

Extract from...

Consultants Report undertaken by Housing Training and Consultancy Ltd June 2012

Houses In Multiple Occupation In Worcester

4.2 The incidence of HMOs was considered in Part 2 of this report having regard to the stock condition information from the last actual house condition survey and later projections. It is clear that there are very substantial numbers of HMOs in Worcester; the growth of the local university has been and remains a powerful factor driving demand. The consultation with local estate agents suggested that this is highly unlikely to change; they report very strong demand from buy to let investors for HMO accommodation because of the high rentals generated.

4.3 As discussed in Part 2, the Council's own figures show a total of 572 HMOs with 125 having been licensed and 15 applications being processed. However, realistically this is highly likely to be an underestimate. Council Tax records show 606 properties where exemptions are claimed for student occupation. Even using the Council figures on known HMOs unadjusted, they amount to 1.6% of the private sector stock which is a very significant proportion.

Concentrations of HMOs In Worcester

4.21 As set out in paragraphs 4.2 – 4.3, there is a substantial proportion of HMOs in Worcester. Consultation with estate agents indicates that the numbers are growing and that this is likely to continue because of the demand generated by the university.

4.22 The high proportion of HMOs (along with the continuing growth of such properties) has a number of implications for the Council:

- HMO accommodation is frequently difficult to manage and accommodation not occupied by students often has a high turnover of tenants from a vulnerable background with implications for maintaining statutory standards;
- Mandatory HMO licensing, whilst of considerable value, is very demanding of staff time;
- HMO properties are more likely to be associated with anti social behaviour and high concentrations of HMOs may have a detrimental effect on the amenity of a neighbourhood;
- High concentrations of HMOs may alter significantly the character of a neighbourhood and damage community cohesion and sense of identity.

4.23 The impact of high HMO concentration was considered in a report prepared for DCLG by Ecotec in 2008. This highlighted the many direct and indirect consequences of a significant increase in student population in particular. Established residents can be displaced, with replacement by a younger, transient population. This can lead in turn to changes in the local infrastructure, for example with fewer children potentially threatening the viability of schools. Numbers of hot food takeaway shops, licensed premises, accommodation letting agencies and discount food retailers all tend to increase.

4.24 Other social effects of a young, transient social grouping often living in insecure accommodation include both a possible increase in burglary and minor crime along with anti social behaviour particularly that associated with alcohol consumption. There can be an impact on the general amenity of a neighbourhood, with increased levels of litter and unkempt frontages. An increased strain can be put on refuse collection facilities and services and the multiple occupation of terraced properties can lead to serious problems with car parking.

4.25 The report made the specific point that the demand generated by the student housing market can inflate property prices leading to competition between buy to let investors and would be owner occupiers. "Demand from the private rented sector can marginalise the first-time buyer who is unable to compete in the market, which can then lead to a dilution of owner-occupied stock and a domination of houses in multiple occupation."

4.26 As indicated in Part 2 of this report, consultation with local estate agents indicated that over 60% of sales in the lower end of the market are to buy to let investors, and that investors are principally seeking properties for HMO use. Given that a minimum room rent will typically be £80 per week, a five person student shared house can generate at least £18,000 rental income, more than twice the amount from letting to a single household. There is also evidence that investors are also starting to take properties not traditionally associated with HMOs and enlarge them/combine with adjoining properties.

4.27 Consultation with the estate agents clearly indicated that potential first buyers did face strong competition from investors. One did state that in some areas the extent of HMO occupation, rather than driving up prices (reported as possible in the Ecotec study) was in fact having the reverse effect. Some of the remaining owner occupiers were facing lower prices because of the HMO concentration had had a negative impact on the immediate locality.

4.28 Examination of HMO records shows that there are 10 streets where the HMOs make up between 20% to 41% of the properties (in one case 100% but there are only two properties) with 51 properties in total. There are a further 41 streets where the percentage varies from 10% to 18% (223 properties) and 45 streets where the percentage varies from 5% to 9% (129 properties). The wards where high concentrations are found are St John, St Clement, Cathedral, Bedwardine and Arboretum.

4.29 The Ecotec report did make the point that there could be positive effects from student growth in an area; universities are generally significant employers and contribute to the local economy and students also tend to provide a flexible part time work force.

Article 4(1) Direction

4.30 As a consequence of the concerns raised in the Ecotec report, the former Government introduced a change to permitted development rights. The Town and Country Planning (Use Classes) Order 1987 (as amended) puts uses of land and buildings into various categories known as Use Classes. The Town and Country Planning (General Permitted Development)

Order 1995 (as amended) allows an occupier/owner to undertake certain changes from one Use Class to another without obtaining planning permission ('permitted development').

4.31 Prior to April 2010, there was only Use Class C3 to cover dwelling houses and this did not differentiate between multiple and single household occupation. Legislation introduced by the previous Government changed this to Classes C3 and C4 as follows:

Class C3

C3(a): those living together as a single household as defined by the Housing Act 2004 (the couple plus relatives, domestic employees, etc – no limit on numbers)

C3(b): up to six people together as a single household and receiving care (eg supported housing schemes)

C3(c): up to six people together as a single household who do not fall within the C4 definition of a house in multiple occupation for example a small religious community

Class C4

Small shared dwelling houses occupied by three to six unrelated individuals who share Amenities (Larger HMOs do not have a separate Use Class – they are regarded as 'sui generis' (of their own kind) and planning consent has always been required)

4.32 The General Permitted Development Order was also amended to give permitted development rights from C4 to C3 but not from C3 to C4. Essentially planning consent was required to use a property as an HMO irrespective of size (larger HMOs have always required planning consent and this remains the case).

4.33 The new Government retained the revised Use Classes but amended the General Permitted Development Order so that a change from C3 to C4 was again permitted development. However, a Local Authority may give a direction under Article 4(1) of the General Permitted Development Order withdrawing certain permitted development rights, and this includes change of use to C4.

4.34 Giving a direction cannot be undertaken without good reason. The replacement Appendix D (issued November 2010) to Department of the Environment Circular 9/95 makes it clear that a local authority "should consider making Article 4 directions only in those exceptional circumstances where evidence suggests that the exercise of permitted development rights would harm local amenity or the proper planning of the area".

4.35 In deciding whether an Article 4(1) Direction might be appropriate local authorities are advised to consider whether the exercise of permitted development rights would affect certain key considerations. Those most applicable to Worcester would be:

- Undermining local objectives to create or maintain mixed communities
- Undermining the visual amenity of the area or damage the historic environment.

4.36 The changes to the statutory provisions made in October 2010 also affected the compensation provisions. A direction can be made which has immediate effect; however here compensation claims can arise from property owners adversely affected by loss of permitted development rights. However, the Town & Country Planning (Compensation)

(No.3) (England) Regulations 2010 set out procedures for avoiding such claims by giving a minimum of 12 months notice of the direction coming into effect and undertaking consultation.

4.37 Approval of the Secretary of State for giving a direction is now not required, although the Government may still intervene.

4.38 The 12 months minimum period does have significant implications, not least that it can cause a surge in HMO conversions as landlords seek to avoid the need for consent. During that time, a local authority would not be aware of changes in use other than through the monitoring processes described earlier.

4.39 An Article 4(1) direction does not mean that change to HMO use is not permitted, just that planning consent is required. A local authority then has to formulate a planning policy which will mean that effective control is possible having regard to the local circumstances. Commenting on planning policy is well outside the scope of this report and is not a specialist area of those preparing the report. However, it may be noted that a number of approaches have been used including

- Areas of Restraint – restraints on certain forms of development
- Threshold Approach – a ceiling set for the proportion of certain types of development
- Purpose built development – areas designated for the development of purpose built accommodation for students

4.40 It should be noted that no charge can be made for any planning applications received where, prior to the Article 4(1) direction, permitted development rights existed. This does have revenue implications for a local authority.

4.41 Over thirty local authorities, predominantly those with universities or located on the coast have now made Article 4(1) directions. Notable examples include Manchester, Portsmouth, Southampton, York, Nottingham, Plymouth, Bournemouth, Bristol, Leeds, Newcastle-upon-Tyne, Milton Keynes, Hastings, Sheffield, Thanet, Redbridge, Durham, etc, and potential directions are under consideration by other authorities especially those with high concentrations of student shared houses.

4.42 An Article 4(1) direction may apply to the whole of a Council area or to designated areas only. In any local authority there are generally areas where HMOs are concentrated as in Worcester. The difficult with applying any boundary is that landlords are likely to seek to develop HMO use outside the limits, and the problems associated with HMO use could then develop in those areas without any effective planning control. Local authorities that have applied additional licensing across their district include Oxford, Nottingham, Manchester, Portsmouth and Milton Keynes. Those applying in defined areas include Bristol, Plymouth, Durham, Newcastle-upon-Tyne and Sheffield.

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