

Briefing Paper - HMO Position in Wokingham Borough 2015

The Council understands that HMO accommodation can lead to problems for local residents who live in the vicinity. Many of the problems arise from the intensification of the use of a HMO property and if there is a concentration of these, the cumulative impact can have significant consequences on the amenity of nearby occupiers. Many of the problems are associated with increased pressure on parking and other facilities. However, there have also been complaints from local residents about the behaviour of the occupiers of the HMOs.

In the past, the Council has received complaints about HMOs in an area known as Shinfield Park. This site is also known as the Former Met Office Site which received planning permission in 2005 for approximately 300 residential units. The development is comprised of 3 storey apartments and terraced town houses, and some detached properties and two storey properties.

Recently, in respect of HMOs, complaints have been received from 3 individuals who have raised concerns about HMO use of 15 properties at Shinfield Park. It has been requested by these residents that the HMO licences are revoked on the basis of anti-social behaviour. However, many do not require a licence for the reasons explained above, and as the licence can only address the quality of the residential accommodation, the Council is unable to revoke the licence on the basis of anti-social behaviour. Further, if the Council refused to grant any further licences on the basis of these problems being experienced by local residents, this could be challenged through the courts and this would constitute mal-administration by the Council as only the quality and safety of the accommodation can be addressed under the licence.

The Council's Community Wardens have been in contact with residents, landlords and tenants at Shinfield Park to try and resolve the issues associated with the HMO properties. The management company responsible for a number of the HMO properties has been discussing these matters with the residents association to try and resolve the problems being experienced. The Council's Environmental Health team have been to the site on a number of occasions but there is no statutory nuisance occurring and therefore they have no power to address this issue under the Environmental Protection legislation.

There have been reports of problems associated with car parking at Shinfield Park and some of the residents of the HMOs have been parking in other residents allocated car parking spaces. The Shinfield Park estate was granted planning permission when the Council's car parking standards required a reduced level of parking relative to the current position as was required by Government at the time. As some of the roads have not been adopted by the Council it is the responsibility of the residents through the residents association to enforce issues relating to parking on these roads and in the private car parking areas. On the roads that have been adopted, to date the police has been the agency responsible to take any action in respect of inconsiderate parking. However, as the Council has now agreed to adopt Civil Parking Enforcement, this matter can be addressed by the Council in the future (see below).

Outside of Shinfield Park, complaints about HMOs across the rest of the borough are sporadic and isolated. There is no evidence that there is any other geographical concentration of HMOs in Wokingham Borough that result in any major issues. Some

members have mentioned that the ward of Whitenights experiences issues associated with HMOs. However, the Licencing, Environmental Health and Planning teams are not aware of any significant complaints or cases in this area.

Options for further Control

As addressed above, there is no option available to the Council to address existing regulated HMOs under the licencing regulations unless this is on the grounds of quality or safety of the accommodation. However, the Council has sympathy and understands that HMOs uses can lead to noise and disturbance experienced to local residents. As such, the Council will continue to work with residents, resident associations and management companies/ landlords to try and address such problems informally. If the problems are excessive, it can take action under the Environmental Health legislation.

Under the planning System there is no power to be able to take any action against HMOs that have been granted planning permission, have become lawful through passage of time, or that have been implemented under permitted development rights. The only formal planning action that can be taken at present is to address unauthorised HMOs and to consider how HMOs will be addressed in the future.

There is a provision within the legislation to remove rights for permitted development through an Article 4 Direction to prevent further smaller HMOs without the need for planning permission. These would then need to be assessed in the same way as a planning application for larger HMO schemes. Any Article 4 Direction must be justified on planning grounds and must be referred to the National Planning Policy Casework Unit. The SoS has the right to intervene in this process if he feels that the Article 4 Direction is not justified.

Article 4 Direction

Central Government is deregulating and removing much of the “red tape” around planning and extending the right for people to undertake certain types of development without the need for planning permission. Any restriction through increased planning control by an Article 4 Direction would be considered in this context and would be contrary to this general approach.

There are number of examples of local authorities having served Article 4 Directions to prevent the current permitted change of use of properties to smaller HMOs without the need for planning permission. These include Worcester City Council, Torbay Borough Council, Reading Borough Council, and Basingstoke and Dean Borough Council.

In the Worcester Article 4 example, the reason that this was made was mainly due to the impact of the concentration of student houses in the city that has very tightly defined boundaries. In the Torbay case, this was due to the impact of tourism that reduced the amount of accommodation available for local residents. In both these cases, the temporary occupation by certain groups of people had an impact on the area and then on the flip side, so did vacancy during certain times of the year which effected the vibrancy of these areas and the viability of services.

In the case of Reading, again this was as a result of student housing but this did differ from the two examples above as it related only to specific areas rather than the whole borough.

The most similar authority to us experiencing the HMO issue is Basingstoke. This is because Basingstoke serves the Greater Reading area and experiences the same pressures as Shinfield for HMOs, to accommodate young professional people.

The officer who dealt with this issue at Basingstoke has provided some advice to WBC Officers. He felt that the main reason that the Article 4 was not overruled by SoS when referred to him in accordance with the regulations because the authority limited the Article 4 Direction to a small number of very contained areas where it could be demonstrated that HMOs were more common. He indicated that the smaller the area, the less scrutiny that the Article 4 would come under by the case work unit and the greater likelihood that it would not be challenged by the Secretary of State. Furthermore, because the areas were specific and small in scale, the impact could be more clearly identified. Thus, more justification could be provided.

In light of the above, it is recommended that if the Council resolves in the future to prepare an Article 4 Direction, this should focus on those areas where HMOs are concentrated. In order to justify an Article 4 Direction the Council would need to collect evidence that HMOs are causing issues and it is considered that it would be able to provide a more robust argument about the need for the direction in a concentrated area experiencing these issues. Generally, it is considered that a wider approach across the whole borough could not be justified as it could not be demonstrated that there is a need for the restriction. This is especially in light of the central government approach to deregulation.

It appears that issues being experienced as a result of HMOs are focussed in one area of the borough namely Shinfield Park. The impact of these issues in this area is greater given the concentration of HMOs and as a result of a limited parking ratio per property as planning permission was granted at a time when central government parking requirements were low. It could be argued that it is appropriate to focus on this development to identify if an Article 4 Direction and justified primarily on parking grounds but also in respect of the impact of further HMOs on the character of the area. However, undertaking this work would take considerable time and resource and in reality, only affect the few remaining properties that are not already HMOs in this area. Furthermore, as one year's notice of the Article 4 Direction must be given to avoid the Council having to pay compensation, the effect of the Article 4 Direction could be to encourage the owners of the remaining family properties in the area to convert these to HMOs ahead of the implementation of the Article 4 Direction thus exacerbating the problems being experienced.

In light of the above, it is considered that an Article 4 Direction may not be the most effective way of addressing the problems associated with HMOs in Shinfield Park. The resource involved to implement the Article 4 would be considerable and as this cannot address existing HMOs, the impact is likely to be minimal. However, the Council understands the issues and problems being experienced by Shinfield Park residents and will continue to work with residents and landlords to address the problems being experienced. There are other options available to the council that are likely to be more effective to address the issues and these include Civil Parking Enforcement (see below) in addition to a continued community safety focus to seek to resolve the issues through a negotiated solution.

Civil Parking Enforcement

From complaints received, the biggest issue associated with HMOs appears to be problems associated with the inconsiderate and indiscriminate parking of motor vehicles by the occupiers. In the area where HMOs cause the most problems, this is compounded by limited parking provision. In September 2015, the Council's Executive resolved to take responsibility for Civil Parking Enforcement (CPE). It is anticipated that this will be implemented as soon as possible and as a result, the Council will have the ability to challenge and take action against indiscriminate and dangerous parking, and to work with the communities to focus resources upon areas where the parking problems are the greatest. The Council will be able to work with local residents and Parish Council focus resource on areas such as Shinfield Park to address the problems on a regular basis.

Another opportunity that the Council could help local residents and Town/Parish Council's to explore is in looking at opportunities for areas within estates to be converted to provide additional parking in areas that are clearly experiencing parking problems and that have below current standard parking provision.

Civil Parking enforcement and working with the community to address additional parking opportunities are considered to be a far more effective and immediate solution to address car parking issues that HMOs are causing for local residents in the borough.

Summary

The Council understands that HMOs can lead to significant problems within communities as a result of the intensification of use that they cause placing additional pressures on existing facilities such as parking provision and in giving rise to some antisocial behaviour, noise and disturbance. While some of these issues can be addressed through a number of different regulatory controls, many of the solutions are informal in nature.

In Wokingham Borough, there is a concentration of HMOs in parts of Shinfield and this has given rise to a number of complaints. The complaints primarily focus on parking problems and antisocial behaviour. The most effective way to address the parking issues is through the implementation of Civil Parking Enforcement, in concentrating resources on those areas that experience problems associated HMOs and inconsiderate parking by the occupiers. If the parking provision on these estates is substandard, the Council can explore opportunities for additional parking provision if the local residents and Town and Parish Council's support this.

For issues associated with noise and disturbance and antisocial behaviour, the Council's Community Services Teams will continue to addresses resident's concerns working with landlords and management companies to try and resolve these issues amicably. In cases where there are significant issues of anti- social behaviour, the Council will use its powers under statutory nuisance legislation to address this.

There are limited controls against HMOs at present in the borough through the planning system. While some authorities have sought Article 4 Direction to restrict HMOs, these are

usually in areas experiencing significant pressure for HMO accommodation which is only experienced in very small pockets in Wokingham Borough. It is unlikely that the Council would be successful in securing a borough-wide Article 4 Direction and there would need to be significant work undertaken to support this at significant cost. Even for a smaller area, there would be significant resource required to collect the evidence to justify this. Furthermore, any Article 4 would require a 12 month notice period to be applied before it could be implemented that would be likely to encourage early conversion of properties to HMOs in high pressure areas thus exacerbating the issues and problems experienced. As many of the HMOs in Shinfield Park are existing and cannot be controlled by any future Article 4, the effectiveness of this would be likely to be insignificant.

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