

**SCRUTINY PANEL: To what extent is the Borough Council successful in achieving its objective of managing student occupancy in Loughborough?**

**FRIDAY, 20TH SEPTEMBER 2013 AT 10.00AM  
IN COMMITTEE ROOM 1, SOUTHFIELDS, LOUGHBOROUGH**

**AGENDA**

1. APOLOGIES

2. SCOPE DOCUMENT

The Panel's updated scope document is attached at page 3 for the information of the Panel.

3. OVERVIEW OF RESPONSES RECEIVED FROM OTHER COUNCILS – DISCRETIONARY LICENSING OF HOUSES IN MULTIPLE OCCUPATION

Officers identified a number of councils around the country which were understood to have considered or adopted discretionary licensing of HMOs and where the town had similarities with Loughborough in terms of size and/or a university. Responses received are attached at page 7.

4. BACKGROUND PAPERS

- (i) **Canterbury City Council** – HMO Best Value Review
- (ii) **Durham County Council** - 'The Need for Additional HMO Licensing & Article 4 Direction in Durham City: A feasibility study'.
- (iii) **Hastings Borough Council** – Provided details of report that was considered by the Council's Cabinet.

[http://www.hastings.gov.uk/static/meetings\\_docs/110613~cabinet~report06~Proposed Additional Licensing Scheme for Houses in Multiple Occupation.htm](http://www.hastings.gov.uk/static/meetings_docs/110613~cabinet~report06~Proposed%20Additional%20Licensing%20Scheme%20for%20Houses%20in%20Multiple%20Occupation.htm)

The above three documents have been filed with the Panel's Background Papers.

- (iv) **Charnwood Borough Council** - HMO website can be found using the link below:  
[http://www.chnwood.gov.uk/pages/houses\\_in\\_multiple\\_occupancy](http://www.chnwood.gov.uk/pages/houses_in_multiple_occupancy)

5. TACKLING ROGUE LANDLORDS AND IMPROVING YOUR LOCAL PRIVATE RENTED SECTOR

Councillor Parton will brief the Panel on the Shelter good practice conference he attended in London, entitled 'Tackling Rogue Landlords and Improving your Local Private Rented Sector'. The conference showcased good practice of local authorities from around the country and build on the recommendations in Shelter's policy report 'Asserting authority - calling time on rogue landlords' and the DCLG's 'Dealing with rogue landlords - a guide for local authorities'.

6. QUESTIONNAIRES AND OTHER SUBMITTED COMMENTS

No further questionnaires or comments have been submitted since the last meeting of the Panel.

7. KEY WITNESSES – HOUSING MATTERS

The Head of Strategic and Private Sector Housing, the Private Sector Housing Manager and Linda Selvey, DASH Services Manager have been invited to attend as a witness.

8. OFFICER BRIEFING PAPERS

- (i) Student Occupancy and Enforcement of Waste Issues is attached at page 15.
- (ii) Litter Picking and Street Cleansing will follow the agenda.

9. FUTURE MEETINGS

Following consultation with the Chair, further meetings of the Panel have been arranged as follows:

29th October 2013 – 6.00pm – To receive further information, requested by the Panel, from Loughborough University.

20th November 2013 – 6.00pm – To consider content and recommendations for the Panel's final report.

Membership:

Councillors Bradshaw, M. Hunt, Jukes (Chair), Pacey, Parton, Ranson, Smidowicz and M. Smith (Vice-chair)

## SCRUTINY REVIEW: DRAFT SCOPE

### REVIEW TITLE:

**To what extent is the Borough Council successful in achieving its objective of managing student occupancy in Loughborough?**

### SCOPE OF ITEM / TERMS OF REFERENCE

- To identify the areas of public concern in relation to the management of student occupancy in Loughborough.
- To review how the Student Housing Provision in Loughborough SPD is working in practice.
- To review the effectiveness of the introduction of the Article 4 Direction in controlling student occupancy.
- To review how other planning policies and tools, including the use of Section 106 Agreements to control occupancy, the licensing of Houses in Multiple Occupation (HMOs) and engagement with landlords are used to control student occupancy.
- To identify the consequences of the policy approaches and tools used by the Council and whether there have been any unintended consequences.
- To consider whether and how any undesirable consequences of the policy approaches and tools used by the Council can be addressed.
- To consider, using current research and best practice, whether the policy approaches adopted by the Council remain relevant and fit for purpose.

### REASON FOR SCRUTINY

To address public concerns about the policies for addressing student occupancy and the methods by which the policies are carried out.

To facilitate a debate about what matters relating to student occupancy the Council can and should seek to control.

### MEMBERSHIP OF THE GROUP

Councillor Ron Jukes (Chair)  
Councillors Bradshaw, Burr, M. Hunt, Pacey, Parton, Ranson, Smidowicz and M. Smith

### WHAT WILL BE INCLUDED

The Council values the contribution of Loughborough University and its students to the reputation and the economy of the Borough. However the Council also recognises that the concentration of shared student housing can cause imbalance in the composition of the community and consequential injury to local amenities and facilities.

The terms of reference of the panel are focussed on whether the Council's policy approaches to managing student occupancy are being successful. By managing student occupancy the panel means those policies which address where shared student housing is located and other housing and planning policies which regulate occupancy. These policies are intended to maintain sustainable, balanced communities, appropriate land use development and provide safe accommodation rather than deal with the behaviour of students. However the panel recognises that it is often concerns about the latter which are

the trigger for public concern.

#### **WHAT WILL BE EXCLUDED**

Although there is an overlap with the issue of former student properties being unoccupied as students appear to be moving to other parts of Loughborough, that issue should be considered as part of a more general review of empty properties.

#### **KEY TASKS** \* \* including consideration of efficiency savings

The possibility of adopting an intensive method of scrutiny has been discussed which would make use of longer evidence gathering sessions programmed at shorter intervals than is normally the case. Possible evidence gathering themes have been identified as:

- a session to investigate the concerns of the public;
- a session to enable the panel to be provided with background information either through briefings or briefing notes, which should include information on how the Council addresses problems caused by students, for example anti-social behaviour, car-parking or environmental issues, to provide context for the focus on managing student occupancy;
- a session with Charnwood Borough Council officers to investigate how the various policies and tools relating to student occupancy are implemented and used and what the consequences are\*;
- a session with other stakeholders, i.e. Loughborough University and landlords;
- a session to learn about alternative approaches being developed or used elsewhere.

\* Note: the panel may wish to hear from officers again after the other witnesses to enable them to respond to the evidence gathered from those later witnesses.

#### **STAKEHOLDERS, OUTSIDE AGENCIES, OTHER ORGANISATIONS \***

- CBC Planning Dept – development control, planning policy and enforcement
- CBC Housing Dept – with responsibility for licensing of HMOs and engagement with landlords
- Representatives of local people who have raised concerns with the Council relating to these issues. The Panel will need to consider which geographical areas are most appropriate and how to ensure that the views expressed are representative.
- An appropriate representative from Loughborough University who deals with student accommodation issues.
- A representative from the Loughborough Students' Union.
- An appropriate person to act as a landlord representative. It would be most appropriate to seek someone who acted on behalf of any formal landlord body.
- Professor Darren Smith, from Loughborough University, who has developed an alternative methodology for identifying student occupancy and undertaken work on Article 4 Directions nationally, and any other identified sources of good practice adopted elsewhere.

#### **EQUALITY IMPLICATIONS**

**Is an impact needs assessment required? – to be considered at the Panel's penultimate meeting**

#### **LINKS/OVERLAPS TO OTHER REVIEWS**

- There are links with the objectives identified by the Empowering Communities Scrutiny Panel.
- The impact on empty properties of changes to the student property market has been identified by the Housing Allocations Scrutiny Panel. However as discussed above empty properties will not be considered as part of the scope of this review.
- Car-parking issues related to Loughborough University were the subject of a previous scrutiny panel.

## RESOURCE REQUIREMENTS

## REPORT REQUIREMENTS (Officer information)

### REVIEW COMMENCEMENT DATE

30th May 2013

### COMPLETION DATE FOR DRAFT REPORT

\* Key tasks and stakeholders may be subject to change as the review progresses.

## PROGRESS OF PANEL WORK

MEETING DATE	PROGRESS TO DATE
30th May 2013	Two representatives from KARG, NRN, SARG and SbC invited to attend the meeting as witnesses. NRN not able to attend and submitted written comments.
17th June 2013	Prof Darren Smith gave a presentation on 'Studentification' (copy filed with the agenda)
28th June 2013	Whole day meeting to receive information from:  K. McPheeley – Loughborough University Accommodation Development Manager  A. Chell – Local Student Landlord's Association  E. Read – President of the Students' Union, and Loughborough University A. McDonald – Permanent Officer at the Students' Union  A. Barlow – Loughborough University Community Relations Manager
30th July 2013	Meeting reviewed the findings of the meetings to date and identified key themes and areas for questions for the Council's Housing and Planning officers at the next two meetings of the Panel.
30th August 2013	Meeting deferred to 9th September 2013.
9th September 2013	Peter Blitz, Team Leader Development Control, attended the meeting to assist with discussions in respect of Planning matters, in particular relating to Supplementary Planning Document, Article 4 Direction, thresholds, methods of applying policy, information sharing and enforcement.





**SCRUTINY PANEL: To what extent is the Borough Council successful in achieving its objective of managing student occupancy in Loughborough?**

Officers identified a number of councils around the country which were understood to have considered or adopted discretionary licensing of HMOs and where the town had similarities with Loughborough in terms of size and/or a university. Officers then contacted those councils, requesting the following information:

*'I am writing on behalf of one of the Borough Council's scrutiny panels which has been established to look at how successful the Council is being in achieving its objective of managing student occupancy in Loughborough. A copy of the scope document for the panel is attached for information.*

*I wonder if you would be able to help by providing the panel with some information. The panel is considering whether discretionary licensing of HMOs under the Housing Act 2004 would be appropriate for Loughborough. The panel is therefore interested in the experiences of other councils that have adopted or are considering this option and it would be helpful for the panel if you would be willing to provide some information about the approach your council has taken to this issue. The panel would be particularly interested in your answers to the following questions.*

- 1. What prompted the decision by you council to consider discretionary licensing of HMOs?*
- 2. What other approaches to managing HMOs did you already have in place?*
- 3. How did you approach developing the evidence to justify introducing discretionary licensing?*
- 4. Did you experience resistance to the idea of introducing discretionary licensing and how did you deal with this?*
- 5. What is the current situation regarding your use of discretionary licensing?*
- 6. If you have introduced discretionary licensing have you got any examples of the impact that it has had?'*

The responses received are attached as an appendix to this report:





## APPENDIX

- **Durham County Council** - Provided a copy of the published document: 'The Need for Additional HMO Licensing & Article 4 Direction in Durham City: a feasibility study'. This document has been included as a background paper.
- **Hastings Borough Council** – Provided details of a report that was considered by the Council's Cabinet. This document has been included as a background paper.
- **Canterbury City Council** – Provided details of a HMO Best Value Review. This document is included as a background paper.

	Council A	Council B	Council C
General comments/ introduction		B has a very large student population and around 900 HMOs, which are licensed under mandatory licensing, many of which are student houses. There are a further 1500 or so smaller HMOs outside the scope of licensing, the majority of which are concentrated in a smallish geographical area.	
1. What prompted the decision by you council to consider discretionary licensing of HMOs?	A were looking into introduction of an Article 4 Direction. As a result of the research into this, additional licensing was mentioned which led to political pressure to look at the possibility of introducing a scheme.	Concerns are more with non student accommodation and the Council is currently looking at introducing additional licensing for poorly converted (257) HMOs, of which we have around 600, where the worst conditions are found and where licensing is much easier to justify	C is an interventionist Council with significant housing related issues. Licensing was seen as the best option (following the use of myriad of other options) to tackle poorly maintained and managed HMOs, especially 257 large Victorian HMOs.  Licensing was cost neutral to the Council and allowed

			for a proactive targeted approach to tackling HMOs, placing the onus on the landlord/freeholder to license with us. It also put in place preferred mechanisms for ensuring the proper management of HMOs (license conditions).
2. What other approaches to managing HMOs did you already have in place?	Accreditation; enforcement; proactive inspections	We have had an inspection programme for non licensed HMOs for a number of years and generally they are in reasonable condition. That being the case it was not possible to get evidence to introduce additional licensing and it was not pursued.	<p>We previously had HMO Registration Schemes under the 85 Act. We also have a declared Housing Renewal Area, which had a dedicated Team tackling the homes (the majority of which were HMOs) in the area. Funding cuts resulted in the disbandment of that Team.</p> <p>We have also tried property based accreditation, with a dedicated Accreditation Officer. This had marginal success with little impact on HMOs. Again funding cuts changed the situation. We now have landlord based accreditation in partnership with the National Landlords Association, which requires landlords to be trained. We see this as an essential ingredient in a landlord</p>

			successfully owning and managing property, especially HMOs.
3. How did you approach developing the evidence to justify introducing discretionary licensing?	<p>The Council looked at available local information, enforcement data, other council data e.g. rubbish complaints, ASB, fire statistics etc. Spoke to many local residents and used Councillors to access them. It looked at case studies and produced photo examples. Response to the A4D consultation also proved useful as did an HMO tenant survey and residents' surveys. Officers also liaised with other Local authorities who had undertaken discretionary licensing, for advice and good practice</p>		<p>Detailed analysis of the evidence available internally (computer systems) and with partners (Police (ASB), Fire (HMOs), Health (impact from living conditions), etc). This was supported by a wide and comprehensive consultation exercise, which saw all proposed properties targeted with information and a questionnaire. Then followed a comprehensive weighted Options Appraisal before the decision to pursue licensing was considered.</p>
4. Did you experience resistance to the idea of introducing discretionary licensing and how did you deal with this?	<p>Yes. Many landlords were firmly against it including the NLA, RLA, Students' Union. The Council met them head on, had events on the Uni's and attended NLA meetings. Officers basically spoke to and met as many people as I could and held various meetings, stakeholder workshops etc. Also, following consultation, concessions were made when it was appropriate to do so.</p>		<p>Yes, from landlords associations and some individual landlords. Threat of Judicial Review of the process. Associations strongly voiced that they believed Councils have strong existing powers, e.g. HHSRS and associated legislation to tackle HMOs without the need to impose licensing. However, in percentage terms, even landlords were in favour of the introduction. Strict</p>

			<p>adherence to the guidance was followed and exceeded. Adherence to the legislative process in full, checked internally and independently. Robust evidence gathering exercise to justify the introduction. This meant there was no room for Judicial Review of the decision in terms of process or in terms of justifiable evidence.</p>
<p>5. What is the current situation regarding your use of discretionary licensing?</p>	<p>It will come in on the 1st January 2014.</p>		<p>The scheme remains in place and is meeting targets. The Council has prosecuted a landlord and a manager of HMOs for management and license condition breaches and is in the process of bringing several prosecutions for failing to license. The major improvement officers would look to make is in administrative support to the HMO Licensing Team. You cannot underestimate the bureaucracy involved in licensing. Officers are looking to license around 2,000 HMOs. This needs full time administrative support, indeed maybe 1.5 FTEs for this. Currently</p>

			<p>there is a 0.5 FTE.</p> <p>The scheme will be reviewed in September this year.</p>
6. If you have introduced discretionary licensing have you got any examples of the impact that it has had?’	N/A		<p>There has been an increased awareness of what an HMO is. Where there has been licensing intervention, standards and the management of the HMO has improved. The imposition of Licensing has forced organisations/people to take control of their HMO, particularly in relation to 257 HMOs. There has been better coordination between the regulatory partners and the landlords in tackling ASB from these types of property. There has been an increase in enforcement action in relation to sub-standard HMOs</p>
Other comments		<p>As an alternative to licensing, and as a means of controlling the numbers of student houses, planners have introduced an Article 4 direction on the area of town with high numbers of student houses as a means of stopping further family homes</p>	<p>In the process of considering whether we have the evidence to support widening Additional Licensing and/or the introduction of Selective Licensing.</p>

		<p>being converted. This has proved very successful, partly because there is now an oversupply of student houses due to the changing demographic of the students that the University is attracting – there are around 5000 overseas students who prefer to remain in halls. As a consequence student rents are reducing and there are large numbers of HMOs on the market which are likely to turn back into family homes</p>	
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**SCRUTINY PANEL: To what extent is the Borough Council successful in achieving its objective of managing student occupancy in Loughborough?**

ITEM 8(i) Report for Scrutiny - Student occupancy  
Enforcement of waste issues

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**Background**

The Street Management team enforce waste issues across the Borough. Defra publish guidance on dealing with waste which is adopted by the team and reflected in procedure.

Legislation in terms of waste receptacles has been amended in the last couple of years with recommendation for a fundamental change to the process and the amount of the fixed penalty notice.

The main change has recommended an incremental approach to enforcement to offer an opportunity for people to comply with requirements in an informal period prior to formal action taking place.

Charnwood Borough Council procedure reflects the changes to legislation with a three step approach. This process offers the resident an opportunity to remove the bin/waste from the street before formal action is taken.

A proposal has been put forward that from next year landlords/agents are written to 2-3 weeks prior to the end of term with the informal letter advising them of the Council's expectations. If a property is reported for having rubbish outside then the process will go straight to the formal stage (28 days). This decreases the total enforcement period from 6 weeks to 4.

## **Answers to questions**

***What is the current approach to dealing with wheelie bins and other waste containers at student properties, for example in that they are kept off the streets and pavements?***

The procedure for dealing with bins and other waste containers on the street has been written in line with Defra Guidance. A copy of the protocol is attached at Appendix 1.

In summary the person that leaves their waste container on the highway will receive a first warning by letter advising them to remove the bin from the highway. Upon a second complaint the householder will receive a second and final warning. If there is a third complaint received within a 12 month period (October to October) a fixed penalty notice is issued.

***The panel has heard evidence that there can be problems with wheelie bins left on pavements etc at the end of term and during holiday periods when there are no students in residence regarding wheelie bins and waste collections?***

Waste receptacles are returned to the curtilage of the property after collection. If there are any bins left on the highway after the collection date the team would contact the occupier to remove it, in the absence of the occupier the landlord would be contacted with a request to remove the waste receptacle.

***What is the Council's current approach to imposing fixed penalty notices in relation to wheelie bins and other waste containers left on pavements and streets? Is this approach set out in a policy document that could be shared with the panel?***

Wheelie bins and waste containers left on the highway will incur 2 warning letters, if there is a third occasion when the waste containers have been left on the highway they will receive a fixed penalty notice.

The protocol is attached below at Appendix 1 for bins on the highway and Appendix 2 for side waste (excess bags of waste left on the highway).



## Appendix 1



### WASTE RECEPTACLES LEFT ON THE HIGHWAY

- First complaint is received Environmental Services sent first warning letter.  
Street Warden to complete a referral form for details to be added to Lagan.
- Second complaint is received at the same property. Environmental Services send second and final warning letter.  
Street Warden to complete referral form – add notes if previous knowledge of problems at address
- Third complaint is received – Street Wardens will visit property and issue a fixed penalty notice for non compliance of the notice which is contrary to section 46 of the Environmental Protection Act 1990.
  - Street Wardens ensure you have evidence to

NB:

- If the second or third complaint is received within 12 months of the first complaint – re-open the original case to ensure history is up to date. The year runs October to October.
- If the second complaint is more than 12 months after first complaint then create a new case.

## Appendix 2



### PROTOCOL FOR SIDE WASTE

#### First offence on record in 12 month period (October to October)

1. A section 46 notice should be issued for first time offences of leaving side waste.
2. If the person refuses the section 46 notice they should be issued with a fixed penalty notice for mis-use of a Waste receptacle under section 46 of the Environmental Protection Act 1990.

*If upon searching through the waste, you identify a person who has travelled more than the end of their road to dispose of the waste then it should be classed as a fly tip and referred to the Enforcement Officers.*

3. Evidence is needed before issuing the section 46 notice , the evidence **must** include:
  - Photograph of the bag from 5-10 metres away (or across the road) to show perspective of where it is and how it is detrimental to the amenity
  - Photograph of the evidence (i.e. letter with name and address on) on the top of the bag – also show that the bag has been opened
  - Photograph of the evidence (close up) clearly showing name and address details.
4. Go to the address detailed on the evidence. If the person answers you will need to switch on your body worn video(BWV) – it is good practice to advise them that you are recording. You will then need to :
  - Complete all fields in the section 46 notice and hand it to the occupier.
  - Ask them to sign the section 46 notice at the bottom, give them the top copy you should retain the blue copy.

5. If the person is not in you should complete the section 46 notice using the name and address details from the evidence. Post the section 46 through the letter box.
6. Retain the blue copy for your records and hand to SEM's to record on log and for follow up.

#### **Re-visit after 3 day period on section 46 notice**

7. If the waste is not cleared after the 3 day period you should issue a fixed penalty notice.
8. If they make an admission, you can write down the admission and ask them to sign your pocket notebook.

*If the person wishes to remain silent then that is their right. If this happens then explain that it is their right and that you can offer them an interview under caution in the Council offices.*

9. The person can also request to be interviewed at the council offices or the police station. This can be arranged, please refer to Manager for details.
10. Explain the discount rates and how to pay. If the person asks how they can appeal then issue them with a slip and advise them that they will need to write in.

#### **Second or repeat Cases**

If the occupier/owner has already been issued with a section 46 notice you should issue a fixed penalty notice under section 46 of the Environmental Protection Act 1990.