

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

**TUESDAY, 29TH OCTOBER 2013 AT 6.00PM
IN COMMITTEE ROOM 1, SOUTHFIELDS, LOUGHBOROUGH**

AGENDA

1. APOLOGIES

2. SCOPE DOCUMENT AND ACTION NOTES

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

The notes of actions agreed by the Panel at its meetings held on 9th and 20th September 2013 are attached at pages 7 and 13 for the information of the Panel.

3. BACKGROUND PAPERS

National Landlords Association - Additional Licensing of Houses in Multiple Occupation:

[http://www.landlords.org.uk/sites/default/files/NLA%20Add%20Man-Sect%20Policy%20Flyer%20\(A4\)_0.pdf](http://www.landlords.org.uk/sites/default/files/NLA%20Add%20Man-Sect%20Policy%20Flyer%20(A4)_0.pdf)

House of Commons Library – Selective Licensing of Privately Rented Housing
<http://www.parliament.uk/briefing-papers/sn04634/selective-licensing-of-private-landlords>

National Empty Homes Loan Fund:
<http://www.emptyhomes.com/what-you-can-do-2/>

<http://www.ecology.co.uk/emptyhomes>

4. QUESTIONNAIRES AND OTHER SUBMITTED COMMENTS

Questionnaires submitted since the last meeting of the Panel are attached at page 19.

5. KEY WITNESSES

At the invitation of the Panel, A. Barlow and Professor D. Smith from Loughborough University will attend the meeting, to provide further information in respect of student numbers.

Information provided by A. Barlow prior to the meeting is attached at page 23.

6. 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'.

A briefing paper prepared by Councillor Parton is attached at page 25.

7. BRIEFING PAPERS

- (i) Planning Matters – Following issues raised at the meeting of the Panel held on 9th September 2013, a briefing paper with further details in respect of Houses in Multiple Occupation and Enforcement is attached at page 27.
- (ii) Data provided by the Storer and Ashby Area Residents Group:
 - National HMO policies, thresholds and guidelines for Article 4 Directions for HMOs - 2013 September attached at page 31.
 - Change of use and sales of houses in Storer and Burleigh
The graphs below show the change of use of all houses in the SARG area and the success of the Article 4 Direction attached at page 33.

8. PANEL – DRAFT REPORT

This item has been included on the agenda to consider issues and recommendations for inclusion in the Panel's report and highlight any gaps in its investigation work.

9. FUTURE MEETINGS

Further meetings of the Panel have been arranged as follows:

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. |

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| 20th September 2013 | David Harris, the Head of Strategic and Private Sector Housing, Rebecca Short, the Private Sector Housing Manager and Linda Selvey, the DASH Service Manager attended the meeting to assist with discussions in respect of housing matters, specifically the work of the voluntary accreditation scheme, additional HMO Licensing Designation in Loughborough and details of the work of the Council's Private Sector Housing Service. |
| 29th October 2013 | To receive further information, requested by the Panel, from representatives of Loughborough University, a briefing paper from Planning Enforcement and feedback from the 'Rogue Landlords' conference. |
| 20th November 2013 | To consider content and recommendations for the Panel's final report. |

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| REPORT SUBMITTED TO SCRUTINY MANAGEMENT BOARD |
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MANAGING STUDENT OCCUPANCY SCRUTINY PANEL – ACTION NOTES

MEETING 5 9th September 2013

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

Officers: M. Hopkins and F. Whittington

CONSIDERED AT THIS MEETING:

| DOCUMENT OR MATTER | ACTION(S) AGREED |
|--|---|
| Scope Document | Updates noted |
| Action Notes 30th July 2013 | Noted |
| Background Papers (i) <u>DCLG Publication – Dealing with Rogue Landlords</u> (ii) <u>Shelter Policy Briefing – Asserting Authority – Calling Time on Rogue Landlords</u> | Documents received and noted. Two recently published documents, not specifically student related. Councillor Parton attended a conference at Shelter in London, addressing ‘Tackling Rogue Landlords and Improving your Local Private Rented Sector’ sharing ideas and good practice. Councillor Parton will report back his findings to the Panel meeting to be held on 20th September 2013. |
| Questionnaires and other submitted comments | A summary of responses from the public and a local letting agent, not previously submitted to the Panel, was received and noted. A complete summary of all responses received will be collated for the final Panel report. Specific reference was made to the responses to questions 4 and 5 by a local letting agent in respect of letting boards and gardens. In response to a question, following the meeting, officers confirmed that the submitted questionnaire had been received from a resident living in the Nanpantan Ward. |

ISSUES DISCUSSED WITH WITNESSES:

| WITNESS | ISSUES DISCUSSED |
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| Key Witness – Planning Matters – Peter Blitz – Team Leader Development Control | |

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| | <p>Reference made to four relevant planning policies:</p> <p>H12 – General permissive policy - indicates that planning permission will be granted for new buildings or the re-use of non-residential properties specifically for student accommodation at locations on, or readily accessible by, cycle, public transport or on foot to the university and college campuses. Planning permission will be granted for developments which include reduced parking standards where it can be shown that there would be no adverse impact in the vicinity of the site.</p> <p>H13 - indicates that planning permission for the conversion of properties within primarily residential areas to hostels, self contained flats, cluster flats or to any use within Class C1 (hotels) of the Town and Country Planning (Use Classes) Order 1987 (as amended) will be granted provided the application would not be affected by a list of five criteria in respect of noise and disturbances. Reference was made to Large Unmanaged Residences for Students (LURS).</p> <p>EV1 – a general design policy – not student specific.</p> <p>EV39 – a general policy in respect of pollution and development in its widest sense. At the time of introduction of that policy there was no requirement to apply for planning permission for up to six unrelated people living in a property. The introduction of the Article 4 Direction changed that position.</p> <p>Student Housing SPD – provided guidance on how to take decisions using the above policies, which had resulted in a matrix of responses and a threshold for making judgements. Prior to the introduction of the SPD with no control there had been a large number of HMOs established in specific areas of Loughborough.</p> <p>Article 4 Direction gave officers the ability to control and take decisions in respect of changes from Class C3 to C4 properties. As policies were written prior to the introduction of the Article 4 Direction this affected the weight that could be given to those policies.</p> <p>The current Adopted Local Plan expired in 2011, but would continue to be used until policies introduced as part of the draft Core Strategy were adopted. The new National Planning Policy Framework (NPPF) made it clear that where policy was consistent with the NPPF weight could apply and continue in use until new policies were adopted.</p> |
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| <p>Should a Threshold-based Method be Used and how to Identify a Threshold</p> | <p>In respect of the 20% threshold, officer research was unclear how that figure had been arrived at.</p> <p><i>Councillor Bradshaw arrived at 2.20PM</i></p> <p>Consideration given to identifying an appropriate saturation threshold. One for the whole area or different ones for different areas of the town. Details of methodology adopted by other authorities included 20% along a street in Oxford, Warwick used a radius approach, Bath 100 metres and 25%, Portsmouth 50 metres radius and 10%. If a policy was designed to maintain balanced communities, the area being considered should probably not be too small.</p> <p>Issues were raised as follows:</p> <ul style="list-style-type: none"> (i) Out of date policies did not work. (ii) Local residents could establish a Neighbourhood Plan to address issues of concern in a specific area. (iii) Should parents buy a property with their child as co-owner, and two friends rent rooms in that property it would not be defined as a HMO. Circular 5 2.10 states that an owner and up to two lodgers was not a HMO. (iv) Some of the departments at the Council worked in silos, greater exchange of information could produce more accurate information, for example Council Tax and Planning. Since 2005 more electronic information was available and could produce more accurate data. (v) Student blocks of accommodation in the centre of town were not fully occupied and could be used for affordable housing. (vi) By deciding threshold by street, it was easier to work out percentages and conclude when a saturation figure had been reached. However, there were dangers with being too prescriptive, for example the effect of cars parked on an adjacent road. It was incumbent on planning officers to look at an area and come to a judgement, taking account of all circumstances, including impact of harm from other properties near an application site. Officers urged caution on using mathematical formulas in isolation, there were often mitigating factors. (vii) Could conditions attached to Planning permission decisions be more flexible and encourage good behaviour of students? Officers responded that conditions needed to be reasonable and enforceable and should not duplicate other types of controls. |
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| Information Sharing | (viii) Planning officers would consider information supplied from any source, if it can be shown to be accurate, impartial evidence. For example of 42 reports of non-registered HMOs, only 4 found to be reliable. There could be costs associated with preparing new data sets. |
| Enforcement | <p>(ix) Planning control was about the use of land/physical development. It was not about duplicating controls that exist elsewhere. It was not possible to control refuse bins, the state of gardens, the condition of curtains or the position of washing and washing lines.</p> <p>(x) It was outside the powers of planning officers to revert C4 homes back to C3. Market forces would eventually redress the situation.</p> <p>(xi) In respect of Student accommodation blocks being illegally used by non students – enforcement measures should be used for change of use to house single/homeless people.</p> <p>(xii) In respect of garage conversions to bedrooms, officers stated that C3 ordinary dwellings did not require planning permission to convert to a room, if it was in association to the existing dwelling. In a C4 property the decision whether it would be a material change was a more difficult judgement to make. Should a separate access be made into a converted garage making a self-contained dwelling, that would be in contravention of planning rules and Enforcement officers would investigate any such reports.</p> <p>(xiii) Conditions continued to be introduced with new purpose built student accommodation, controlled through tenancy agreements, for example at the Cube and the Wharf developments, no cars in Loughborough policy. Such tenancy agreements were used in Oxford and Durham.</p> <p><i>Councillor Hunt left the meeting at 3.55PM</i> <i>Councillor Bradshaw left the meeting at 4.00PM</i></p> <p>Officers agreed to liaise with Enforcement officers and the Council's Legal team, to develop a flow chart detailing the process for reporting enforcement issues to a conclusion.</p> |
| Possible Issues to be Included in the Panel's Report Recommendations | <ol style="list-style-type: none"> 1. Limited parking times to prevent all day parking by people at the University. 2. Review system used to identify saturation point and examine options in respect of percentage thresholds and radius. |

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| | 3. Purpose built student accommodation blocks used for non students. |
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POSSIBLE ISSUES FOR THE PANEL REPORT RAISED BY WITNESSES

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OTHER ISSUES RAISED/DISCUSSED AT THIS MEETING:

Loughborough University Entrances and Parking Panel

Reference was made at the meeting to the information detailed in the University Entrances and Parking Policy document, (Background paper 10) 'That an outright ban on students bringing a car to Loughborough cannot be supported. [Panel Recommendation 1(i)]'. Following the meeting, officers traced the chronology of the recommendation and found that the Group Swamped by Cars had made the recommendation that an outright ban on students bring cars into Loughborough had been proposed to the Panel, however, the Panel had not been able to support that proposal and that had been recorded in the Panel report submitted to Cabinet.

FURTHER MEETINGS OF THE PANEL:

20th September 2013
10.00am

Housing Matters. The Head of Strategic and Private Sector Housing, the Private Sector Housing Manager and a representative from DASH have been invited to attend the meeting as witnesses.

MANAGING STUDENT OCCUPANCY SCRUTINY PANEL – ACTION NOTES

MEETING 6 20th September 2013

ATTENDED BY: Councillors Jukes (Chair), M. Smith (Vice-chair), M. Hunt, Pacey, Ranson and Smidowicz

APOLOGIES: Councillors Bradshaw and Parton

Officer: F. Whittington

CONSIDERED AT THIS MEETING:

| DOCUMENT OR MATTER | ACTION(S) AGREED |
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| Scope Document | Updates noted |
| Overview of Responses Received from Other Councils – Discretionary Licensing of HMOs | Responses received and noted |
| Background Papers (i) <u>Canterbury City Council – HMO Best Value Review</u> (ii) <u>Durham County Council – ‘The need for Additional HMO Licensing & Article 4 Direction in Durham City: A Feasibility Study’</u> (iii) <u>Hastings Borough Council – Provided details of a report that was considered by the Council's Cabinet</u> (iv) <u>Charnwood Borough Council – HMO website</u> | Documents received and noted. |
| Tackling Rogue Landlords and Improving Your Local Private Rented Sector | The report was unavailable for the meeting. It was agreed that the report be submitted to the next meeting of the Panel on 29th October 2013. |
| Questionnaires and other submitted comments | No further questionnaires or comments had been received to report to the Panel. |

ISSUES DISCUSSED WITH WITNESSES:

| WITNESS | ISSUES DISCUSSED |
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| <p>Key Witnesses – Housing Matters –</p> <p>The Decent and Safe Homes (DASH) Services Manager, the Head of Strategic & Private Sector Housing and the Private Sector Housing Manager</p> | <p>(i) DASH – Power Point presentation – copy filed as a background paper:</p> <p>Details of the Accreditation Scheme The Accreditation Process Success in Charnwood Recent Update and Future Developments</p> <p>DASH was a self-regulating body, able to enforce on its Code of Conduct. Officers were able to work with those landlords who were willing and/or unknowledgeable. Charnwood had the highest number of landlords subscribed in the East Midlands. There was on-going training for landlords and regular contact made through e-newsletters, twitter and a blog. The key was to ensure that landlords saw the value of being accredited. Accreditation could be removed at any time if a landlord was in serious breach of the agreed Code of Conduct requirements.</p> <p>Funding for DASH had recently been changed. Central Government had devolved funding responsibilities to regional government. Currently CBC paid £3,000 subscription to DASH annually.</p> <p>DASH had a positive working relationship with CBC officers in Private Sector Housing and Enforcement. Although DASH had no legal enforcement powers, outside of non-compliance with the Code of conduct, it could influence landlords and help them to change their behaviour and ways of working, ensuring minimum standards were met and hazards reduced /removed.</p> <p>Based on the evidence available, DASH would not recommend Additional HMO Licensing Designation in Loughborough, believing that such action would not stand up to judicial review, would duplicate work and would not be cost effective for the Council. Comparisons were made between Charnwood Borough Council and Bournemouth Borough Council, where additional licensing had been rejected, while enforcement teams had been empowered to use existing powers in a proactive approach. Reference was also made to costs of such a scheme, with only the processing charges being charged to fees, all other costs, including any</p> |

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| | <p>enforcement action and chasing non-licensed properties must be met by the Council. That was one of the main reasons why Derby City Council decided not to go forward with selective licensing.</p> <p>Reference was made to a new DASH campaign 'Anyone Can Be a Landlord?' currently being trialled in Lincolnshire, to encourage more small non-student landlords to become accredited.</p> <p>(ii) CBC Private Sector Housing - Power Point presentation – copy filed as a background paper:</p> <p>Property/household types Service Requests 2008 – 2013 Summary of Service Requests Courses of Action currently available to manage student occupancy Off Campus Student Delivery Strategy CBC Services linked to student accommodation Conditions to consider before making an Additional HMO Licensing Designation The Journey to Additional Licensing</p> <p>In the current financial climate local authorities were operating under the concept of self-regulation, a government initiative with widespread support. Self-regulation through the DASH accreditation scheme meant that the Private Sector Housing team was able to focus its finite resources and enforcement activities on those landlords/properties who were not accredited.</p> <p>Reference was made to 'Rogue Landlords', witnesses considered there were identified major problems in some London Boroughs and Lincolnshire, but did not believe there was evidence of such problems in Charnwood.</p> <p>Reference was made to the number of HMOs on the Kingfisher Estate, detailed in the presentation and concerns that the figures were not accurate. It was noted that the information was taken from Council Tax student exemptions, therefore should a resident be working and paying council tax that address would not be included in the statistics.</p> <p>Different Council Services used different data systems to record information, e.g. Private Sector Housing used FLARE, Neighbourhood Management used SENTINEL and Customer Services used LAGAN.</p> |
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| | <p>Officers made reference to conditions/evidence to consider prior to taking a decision to introduce Additional HMO Licensing Designation in Loughborough:</p> <ol style="list-style-type: none"> 1) LA must consider that a significant proportion of HMOs are being managed sufficiently ineffectively as to give rise to one or more particular problems for those occupying the HMO or for members of the public: <ul style="list-style-type: none"> • External condition adversely impacting upon the area • Internal condition adversely impacting upon the health, safety and welfare of the occupiers • Significant and persistent problem of anti-social behaviour • Landlords of HMOs failing to take appropriate steps to address the above issues 2) Unless LA has significant evidence of problems that they are unable to deal with under current measures, there is a strong likelihood that proposals for additional licensing would be challenged by judicial review 3) LA must consider whether there are any other courses of action available to them that might provide an effective method of dealing with the problems in question 4) LA must be clear that making the designation will significantly assist them to deal with the problems 5) Consult persons likely to be affected by the designation over a minimum 10 week period <p>Details of information gathered by Nottingham City Council and Bath and North Somerset Council could be made available to the Panel as examples of evidence required for Additional HMO Licensing Designation.</p> <p>Enforcement officers took action to remedy faults rather than close an HMO. There were powers to prohibit the use of a room/ floor/ property should the need arise.</p> <p>It was the view of the witnesses that the situation in Charnwood was not sufficiently severe to warrant introducing additional HMO licensing and evidence available presently would not be robust enough to make a case in the consultation period without facing the risk of a judicial review. Witnesses offered to arrange a visit to the areas of Nottingham where a proposed Additional HMO Licensing Designation had been applied for.</p> |
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| | <p>Witnesses confirmed the Council worked with outside partners to address concerns, e.g. with the Police when reports of a suspected cannabis factory had been received and the police reported housing issues to the Council to address.</p> <p>Reference was made to the Tenant Finder Scheme – not connected with HMOs, to encourage accommodation for single people in empty student properties</p> |
| <p>Officer Briefing Papers</p> <p>(i) Student Occupancy and Enforcement of Waste issues</p> <p>(ii) Litter Picking and Street Cleansing</p> | Documents received and noted. |
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POSSIBLE ISSUES FOR THE PANEL REPORT RAISED BY WITNESSES / MEMBERS OF THE PANEL

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| | <p>Voluntary Licensing Scheme – advantages and disadvantages Encourage further use of the DASH Accreditation Scheme, including involvement of all services e.g. if a midwife or doctor visited a rented property discuss landlord accreditation to make tenants aware of the scheme, circulate leaflets, thus discouraging tenants from renting properties from non-accredited landlords.</p> <p>Support for the DASH pilot Accreditation Scheme for all Landlords in Lincolnshire to be developed in Charnwood.</p> <p>Discretionary Licensing – As a first step to the consideration of Additional HMO Licensing Designation, collate all relevant data from Council Services to obtain a comprehensive evidence base, to consider the appropriateness of such a scheme from an informed position.</p> <p>‘Scores on the Doors’ – publicise the Students’ Union ‘Rate My Landlords’ Scheme</p> <p>Tennant Finders Scheme – to provided single room accommodation for single people, up to the age of 35.</p> <p>Revisit Contact Centre scripts, to ensure references to HMOs are recorded.</p> |
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OTHER ISSUES RAISED/DISCUSSED AT THIS MEETING:

- The need for a new IT system which provided a single database for all Council services.

FURTHER MEETINGS OF THE PANEL:

29th October 2013 – 6.00pm – To receive further information, requested by the panel from Loughborough University and a briefing paper in respect of planning enforcement.

20th November 2013 – To consider content and recommendations or the Panel's final report

SUMMARY OF RESPONSES TO QUESTIONNAIRE AND OTHER SUBMITTED COMMENTS SINCE THE LAST MEETING OF THE PANEL

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

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| 1. | How do you think student occupancy is managed by the Council in your area? | |
| | VERY WELL WELL ADEQUATLEY POORLY VERY POORLY No Comment | |
| | L/B Southfields – No comment <i>L/B Southfields – No comment</i> | |
| 2. | How well do you consider the Student Housing Provision in Loughborough SPD is working? | |
| | VERY WELL WELL ADEQUATLEY POORLY VERY POORLY DON'T KNOW | |
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| 3. | In your opinion, to what extent has the introduction of the Article 4 Direction affected management of student occupancy in your area? | |
| | GREATLY SOME LITTLE NONE No Comment | |
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| 4. | What are your views about the use of Section 106 Agreements to control occupancy? | |
| | No comment | |
| 5. | In your opinion, how well do you think the licensing of HMOs to manage student occupancy and the Council's other work to engage with landlords is working? | |
| | VERY WELL WELL ADEQUATLEY POORLY VERY POORLY DON'T KNOW | |

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| 6. | Do you consider that there have been unintended consequences of the Council's policy approaches and the tools used to manage student occupancy in your area? |
| YES NO No comment | 2 |
| | <p>Because of its location, the size and type of properties and very high student population, the Kingfisher Estate never has been a mixed community and it will not become one without the council taking major action. This would have to be something like banning landlords from selling to other student landlords and/or banning them from renting to students.</p> <p>This is what the council have done to the remaining families on the estate. Currently existing student landlords can rent their houses to students, but the other home owners can only rent to families. Student landlords can sell their properties to other student landlords, but we can only sell to families.</p> <p>But if you take a look at the pictures submitted with this email, what family in their right mind would rent or buy a house in our part of Kingfisher when the front gardens are full of cars and the trees in the front gardens are cut down to accommodate them (incidentally I thought these tree were part of the planning permission for the Bovis part of the estate, can they be cut down to accommodate parking?). This is without considering the noise and refuse issues, which is particularly bad in these early weeks of the new academic year. There is no hope of a family purchasing a 5 bedroom three story house with these kinds of neighbours. There is no reason why a landlord would take less money to rent to a family if they could rent to students. Perhaps this is why another property on Goldfinch Close, which was a family home earlier this year, is now being occupied by students.</p> <p>Could the panel please visit the estate to see some of these issues first hand and also investigate how a C3 property has magically become a HMO.</p> <p>I believe that we all should have the same opportunities when it comes to our homes on the Kingfisher estate. Especially when you consider that student landlords caused the situation, are making money out of it, but the remaining families are being penalised. The few remaining family homes converting to HMOs would not adversely affect the character of the area as it is already overwhelming student HMOs.</p> <p>I do not want to move off the estate today, but if my job or circumstances change I do want to be able to move. The current restrictions and unique circumstances on the Bovis built part of the Kingfisher Estate (i.e. location, the size and type of properties and very high student population) prevent this and it is unfair.</p> <p>Another family home has become a student house. I understand that</p> |

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| | <p>another property on Moorhen Way has been sold to a student studying a Masters degree and that he will have two lodgers to try and avoid being classed as a HMO.</p> <p>Therefore the only properties to change in the last two years on the Bovis part of the Kingfisher estate have been family homes becoming student houses. I cannot see how this can be reversed unless the current restrictions are increased (as indicated above) or removed for this unique area.</p> <p><i>The fact that another property on Moorhen Way has sold must not be seen as a triumph for the HMO policy. It's just adding to our misery of living on an estate full of students in a house that no one will want to buy.</i></p> <p><i>Furthermore, the issues of wheely bins not being put away and rubbish throughout the close continues. My wife is taking this up separately with CleanerGreener. However, I've attached two more photos to indicate the issues.</i></p> |
| 7. | Have you any suggestions as to how the issues identified in question 6 above could be addressed? |
| | No comment |
| 8. | What other areas of concern do you have in relation to the management of student occupancy in Loughborough that you wish to bring to the attention of the Panel? |
| | No comment |



Background & Student Population

The student population at Loughborough University is made up of a mixture of study levels (undergraduate, postgraduate, research, visiting) and modes (full-time, part-time). Other factors to note about our student population are that:

- we have a significant number of students who are “dormant” (i.e. not actively engaging in their studies) in any given academic year;
- we have students registered with the University who are actually studying at another campus/location.

Over the years, we have come to realise that some groups of students are not as forthcoming with their term-time address as others.

For example, our part-time postgraduate population are likely to live at home. Historically it has been quite difficult to get them to engage in our data collection processes for term-time addresses (as they probably assume us to already hold it because they have provided their home address). Last academic year, part-time postgraduates accounted for more than a quarter of missing addresses for active students.

Data Collection Process

Students are asked to provide us with details of their personal details including term time address when they first register with the University and, for undergraduate students, at the start of the first term for each year that they study with us (this is known as re-registration). This information used to be collected via paper forms but in 2011 we transferred to an online system for re-registration and for 2013 we have also moved initial registration processes online. We expect these developments to continue to improve our term-time address data.

In developing our online processes, we have considered whether it would be feasible to make the provision of term-time addresses compulsory but we have decided against this for a number of reasons including those detailed in the following paragraph.

Students may not know their term-time address at the time of registration/re-registration (up to 6 weeks prior to starting at the University). Therefore, students would either have to provide a false address to complete the registration process or delay their registration until they knew their address. The first option would hide the “gaps” in our data which would hamper our ability to chase address data at a later stage. It would also mean that our data was inaccurate which has wide ranging implications. Delaying students’ registration until they have an address is not a viable option as they would not be able to collect their student id card or access any student financial support. Delaying the registration of students would also have a negative impact on the University’s tuition fee income (further details available on request).

In recognition of the fact that students may not know their term time address until after the start of term, the University runs regular reports to identify gaps in the data and emails students inviting them to provide their addresses. This process is carried out several times a year and incrementally improves the extent/quality of our term-time address data.

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

SHELTER CONFERENCE - LONDON – 3RD SEPTEMBER 2013

TACKLING ROGUE LANDLORDS AND IMPROVING YOUR LOCAL PRIVATE RENTED SECTOR

Attending this conference was a moment of revelation. From the moment of arrival through the door, to the end of the conference, a deluge of information, expertise and passion from so many professionals eager to further tackle challenges was the order of the day.

Therefore, for two reasons, this paper forms a brief outline of the day, rather than a comprehensive explanation and sharing of information gathered.

1. By being unable to attend the 20th September 2013 meeting in person, due to unavoidable work commitments, I petitioned for the opportunity to explain and inform in person at this next meeting.
2. As mentioned in Paragraph 1, much information was gathered during the day. To that end, I am in the process of contacting some people I met during the day, in order to seek clarification on certain facts and information they spoke about.

Some of the issues that I am further researching and studying are:

1. **The cases for and against licensing Private rented sector, in particular HMOs.**
2. **The disillusionment of Councils surrounding the level of fines imposed at court on criminal landlords.**
3. **After seeing a case example of how Liverpool City Council has looked to improve their PRS stock, I am currently seeking out other examples.**
4. **Housing social tenants in HMOs and how likely this would be in Loughborough.**
5. **Stock condition surveys and accreditation. Looking at best practice in other Councils.**

INITIAL SUMMARY: The day clearly proved that Charnwood (and in particular, Loughborough) is not alone in facing a huge challenge in managing the PRS (Including HMO's). Whilst there was a veritable deluge of excellent ideas, procedures and protocols, it must be said that there were large challenges preventing all Councils from totally and successfully managing the PRS and thwarting rogue landlords.

COUNCILLOR TED PARTON -17/09/2013

MANAGING STUDENT OCCUPANCY SCRUTINY PANEL
29TH OCTOBER 2013

PLANNING BRIEFING NOTE

This briefing note has been prepared following the meeting of the Panel held on the 9th September 2013, to provide members with an overview of the planning enforcement regime insofar as it relates to the control over student occupancy and to the definition of a Class C4 House in Multiple Occupation.

ENFORCEMENT

Unauthorised Changes of use

The making of a material change in the use of a building without planning permission is a breach of planning control, unless it is a change permitted by a development order. The Borough Council has the power to address breaches of control and to take action to resolve the breach where it is considered expedient to do so. The need to demonstrate expediency requires that specific harm needs to be identified to show the necessity for the action and that the harms are those which planning policy seeks to address.

Permitted development rights for HMOs

Class C3 dwellings benefit from a number of so called permitted development rights (PD) such as to erect extensions and to construct outbuildings and hardstandings in the garden. There has been some uncertainty as to whether these rights appertain to HMOs, some authorities consider they do and some don't. Charnwood's position is that the PD rights do not apply to Class 4 HMOs, so that extensions will require planning permission. The Planning Act however, does define what constitutes development and excludes changes that do not affect the external appearance of a building. Therefore, in assessing any enforcement allegation, the judgement must include whether this has happened, along with the materiality of any change in the use of premises. The National Planning Policy Framework (P207) indicates that in all cases, enforcement action is a discretionary power and that local planning authorities must act proportionately.

To Let signs

On the 16th February 2010 the Secretary of State for Communities and Local Government approved for a further 5 years Charnwood's request for a renewal of the Regulation 7 Direction Order in relation to letting boards within the Storer Road area. The Secretary of State directed that the provisions of the Regulations that allow letting boards shall not apply to parts of the Storer Road area and the Ashby Road Conservation area in Loughborough. Advertisement consent can be applied for should Agents wish to display a board following a specific format.

Local agents and landlords have also voluntarily agreed to a restriction on letting boards in the York Road, Granville Street areas, displayed at right angles to the wall of the property, in order to reduce the clutter in the street scene and the damage to visual amenity that was felt to be caused due to the proliferation of letting boards at particular times of the year. It has been agreed that a letting board (approx A3 size) can be displayed, above the front door to the property, flat to the wall for the requisite period. This voluntary code has been in operation for over two years now and has proven to be very successful thanks to the cooperation of the agents and landlords in the area. It is hoped this level of cooperation will continue to be as successful in the future.

The Enforcement Process

The enforcement process is available to the Council to control development. The following sets out the main features of the planning enforcement process:

- Reporting of the breach – Allegations of unauthorised activity need to be made in writing and need to be explicit about the activity concerned. They are dealt with confidentially but circumstances can sometimes reveal the source of the allegation.
- Officer response – This will normally be within 5 days of the report.
- Investigation - Enforcement is intrusive. It will often require evidence of names addresses, seeing tenancies, rent books, consultation with Council Tax etc and the details of the relationships of occupants, which can be complex and needs some sensitivity. It can also take some time.
- Ward referral – The case officer will investigate. The Head of Strategic Services has the delegated authority to serve enforcement notices, where it is considered expedient to do so. The case officer will prepare a report for the relevant ward members, if it is concluded that a case should be pursued or if it is not expedient and the case should be closed. If the ward members consider a case should be assessed by Plans Committee, then a written report is prepared.
- Plans Committee meets on a four week cycle.
- Where action is to be taken, instructions need to be prepared for the Head of Legal Services as to the precise steps that are required to be taken.
- Prior to service of an enforcement notice a Requisition for Information or a Planning Contravention Notice, to ascertain the planning/legal/financial circumstances of the property, will be served. These requisitions normally have a 21 day response time.
- The Head of Legal Services will carry out the preparation of the enforcement notice based on a draft.
- The Enforcement Notice is served on the Landlord and anyone else with an interest in the property and is copied to all occupants in the house.
- All enforcement notices contain a period of 28 days from the date of service before they take effect, i.e. become operative.
- All enforcement notices have a compliance period for the date they take effect, within which the steps that the notice require to be taken must be complied with. The compliance period will vary according to

the circumstances of the case. In “student” related cases this can sometimes be extended to allow for end of the academic term/year.

- All recipients of an enforcement notice have the right to appeal against its requirements to the Secretary of State, who will hold a public hearing or public inquiry, presided over by an appointed inspector. The appeal must be lodged during the 28 day period before the notice takes effect (see above).
- The Inspector will deliberate on the case and deliver his decision. The period for this varies, depending on the complexity of the case and the Planning Inspectorate workload. It is typically at the present time, 24 weeks.
- Non-compliance with an enforcement notice is an offence in law and can be pursued through the courts and result in fines being levied. An enforcement notice does contain provisions whereby the Council can take direct action to secure the requirement of the notice, if this is deemed expedient.

Recent Enforcement Actions

Recent complaints to the planning service about the use of property for student occupation are exclusively from the Storer and Ashby Residents Group. The complaints often take the form of anecdotal or circumstantial or third hand reporting from local residents. Enforcement officers often find that residents express reservations about being involved when they are approached. Evidence of breaches didn't arise from environmental issues or parking problems. Of the 45 complaints since beginning of 2012, 4 proved to be breaches of control. In no cases were complaints sparked by harm caused by noise and disturbance or parking issues etc

When dealing with planning applications for purpose built student accommodation, the Council has exercised control over the issue of car parking by the use of 106 agreements, which require the operator to impose in all tenancy agreements clauses that prohibit occupiers of their property from bringing cars to the town, unless those occupying have the use of a parking space, agreed with the local planning authority.

Only the Wharf and The Cube have required investigation arising from evidence of street parking taking place in the vicinity and both of these were resolved without formal action being taken.

Costs

The unreasonable issue of an enforcement notice and the local authority's conduct at any related appeals can be the subject of claims for costs by appellants. Circular advice says that this is not intended to inhibit authorities from taking necessary action when it is clearly in the public interest. However, care must be taken to take full account of judicial authority, government guidance and well published appeal decisions. Withdrawal of an enforcement notice can attract awards of costs. This includes a situation where it is withdrawn because it is incorrectly drafted or so technically defective that it could not be corrected by the Secretary of State in his dealing with an appeal. It is generally held to be unreasonable for a planning authority to issue an

enforcement notice solely to remedy the absence of a valid planning permission. Planning authorities are expected to have undertaken reasonable investigations, including discussing the position with the owners/occupiers and used Planning Contravention Notices and site inspections.

CLASS 4 DEFINITION

The definition of a Class C4 House in Multiple Occupation is that which is set out in Section 254 of the 2004 Housing Act. Circular 05/2010 also sets out a planning definition of Class C3 and Class C4 uses.

An HMO must be occupied by more than one household as its only or main residence, as a refuge, or by term time students, where basic amenities are shared. A household can comprise a single person, co-habiting couples (whether or not of the same sex) and a family.

However, the Act also says that a building (or part) occupied by no more than two households each comprising a single person is not a Class C4 use. It remains in Class C3. The Act also says that a building occupied by a resident landlord with up to two tenants is not a Class C4 use. It is also in Class C3. Circular 05/2010, however, refers to the owner and two lodgers not constituting an HMO, which is a slightly different definition.

This complicated arrangement generates a range of types of occupations each with their own impacts and which need to form part of the material considerations relevant to planning decisions. The following are perhaps the more common occupancy scenarios:

- Between 3 and 6 unrelated individuals who share basic amenities is a Class C4 use.
- A single family (including an extended family) of unrestricted numbers or ages is a Class C3 use.
- A resident landlord and two lodgers/tenants is a Class C3 use
- A family of unrestricted numbers and more than one unrelated individual, all renting from a non-resident landlord, is a Class C4 use.
- Up to 6 unrelated individuals receiving care (including those giving care) is a Class C3 use.
- Occupation by more than 6 unrelated individuals sharing basic amenities falls outside either Class 3 or Class 4. It is a *sui generis* use.

There are other less common scenarios which would need to be considered on their individual circumstances. The materiality of the differences in these types of occupation is one of the main considerations for the planning authority. Each scenario has the potential to generate very different impacts.

Officer to contact Peter Blitz Team Leader (01509) 634735
Peter.blitz@charnwood.gov.uk

National HMO policies, thresholds and guidelines for Article 4 Directions for HMOs

2013 September

The majority have a threshold of 10% within 100 m

We consider that a 100 m radius is best. 100 m linear on the street or just defining the street has problems because of streets with different lengths. A 100 m radius will take in 100 m on the street in either directions anyhow. It will also include (or exclude) student halls.

Percentage

5% Ormskirk, Glasgow, West Lancashire

10% Barking, Belfast, Bournemouth, Brighton, Hastings, Manchester, Portsmouth, Southampton, Warwick, West Lancashire, York (11)

15% Hillingdon, West Lancashire,

20% Canterbury, Exeter, Hatfield, Hillingdon, Milton-Keynes, Oxford, Sheffield, Southampton, Welwyn Garden (Hatfield) (10)

25% Bath, Nottingham, Plymouth

Distance (radius or on street)

40m Southampton

50m Brighton, Hatfield, Portsmouth, Garden (Hatfield)

100m Barking, Bath, Belfast, Bournemouth, Brighton, Canterbury, Glasgow, Hastings, Hillingdon, Manchester, Milton-Keynes, Oxford, Ormskirk, Plymouth, Southampton, Warwick, West Lancashire, York (18)

200m Hatfield, Sheffield

300m Belfast

Note: a few councils have multiple % and areas.

National HMO Lobby

Briefing Bulletin

National HMO Policies – 2013 September

| Local Authority | A4D Area | Scope | Threshold | Measure | Status | Date |
|-----------------|---------------|--------------------------------|----------------------------|------------------------------|---------|------|
| Barking | Whole | Single policy | 10% | Street | DPD | 2011 |
| Bath | Bath | Single policy | 25% | 100m radius | SPD | 2013 |
| Bournemouth | Whole | Single policy | 10% | 100m linear | CS | 2012 |
| Brighton | Whole | Single policy | 10% | 50m radius | CS | |
| Canterbury | City | Single policy | 20% | 100m radius | SPD | |
| Charnwood | Loughborough | Two levels | 20% sm HMO, 10% lg HMOs | Small Output Area cluster | SPD | 2005 |
| Exeter | Selected area | Single policy (+ exception) | 20% (none allowed) | Designated areas | SPD | 2011 |
| Hastings | Whole | Single policy | 10% | 100m radius | CS | |
| Hillingdon | Two wards | Two levels | 20% & 15% | Neighbourhood or street | Interim | |

| | | | | | | |
|--|----------------------------|--|---------------------------------|---|----------------------|----------------------|
| Leeds | Urban area | TBA | TBA | TBA | SPD | |
| Manchester | Whole | Single policy | 10% | 100m radius | CS | 2012 |
| Milton Keynes | Whole | Single policy | 20% | 100m radius | SPD | |
| Newcastle | Selected area | Single policy | None normally permitted | Street | SPD | 2011 |
| Nottingham | Whole | Single policy | 25% (student households) | Output Area cluster | SPD | 2007 |
| Oxford | Whole | Single policy | 20% | 100m linear | DPD | 2013 |
| Plymouth | Selected area | Single policy | 25% | 100m linear | SPD | 2013 |
| Portsmouth | Whole | Single policy | 10% | 50m radius | SPD | 2012 |
| Sheffield | Selected area | Single policy | 20% | 200m radius | CS | 2009 |
| Southampton | Whole | Single policy (+ exception) | 20% (10%) | 40m radius | SPD | 2012 |
| Warwick | Leamington | Single Policy | 10% | 100m radius | SPG | |
| Welwyn Hatfield | Hatfield | Single policy | 20% | 50m radius | SPD | 2012 |
| West Lancashire (Ormskirk) | Town | Single policy (+ exceptions) | 5% (10% or 15%) | Street | Plan | |
| York | City | Single policy | 20% & 10% | Neighbourhood or street | SPD | 2012 |
| Belfast | --- | Single policy (+ exception) | 10% (30%) | Street, or 300m linear | | 2008 |
| Glasgow | --- | Single policy (+ exception) | 5% (10%) | Street or block | | 2004 |

For links, go to <http://hmolobby.org.uk/natlocalplans.htm>

National HMO Lobby

email: hmolobby@hotmail.com; website: www.hmolobby.org.uk

31 October 2011, rev 23 July 2013

Change of use and sales of houses in Storer and Burleigh

The graphs below show the change of use of all houses in the SARG area and the success of the Article 4 Direction.

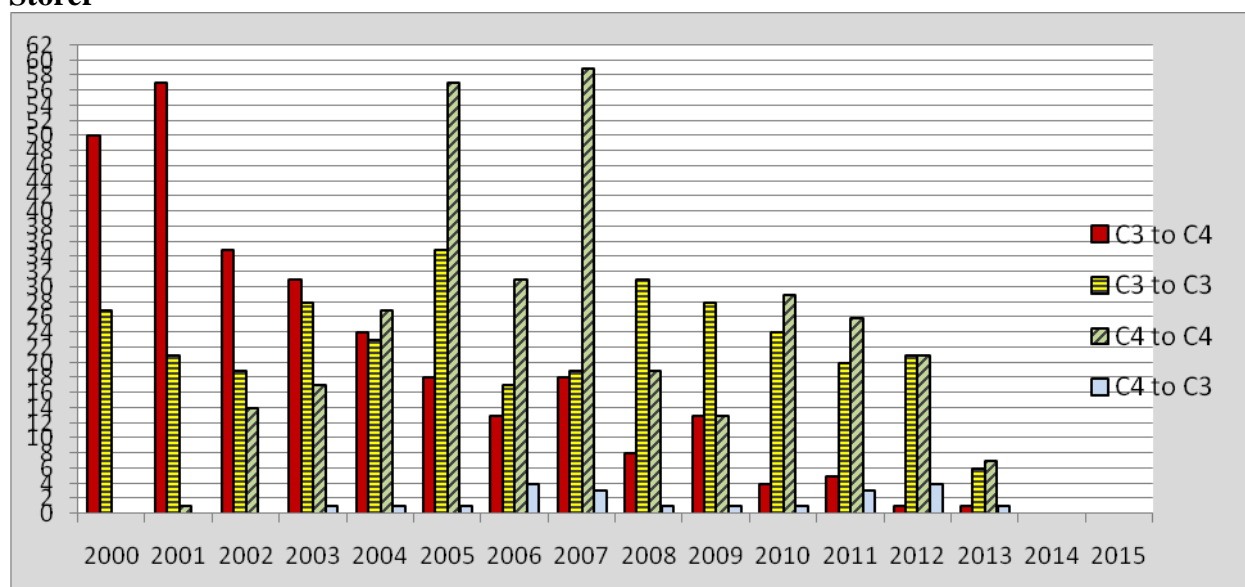
C3 to C4 HMO: A huge change from C3 to C4 HMOs from 2000 to 2010 and then dropping dramatically due to excess places and then almost disappearing since the introduction of the Article 4 Direction for HMOs. This should become minimal, hopefully zero, in future years showing that the problem has been successfully halted.

C4 to C4: Landlords buying properties from each other has been steady in 2002 – 2012 peaking in 2005 – 2006.

C3 to C3: Surprisingly, this has remained quite constant but has tended to be in areas with lower HMO density. This shows that ordinary residents and non-landlords will buy into the area.

C4 HMO to C3: This is the key indicator for regenerating the community. This has been almost insignificant but is growing. This includes properties being rented to < two tenants or families instead of >2 tenants; a few sales, houses slipping to C3 due to not enough tenants. Some of the latter only show up when landlords apply for planning permission to return to C4 and are refused.

Storer



Burleigh

