



# Scrutiny Panel A

## Maintaining Balanced Neighbourhoods Through Planning



### PANEL MEMBERSHIP

- Councillor Burke (Chair)
- Councillor Claisse (Vice-Chair)
- Councillor L Harris
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## **Maintaining Balanced Neighbourhoods Through Planning**

### **Introduction**

1. The role of Southampton as the sub-regions economic driver and a provider of higher education creates additional pressure on the city's housing stock and infrastructure.
2. Although the demography of the city is complex the planning system can assist in achieving a mix of households within the city's neighbourhoods, meeting different housing needs whilst protecting the interests of other residents, landlords and businesses.
3. Recognising the importance of maintaining balanced communities within Southampton the Overview and Scrutiny Management Committee (OSMC), at its meeting on 12<sup>th</sup> September 2013, requested that Scrutiny Panel A undertake an inquiry looking at 3 specific areas; the Houses in Multiple Occupation Supplementary Planning Document; Planning enforcement and Permitted development rights.
4. The agreed purpose of the Inquiry was to examine the contribution planning can make to maintaining balanced neighbourhoods and the quality of life for their residents.
5. The set objectives of the Inquiry were:
  - a. To review how effectively the City Council's Article 4 and HMOs Supplementary Planning Document is working.
  - b. To increase understanding of the various Government proposals to relax permitted development rights, including those relating to extensions, office to residential conversions and changing retail use without consent, and to consider if a local response should be developed.
  - c. To consider the Council's approach to planning enforcement.
6. As the meetings progressed the Panel had a number of discussions relating to empowering communities to have a greater say in the future growth and development of their neighbourhoods. This led to a meeting of the Panel to focus on Neighbourhood Planning.

The full terms of reference for the Inquiry, agreed by the OSMC, are shown in Appendix 1.

### **Consultation**

7. Scrutiny Panel A undertook the Inquiry over 4 evidence gathering meetings and received information from a wide variety of organisations to meet the agreed objectives. A list of witnesses that provided evidence to the Inquiry is detailed in Appendix 2. Members of the Scrutiny Panel would like to thank all those who have assisted with the development of this review.

## **Houses in Multiple Occupation**

### **Background**

8. Southampton has a large number of Houses in Multiple Occupation (HMOs). These play an important role in meeting people's housing needs in Southampton, by providing shared accommodation that is affordable to young workers, postgraduate students, some undergraduate students, and others. Without HMOs, many young professionals and students would not be able to afford to live in Southampton.
9. However, in some areas of the city, high concentrations of HMOs are resulting in changes to the character of the local area, and may also contribute to local parking problems, large numbers of transient households, and the affordability of renting or buying homes in the city. This has led some people to believe that their communities are becoming unbalanced, because the number of short-term tenants with less established community ties has grown too large.
10. To prevent the development of excessive concentrations of HMOs, and to encourage a more even distribution across the city, the Council, in March 2012, resolved to make an Article 4 (1) direction to remove the permitted development rights of house owners to convert a single dwelling house (class C3) into an HMO. Accompanying this the Council approved a Houses in Multiple Occupation Supplementary Planning Document (HMO SPD) to guide the interpretation of the policy and to ensure that HMOs were spread across the city with no area (within a 40m radius) having more than either 20% or 10% of properties as HMOs so communities were balanced (defined as the "tipping point").
11. As the Article 4 and HMO SPD had been in place for 18 months it was appropriate that the Panel reviewed the policies and considered how effective they were in meeting the objectives identified above.
12. The Panel were informed that the National HMO Lobby and the National Organisation of Residents Associations believe that 10% is the tipping point given that it equates to 20-30% of the population, and of the adoption by neighbouring south coast cities Bournemouth and Portsmouth of 10% thresholds.
13. In addition, the Panel discussed at the 9 January 2014 meeting the Additional HMO Licensing Scheme. Since July 2013 the City Council has had a designation for Additional HMO Licensing in 4 wards (Bevois, Bargate, Portswood and Swaythling). This means that all HMOs in these 4 wards need to be licensed.
14. A summary of the key findings from the meeting can be found attached at Appendix 3. The agenda papers for the 9 January 2014 Panel meeting can be found here:

<http://www.southampton.gov.uk/modernGov/ieListDocuments.aspx?CId=424&MId=2816&Ver=4>

## Conclusions and Recommendations

### Houses in Multiple Occupation Supplementary Planning Document (HMO SPD)

15. Evidence was provided to the Panel from various sources advocating changing the HMO SPD thresholds currently in existence, or indeed removing the thresholds altogether. The Panel are aware that it is a balancing act between protecting family housing and balanced communities and meeting housing needs for the city. The Panel, whilst recognising that the HMO SPD is not perfect, were not convinced that the evidence presented to them was robust enough to recommend changes to the existing HMO SPD thresholds, 10% (Bassett/Portswood/Swaythling) and 20% in the rest of the city, at this time. The Panel believe more research is required in assessing housing need in the city as it relates to HMO accommodation, tipping points and in clarifying the number of HMOs in Southampton before the Council reconsiders amending the thresholds. With this in mind the Panel recommend the following:
- i. That the Administration reconsider the HMO SPD thresholds once accurate and soundly based information on housing need and HMO numbers in Southampton, and the tipping point at which communities become unbalanced has been gathered. The Panel recommend that this happens as soon as possible, but no later than September 2015. The Panel believe that working with the universities in Southampton, perhaps through commissioning a specific investigation, e.g as a student dissertation topic, could be a way forward here. Information gathered could be used in conjunction with the emerging details on location and HMO numbers emanating from the implementation of the Additional HMO licensing scheme in 4 wards of the city. The Panel ask that a) early consideration be given to Freemantle when determining appropriate thresholds, and b) that a consultative task force is established consisting of council officers, universities, representatives of resident's associations and landlords to monitor progress and to advise on the exercise to accumulate evidence on the supply of, and demand for HMOs.
  - ii. That the Executive give consideration to how the HMO SPD can be amended to reflect the population density of HMO occupants rather than just property density. The Executive may, for example, consider utilising information derived from planning applications since March 2012, from the Additional Licensing Scheme, the location of halls of residence and whether an HMO is C4 or Sui Generis.
  - iii. That the Executive amend the HMO SPD to include no new HMOs which would 'sandwich' family homes.
  - iv. That greater emphasis be placed on amenity and neighbourhood character when considering HMO applications.

## HMOs in General

- v. That the Council roll out the Additional HMO licensing scheme to areas within wards that have issues with HMOs as soon as legally and feasibly possible, and deals robustly with irresponsible landlords as the scheme moves into the enforcement phase, including prosecuting where appropriate.
- vi. To address the issue of the proliferation of To-Let signs the Panel supports the motion approved at the 19 March meeting of Council urging the Executive to make full use of the powers available to curb the excessive display of such signs, including consideration of the adoption of a Regulation 7 Direction under the Town and Country Planning (Control of Advertisements) Regulations, and a rigorous Lettings Board Code as adopted by Leeds City Council and others. The Council could, for example, consider the following easy and inexpensive proposals; a total ban in Conservation Areas, a ban on 'Let By / Sold By' boards, and a moratorium of 'Student Let' boards between (say) August and February.
- vii. Development of new student accommodation benefits the wider market, as it frees up homes that are suitable for families and couples. It is therefore recommended that the Executive:
  - a. engage with the two universities in Southampton and encourages the development of additional appropriate purpose built student accommodation;
  - b. review the Council's existing policy with a view to adopting the approach whereby the City Council insist that any student numbers are matched by a proportionate increase in purpose-built student accommodation, and by setting a target for the overall number of students living outside of university provided accommodation at each institution.
- viii. That the Council seek agreement with letting agencies and Universities not to offer unlicensed/unapproved student accommodation to let.
- ix. That the Executive consult with landlords to identify ways of increasing the attractiveness of areas within Southampton in which HMOs are currently significantly underrepresented e.g by improving transport links.
- x. If it is legal it is recommended that the Council develops a closer alignment between Planning and HMO Licensing ensuring that an application for an HMO License is only determined after planning permission has been ascertained. If this is currently illegal then the Council should write to the Government recommending a change in the law.

## **Planning Enforcement**

### **Background**

16. The Planning Enforcement function was the subject of a review by Internal Audit in 2013. The review identified a number of concerns relating to policies and procedures, complaints and executing enforcement decisions within statutory and legal timeframes.
17. At the meeting of the Panel progress on the management actions undertaken in response to the Internal Audit report was presented. Progress had been made against a number of the actions, however a number of actions were still outstanding.
18. Progress must be seen alongside the workload of the Planning Enforcement Team outlined in the table below and presented to the Panel:

**Table 1**

|                                   | <b>2011-12*</b> | <b>2012-13*</b> | <b>2013-14*</b><br><b>(31<sup>st</sup> Dec 2013)</b> |
|-----------------------------------|-----------------|-----------------|--|
| <b>Enquiries</b>                  | 291             | 430             | 268  |
| <b>Stop Notice</b>                | 3               | 1               | 0  |
| <b>Enforcement Notice</b>         | 6               | 6               | 12   |
| <b>Breach of Condition Notice</b> | 8               | 5               | 4  |
| <b>s.215 untidy site notice</b>   | 0               | 1               | 2  |

19. A summary of the key findings from the meeting can be found attached at Appendix 3. The agenda papers for the 6 February 2014 Panel meeting can be found here:

<http://www.southampton.gov.uk/modernGov/ieListDocuments.aspx?CId=424&MId=2817&Ver=4>



## **Conclusions and Recommendations - Planning Enforcement**

20. The Panel recognise that planning enforcement in Southampton has improved recently but more could be done to ensure that the planning function is not undermined by a lack of prompt and effective enforcement. The following actions are recommended:
- i.** That the planning enforcement action plan is fully implemented, including clear guidance and standards on planning enforcement and the audit plan is completed..
  - ii.** That, to act as a deterrent, successful enforcement action is publicised (may be included in Street CRED outcome publicity or through Stay Connected).
  - iii.** The Council makes direct representation to the Secretary of State at the DCLG and the Planning Minister requesting:
    - a. The introduction of stop notices to stop unauthorised residential uses
    - b. Shifting enforceability to proof of intent instead of actual occupation
    - c. Stopping the ability to appeal about a planning decision and a subsequent enforcement notice
    - d. An additional fee for those who have applied for retrospective planning permission
    - e. Permission to confiscate rent for unauthorised HMO occupancy
    - f. Power to charge fees for HMO applications and appeals.
  - iv.** The Council strengthens checks on established use, with published guidelines.
  - v.** The Council makes fuller use of the Proceeds of Crime Act where possible and Section 215 (untidy sites) notices.

## **Permitted Development Rights**

### **Background**

21. On 30 May 2013 a raft of amendments to permitted development and change of use came into effect, lasting for 3 years. The two main changes are:
- The change of use of office to residential use
  - Increasing the size limits for single storey domestic extensions and conservatories.

### **Office to Residential Use**

22. The coalition government amended legislation to allow for offices to convert to homes without having to apply for full planning permission. The policy goal was to make it easier to convert redundant, empty and under-used office space into new homes, promoting brownfield regeneration, increasing footfall in town centres and boosting housing supply.
23. The Panel were informed that in the first 9 months the Council has been notified of 33 proposals under these rights. 16 of these are in the city centre and total a loss of 20,000 sq m of offices. These premises are general older lower quality properties and it is likely the conversion of many of these sites would have been supported had planning permission been required.
24. There is some evidence that there was an initial 'spike' of major applications in response to this temporary measure. Of the 20,000 sq m loss, 90% relates to applications received within the first 3 months of the new permitted development rights.
25. The loss of 20,000 sq m can be seen in the following context. They are:
- 43% of the city centre office losses assumed by the Core Strategy Partial Review (2013 – 2026).
  - 7% of the total city centre office stock.

### **Permitted development rights for residential properties**

26. The Government introduced additional permitted development rights for residential properties, allowing, with some exceptions, extensions of between 4m and 8m for detached houses and between 3m and 6m for all other houses.
27. The Panel were informed that since the scheme came into force, Southampton has received 44 applications under the consultation scheme. Only 3 received objections (4 were still under consideration).
28. A summary of the key findings from the meeting can be found attached at Appendix 3. The agenda papers for the 6 March 2014 Panel meeting can be found here:

<http://www.southampton.gov.uk/modernGov/ieListDocuments.aspx?CId=424&MId=2818&Ver=4>

## **Conclusions and Recommendations - Permitted Development Rights**

29. The Panel were informed about the office to residential conversion and the residential properties permitted development rights (PDR). Members recognised that the various PDRs had the ability to impact on the balance of neighbourhoods but were notified that neither of the PDRs has so far had a significant impact on the city and that they are scheduled to be removed in 2016. The following actions are recommended:
- i.** To raise awareness, the Planning Service provides information to all councillors about the permitted development rights.
  - ii.** That the Council monitors the impact of PDRs with a view to taking appropriate action if it is considered that they are having a detrimental impact on the city.
  - iii.** That the Council makes direct representation to the Secretary of State at the DCLG and the Planning Minister requesting that the Government reconsiders their position regarding including HMOs within the PDRs for residential properties.

## **Community Led Planning: New ways of working – Educate, engage and enforce**

### **Background**

30. Since April 2012, local communities have been able to produce Neighbourhood Plans for their local area, putting in place planning policies for the future development and growth of a neighbourhood. Neighbourhood Planning relates to the use and development of land and associated social, economic and environmental issues. It may deal with a wide range of issues (for example housing, employment, heritage and transport) or it may focus on one or two issues that are of particular importance in a local area. These may be issues that are relevant to the whole neighbourhood or just to part of the neighbourhood.
31. The Panel heard from the Development Manager from Locality who provided a national overview of Neighbourhood Planning. Locality is a nationwide network of settlements, development trusts, social action centres and community enterprises who have been actively involved in Neighbourhood Planning for over 18 months. The Panel were presented with information on how plans are addressing community issues in areas, particularly in urban areas similar to Southampton.
32. Southampton has two emerging Neighbourhood Plans, Basset NP and business led East Street NP, although the latter has currently stalled. The Chair of the Basset Neighbourhood Forum provided the Panel with a synopsis of the journey being undertaken in Bassett in the development of a neighbourhood plan. The key to the progress being made in Bassett has been the co-operative, supportive and hardworking residents associations who have helped drive the process forward.
33. A summary of the key findings from the meeting can be found attached at Appendix 3. The agenda papers for the 8 April 2014 Panel meeting can be found here:

<http://www.southampton.gov.uk/modernGov/ieListDocuments.aspx?CId=424&MId=2819&Ver=4>

### **Conclusions and Recommendations – Community Led Planning**

34. The Panel were informed about the new approaches that seek to empower local communities to shape their neighbourhoods. Despite limitations in approaches such as Neighbourhood Planning the Panel saw the value in encouraging, supporting and empowering communities across Southampton to work collectively to develop local solutions. These could work alongside Council enforcement in areas such as Waste Enforcement, HMO Additional Licensing Scheme, Planning Enforcement, Environmental Health and StreetCRED to address negative impacts associated with unbalanced communities. To further this community led approach it is recommended that:

- i. The Council supports Neighbourhood Plans across Southampton.
- ii. With councillors taking the lead, the Council pilots working on a street by street basis, with local residents, resident associations and landlords to address the problems associated with HMOs in certain communities.

### **General Comment**

35. This review has identified the significant pressures facing the Planning Service. Whilst the Panel recognises the immense financial pressures facing the Council there were concerns that the existing service is under resourced and that further reductions in resources would be detrimental to maintaining balanced neighbourhoods in Southampton. It is therefore recommended that:
- i. The Executive review the resources allocated to deliver the Planning Service, particularly for enforcement, to ensure that it is sufficient to deliver the service required by the City of Southampton

## **Appendices**

Appendix 1 – Inquiry Terms of Reference

Appendix 2 – Inquiry Plan

Appendix 3 – Summary of Key Evidence

**Maintaining balanced neighbourhoods through planning  
Terms of Reference**

**1. Scrutiny Panel:** Scrutiny Panel A

**2. Membership:**

- a. Councillor Derek Burke
- b. Councillor Matthew Claisse
- c. Councillor Les Harris
- d. Councillor Mary Lloyd
- e. Councillor Catherine McEwing
- f. Councillor Sharon Mintoff
- g. Councillor Adrian Vinson

**3. Purpose:**

To examine the contribution planning can make to maintaining balanced neighbourhoods and the quality of life for their residents.

**5. Background:**

- To address concerns related to Houses in Multiple Occupation (HMOs), the Council, in 2011, introduced an Article 4 direction to require planning consent to create new HMOs and has produced a Supplementary Planning Document to accompany this change. This policy has been in place for over 18 months and now is an opportunity to reflect on its effectiveness.
- In addition to HMOs there are wider issues relating to planning enforcement. The Council has recently undertaken an internal audit of this area and this review provides members with an opportunity to identify where improvements can be made in addition to the action plan developed following the audit.
- In May 2013 the Government relaxed certain Permitted Development Rights. These include the following;
  - increasing the size limits for single storey domestic extensions and conservatories;
  - the change of use of office to residential use.

The Government has also recently consulted on another proposal, although there has been no decision as to whether this change will happen:

- the change of retail to residential use

Members have an opportunity to explore the proposals, their potential impact on Southampton and how, if at all, the Council want to respond to the proposals. All of the above must be considered in light of the budget pressures the Council is facing.

## **6. Objectives:**

- a. To review how effectively the City Council's Article 4 and HMOs Supplementary Planning Document is working.
- b. To increase understanding of the various Government proposals to relax permitted development rights, including those relating to extensions, office to residential conversions and changing retail use without consent, and to consider if a local response should be developed.
- c. To consider the Council's approach to planning enforcement.

## **7. Methodology:**

- a. Outline of current national policy and local activity including:
  - Key findings from recent internal audit of Planning Enforcement
  - Review recent decisions of the Planning Inspectorate
  - Government Policy
- b. Engage members, partners and community representatives
- c. Identify and consider best practice and options for future delivery:
  - National best practise examples
  - Local success stories

## **8. Proposed Timetable:**

Six meetings November 2013 – May 2014

## **9. Inquiry Plan** (subject to the availability of speakers)

### **Meeting 1: 28<sup>th</sup> November 2013**

- Introduction, Context and Background

#### To be invited:

Cllr Letts

Senior officers from Planning

### **Meeting 2: 9<sup>th</sup> January 2014**

- To review the effectiveness of the Councils Article 4 and HMO Supplementary Planning Document

#### To be invited:

Residents Association Representative

Landlord Representative

Universities / Student Unions

Senior officers from Planning and HMO licensing officer

### **Meeting 3: 6<sup>th</sup> February 2014**

- Consider the Councils approach to planning enforcement

#### To be invited:

Cllr Blatchford, Chair of the Planning Committee

Senior officers from Planning



**Meeting 4: 6<sup>th</sup> March 2014**

- To increase understanding of the various proposals to relax certain permitted development rights

To be invited:

Senior officers from Planning

**Meeting 5: 3<sup>rd</sup> April 2014**

- To summarise the inquiry's evidence and highlight emerging recommendations

To be invited:

Senior officers from Planning

**Meeting 6: 8<sup>th</sup> May 2014**

To approve the final report of the inquiry and recommendations

| DATE     | MEETING THEME  | TOPIC DETAIL  | EVIDENCE PROVIDED BY   |
|----------|--|---|--|
| 28/11/13 | Agree Terms of Reference   |   | <ul style="list-style-type: none"> <li>• Dr Chris Lyons (Planning &amp; Development Manager, SCC)</li> </ul> <p><b>Items appended to report:-</b></p> <ul style="list-style-type: none"> <li>• Draft ToR</li> <li>• Background to the review</li> <li>• HMO SPD</li> </ul>   |
| 09/01/14 | To review the effectiveness of the Council’s Article 4 and HMO SPD | Since its introduction in April 2012, how effective has the HMO SPD been in terms of meeting its original aims? | <ul style="list-style-type: none"> <li>• Dr Chris Lyons (Planning &amp; Development Manager, SCC)</li> <li>• Janet Hawkins (HMO Licensing)</li> <li>• Prof Roger Brown, Simon Hill and Jerry Gillen (Highfield Residents Association)</li> <li>• Roger Bell and Dr Julian Jenkinson (Southern Landlords Assoc)</li> <li>• Liz Mackenzie (National Landlords Assoc)</li> </ul> <p><b>Other written evidence submitted</b></p> <p><b>Member feedback from:-</b></p> <ul style="list-style-type: none"> <li>• Cllrs Moulton, Hannides, Shields and Noon</li> </ul> <p><b>Resident Association’s feedback from:-</b></p> <ul style="list-style-type: none"> <li>• Pointout Residents Group</li> <li>• East Basset RA</li> <li>• Tower Gardens NWA RA</li> <li>• Thornbury RA</li> <li>• Portwood Residents Gardens Conservation Area (Planning group)</li> <li>• Individual residents from Polygon, Bedford Place, Freemantle, Highfield, Portwood</li> </ul> <p><b>University and Student Union response: -</b></p> |

| DATE     | MEETING THEME   | TOPIC DETAIL   | EVIDENCE PROVIDED BY   |
|----------|---|--|--|
|          |   |  | <ul style="list-style-type: none"> <li>• University of Southampton</li> <li>• Southampton University Students' Union</li> <li>• Solent University</li> <li>• Solent Students' Union</li> </ul> <p><b>Other items appended to report:-</b></p> <ul style="list-style-type: none"> <li>• HMO SPD</li> <li>• Southampton HMO Planning applications - summary</li> <li>• HMO Licensing Scheme – FAQs</li> </ul>  |
| 06/02/14 | <b>Consider the Councils approach to planning enforcement</b> | To review the Council's approach to planning enforcement.                  | <ul style="list-style-type: none"> <li>• Councillor Letts (Leader SCC)</li> <li>• Councillor Blatchford (Chair of Planning and Rights of Way Panel)</li> <li>• Dr Chris Lyons (Planning &amp; Development Manager, SCC)</li> </ul> <p><b>Other written evidence submitted</b></p> <ul style="list-style-type: none"> <li>• Response from Pointout Residents Group</li> <li>• Response from Southern Landlords Assoc</li> </ul> <p><b>Other items appended to report:-</b></p> <ul style="list-style-type: none"> <li>• Internal Audit Final Report: Development Management – Enforcement</li> <li>• Update on Internal Audit Action Plan</li> <li>• Enforcement table of feedback (Including feedback from Cllrs Moulton, Noon, HRA, East Basset RA, Portswood RGCA, Bedford Place/ Polygon Resident, Southampton University Students' Union)</li> <li>• Roger Bell (SLA)</li> </ul> |
| 06/03/14 | <b>To increase understanding of the various proposals to</b>  | The Panel will focus on increasing understanding of the various Government | <ul style="list-style-type: none"> <li>• Dr Chris Lyons (Planning &amp; Development Manager, SCC)</li> </ul> <p><b>Other items appended to report:-</b></p> <ul style="list-style-type: none"> <li>• Southampton Overview of PDR's</li> </ul>  |

| DATE            | MEETING THEME   | TOPIC DETAIL  | EVIDENCE PROVIDED BY  |
|-----------------|---|---|---|
|                 | <b>relax certain permitted development rights</b>   | proposals to relax permitted development rights <ul style="list-style-type: none"> <li>• Office to Residential (C3)</li> <li>• Residential Properties (extensions)</li> </ul>   | <ul style="list-style-type: none"> <li>• Written Ministerial Statement by Planning Minister</li> <li>• National Overview of Office to Residential Conversions - VGA</li> <li>• Liz Slater (Housing Needs Manager, SCC) submission of evidence 'HMOs – Housing Need in Southampton'.</li> </ul>  |
| <b>08/04/14</b> | <b>Neighbourhood Plans</b>  | The Panel will focus on increasing understanding of Neighbourhood Plans. <ul style="list-style-type: none"> <li>• Setting the scene including national context</li> <li>• The councils approach to Neighbourhood Planning</li> <li>• What's happening locally: update on Basset Neighbourhood Plan</li> </ul> | <ul style="list-style-type: none"> <li>• Deb Appleby (Development Manager, Locality)</li> <li>• Councillor Les Harris (SCC and Chair of Basset Neighbourhood Forum)</li> <li>• Dr Chris Lyons (Planning &amp; Development Manager, SCC)</li> </ul> <b>Other items appended to report:-</b> <ul style="list-style-type: none"> <li>• Locality: A quick guide to Neighbourhood Plans</li> <li>• DCLG: Notes on Neighbourhood Planning (March 2014)</li> </ul> |
| <b>08/05/14</b> | <b>To summarise the inquiry's evidence and highlight emerging recommendation and agree final report</b> | Approve report for submission to Overview and Scrutiny Management Committee   |   |

## Summary of Key Evidence

### Inquiry Meeting – 9<sup>th</sup> January 2014

To review the effectiveness of the Councils Article 4 and HMO Supplementary Planning Document.

#### Summary of information provided:

**Regulatory Services- HMO Licensing, SCC** - Janet Hawkins (outside the remit of the inquiry TOR - invited to attend to discuss additional HMO licensing scheme that is focussed on addressing some of the general concerns about impact of HMOs)

- Two licensing schemes; mandatory and additional, which is currently voluntary (enforcement phase March 2014)
- Both schemes aim to improve and regulate HMOs.
- Have received 1300 applications to date
- Good working relationship with Planning and Legal and have been working with landlords groups in the city through the new consultative forum.
- Starting to plan a new stakeholder's forum where interested residents can attend.

**Planning & Development Manager, SCC** - Dr Chris Lyons

- A number of issues have arisen since the Council adopted the HMO SPD relating to the Planning & Rights of Way Panel refusing planning applications that meet the requirements of the SPD. They have been rejected on the grounds of being out of character with the area and the Planning Inspectors have supported the Panel's decisions. However, the SPD was intended to address the character argument as well and to give clarity on where HMOs would be supported by the Council.
- This has created uncertainty. If the existing SPD is not right for Southampton then it is suggested that it should be changed but clarity is required.
- Any changes must take into account the resources available.

**Highfield Residents Association (HRA)** - Prof Roger Brown (chair), Simon Hill (Planning sub committee) and Jerry Gillian (committee member)

- HMO SPD not achieving its original aim. It is clear from the Planning Inspectorate's judgements that it is not having a sufficiently restrictive effect.
- **HRA recommendations presented to Panel:**
  - a) HRA would like to see a single limit of 10 per cent to be applied in each ward across the city. In areas where the 10 per cent has already been reached then no new HMOs to be introduced. This change is essential if Southampton is to not become a 'transit' city.

Or

**b)** HMO SPD is changed to reflect a two-tier approach, it would provide some protection against concentrations of HMOs but would not deal with the central issue of the city's character. The two-tier approach would consist of initially a 100 meter radius test, if the test finds a concentration of more than 10 per cent the application would be refused, if less than 10 per cent the 40 meter radius would be applied.

- To refuse an application where the site is adjacent to a family dwelling and where there is an existing approved HMO on the other side ('sandwiching').
- HMOs must not be created through the 'back-door' means such as the conversion of houses into flats, or extensions that require no planning permission.
- HRA feel that their recommendations are in line with the National Houses in Multiple Occupation Lobby and the National Organisation of Residents Association.

**Southern Landlords Association** - Roger Bell (chair) and Dr Julian Jenkinson (committee member)

- The current thresholds have limited any increase in HMOs in high concentration areas, and have the Planning Panel have stopped any successful applications elsewhere in the city. As a result HMO numbers are decreasing, the opposite of the HMO SPDs original aim.
- When thresholds were created they were merely a guesstimate and were produced on no evidence, as there wasn't the evidence to base it on. The council is now at a point where the thresholds can be set.
- The market could set the thresholds, and the 'tipping point' could be based upon whether there is a difference in the market value of family housing over HMOs on a street.
- Working collectively is the way forward - Most landlords are reasonable and would welcome participation in schemes to improve areas. Could collectively, pilot a street to target and improve areas.
- Cannot move HMOs to elsewhere in city if demand not there. Market will follow demand, but demand in other areas i.e. Bitterne is not there.
- Purpose built student accommodation will only be successful for first year students; second/ third year students prefer houses.
- **SLA recommendations presented to Panel:**
  - a) Amend HMO SPD to provide clarity with regards to areas where there are only a few C3 houses remaining.
  - b) To increase the threshold/ tipping point
  - c) To consider creating thresholds using housing market intelligence

**National Landlords Association** - Liz Mackenzie (area representative)

- The HMO SPD in its current form has created a catch 22 situation. This is because:-
  - 1.) Property within an area of high HMO density, C4 planning application is turned down because thresholds are exceeded.

- 2.) Property within an area of low HMO density, C4 planning application is granted initially, but then turned down on the change of character to the area an HMO would bring.
- The result of the HMO SPD and the Article 4 direction has so far frozen the housing mix at pre- April 2012 levels.
  - The HMO SPD increases the cost of renting because it limits the supply of rented housing, and this is at a time when there is increased demand. The HMO SPD has not taken welfare reform into consideration. It appears that the Council used planning to try and affect social issues, which is inappropriate.
  - **NLA recommendations presented to Panel:**
    - a) To remove the HMO SPD and the Article 4 direction, as it has failed.
    - or
    - b) The Council clarifies the standard under which a property will be granted C4 planning permission in each ward.

### **Conclusions from meeting:**

#### **Impact of HMOs**

- Most issues raised by residents focussed on the impact that HMOs can have on communities and were not directly related to the Article 4 or HMO SPD.
- There was universal support for the additional HMO licensing scheme, including from landlords association representatives who believe that it could help to address unscrupulous landlords.
- Recognition that to overcome wider HMO issues there is a need for landlords, residents and the council to work together, potentially on a street by street basis.

#### **Article 4 & HMO SPD – Have objectives been achieved?**

1. Spreading HMOs across the city to create balanced communities?
  - No - There have been only 19 successful C3 to C4 applications since the implementation of the A4D. The majority of these came in the early days of the A4D prior to any appeal results. In the last 12 months since we have had the benefit of the appeal results there have been 6 successful applications for conversion from C3 to C4 across the city.
  - Few applications for conversion to an HMO have been submitted for areas outside the central and northern wards, reflecting the lack of market driven demand in these locations (access to key locations is essential).
2. Preventing the development of excessive concentrations of HMOs?
  - Yes - As only 6 new HMOs have been created in last 12 months then concentrations remain unchanged.
3. Increased the supply of HMOs?
  - No – Only 6 new HMOs in past year, and this does not include HMOs that could have converted back to family housing.

## Summary

- For many residents associations, and some existing landlords, the Article 4 & HMO SPD is working by preventing additional HMOs in their neighbourhoods. The thresholds are preventing new HMOs in areas where there is a concentration of HMOs. The Planning and Rights of Way Panel, supported by the Planning Inspectorate, is rejecting applications for HMO conversions, in opposition to the HMO SPD, in areas where there are few HMOs on the grounds of the impact an HMO would have on the character of the area.
- This has created a static housing market for HMOs, causing problems for residents in family houses trying to move out of areas that have exceeded the 'tipping point' as homes are difficult to sell because strict interpretation of exceptional circumstances (para 6.6.1) allowing conversion to HMOs, as well as restricting the growth in supply of HMOs in the city.
- For residents, landlords, planning officers and the future of the city there is a need for clarity on HMO conversion policy.

## Potential areas for recommendations

### HMO SPD:

- Need to ensure that the HMO SPD is aligned to the interpretation of the impact on character being applied by the Planning and Rights of Way Panel, or change the SPD in a way that the Planning & Rights of Way Panel can support - *How? Is the evidence strong enough?*
- To enable residents to sell properties at a fair price in areas that have exceeded the tipping point there is a need for greater flexibility in the interpretation of 6.6.1 in the HMO SPD.
- Revisit the HMO SPD thresholds when the additional HMO licensing scheme has uncovered more accurate information on the number and location of HMOs.

### HMOs in general:

- Roll out the additional HMO licensing scheme to wards that have HMO issues as soon as legally and feasibly possible.

## Inquiry Meeting – 6<sup>th</sup> February 2014

To review the Council's approach to planning enforcement.

### Summary of information provided:

#### Leader SCC – Cllr Letts

- Demand for HMOs will continue into the future – Supports development of more purpose built student accommodation by universities
- HMO Licensing Scheme – Suggested that if the Panel are considering recommending the geographical expansion of the scheme that focus is



placed not on entire wards but on areas within wards that have a significant number of HMOs.

- Article 4 / HMOSPD – Would like the same threshold to be applied across the city
- Permitted Development Rights for extending HMOs – Whilst this may help to reduce pressure for new HMOs the Panel may wish to request that the Council write to the Government outlining concerns with this development.

#### **Chair of Planning and Rights of Way Panel – Cllr Blatchford**

- Article 4 / HMOSPD – For equality would like the same threshold to be applied across the city
- Concerned that areas of the city that do not have active residents associations have not made representations to the Panel.
- Enforcement – Need sufficient capacity within enforcement and legal services to enable the various aspects requiring enforcement to be enforced appropriately.

#### **Planning and Development Manager – Dr Chris Lyons**

- In recognition of the problems relating to protracted cases and decision making, it was requested that Internal Audit reviewed planning enforcement.
- Internal Audit identified several areas where improvement was required. An action plan was developed in response to the report findings. The action plan has not yet been fully implemented.
- Demand on the service has increased. Only 3 enforcement officers so capacity is a constraint.
- Operate within national legal system. Have a duty to negotiate with people and to try to find a solution. Serving notice is last resort and only take enforcement action if it is expedient to do so (harm that needs to be rectified).
- Legal system does not allow stop notices to be served until HMOs are occupied even if intent is clear.
- Provided re-assurance that planning enforcement has improved, stronger relationship with Legal Services, backlog is clearing and happy to listen to residents and consider evidence provided relating to enforcement issues.

#### **Proactive enforcement**

- General consensus that a more proactive, robust and well publicised approach to planning enforcement would help to improve confidence in the planning system.
- S215 notices (untidy site notices) for example are easier to prove, send the right message out, equitable but only 2 notices issued in 2013/14 so far.
- The resources available restrict Council's ability to be proactive. The Council does write to people about untidy sites and enforcement officers are active in Street CRED events. Most issues are resolved without the need to issue a notice.
- Publicising action taken place by house owners before enforcement would help reinforce the message about enforcement.

### **Conclusions from meeting:**

- Recognition that planning enforcement in Southampton has improved but more could be done to ensure that the planning function is not undermined by a lack of prompt and effective enforcement.
- A more proactive approach to enforcement would be beneficial to the city but capacity limits ability of the service to be proactive.
- Clearer guidance on enforcement and publicity when enforcement action has been successful would be beneficial.
- The Council should seek to influence national policy.

### **Potential areas for recommendations**

#### Planning enforcement:

- That the planning enforcement action plan is fully implemented, including clear guidance and standards on planning enforcement, and the service is re-assessed by Internal Audit to review how fit for purpose the service is now.
- Successful enforcement action is publicised, including where issues have been rectified before the need for enforcement notices (may be included in Street CRED outcome publicity).
- Subject to legal restrictions, up to date progress on enforcement cases is available on the Council's website. *(Legal have subsequently confirmed we cannot advertise allegations on our website)*
- The Council seeks voluntary agreement from letting agents not to advertise properties that do not hold valid planning permissions
- The Council considers sharing the cost of legal advice with residents and residents associations who are willing to fund such action *(We cannot share advice with a third party as that could hamper our own case)*
- The Council makes direct representation to the Secretary of State at the DCLG and the Planning Minister requesting:
  1. The introduction of stop notices
  2. Burden of proof of intent
  3. Cap on repeated submissions for the same site. *(There already are stops on repeat applications)*
  4. Stopping the ability to appeal about a planning decision and a subsequent enforcement notice
  5. Additional fee for those who have applied for retrospective planning permission
  6. Fees should be chargeable for HMO applications and appeals. *(There is the power to confiscate income under the Proceeds of Crime Act already)*

## **Inquiry Meeting – 6<sup>th</sup> March 2014**

Permitted Development Rights (PDRs)

### **Summary of information provided:**

**Planning and Development Manager – Dr Chris Lyons**

#### **Office to Residential (C3)**

- Council has been notified of 33 proposals under these rights. Mostly they have been for older, lower quality premises. 90% of applications were received within first 3 months of new PDRs.
- SCC applied to Secretary of State for a small area of the city to be exempt from the PDR but this, along with most submitted nationally, was rejected.
- The option available to the City Council to remove the PDR is to use an Article 4 Direction. The Planning and Development Managers advice is that it is not necessary now to develop an Article 4 but to keep a close on eye on developments. The PDR is scheduled to be removed in 2016.
- Concerns about the quality of the office to residential accommodation. Building Regulations still apply, where relevant, but Planning Regulations do not.

#### **Residential Properties**

- Since the scheme came into force 44 applications have been made and only 3 objections received. The Council can only refuse an application if an objection has been raised, and meets other criteria.
- The PDR applies to all residential properties, including HMOs following High Court proceedings that resulted in revised guidance to Planning Inspectors being issued.
- Again the option available to the Council to remove the PDR is to use an Article 4 Direction. For an Article 4 to be agreed by Govt there is a need to prove harm. Difficult to evidence harm with only 44 applications received and 3 objections. The Planning and Development Managers advice is that, to reduce risk of compensation it would be advisable to give 1 years notice if an Article 4 was to be developed. This would possibly lead to rush of applications in year when notice given (similar to HMO Article 4). The PDR is scheduled to end in 2016.

#### **Conclusions from meeting:**

- Neither PDR has so far had a significant impact on the city. To our knowledge this is largely reflected nationally outside of London.
- It is important that Members are aware of the PDRs and informed of applications.

#### **Potential areas for recommendations**

Permitted Development Rights – Residential properties

- That the Planning Service provides information to all councillors about the permitted development rights.

### **Inquiry Meeting – 8<sup>th</sup> April 2014**

#### Neighbourhood Plans

#### **Summary of information provided:**

#### **Locality Development Manager – Deb Appleby**

- A new approach to Planning introduced by the Localism Act 2011, Neighbourhood Plan's (NP) are a legal document that can be used as a tool to empower communities to work collectively to identify local solutions by having a stronger influence over aspects of land use and development.
- Can help inform, direct and shape development and must comply with European, National and Local Planning Policies and strategies. NP cannot be used as a barrier to stop growth. Must be community led and evidence based.
- Three main stages: Designation > Independent examination (locally appointed examiner both agreed by LA and Forum) > Referendum (51% or more = adoption of NP)
- Approx 1,000 NPs are at varying stages, 17 plans at examination and have been most popular in the South East.
- Referendums present a cost to LA's, but £30k can draw down 'Additional Burdens Funding' to cover costs. There is a limit of how many referendums can be funded for NP, though it is approx 20. This shouldn't be an issue for Southampton as only 2 have been developing over the past year to 18 months.
- Areas must be designated by the LA, can be ward boundaries but often predefined areas chosen by communities (can encroach into other LA areas).
- Funding available to assist groups to develop NPs (up to £7k). Groups can also access the Big Lottery scheme 'Awards for All Scheme' (up to £10k).
- Southampton has no Parish Councils, meaning that a Neighbourhood Forum (with at least 21 local members) would need to be created to drive every NP.
- Urban areas such as Leeds, Exeter, Bristol and Birmingham are pursuing them. Case studies on the Locality website.
- Exeter St James adopted NP in 2013. It is an area with high number of HMOs. Projects include 'working with the Council and University to manage any adverse impacts that arise from high level of student accommodation within the ward' and have Planning Policies that relate to HMOs, and large/small scale purpose build student accommodation. Survey for NP identified same issues of noise and bins being important to permanent residents and students.
- Limitations include: NPs can be a lengthy process, on average 12-18 months (one has taken up to 3 years) and it very much depends on the drive and skills of the local community.
- Some LA's have developed helpful guides to NP
- The best NP have given consideration to what they like and don't like about the area and think 15 years ahead and about sustainability.

## **Planning and Development Manager – Dr Chris Lyons**

- Southampton has two emerging Neighbourhood Plans, Basset NP and business led East Street NP, although the latter has currently stalled.
- Basset NP has passed designation stage, awaiting independent examination and it is likely that the referendum will take place towards the end of this year.
- Would encourage members and the community to discuss with the Planning Dept a NP after giving consideration as to what you want to achieve.
- The city has a target of 16,000 additional homes, 5,000 of those in inner city. The remainder of the target is not broken down into other areas of the city.
- NP's could cause complications to SCC Planning Policies if it were to encroach into other LA boundaries, especially those where Planning Policies conflict (e.g. Code 4 and Code 3).
- Resources within the Planning Dept have been significantly reduced from six to three policy officers. Don't have resources to do technical work for NP
- Whilst the external resources available to fund a referendum is £30k this may not cover actual cost to LA.
- The Council website has some useful information on NPs.

## **Basset Neighbourhood Forum Plan (Chair) – Councillor Les Harris (SCC)**

- Started journey two years ago, started off being a fairly simple process until the 'goal posts' changed part way through. This resulted in changing the style in the way the NP was written. Although, has now passed designation stage.
- The community, which include 12 Residents Associations, have put in a huge amount of time and effort which has resulted in community ownership of the NP.
- Whilst creating the Forum, in areas where there were no regular Resident Assoc's, Councillors on behalf of the forum, helped out by simply knocking on resident's doors to ensure these areas had fair representation. In turn, the Forum itself has resulted in the community working collectively to address some of the wider issues in their area.
- To help support the development of the plan, funding has been received from Locality (£7k) and have had assistance from Planning Aid to help with the technical planning aspects of the plan. Resident groups have also assisted with funding.
- The NP has the designated boundaries of Basset ward with a population of 14,559, with over 6,219 of those being residences and 2,397 flats. High levels of remaining homes have been converted to HMOs.
- Consulted with residents, land owners, local developers, businesses, the University and the hospital, which resulted in 3 key themes: *Housing density* (including area character), *HMO's* and *Parking*. Whilst a NP cannot deal with parking issues directly, as they are not planning issues, the NP encourages any new development to include adequate parking, unfortunately the City's

parking policy does not promote or encourage development to provide sufficient parking off street, and accepts more on street parking.

- A real need to have planning expertise on hand as there is a need to understand planning law.
- Overall it has been a worthwhile community project.

**Conclusions from meeting:**

- Neighbourhood Plans are an effective tool for the community to come together to have a stronger influence over aspects of land use and development but in turn there appear to be 'spin-offs' from creating Neighbourhood Forums that in themselves could be used as a tool to address some of the underlying social issues within communities.
- It is recognised that Neighbourhood Plans are quite a lengthy process, taking on average 12-18 months to implementation and input from individuals with specialised skills (e.g. knowledge of Planning law) within the community to help drive them is invaluable.

**Potential areas for recommendations**

- The Council actively encourage Neighbourhood Plans across Southampton, with local councillors playing a pivotal role in bringing communities together to ensure representation.