

Subject:	HMO Enforcement Update		
Date of Meeting:	21 September 2017		
Report of:	Nick Hibberd		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 In response to a request from Councillor Hill at the 9 March 2017 Economic Development & Culture Committee it was agreed to bring a progress report on HMO (Houses in Multiple Occupation) enforcement investigations back to Committee. This report gives the current position on those investigations.

2. RECOMMENDATIONS:

- 2.1 That Members note the contents of this report

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Planning Enforcement Team investigated a high number of complaints across the city covering all aspects of development and has resolved a significant number of breaches of planning regulations during 2016 – 2017. 820 new cases were received and 604 cases were closed. Both of these figures represent a significant increase on previous years and this can be attributed in part to the significant increase in reports of unauthorised HMOs in the city.
- 3.2 In respect of HMO investigations, the position at the date of Councillor Hill's request, and as reported to the Planning Committee in July, was that there were 98 live HMO enforcement cases of which approximately 47 were awaiting planning applications to be decided; 12 enforcement notices had been issued of which 7 were in the appeal process. Four of the 12 notices issued since October 2016 had been as a consequence of an application being refused.
- 3.3 For 2016-2017, there were 192 new complaints raised relating to HMOs. These include complaints from residents, Councillors and referrals from other Council departments. This compared to 72 the previous year.
- 3.4 In the first quarter of the 2017 – 2018 financial year there have been 30 new HMO cases raised. The current total of open HMO cases is 109. In the same period 29 HMO cases have been closed. There have been 12 Enforcement Notices served to cease use as an HMO and 1 successful prosecution (£3,000 fine with costs).

- 3.5 The team, through the investigations to date, have concluded that a high proportion of reported cases are not unauthorised and were established HMOs prior to the Article 4 taking effect in April 2013. For those cases where there is an unauthorised use, the serving of a notice has been largely successful in ceasing the unauthorised use.

4. THE YEAR AHEAD

- 4.1 The year ahead remains challenging for the Planning Enforcement Team, with continued pressure on the service in terms of caseloads and unauthorised HMOs within the city. An additional officer has been resourced for the duration of this financial year which will continue to help significantly and allow 1 FTE to focus solely on HMO complaints. In addition, efficiencies have been found in the enforcement service through following the migration to the Uniform database in 2016. The team are continuing to explore further options for streamlining the progression of cases including through the improved use of Uniform. Meetings are also scheduled to review how collaboration between Private Sector Housing and the Enforcement Team can continue to improve and ensure more efficient working. In addition, the team are exploring protocols and procedures in respect of HMO enforcement notices and prosecution with Legal Services.
- 4.2 Reports of new HMOs in the Article 4 area will continue to be treated as a high priority.
- 4.3 The Planning Enforcement Team also undertaking a new area of work to assess a the long list of large HMOs outside the Article 4 zone (over 350) in terms of whether enforcement action should be taken..
- 4.4 With the first wave of Notices expiring without compliance, the team are working closely with Legal Services to establish the most efficient way to gather evidence required for a successful prosecution and members of the team have recently had training to assist with this.
- 4.5 The Development Management Team (including Enforcement and the Applications Team) continues to monitor appeal decisions for both applications and enforcement appeals and respond accordingly with approaches/statements and training for staff

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 None required on the report. Residents are consulted on individual planning applications.

6. CONCLUSION

- 6.1 Over the last year there has been significant progress in investigating and enforcing against unauthorised HMOs. Though HMO investigations continue to challenge the overall work levels of the team, the extra resource within the team (equivalent to one full time planning officer) has allowed the team to continue to prioritise HMO work alongside the other enforcement work.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The cost of for the additional enforcement officer for this financial year will be met from the agreed carry forward of £0.047m from 2016/17 for the Development Management Service. This was approved at Policy, Resources and Growth Committee on 4th May 2017 as part of the Targeted Budget Management Outturn 2106/17 report. The cost of the additional officer support will be monitored and reported as part of the Targeted Budget Management process during 2017/18. Successful prosecutions from Enforcement Notices may result in the recovery of costs.

Finance Officer Consulted: Rob Allen

Date: 17/08/17

7.2 Legal Implications:

A planning application is not always needed for a change of use from what could be termed a family dwellinghouse to use as a “small HMO”, namely a HMO for up to six residents. This is because such a change of use, from a Town and Country Planning (Use Classes) Order 1987 Class C3 dwellinghouse to a Class C4 HMO, would be “permitted development” under legislation introduced in 2010 and currently found in Schedule 2 Part 3 Class L of the Town and Country Planning (General Permitted Development) (England) Order 2015. However, a local planning authority may withdraw such permitted development rights by way of an “Article 4 Direction” and the Council has done so by way of an Article 4 Direction covering certain wards within the city. The Article 4 Direction came into effect on 5 April 2013 and so any C3 to C4 changes of use following that date within the affected wards will require planning permission. Changes of use from Class C3 to “sui generis” HMOs (HMOs with more than six residents) are not permitted development and so will always require a planning application to be made.

There is a right of appeal to the Secretary of State should planning permission be refused, or an enforcement notice issued, and the appeal will be determined by a planning inspector. Failure to comply with an enforcement notice is an offence.

It is not considered that any adverse human rights implications arise from the recommendation of the report.

Lawyer consulted: Hilary Woodward Date: 14/8/17

Equalities Implications:

- 7.2 None associated with this report

Sustainability Implications:

- 7.3 None associated with this report

Any Other Significant Implications:

- 7.4 None associated with this report

