

Overview and Scrutiny Management Committee

Monday 27 July 2015

Item: 17: Briefing Note re: Scrutiny Review Request from Cllr Parry Baath in respect of houses of multiple occupation, (HMOs)

Controls over HMOs

Legislative Controls

There are three legislative systems of control that can cover Houses in Multiple Occupations (HMO) namely Licencing, Environmental Protection (statutory nuisance) and the Planning System. The Licencing and Environmental Protection (statutory nuisance) service are provided by the Shared Service which is hosted by West Berkshire Council. The responsible authority however for these services remains Wokingham Borough Council and the shared service only administers these services on behalf of the Council. The legislation governing the shared service and the relevant policies are the same as they would be if the service was administered by WBC. The planning regulatory service is in house.

Licencing

In accordance with the legislation, a licence for a HMO is needed only when there are more than 5 people where the building is 3 stories plus in height. Under the licencing system issues that can be addressed focus on safety to ensure that the standard of accommodation is acceptable for the residents of the HMOs. In accordance with the licencing legislation, the only criteria that can be addressed are:-

- That the proposed licence holder and any manager of the property is a fit and proper person;
- That the proposed licence holder is the most appropriate person to hold the licence;
- That proper management standards are being applied at the property;
- That the HMO is reasonably suitable, or can be made suitable, for occupation by the number of tenants allowed under the licence with at least the minimum prescribed standards of amenities and facilities. These include the number, type and quality of shared bathrooms, toilets and cooking facilities.

Environmental Protection (statutory nuisance)

Noise and disturbance issues can be addressed by environmental protection legislation (statutory nuisance). In respect of HMOs, noise can result from the building operations to convert the property or ongoing noise from occupants of the HMOs. There is no legislative control over noise and disturbance unless it is excessive. In these cases, the Council's normal approach would be to get the parties to talk to each other to try to resolve the

issues amicably. Where this fails there is a standard procedure to investigate and serve an abatement (stop) notice with criminal offences created if the notice is not adhered to.

Planning

The change of use of a dwelling to a HMO with 7 occupiers or more needs planning permission. If a planning application is submitted then the issues that can be addressed include the impact on parking, highway safety and neighbour amenity. If the use of the property includes 7 people or more and does not have planning permission, this will be investigated by the planning enforcement team and if a breach of planning control is found, the Council will seek to resolve this through a negotiated solution. If this cannot be achieved, the expediency of taking action will be assessed and an enforcement notice served if expedient to do so. The Council is unable to take any action against potential breaches of planning control. The breach must be undertaken and evidenced before any action can be taken.

A HMO of 6 or fewer people who are living together as a family unit is permitted development and does not need planning permission. In these cases there is no planning control. As such, the impact of a HMO upon parking provision or residential amenity etc cannot be taken into account.

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