limited housing choices leading to a greater reliance on the private rented sector;
  - the changes to welfare reform that make the private rented sector less accessible for those on the lowest incomes;
  - housing benefits now link the number of occupants to the number of rooms. This is likely to lead to a greater demand for smaller, one and two bedroom accommodation
  - the cautious approach of investors and housing developers following the economic downturn; and the increased reliance on the planning system to deliver affordable housing through S106 funding;
  - the 1% cut in rents charged by registered housing providers over the next four years, announced in April 2015, has had a significant impact on the development of rented accommodation at rates which may be affordable for lower income families. This will further impact on people seeking this type of accommodation as the majority of future 'affordable' housing is likely to be made up of part rent / part buy (shared ownership) type homes. The requirement set out in the Housing & Planning Act 2016 for 20% of future development to contain starter homes will further impact on registered providers' willingness and ability to develop homes affordable for those most in need.
  - the housing benefit restrictions on people under 35, entitling them to a maximum rate equivalent to a room in shared accommodation, could also affect the type of accommodation which the town requires.

- 5.15 Within this context there is greater pressure for more HMO accommodation. The planning system has an important role to play in meeting the growing need whilst protecting and enhancing the positive qualities that make Worthing such a distinctive place where people want to live.

### ***Housing Need***

- 5.16 The housing register in Worthing shows 932 currently awaiting housing. This high level of affordable housing need is further evidenced within the Worthing Housing Study (June 2015) which calculated an affordable housing need for Worthing of 435 dwellings per annum (or a total of 8,700 dwellings between 2013-2033).

- 5.17 At the Joint Strategic Committee (JSC) on the 13th July a report by the Director of Communities raised the concerns about the significant lack of suitable accommodation for those in need of emergency and temporary accommodation. The report stated,

*'Across the Country the use of emergency interim and temporary accommodation is rising due to higher level of homeless applications. Nationally the number of homeless applications rose 30% between 2010 and 2015. Between 2014/2015 there was a 17% increase nationally in households being placed in temporary accommodation out of area..... In Adur and Worthing statutory homeless acceptances and the need for accommodation have both significantly increased within the past year. The Councils have refocused the service to ensure that all households presenting as homeless or threatened with homelessness, are appropriately assessed according to the law.'*

- 5.18 Whilst, the guidance to Housing Authorities is to house those in temporary need of accommodation locally, the lack of suitable rented accommodation has resulted in the Council using Bed and Breakfast accommodation at significant cost. As a result JSC agreed to look to procure additional accommodation out of the Borough (although any suitable accommodation within the Borough would be assessed first given that ideally our housing needs should be accommodated within the Borough).

- 5.19 The Private Sector Housing team reports an increase in the number of people looking to create 'high-end' HMO's marketed for working professionals.

### *Recent Applications - Issues*

- 5.20 Few, if any, planning applications for new HMOs were received until fairly recently and it was generally seen that demand for new HMO accommodation was a small, static or even shrinking, niche sector, unattractive to developers and for which the demand was relatively limited.
- 5.21 The first noticeable proposal for a new HMO was at Trevine Court, 2-4 Southey Road, Worthing. Under AWDM/0088/11 temporary 3-year planning permission was granted in August 2011 to convert (part retrospectively) this former care home (C2) to accommodation described as 25 bedsits, plus a manager's studio flat.
- 5.22 This proposal attracted relatively little criticism from neighbours and was made personal to the applicant and conditional upon his occupation of the on-site manager's flat (or by another on-site manager as agreed by the Council) to ensure the good management and maintenance of the premises continued. Under AWDM/0271/14 the Committee agreed to make the permission permanent; delete a condition making the permission personal to the applicant and remove the need for an on-site manager. Again, this only attracted two objections. This has been implemented and appears to operate without problems.
- 5.23 The second application was AWDM/0815/14 at Queens Lodge Guest House, 2 Queens Road for a Change of use from (use class C1) mainly vacant guest house (including annexe to the adjacent Kingsway Hotel) to a house of multiple occupation (10 rooms) granted permission by the Committee in February 2015. This property had a previous history of use as a residential care home and a Night Shelter and Hostel. This has been implemented and appears to operate without problems, so far. The property was subject to mandatory licensing requirements and was licenced by the Private Sector Housing team.
- 5.24 The third application was AWDM/0467/15 to convert a former care home at The Victoria Parkview, 7 Madeira Avenue to 10 bedsits. This was refused by the Committee contrary to officer's recommendation in July 2015 on grounds that the proposal failed to provide the high quality accommodation by virtue of the number, size and type of bedrooms proposed and the lack of adequate kitchen, washing and bathroom facilities, contrary Policy 8 of the Worthing Core Strategy. This was not appealed and permission was subsequently obtained to convert the property to a single family residence. Conversion works are underway.

5.25 The fourth application was the conversion of the former (vacant) care home at Elton Lodge 22 - 24 Selden Road under AWDM/1828/15 to a house in multiple occupation with 20 Bedsits and allied communal facilities, together with one studio flat (C3). There was close liaison with Environmental Health Officers and this was granted permission by the Committee in April 2016, subject to conditions, including restricting the bed sits to single occupancy and operation in full compliance with the Management Plan.

5.26 A recent application for a change of use from a former guest house to a 7-bedroom house in multiple occupation at 41 Warwick Gardens under AWDM/0565/16 has been approved under delegated powers. However, there was only a few objections to this scheme and close liaison with the Private Sector Housing team has ensured a good quality layout conditions have been imposed to control occupancy, facilities and appropriate management is in place.

5.27 Common themes for the applications have been:

- the absence of any bespoke local or national detailed policy on HMOs;
- increasing importance of HMOs as a way of meeting the unmet demand for affordable, basic accommodation;
- conversion of unviable care homes/guest houses to large HMOs;
- issue so far restricted to town centre and fringe;
- local concerns differ from those in the rest of the country which are largely restricted to “studentification”;
- growing public concerns over the quality of the accommodation offered compared to relevant standards and impact on local character and amenity of such HMOs in the town centre and fringe;
- close liaison with Environmental health Officers and use of recently adopted EHO guidelines on HMOs;
- Limited firm Planning and Environmental health powers to fully regulate all HMOs.

### ***Good Housing Leads To Good Health***

5.28 In 2008 the Chartered Institute of Environmental Health (CIEH) and Building Research Establishment (BRE) co-wrote a document entitled ‘*Good Housing Leads To Good Health*’. This document talks about housing provision generally and identifies the importance of providing good living accommodation to communities, and that this can lead to a reduction in crime

and anti-social behaviour. There is no distinction made between HMOs and other accommodation types.

- 5.29 Through negotiation with the applicants and close liaison with Environmental Health Officers, an appropriate standard of accommodation has, nonetheless, been achieved in all but one case (AWDM/0467/15 to convert a former care home at The Victoria Parkview, 7 Madeira Avenue which was refused).
- 5.30 The recent adoption of guidance by the Private Sector Housing team entitled '*Standards for Houses in Multiple Occupation*' has helped to provide far greater guidance to prospective developers about key issues relating to the detailed layout of HMOs to provide appropriate kitchen and bathroom facilities to serve the likely number of occupants. The guidance was circulated to Members in considering the change of use for Elton Lodge, Seldon Road and helped to secure improvements to the quality of accommodation proposed (planning application reference: AWDM/1828/15).
- 5.31 The guidance does also recommend that tenancies granted should seek to address anti-social behaviour by future occupants and the future management of HMOs has been a key consideration in the past by the Planning Committee and local residents concerned about new HMOs. The view of relevant consultees, including the Police and Environmental Health Officers, was that the quality of the management of HMOs was essential to their neighbourliness.
- 5.32 No evidence of any significant geographical concentration of HMOs in any of the localities of the above applications was found; nor evidence that HMOs, in themselves, have lead to problems of anti-social behaviour; loss of amenity to neighbours or unbalanced communities.

### ***Existing Planning Policies***

- 5.33 The adopted Development Plan for Worthing is the Core Strategy (2011). Although the Core Strategy does not include any specific policies relating to HMOs the following policies are of relevance:
- Policy 8 - Getting the right mix of homes - this policy seeks to ensure that a wide choice of high quality homes are delivered to meet the needs of the community
  - Policy 16 - Built Environment and Design - this policy seeks to ensure that new development is of high quality.



5.34 These, and other policies in the Core Strategy, are also supported by the Guide to Residential Development Supplementary Planning Document (2013). However, it should again be noted that this SPD does not specifically address any issues relating to HMOs.

## **6.0 The Scope to Develop a Policy Specifically Related to HMO's**

6.1 Any planning policy or supporting guidance which seeks to control any particular land use or seek to influence its location must be informed by robust evidence. As stated above, at the present time Worthing is not a town that displays particular problems with the concentration of HMO accommodation or clear evidence that HMO accommodation, in itself, causes significant planning or amenity issues to local residents (albeit there is the strong perception in some communities that this is the case).

6.2 As illustrated above the planning system can have some influence on the location of new HMOs, and, to an extent, their design and facilities, and with this seek to minimise the impact on local communities, infrastructure and environmental quality. In the circumstances your Officers have some doubt about the need for developing specific policies relating to HMO accommodation. Members should also be aware that the planning system should not be used to duplicate existing controls provided by other legislation.

6.3 The Council's Planning services will continue to work collaboratively with other services as necessary to address any issues arising from existing HMO properties. However, ordinarily, the planning system cannot act to address existing areas with high concentrations of shared residential properties or any problems associated with any other HMO, unless actionable breaches of planning rules have occurred.

6.4 As well as the work being undertaken to determine the true extent of HMO accommodation (particularly in the town centre) your Officers have sought to understand what evidence exists of harm being caused by HMO accommodation in any given area. In this respect your Officers have worked with the Private Sector Housing team, Environmental Health Officers and the Safer Communities team to assess data on noise complaints and anti-social behaviour. However, there is little evidence to demonstrate that HMO's are the source of the problems inherent in town centre locations where there are complaints of parking issues, noise and anti-social behaviour. In many respects these are areas where there is a greater proportion of cheaper and often more sub-standard accommodation.

### ***Options for Further Planning Controls***

- 6.5 It is accepted that the nature of building stock in parts of the Borough can result in large buildings coming into this use. If not managed correctly, especially if such uses become unduly dominant, these could impact on the character and amenity of an area.
- 6.6 It is important that a balance is struck between managing the concentration of HMOs with the need to ensure a mix of house tenures and types. This is critical to ensure housing is available to satisfy the full range of housing needs in the Borough's communities. Defining what constitutes a 'balanced community' is not an exact science, and whilst the broad aim is set out in national planning policy, there is little information which elaborates on these high level aims.
- 6.7 A number of local planning authorities have introduced policy measures in order to control the proliferation of HMOs in their areas. In all cases they constitute part of the Local Development Framework. Some lie within the Core Strategy, some within other Development Plan Documents (DPDs), others in Supplementary Planning Documents (SPDs).
- 6.8 Analysis of the thresholds and percentage limits that other authorities have used to limit further HMOs in their areas has been undertaken. The National HMO Lobby, a voluntary association of local community action groups which are concerned with the impacts of HMOs on their communities, has attempted to define what they view as a high concentration of HMOs, and the level above which new HMOs should be limited. The National HMO Lobby suggests that 10% of properties or 20% of the population is the 'tipping-point' for the HMO dominance in a neighbourhood. As stated earlier, at the present time, there is no evidence to suggest that any part of the town has an over concentration of these uses (albeit further work is underway to capture all data about the location of all HMO's).
- 6.9 It is also worth noting some of the possible implications of developing a policy that might seek to limit the number of new HMOs created in the Town Centre. Given the need for this type of accommodation, this could result in HMOs being pushed out away from the town centre to areas where there are more established residential areas of family housing. Whilst it could be argued that this is already happening as the supply of larger town centre premises slows, it does highlight the complexities involved in trying to limit the location of different types of residential accommodation. In this respect there are

significant advantages of higher density housing being located in sustainable town centre locations.

### ***Supplementary Planning Document (SPD)***

- 6.10 A Supplementary Planning Document (SPD) is intended to expand policy or provide further detail and support policies in the Development Plan. It does not have Development Plan status, but it can be accorded significant weight as a material planning consideration in the determination of planning applications. The provisions of any SPD cannot, therefore, be regarded as prescriptive but they can provide a powerful tool in the interpretation and application of policy.
- 6.11 Whilst, an SPD could seek to complement the guidance recently introduced by the Private Sector Housing team, in practise existing policies seeking high quality accommodation have justified detailed planning conditions being imposed to ensure an appropriate quality of accommodation and appropriate management controls are in place. The success or otherwise of planning conditions to mitigate any adverse impacts of new HMO's can be kept under review and in particular it is important to see if some of the concerns about recent approvals of new HMO's materialise.

### ***Article 4 Directions***

- 6.12 In areas where there is a problem arising from HMOs, local authorities can use an Article 4 direction to remove permitted development rights and require planning applications for such changes of use.
- 6.13 Southampton, York, Hatfield and Sheffield have Article 4 directions in place for change of use to C4 HMO. They have also issued planning guidance which seeks to restrict conversions to HMOs where 20% or more of the building stock within a local radius are HMOs. These are areas with large student populations. However the Government recognises that high numbers of HMO also arise in coastal towns.
- 6.14 Paragraph 038 of the Planning Practice Guidance highlights that the use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. The potential harm that the Direction is intended to address should be clearly identified. This evidence is also important to ensure planning decisions are justified and defensible. As indicated in this report there is a lack of evidence of specific issues being caused by HMO

accommodation that would support the use of an Article 4 Direction at this time.

### ***Other Options to Control HMO's***

#### ***Housing Health and Safety Rating System***

- 6.15 The Housing Health and Safety Rating System (HHSRS) is an evidence based method for assessing harm in residential accommodation and forms the basis of enforcement action by the Local Authority, such as service of Improvement Notices and Prohibition Orders.

#### ***Additional Licensing***

- 6.16 A Local Authority can designate all or part of their area for additional licensing, but this has to be agreed by the Secretary of State. This allows authorities to licence all HMOs, including Section 257 properties. The authority must consider that a significant proportion of the HMOs in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public. Recent amendments to the criteria for additional licensing schemes have made it harder for local authorities to implement District/Borough wide schemes.

#### ***Selective Licensing***

- 6.17 A Local Authority can designate all or part of their District or Borough as an area of selective licensing, but again this has to be agreed by the Secretary of State. This allows authorities to licence all private rented properties – not just HMOs. The local authority would have to evidence a relatively low housing demand or ASB and it must form part of the local authority's wider housing strategy.

### ***Additional HMO sanctions***

- 6.18 There are also additional sanctions available through the use of Interim Management Orders (IMO) and Final Management Orders (FMO). The Council must make an IMO in respect of a licensable HMO which is not licensed if it is satisfied that there is no reasonable prospect of the property being licensed in the near future with appropriate conditions or it is necessary to protect the health, safety or welfare of occupiers of the property or properties in the vicinity. An IMO is in force for 12 months and allows the Council to manage the property with all the rights of a landlord and to collect rent and expend it on work to the property. An IMO ceases to have effect if a licence is granted.
- 6.19 The Council must make an FMO where, on expiry of an IMO, the property requires to be licensed but the Council considers it is still unable to grant a licence.

### ***Future changes to legislation***

- 6.20 In November 2015 Government began a short consultation on mandatory licensing provisions to determine whether these should be amended to reflect the growth of this part of the private housing sector and the perceived issues of poor housing conditions associated with illegal immigrants. We are currently awaiting the outcome of that consultation, which was planned to be published in Spring 2016.
- 6.21 Whilst an increase in the number of HMOs that require a licence is welcomed this would have implications on the resources of the Private Sector Housing team who are responsible for licensing HMOs in Adur and Worthing. The number of complaints and service requests received by the team has also seen a marked increase over the past 5 years. The number of enquiries from people looking to create HMOs has also seen a noticeable increase.

## **7.0 Conclusion**

- 7.1 It is clear from various national studies that the over concentration of HMO accommodation can lead to amenity issues in any given area. However, concentration levels would have to be far greater than currently exists in parts of Worthing Town Centre to justify imposing additional powers and there does need to be further evidence of local harm caused by HMOs. Furthermore, given the need for cheaper rented accommodation to meet local needs Members would need to consider the impact of potentially encouraging HMOs

away from the Town Centre to adjoining residential areas, if any HMO locational criteria policy was to be established in the future.

7.2 The need to encourage good quality residential accommodation is important and it will be important to review the impact of the recently adopted Standards for Houses in Multiple Occupation and potentially greater licensing controls over new HMOs. In addition, it will be important to review the success or otherwise of imposing planning conditions seeking to ensure good management practices to avoid future adverse impacts to established local communities. As part of the work of the Local Plan Working Group it is considered that this matter can be reviewed again in connection with the emerging Local Plan.

7.3 In terms of maintaining balanced communities it would be also worthwhile looking at the concentrations of other types of communal housing that can have an impact on an area. In this respect the reported concerns in Worthing town centre often relate to the concentration of single households, various care homes for vulnerable adults and children as well as HMOs. In this respect it is understood that the Communities Team is looking at how best to capture the local data which could provide the evidence that indicates additional HMOs or other forms of high density housing should be supported in certain areas of the town. This is a wider issue than HMOs and this could be looked at as part of the emerging Local Plan.

## **8.0 Recommendation**

8.1 The Committee is recommended that:

- i) In light of the lack of clear evidence that there is an over concentration of HMO accommodation in the Town Centre and adjoining Wards that a specific policy for HMO accommodation is not necessary at this time;
- ii) additional policies seeking to influence the design and layout of HMO accommodation is not necessary, at the present time, given the guidance recently adopted by the Private Sector Housing team and the ability to supplement that guidance with planning conditions to secure good quality residential accommodation to meet local needs;
- iii) it is recommended that the desire to maintain/secure balanced communities is kept under review by the Local Plan Working Party in light of emerging evidence about the social impact of concentrations of various forms of high density housing; and

- iv) a further report be presented to Planning Committee in 6 months time to review the situation. By which time it is hoped that there would be further information in relation to potential changes to legislation, the success or otherwise of controls imposed on new HMOs and further research on the distribution of HMOs and other types of communal housing/care homes across the town and any evidence of harm associated with them.

## **Local Government Act 1972**

### **Background Papers:**

Worthing Core Strategy 2011

Housing Needs studies - Objectively Assessed (Housing) Need.

Standards for Houses in Multiple Occupation (HMO) 2016

Discharging Interim and Temporary Housing Duties Under the Homelessness Act 1996 - report to JSC on 13 July 2016

'Good Housing Leads To Good Health' 2008: by the Chartered Institute of Environmental Health (CIEH) and Building Research Establishment (BRE).

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## **Schedule of Other Matters**

### **1.0 Council Priority**

1.1 None directly relevant

### **2.0 Specific Action Plans**

2.1 None directly relevant

### **3.0 Sustainability Issues**

3.1 Matter considered and no issues identified

### **4.0 Equality Issues**

4.1 Matter considered and no issues identified

### **5.0 Community Safety Issues (Section 17)**

5.1 Consideration has been given in the report to the impact of a concentration of HMO's in certain areas

### **6.0 Human Rights Issues**

6.1 Article 8 of the Human Rights Act states that everyone has the right to respect for his or her private and family life, home and correspondence. This right is subject to proportionate and lawful restrictions.

### **7.0 Reputation**

7.1 Matter considered and no issues identified

### **8.0 Consultations**

8.1 Internal consultation with Planning Policy, Environmental Health and Housing sections of the Councils



## **9.0 Risk Assessment**

9.1 Matter considered and no issues identified

## **10.0 Health & Safety Issues**

10.1 Matter considered and no issues identified

## **11.0 Procurement Strategy**

11.1 Matter considered and no issues identified

## **12.0 Partnership Working**

12.1 Matter considered and no issues identified