

AGENDA ITEM NO.

ARUN DISTRICT COUNCIL

**REPORT TO AND DECISION OF DEVELOPMENT CONTROL
COMMITTEE ON 28 OCTOBER 2020**

SUBJECT: Options for introducing further controls on the definition, number and quality of Houses in Multiple Occupation

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DATE: 26 August 2020

EXTN: x 37853

PORTFOLIO AREA: Planning

EXECUTIVE SUMMARY:

This report considers whether there is evidence (e.g. regarding impact on amenity) to support the case for the authority to introduce further controls on Houses in Multiple Occupation (HMO) from the planning perspective and what those options are (e.g. Article 4 Direction).

RECOMMENDATIONS:

That Development Control Committee recommends to Full council that: -

- 1) The Council undertake further research with housing services in order to establish robust evidence to determine the justification and role for designating Article 4 Direction(s) in Bognor Regis as a priority and to keep the matter under review for Littlehampton unless the work also confirms that there is sufficient justification to bring a further Article 4 Direction(s) forward at the same time.

PROPOSAL(S):

1.1 At the meeting of Full Council on 25 February 2020 a motion was received from the Liberal Democrat Group in accordance with Council procedure 14.1 and 14.2 which stated: -

“The Council is asked to support a request for officer to explore what options might exist for introducing further controls on the definition, number and quality of homes in Multiple Occupation and prepare appropriate reports for the relevant decision body of the Council.”

The reasons why such additional controls are considered necessary is that HMO's are often concentrated in clusters. These are areas that can often suffer from poor housing conditions and high levels of deprivation, crime and anti-social behaviour. Introducing further controls would be expected to contribute to an improvement in the social and economic conditions in the areas; a reduction in anti-social behaviour; an improvement in general housing conditions; and a reduction in the level of deprivation; and a reduction in crime."

- 1.2 The motion was debated and amended to delete the second paragraph and on being put to the vote it was carried.
- 1.3 This report considers the regulation of Houses in Multiple Occupation (HMO) from a planning perspective. A separate report is being considered at the Housing and Customer Services Working Group on 22 October which deals with the licensing regulation of HMOs and related evidence but the two reports cross refer. While there are some differences in the HMO definition for planning compared to licensing purposes, both require shared objective evidence on HMO impact on amenity upon the local community and the appropriate measures of control that can be justified and considered.

The Definition of HMO

- 1.4 The Government definition of a House in Multiple Occupation, commonly known as a HMO, is a property rented out by at least three people who are not from one 'household' (for example a family) but share facilities like the bathroom and kitchen. It is sometimes called a 'house share'.
- 1.5 Generally, HMOs are defined as either small HMOs (as above) or large. The planning definition set out in the Town and Country Planning (Use Classes) Order 1987 (as amended in October 2010) distinguishes between large and small HMOs: -
 - 'Small' HMOs of up to six people are C4 use class and can convert to C3 housing via permitted development;
 - 'Large' HMOs of seven or more occupants are 'Sui Generis' use class requiring planning permission;
- 1.6 The Council is considering whether there is evidence to justify bringing those HMOs that fall outside of planning regulation (i.e. C4 use class which enjoy permitted development rights) into the development management process through an appropriate mechanism (e.g. such as an Article 4 Direction - see section 1.10 below). Such a mechanism may be necessary where HMOs are generating amenity issues individually or cumulatively, within an area. This intervention would allow proper planning regulation though requiring the HMO to be determined following submitting a planning application. The effect of this could be to improve the standard and/or restrict the presence HMO development. For background, the adopted Arun Local Plan 2018 policy to regulate HMOs that are subject to planning permission, is set out in Appendix 1. The broader context for this issue is already significant at the national level and is described below.

House of Lords Select Committee Report: 'The Future of Seaside Towns'

1.7 In April 2019, the House of Lords Select Committee on Regenerating Seaside Towns and Communities published 'The Future of Seaside Towns' report to consider the regeneration of seaside towns and communities. Chapter 5 of the report looks at housing, wellbeing and the built environment.

1.8 Housing issues emerged as one of the most prominent concerns voiced by coastal towns including the impact of a proliferation of HMOs generating a number of social, economic and management challenges. Although not unique to coastal towns, they typically sustain high incidences of poorer housing stock often associated with HMO conversion arising from:-

- redundant tourism accommodation
- former hotels
- bed and breakfast accommodation

1.9 Much of the oversupply of the above stock in coastal towns is characterised by conversion to the private rented sector and HMOs. This is often achieved by maximising occupancy into smaller or shared units to maximise rental returns and is often at the expense of the quality and standard of accommodation. Such accommodation may be characterised by households on housing benefit and of a vulnerable/transient nature and a high dependency on social infrastructure.

1.10 An over concentration of such housing is perceived as a barrier to regeneration, investment and social cohesion, including blighting areas of seaside towns. The select committee published 38 recommendations. In particular, recommendation 20:-

"We recommend that the Government determines whether local authorities require additional powers to address the problems arising in areas with especially large numbers of HMOs. This determination should include the introduction of measures that enable local authorities to safeguard resources necessary for the enforcement of housing standards. (Paragraph 217)"

1.11 The Government's response was published in June 2019 and in response to this question, advised that local authorities already have flexibility through local financial settlements to improve community services backed by recently strengthened powers to regulate against proliferation of HMOs and/or poorer housing conditions through licensing and selective licensing, including enforcement and penalties. However, elsewhere in the response, the Government acknowledges the need for further work and coordination on the scale and impact of transient and vulnerable populations in and out of coastal areas.

1.12 This report therefore, focuses on the local evidence for imposition of Article 4 Directions. Licensing is covered in the separate report to the Housing and Customer Services Working Group.

Distribution of HMOs in Arun District

1.13 The Council keeps a public register of licensed HMOs in the District. The public register can be found on the Council's website: <https://www.arun.gov.uk/hmo>

1.14 Maps 1 – 5 in Appendix 4 show the location, distribution and main concentrations of all known HMO's in the District using the Council's register. These maps focus on Littlehampton and Bognor Regis as the main urban areas in the District which show that the main clusters/concentrations are firstly, within Bognor Regis, then Littlehampton and tend to correlate with the core (commercial centre/station, transport and town centre hub environments) although some relate to the seafront and riverside locations or older locations with town houses or property lending itself to conversion.

1.15 Data on Multiple Deprivation Index 2015 indicators for the Lower Layer Super Output Areas by Ward and housing areas in Arun, which most closely approximate these clusters, provide some contextual correlation to antisocial behaviour and social/physical living conditions e.g.: -

- Crime;
- Barriers to housing and services;
- Living environment etc.

1.16 However, analysis shows that very few LLSOA fall below the 5th decile for the above indicators (decile 1 being 10% most deprived in England and decile 2 next worst 10% etc) with the exception of :-

Bognor Regis

- Craigwell Aldwick East = 3 decile for barriers to housing and services;
- Felds Estate Aldwick East = 4 decile for barriers to housing and services
- Hotham = 2 decile crime; 3 decile barriers to housing services
- Hotham East - 2 decile crime; 2 decile barriers to housing and services
- London /road = 2 decile crime; 4 decile barriers to housing and services; 2 docile living environment;
- Glenwood Estate = 4 decile crime; 3 decile barriers to housing and services
- Gordon Avenue = 3 decile living environment
- Marine = 1 decile crime; 2 decile living environment
- Nywood Lane= 4 decile crime; 4 decile living environment
- Canada grove = 1 decile crime; 2 decile living environment
- Seafront = 1 decile crime; 1 decile living environment
- Elmer = 3 decile barriers to housing and services
- Orchard = 3 decile c rime
- Hampshire Avenue = 3 decile crime
- Annandale Avenue = 3 decile crime; 4 decile barriers to housing and services; 3 decile living environment
- Pevensey Road = 3 decile crime
- Gravits Lane = 4 decile crime
- Sportsground = 4 decile crime

Littlehampton

- Beach = 4 decile for crime

- Beach Norfolk Road = 3 decile crime; 4 decile barriers to housing and services; 1 decile living environment
- Brookfield = 3 decile barriers to housing and services
- North Beaumont = 2 decile barriers to housing and services
- Courtwick = 3 decile crime; 4 decile barriers to housing and services
- Clun Road = 2 decile crime; 4 decile barriers to housing and services 4 decile living environment;
- East Ham Road = 1 decile crime; 2 decile living environment
- River = 1 decile crime; 2 decile living environment
- Riverside rope walk = 1 decile crime; 3 decile barriers to housing and services; 1 decile living environment
- East Street = 3 decile crime
- Irvine Road= 3 decile crime; 3 decile barriers to housing and services; 1 decile living environment
- Broadmark west Rustington = 3 decile barriers to housing and services

Evidence in Arun District HMOs and Amenity

1.15 Available data (which is incomplete in 2018) from the Councils Private Sector Housing and Public Health department for 2018 and 2019 suggests the following. incidents of complaints in relation to HMOs received by the Council in relation to private sector housing and noise: -

Table 1: Incidents of Complaints

Year (1 st January – 23 December)	Private Sector Housing Complaints		Noise Complaints		Comment
		HMO		HMO	
2018	*		508	12	*Total unavailable due to IT system upgrade
2019	419	72	456	11	

1.16 HMOs may represent a low feature of private sector housing complaints. Noise in particular, appears to be a relatively low feature of HMO complaints in each year.

1.17 Further breakdown shows that in 2019 for private sector housing complaints, only 20 arose in Littlehampton of which only 3 in relation to HMOs (HMOs account for only 11 overall noise complaints). The balance appears to be mainly within Bognor Regis or elsewhere in the district.

1.18 While the available data from the /council's monitoring systems is not comprehensive, the initial evidence suggests that there is some evidence of HMO related incidences of complaint although modest for noise, when compared to other forms of private sector housing and appears modest for Littlehampton compared to Bognor Regis or other areas. Other evidence available is considered below.

Further Evidence

Stock condition survey

- 1.19 Arun District Council along with 3 other West Sussex local authorities, obtained some limited Government funding to have a stock condition survey undertaken by the Building Research Establishment (BRE). This was a desktop based survey over a short time frame, reflecting the limited funding available.
- 1.20 The 2019 data survey is ward based and shows the number of dwellings in each ward (See Appendix 2 Stock Condition Survey 2019), broken down to owner occupied and private rented. It also shows how many properties have a Category 1 hazard indicator (if a hazard is a serious and immediate risk to a person's health and safety, this is known as a Category 1 hazard). It also shows the number of HMOs and how many are licensable in each ward. This data can only infer amenity issues where Wards have high category 1 incidences and a corresponding presence of high numbers of HMOs. The most significant comparisons for highest numbers are for Marine and River Wards.

District Wide Housing Stock Type and BRE Data

- 1.21 The extract of data (See Appendix 3) and conclusions of the licensing report to Housing and Customer Services Working Group (22 October), suggests that currently, the level of HMO representation in the private rented housing stock is 9% similar to the national picture. However, there is insufficient evidence of poor HMO housing stock condition, in relation to additional licensing and in relation to crime antisocial behaviour for selective licensing schemes.

Control options open to the Authority

- 1.22 The Adopted Arun Local Plan (2011-2031) sets out a policy for regulating HMO developments for those C3 class housing changes of use/conversions that require planning permission (i.e. excluding smaller C4 use HMOs which enjoy permitted development rights), in the interests of securing well balanced sustainable communities, with adequate parking and social infrastructure.
- 1.23 The policy strikes a balance recognising the contribution of HMOs to the economy particularly, as a source of housing for people on low incomes, those on benefit payments, students, seasonal workers and those starting off in the economy as young professionals. However, the policy also recognises that a large concentration of HMOs can have significant and potentially damaging impact on the amenity of a local area, such as noise and disturbance, generation of more refuse and a greater demand for off-street parking.
- 1.24 Three options are suggested below for the authority to consider. In selecting any option, the Council will need to satisfy itself that there is sufficient evidence to justify its approach because of the regulatory requirements of introducing planning statutory instruments and licensing control requirements as described below.

1. Article 4 Direction

- 1.25 Development Control Committee will be familiar with the application of Article 4 Directions under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the regulation of extensions and other changes to buildings within Conservation Areas. This instrument removes specified permitted development rights and can be applied to a defined area or to the whole of the authority area.
- 1.26 In relation to HMOs, this instrument would bring proposals for change of use/conversion of C3 housing to class C4 under the Development Managed process requiring a planning application and determination against policies and material considerations. Consequentially, planning fees would however, be forgone.
- 1.27 The National Planning Policy Framework (paragraph 53) requires the use of Article 4 Directions to be limited to situations where it is “necessary to protect local amenity or the wellbeing of the area” and they should not be used unless there is “clear justification” for doing so.
- 1.28 The National Planning Practice Guidance (PPG) further states that evidence is required to justify the purpose and extent of the Article 4 Direction, to demonstrate that such action is needed to protect local amenity or well-being of the area. The PPG also requires the potential harm that the Direction is intended to address to be clearly identified. Finally, it requires there to be a “particularly strong” justification if a Direction is to relate to a wide area (for example covering the entire area of a local planning authority).
- 1.29 Two types of Article 4 Direction can remove permitted development rights: -
- Procedure for article 4(1) 1. directions without immediate effect – requires a local advertisement giving 6 weeks’ notice (specifying the date the direction comes into force); including notice displayed at 2 locations in the affected area or on site; and notice to each affected owner/occupier if practicable; notice to the secretary of state; 21 day representation period; confirmation by the LPA of the date the direction comes into force taking into account representations (i.e. not earlier than 28 days from representation period and no later than 2 years
 - Procedure for article 4(1) 2. directions with immediate effect - the authority consider that the development to which the direction relates would be prejudicial to the proper planning of their area or constitute a threat to the amenities of their area; a draft direction is sent for approval by the secretary of state; following approval notice is advertise (and given to the secretary of state); and served on the owner or occupier (being the date the direction comes into force); the local planning authority must consider any representations made in response to the notices/advert in not less than 28 days and not more than six months; and give notice of the confirmation of the in the same way that it notified the making of the order.

3. Further Monitoring and Review

- 1.30 The incomplete monitoring picture makes any clear justification for intervention under either option 1 or 2 above circumstantial. While the clustering of HMOs is quite striking

in inner areas of Bognor Regis and Littlehampton – there is only modest evidence of amenity nuisance. Bognor Regis arguably, appears to show more issues comparatively, and should be prioritised for further evidence gathering to consider whether Article 4 Direction is justified. There is some evidence to support that Littlehampton is kept under review by planning and housing services, and to ensure that monitoring systems are enhanced and better coordinated on the amenity and regeneration implications of HMOs in the district. To act now without robust evidence may risk challenge and intervention by the secretary of state. At this unprecedented time of the Covid-19 virus pandemic – there are added risks, concerns and considerations. Further guidance may need to be sought from Government on the role of this housing sector in addressing amenity and regeneration issues but also in terms of overcrowding and on health, wellbeing as well as access to affordable accommodation.

Conclusion

1.31 There is sufficient evidence on clustering and contextual information on amenity and deprivation related issues to guide the Council to undertake further research in prioritising specific wards and areas in Bognor Regis. Planning should work with together with housing services in order to establish robust evidence to determine the justification and role for designating Article 4 Direction(s) in Bognor Regis as a priority. The matter should be kept under review for Littlehampton unless the work also confirms that there is sufficient justification to bring a further Article 4 Direction(s) forward at the same time.

3. OPTIONS:

The following options are available to Members:

- To agree the report to ensure that effective measures to control and manage HMOs are evidence, justified and implemented accordingly;
- or not to agree the report and the risk that the ongoing and future management and regeneration of the seaside towns within Arun are undermined.

4. CONSULTATION:

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		x
Relevant District Ward Councillors	x	
Other groups/persons (please specify):		x
5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail at 6 below)	YES	NO
Financial	x	
Legal		x

Human Rights/Equality Impact Assessment		x
Community Safety including Section 17 of Crime & Disorder Act		x
Sustainability		x
Asset Management/Property/Land		x
Technology		x
Other (please explain)		

6. IMPLICATIONS:

There are no immediate implications for Arun District arising from this proposed response. However, further resource may be needed to progress the regulatory work and to ensure that work is commissioned in future to obtain appropriate evidence.

7. REASON FOR THE DECISION:

To ensure that planning policy and implementation is supported by robust evidence that will justify the appropriate form of regulation of development within Arun which can protect amenity and to ensure that residents are housed to an appropriate standard.

8. EFFECTIVE DATE OF THE DECISION: *Committee Services to insert*

9. BACKGROUND PAPERS:

Appendix 1: Planning Policy Background to Houses in Multiple Occupation

Appendix 2: Stock Condition Survey 2019

Appendix 3 Extract Housing and Customer Services Working Group Report (22 October 2020) - District wide Housing Stock Type and BRE Data

Appendix 4: Location, distribution and main concentrations of all known HMO's using the Council's register