

Strategic Housing Project Final Report



Housing Training & Consultancy Ltd
June 2012

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WORCESTER CITY COUNCIL STRATEGIC HOUSING PROJECT

Provision Of Affordable Housing – Best Use Of Commuted Section 106 Capital Funding – Private Sector Services

Final Report

1.0 BACKGROUND & PROJECT BRIEF

Introduction

- 1.1 This report has been prepared following an instruction from Worcester City Council to undertake an investigation into the best use of a commuted capital sum arising through Planning Obligations made under section 106 (as amended) of the Town and Country Planning Act 1990. The brief includes a specific requirement to give an indication of the level of spend required for each proposal along with the following requirements:

Empty properties

- To investigate ways and models of encouraging owners of empty properties to return them to use, including reviewing the current grant used to facilitate empty properties being brought back into use and make amendments/improvements to this as required;
- To advise on the implementation of the most suitable models to bring empty properties back into use;
- Review performance monitoring and reporting on empty properties;
- Review the existing private sector policies and practices including the use of enforcement and compulsory purchase of properties.

Licensing

- Review the current license fee and system to license and re-license HMO accommodation and identify ways to move from a re-active to a pro-active approach to licensing HMO accommodation;
- To identify ways to address poor condition private sector accommodation in specific areas of the city including the potential use of selective licensing.

Delivery of new affordable housing units on identified strategic sites

- To investigate the cost effectiveness of using the commuted sum solely or partially to facilitate the delivery of new affordable housing units on identified strategic sites where the development has stalled or not received adequate HCA investment working in partnership with registered providers compared with other proposals

Access to home ownership

- To investigate the current provision for first time buyers to access home ownership, identify whether there is a gap in the market for local authority intervention and advise on a suitable model with potential further resources available of up to 1 million pounds.

1.2 The commuted sum to be considered for the purposes of this report is £661,000 (of the total sum of £731,000, £70,000 has already been designated for other projects).

Structure of Report

1.3 Because of the need for preliminary findings of this project to be considered as part of a local authority forward planning process, an interim report was prepared in respect of the following issues:

- i. Adequacy of the information base and of the staffing resources within the Strategy Housing Service structure to deal with housing standards matters
- ii. Current access to home ownership by first time home buyers

1.4 In preparing the interim report, it was clear that the staffing resources within the existing Strategic Housing Services structure assigned to housing standards issues do not allow the Council to discharge its statutory responsibilities in a proactive manner and that there would be significant problems in seeking to expand, at the present time, the range of activities beyond those currently undertaken. In addition, it is also clear that the Council is lacking up to date information on the condition of private sector housing.

1.5 Nonetheless, if it does prove possible to augment the staffing resources and to improve the information available (recommendations on this are made at paragraphs 2.75 – 2.77) then there are potential advantages in expanding the scope of work done and in particular in revising current working practices.

1.6 Accordingly, this final report starts by including the findings set out in the interim report on staffing issues. It will also include recommendations on dealing with long term empty properties and in respect of discretionary licensing notwithstanding the fact that at the present time the Council does not currently have appropriate staffing to implement these.

1.7 The findings in respect of access to home ownership have also been included in this report. In addition, these findings have also been presented as a separate report.

1.8 Whilst not specifically included in the brief, because of findings made concerning the growth in the conversion of single household properties to houses in multiple occupation (HMOs), the report also makes recommendations with regard to permitted development status in respect of HMOs.

Worcester City Profile from Condition Survey Information

- 2.1 Any comment on adequacy of staffing to deal with housing standards issues must be done in the context of the overall private sector housing conditions in the city as clearly workload is dependent on this. Whilst the house condition survey (HCS) report and HMO report date back 8 years (and were carried out prior to the finalisation of the HHSRS and the current HMO definition) and the BRE reports contain projections only, at least they will give a good indication of private sector housing issues facing the Strategic Housing Services team.
- 2.2 The 2004 HCS report estimated the housing stock total in Worcester City at 40,500 including housing association properties. The table below shows the estimated proportions compared with the most recent national figures at the time.

Tenure Figures from HCS 2004

	Worcester City 2004		England 2001
Owner occupied	28,700	71%	70%
Privately rented	4,500	11%	10%
Housing association	7,300	18%	7%
Local authority	0	0%	13%

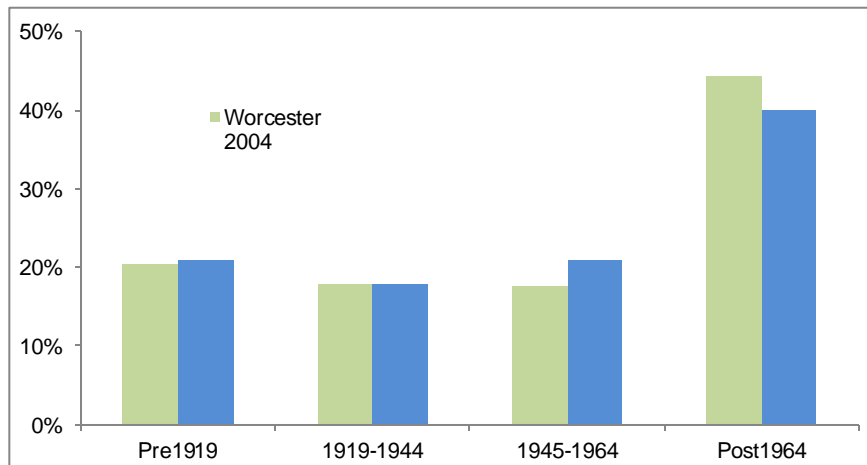
- 2.3 There were no local authority dwellings because stock transfer to Worcester Community Housing had taken place prior to the report. The proportions of both owner occupied and private rented sector stock owner occupied stock were above the 2001 national averages, with the proportion of social housing at 18% significantly below the 2001 national average of 20%.
- 2.4 The BRE figures put the total private sector stock at 33,962 based on 2001 Census figures. The figures are not split by tenure. The DLG Live Tables 2011 put the latest overall stock total at 42,650 with the overall private sector at 35,860 (again not differentiated into owner occupied and privately rented).
- 2.5 If Worcester has followed national trends in tenure (and there is no reason to suppose that it has not) then the proportion of privately rented dwellings will have increased substantially. The latest figures from the English Housing Survey 2010-11 show that nationally the proportion of owner occupied dwellings has decreased to 66% compared with 70% in 2001 and the proportion of privately rented dwellings has increased from 10% in 2001 to the current 16.5%. Conversely the proportion of social housing has decreased from the 2001 figure of 20% to the current 17.5% (which in all local authorities has implications for access to affordable housing).
- 2.6 If it is assumed that Worcester City has followed the national trend (and the HCS 2004 put the proportion of private rented sector stock at 1% higher than the national figure), then realistically the privately rented stock will now have increased to a minimum of 5,900 properties compared with the 4,500 estimated in the HCS 2004 (ie 1,400 properties, a 31% increase). The demand for rented

accommodation as a consequence of the University growth lends weight to this assumption being appropriate.

2.7 Given that in any local authority (as nationally) housing conditions overall tend to be significantly worse in the privately rented sector, the size of the private rented sector does have implications for staffing resources in any team dealing with the enforcement of housing standards.

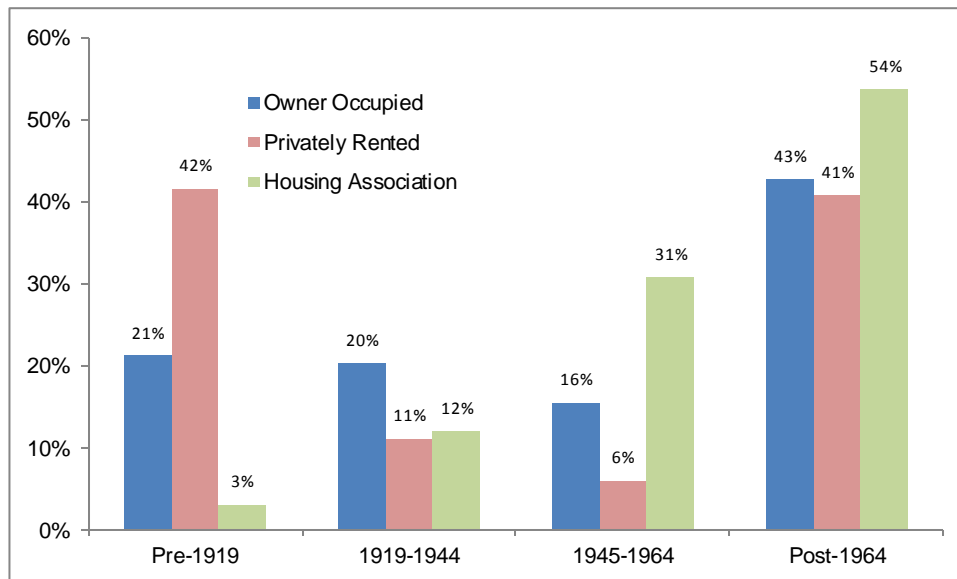
2.8 The age profile of the housing stock in the HCS 2004 indicated that overall the stock profile for Worcester City was broadly similar to the national profile but with slightly lower proportions of pre-1919 and immediate post war stock and higher proportions of stock built post 1964 as indicated on the chart below.

Profile of Overall Housing Stock From HCS 2004



2.9 However, when the age profile by tenure is considered, it can be seen that there was a significantly higher proportion of pre-1919 properties in the private rented sector (42% compared with 21% in owner occupied properties and 3% in housing association properties). In all other age bands the proportions were lower than in the other tenures. The HCS 2004 estimated the number of pre-1919 privately rented dwellings at just under 1,900. It is unlikely that the proportion by age profile will have remained the same as the increase up to 2011 in the overall number of dwellings will have been predominantly due to new build but some of the increased number of privately rented dwellings will have been by change in tenure from owner occupied.

Profile of Overall Housing Stock by Tenure From HCS 2004



- 2.10 The estimated overall increase in privately rented stock to 2011 was 1,400 dwellings (paragraph 2.27). Even if only 25% of this was due to tenure change in existing dwellings, applying the previous tenure pattern this would still mean an increase of 150 pre-1919 dwellings which would take the estimated number of pre-1919 dwellings to around 2,050. Again, this has implications for staffing as the HCS 2004 showed that condition indicators across all categories (non decency, HHSRS, disrepair, energy efficiency and fuel poverty) were worse in pre-1919 properties (and generally worse in the private rented sector).
- 2.11 The HCS 2004 showed that an estimated 3.6% of the stock (1,460 properties) were HMOs, approximately six times higher than the then national figure of less than 1%. As a consequence of the elevated rate a separate condition survey of HMOs only was undertaken. As stated at paragraph 2.11, the HMO survey did highlight very significant concerns with regard to conditions in HMOs, in particular 75% lacking adequate fire precautions.
- 2.12 Using the pre Housing Act 2004 CIEH definition of HMO, the HMO survey estimated there to be 970 HMOs (including 320 converted flats). An estimated 48% were shared houses, the great majority of which will have been student houses. The HMO survey also showed that the percentage of older buildings in the HMO sector was greater with 70% dating from pre-1919. The survey estimated that there 119 HMOs which were three or more storeys with five or more occupiers and so potentially licensable.
- 2.13 A substantial factor driving the high proportion of HMOs has been the growth of the University of Worcester. Since the HCS 2004, the University has expanded considerably, although it has also developed some purpose built student accommodation and there are also many courses for students who are not resident.
- 2.14 The Council's own figures show a total of 572 properties identified as HMOs, of which 125 have been licensed and a further 15 are in the process of being licensed. The original assessment in the HCS 2004 will have relied on a very small sample size so it is likely that it will have been a significant overestimate. That in

the HMO survey 2004 was based on surveys of only HMO properties and so will have been much more accurate. The Council figures were derived primarily from Council Tax records, licence register and University information. Additional information was obtained from tenant complaints, room let websites and the Council's Planning Officers.

- 2.15 Realistically, the Council figure will not have included all HMOs given that there is clearly very substantial demand for such accommodation not least because of the local University and the recent changes to local housing allowance. As part of this study three local estate agents were consulted on issues relating to the local housing market (additional information on this is given in particular in Part 5 of this report). All said over 60% of sales in the lower end of the market are to buy to let investors and that the investors are seeking properties suitable for use as shared houses in multiple occupation for students in particular (but not three storey properties because of mandatory licensing).
- 2.16 Even discounting the apparently continuing increase, the known HMOs amount to 1.3% of the overall housing stock (1.6% of the private sector stock) which is a significant proportion. As indicated later in Part 3 this report, the Council Tax records supplied by the Council in fact indicate that there are 606 properties where there is a Council Tax exemption because a dwelling is occupied solely by students.
- 2.17 In terms of workload, HMOs, and especially licensable HMOs, are the most demanding type of private sector property for housing standards teams. This type of accommodation is often difficult to manage and often has a frequent turnover of tenants from vulnerable backgrounds. Fire in particular is a concern; there is a much greater risk to occupiers in a multi occupied house than in single household occupation.

Houses In Multiple Occupation In Worcester

- 4.1 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.
- 4.2 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.
- 4.3 The high proportion of HMOs (along with the continuing growth of such properties) has a number of implications for the Council because of the problems commonly associated with HMO use. These are considered later in this section and a recommendation is made that the Council investigate the giving of a direction under Article 4(1) of the Town and Country Planning (General Permitted Development) Order 1995.

Concentrations of HMOs In Worcester

- 4.4 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.
- 4.5 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.
- 4.6 The impact of high HMO concentration was considered in a report prepared for DCLG by Ecotec in 2008¹. This highlighted the many direct and indirect

¹ Evidence Gathering – Housing in Multiple Occupation and possible planning responses. Final Report – ECOTEC - September 2008 - Department for Communities and Local Government: ISBN: 978-1-4098-0478-9

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.

- 4.7 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.
- 4.8 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."
- 4.9 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.
- 4.10 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.
- 4.11 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.
- 4.12 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

- 4.13 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').
- 4.14 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)

- 4.15 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).
- 4.16 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.
- 4.17 Giving a direction cannot be undertaken without good reason. The replacement Appendix D (issued November 2010) to Department of the Environment Circular 9/95² makes it clear that a local authority "should consider making Article 4 directions only in those exceptional circumstances where evidence suggests that

² Department for Communities and Local Government Replacement Appendix D to Department of the Environment Circular 9/95: General Development Consolidation Order 1995 (978 0117531024)

the exercise of permitted development rights would harm local amenity or the proper planning of the area”.

- 4.18 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.
- 4.19 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.
- 4.20 Approval of the Secretary of State for giving a direction is now not required, although the Government may still intervene.
- 4.21 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.
- 4.22 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
- 4.23 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.
- 4.24 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.

- 4.25 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 difficulty 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.

Discretionary Licensing

- 4.26 An alternative approach to the potential control of HMO growth or of difficulties associated with high proportions of rented accommodation is the use of discretionary licensing powers in particular additional licensing. Section 56 of the Act gives powers to local authorities to designate specific areas, or the whole of their district, to be subject to additional licensing in respect of HMOs not already subject to mandatory licensing, provided that certain conditions are met.
- 4.27 Section 80 of the Act gives powers to LHAs to designate areas, or the whole of their district, to be subject to selective licensing in respect of privately rented accommodation, again provided certain conditions are met.
- 4.28 Additional licensing of HMOs can be used to require licensing of all HMOs outside the definition for mandatory licensing and can apply to all types or only to specified types of HMO (for example excluding s257 converted flats). It has been used where there are significant numbers of two storey accommodation targeted at students (for example in Oxford). The declaration of a scheme may reflect the fact that landlords have moved away from three storey properties because of mandatory licensing. It may cover a whole city (as in Oxford) or be confined to a geographic area (as for example with Cardiff).
- 4.29 Selective licensing can be used where a local authority has concerns over conditions in an area either through actual or potential low demand and/or significant and persistent anti social behaviour. When a scheme is put in place, all rented properties (except those owned by social landlords and HMOs where there are separate tenancy agreements) require a licence. Schemes are increasingly being adopted across the country. Pioneer authorities included Salford, Manchester, Middlesbrough, Gateshead, Leeds, Burnley, Bolton, Blackburn and the London Borough of Newham. Other authorities now include Blackpool, Wolverhampton, London Borough of Croydon, Sunderland, Burnley, Thanet and Stoke-on-Trent.
- 4.30 The London Borough of Newham recently announced that all rented properties in the Little Ilford Scheme had been licensed and that it was proposing to introduce a licensing scheme to cover the whole Borough – in effect all rented properties would require a licence.

- 4.31 Both additional and selective licensing schemes last for an initial five year period. Up until April 2010, consent of the Secretary of State was required. This is no longer necessary as a general consent regime now applies and this appears to have led to an increase in designations.
- 4.32 General conditions are applicable to both forms of discretionary licensing are that:
- The authority must ensure that the exercise of the discretionary power is consistent with their overall housing strategy
 - The authority must seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector as regards combining licensing with other action taken by them or others
- 4.33 The conditions applicable to additional licensing of HMOs are that:
- (a) A significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public;
 - (b) The authority has regard to any information regarding the extent to which any codes of practice approved under section 233 have been complied with by persons managing HMOs in the area in question (code exists for student accommodation eg Unipol);
 - (c) Consider whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question,
 - (d) That making the designation will significantly assist them to deal with the problem or problems (whether or not they take any other course of action as well).
- 4.34 The conditions applicable to selective licensing are that:
- (a) The area is one experiencing low housing demand (or is likely to become such an area) and the LHA is satisfied that making a designation will, when combined with other measures taken by the LHA, or by the LHA in conjunction with others, would contribute to an improvement in the social or economic conditions in the area; and/or
 - (b) the area is experiencing a significant and persistent problem caused by anti-social behaviour and that some or all private sector landlords in the area are not taking appropriate action to combat the problem that it would be appropriate for them to take; and the making of a designation, when combined with other measures taken by the LHA, or by the LHA in conjunction with others, will lead to a reduction in, or elimination of, the problem.
- 4.35 In both cases, the Act requires a local authority to take reasonable steps to consult persons who are likely to be affected by the designation and consider the

representations made. If a local authority does decide to proceed with either form of licensing, it is most important that it does so on the basis of sound information and full consultation (minimum ten week period) with all stakeholders who could be affected.

- 4.36 Even though approval from the Secretary of State is no longer required, it is still crucial that a designation is based on full information and that the consultation process is rigorous and thorough (as was made clear in the CLG consultation on the introduction of the general consent). There have been challenges through applications for judicial review from landlord associations in respect of both additional and selective licensing.
- 4.37 In May 2011, the High Court quashed the selective licensing scheme introduced by Hyndburn District Council because of clear failings in the consultation procedure³, in particular failure to supply actual information on the area to allow meaningful consultation. Mr Justice McCombe described the consultations as “perfunctory” and said “consultations as to general principles were insufficient”.
- 4.38 The obvious purpose of having the additional controls that come with licensing is to drive up the physical condition of dwellings, to improve management standards and to weed out landlords who are not “fit and proper persons”. In addition, the licence conditions can help greatly in dealing with anti social behaviour by focusing the minds of landlords on the fact that the conduct of any tenant who behaves in an anti social fashion and blights the lives of neighbours is a matter for them.
- 4.39 With selective licensing, to be effective it has to be combined with targeted work from other agencies including the Police, Fire and Rescue Authority, social services, environmental health, street cleaning – and the managers of any social housing in the area as anti social behaviour from tenants in social housing can prove just as much of a concern.
- 4.40 There is an yet no overall evaluation of the impact of additional licensing although has been a BRE study on behalf of CLG into the impact of mandatory HMO licensing and selective licensing⁴. The report was issued in January 2010 based on fieldwork carried out between April to September 2008. The BRE found that significant works had been carried out to HMOs in particular fire safety measures, up to date gas safety checks and improved electrical wiring. The improvements in management standards, however, were much less demonstrable. There was also a significant problem remaining with unscrupulous landlords evading licensing.
- 4.41 With selective licensing, there was some evidence that landlords were ‘raising their game’ with property management. Property conditions had improved, and there were clear signs that selective licensing could work effectively in dealing with anti social behaviour and in improving community cohesion, although the study had been carried out at a time when the areas had been operating for only a limited period. There was little evidence to suggest that problem were being displaced into neighbouring areas as had been feared.

³ Peat & Ors, *R v Hyndburn Borough Council* [2011] EWHC 1739

⁴ *Evaluation of the Impact of HMO Licensing and Selective Licensing Building Research Establishment January 2010* ISBN 978-1-4098-1536-5

- 4.42 What was clear from the studies selective licensing was very resource intensive. In spite of the fees collected, none of the schemes were self financing.
- 4.43 The general conclusion of the BRE was that selective licensing tended to contribute four main things:
- discouraging outside investors looking for low cost properties for quick returns rather than providing and managing decent properties which have a positive impact on the local community;
 - helping to control anti social behaviour by compelling landlords to provide written tenancy agreements, tenant referencing, engaging with landlords when seeking possession because of tenancy breaches;
 - ensuring landlords who do not take part in voluntary accreditation schemes improve property conditions and management;
 - giving local authority staff and others good contact with landlords with who they may not previously have engaged.

What Action Should Worcester Take?

- 4.44 On the basis of the evidence made available, it is difficult to say whether a strong argument could be made out (assuming that resourcing and other issues such as information recording were resolved) for Worcester to seek to adopt either additional or selective licensing.
- 4.45 On the face of it, given the high concentrations of non licensable HMOs in certain areas, there would appear to be a case for investigating this, in particular on a localised basis rather than city wide. However, as indicated at paragraph 5.40, additional licensing can only be considered if there is evidence to show that a significant proportion are being managed badly and are causing problems or there are breaches of the statutory codes of practice. The Council has recently implemented an improved system to record information on complaints by occupiers of the HMOs or local residents. Furthermore, a substantial proportion of the existing properties have been accredited and there is also evidence to show that the university itself intervenes if anti social behaviour occurs.
- 4.46 The Council would also have to show that other course of action had been considered before declaring an additional licensing regime and further that making the designation would significantly assist them in dealing with the problems. There is simply insufficient information to contemplate embarking upon a consultation process.
- 4.47 With selective licensing, there are no areas of low demand in Worcester so the option of the first criterion is inapplicable. With regard to the second criterion, Council officers do report that there a small number of very localised areas where poor management of properties/anti social behaviour is an issue. However, as with additional licensing, there is no pool of data from recorded complaints to draw upon to substantiate consultation on a possible designation.
- 4.48 In reality, if there are limited areas with housing stress and problems with anti social behaviour, it may well be just as effective to consider a focus on improving

housing standards through a multi agency approach in certain limited neighbourhoods where there is evidence of a concentration of poor housing and housing management problems. To be effective, such an approach would need to involve other agencies within the Council and bodies such as the Police and Fire and Rescue Authority and would also need to incorporate a robust approach to enforcement as necessary. It would have the advantage of not requiring the extensive consultation and other procedural work required for selective licensing

4.49 Realistically it is clear that Worcester cannot at the present time consider a process to lead to the introduction of either additional or selective licensing as it does not have the information necessary to substantiate a designation nor the staff to implement any scheme designated. However, in the event that additional staff resources are made available and recording systems improved (both as recommended in Part 2) then it may be appropriate in the future to reconsider additional licensing probably confined to wards where there are high HMO concentrations.

4.50 Notwithstanding the inapplicability of discretionary licensing, there is an issue with high concentrations of HMOs in certain wards and it is clear that the numbers of such properties are likely to continue. As set out earlier in this Part, over 30 local authorities with high concentrations of HMOs have given Article 4(1) directions to remove permitted development rights.

4.51 Nonetheless, this is a matter where housing and planning issues are very closely interlinked and, on the basis of the facts available, it is strongly recommended that the Council investigate carefully the prospects of giving an Article 4(1) direction removing permitted development for change of use to multi occupancy.

4.52 *Recommendations*

- (i) Council investigate carefully the prospects of giving an Article 4(1) direction removing permitted development for change of use to Use Class C4 (residential multi occupancy), including consideration of the geographic extent of any such direction.