



DERBY CITY COUNCIL

COUNCIL CABINET 12 JULY 2005

Report of the Director of Development and Cultural Services and
Director of Policy

Hartington Street Renewal Programme

RECOMMENDATIONS

- 1.1 To agree in principle to a modification of the reasoned justification for Policy H23 – reuse of under-used buildings – of the City of Derby Local Plan Review in order to strengthen the link between the Council's respective planning and housing policies.
- 1.2 To refer the report to Area Panel 3.

SUPPORTING INFORMATION

- 2.1 At its meeting on 26 April 2005, in response to a request from Area Panel 3, Cabinet asked that an investigation be carried out into what long term co-ordinated action could be taken to stop the proliferation of houses in multiple occupancy in Arboretum area.
- 2.2 Appendix 2 details the outcome of this investigation and sets out:
 - the vital role which houses in multiple occupation – HMOs – play in meeting housing need
 - the legislative controls available to deal with them
 - the influences various Council policies can bring to bear on the establishment of HMOs..
- 2.3 The investigation confirms that there has been a significant increase in the number of HMOs in Derby in recent years. It has also shown that Arboretum Ward contains an estimated 1,121 HMOs; some 34% of the estimated city-wide total of 3,250. Some of this increase is due to changes in the legal definition of HMO, which now includes student shared housing.
- 2.4 It is apparent that the current legislative framework restricts what can be done to control the growth of the HMO sector directly. However, various means can be, and are, used to influence their establishment.
- 2.5 This influence could be strengthened further by seeking to link planning and housing policies more closely than they are currently.

- 2.6 While controls over the establishment of HMOs remain limited, the powers available to deal with existing HMOs are robust and will be strengthened further with the implementation of HMO licensing under the Housing Act 2004 later this year.
- 2.7 It is important, therefore, to make sure that both Council services and external agencies work together to deal effectively with the issues that can arise on HMOs. There is already a significant degree level of joint working but more needs to be done.

For more information contact:	Martin Gadsby on 01332 255236 or e-mail martin.gadsby@derby.gov.uk
Background papers:	None
List of appendices:	Appendix 1 – Implications Appendix 2 - Background Information

IMPLICATIONS

Financial

1. None arising directly.

Legal

2. The housing powers to deal with existing HMOs are contained within Part XI of the Housing Act 1985, as amended by the Housing Act 1996. These provisions will be replaced by those contained in Parts I to 4 and Part 7 of the Housing Act 2004 which the Government proposes to implement with effect from October 2005

Personnel

3. None arising directly.

Equalities impact

4. HMOs provide much needed housing accommodation for some of the most vulnerable people in the city.

Corporate objectives and priorities

- 5.1 The proposal comes under the Council's objectives of providing **healthy, safe and independent communities and a shared commitment to regenerating our communities.**
- 5.2 The proposal furthers the priorities of **working in partnership to reduce crime and the fear of crime** and **working in partnership to achieve socially cohesive communities.**

Background

- 1.1 The use of houses for multiple occupation is mainly driven by market forces. The growth in multiple occupation in many parts of the country, including Derby, in recent years is a market response to a range of factors which include:
 - general population growth
 - a reduction in the average size of households with an increasing number of single person households
 - housing supply and affordability
 - student population growth
 - greater labour market mobility.
- 1.2 Houses in Multiple Occupation – HMOs – make a vital contribution to meeting lower cost housing need and supporting the local economy. For many low income and vulnerable people, they offer the only choice of housing.
- 1.3 In recognition of this, both Government policy and the current legislative framework effectively restrict a local authority's role with regard to the establishment of HMOs in its area to one of influence rather than outright control.
- 1.4 Conversely, given that the private rented sector in general and the HMO sector in particular contain some of the worst housing conditions, the legislative powers to deal with existing HMOs are robust and will be strengthened further with the forthcoming implementation of the Housing Act 2004.
- 1.5 In Derby, the Council's influence on the growth of the HMO sector is exerted, to a varying degree, through:
 - The Local Planning Policy Framework
 - Planning and Development Control
 - Housing Renewal Policy
 - Housing Enforcement.
- 1.6 Other Council strategies, including both the Homelessness and Empty Property Strategies, while not influencing the sector directly, do have an impact on the demand for HMO type accommodation.
- 1.7 Direct control of existing HMOs is exercised through enforcement powers contained in both housing and planning legislation.

Planning Policy Framework

- 2.1 Planning policies dealing with residential conversion do not generally draw a distinction between different levels of self-containment. Policies operate at national, regional and local levels.
- 2.2 National Policy: Planning Policy Guidance Note 3, PPG3. on Housing says that local planning authorities should give priority to reusing previously developed land – including converting existing buildings – in preference to developing greenfield land. It sets a national target for 60% of additional housing to be provided on brownfield sites. Last year, 53% of housing provided in Derby was on brownfield land.
- 2.3 PPG3 notes that conversions can provide an important source of additional housing and places emphasis on bringing into use empty houses, vacant commercial buildings and upper floors above shops.
- 2.4 Regional Policy: The Regional Spatial Strategy for the East Midlands now has development plan status. It sets a regional target of 60% for the proportion of additional dwellings provided on previously developed land and through conversions.
- 2.5 Local Policy: The Adopted City of Derby Local Plan – CDLP – contains a specific policy – H26 – against which planning applications for residential conversions and changes of use can be assessed. This indicates that planning permission will be granted for such proposals subject to five criteria being satisfied. These are:
- the amenity of nearby properties not being adversely affected
 - any changes to external appearance not being out of keeping with their surroundings
 - a satisfactory living environment being created
 - off street car parking being adequate
 - no adverse affect on any listed building.
- 2.6 The justification to the policy notes a need to maximise the use and diversify the housing stock and the increasing demand for smaller one and two accommodation.
- 2.7 The CDLP is at an advanced stage of review, having completed its Public Inquiry stage last year. In line with national and regional guidance, the CDLP Review places emphasis on using previously developed land and existing buildings to help meet city-wide housing needs. An urban capacity study was undertaken to establish the amount of housing that can realistically be provided from these sources, thereby establishing the balance that needs to be met by the Plan on greenfield sites. Assumptions were made in the study on the extent to which there will be continuing gains to the housing stock through conversions and changes of use. These were based on the continuation of past trends.
- 2.8 The CDLP Review contains a policy – H23 – on the reuse of underused buildings for residential, which represents a simpler version of policy H26 in the adopted Plan. This states that:

The City Council will support the re-use of underused buildings throughout the city for residential purposes including proposals for:

- a. intensifying existing residential uses*
- b. converting redundant buildings, including large commercial buildings*
- c. use of vacant and underused floorspace above commercial premises.*

In all cases, planning permission will only be granted provided that the scale and intensity of the use is sufficiently similar to the surrounding area so that it would not detract from its general character or amenity.

- 2.9 It should be noted that, in the CDLP review, there are general policies elsewhere dealing with matters such as car parking, listed buildings and design, which currently are covered by specific criteria in the adopted Plan Policy.
- 2.10 There were no objections received to Policy H23 and therefore the Inspector who undertook the Public Inquiry made no recommendations to change it. The policy can therefore already carry weight in terms of planning applications. The current programme for completing the CDLP Review envisages a modification stage in the light of the Inspector's findings, followed by adoption by February 2006.

Planning and Development Control

- 3.1 Development Control is not an exact science. Rather, it relies on informed judgement with a firm policy context established, in Derby, by the City of Derby Local Plan. One of the key purposes of the planning system is to control development in the public interest. The function of the Local Plan is to provide the development framework for the control of development and other uses of land. This is achieved through:
 - proposals for the use and development of land to meet the general requirements of the Structure Plan and to ensure the continued economic and social well-being of the city
 - policies for the day-to-day control of development together with other proposals to address environmental and other planning problems.
- 3.2 Applications consider, among other issues, the exposition of the development plan; site or related history; and other material considerations. The application will generate an officer report which contains technical appraisals which clearly justify a recommendation. There are no specific policies on HMOs in the Arboretum area but we will seek to encourage developers through negotiation to improve their properties when related applications are made to us.

Housing Renewal Policy

- 4.1 Past housing renewal policies of the Council, led by national policy, have provided for grant aid to assist property owners in the conversion of larger properties, including traditional bedsit HMOs with shared facilities, into self-contained flatted accommodation. Such policies have undoubtedly had a positive impact on the supply of good quality rented dwelling units, especially for single people, as well as eliminating a significant number of low grade, overcrowded and, in many instances, dangerous HMOs.
- 4.2 More recently, the buoyant housing market and generally more stable economic conditions, allied to growing demand for private rented accommodation, has called into question the need to provide public subsidy to support landlords and developers in the improvement and conversion of properties when the costs incurred can be so readily recouped from the financial returns derived from rental income streams. In the light of this, under the Council's current Housing Renewal Policy which was implemented in 2003, any grant aid or other forms of assistance to individual properties in the private rented sector is restricted to situations where:
- a new owner of a long term empty property intends to bring it back into use as living accommodation
 - the property concerned is within a Renewal Area or other area based housing improvement programme, which is supported by a long term strategy developed in consultation with residents and other stakeholders
 - an improvement proposal submitted by a property owner will help meet a specific housing need in the city.
- 4.3 In each of these circumstances, individual cases are considered on their merits, taking into account, among other things:
- the viability of the proposal without the support of public funding
 - the previous "track record" of the owner
 - the likely impact of the proposal on the surrounding neighbourhood.
- 4.4 The full impact of this revised policy on the growth in the number of HMOs and other converted properties in Derby is difficult to measure but it is likely to have had at least some dampening effect. The freedoms and flexibilities introduced by the Housing Regulatory Reform Order 2002 on which the Council's current Housing Renewal Policy is based, have also provided the opportunity to try and influence the level of multiple occupation in specific areas. An example of this is the Hartington Street Renewal Area where grant or loan assistance can be considered for the re-conversion of properties either back to single occupation or to create fewer but larger units for market renting, long lease or shared ownership which are more likely to attract couples or perhaps in the longer term small families. However, the cost and complexity of such schemes, even with the support of grant aid, set against the possibility of reduced rental returns is proving to be a barrier for potential investors and developers. This said, the first such scheme, which will create five units for shared ownership, is expected to be undertaken later this year.

- 4.5 In addition, through specific projects such as the Housing Needs Challenge Fund, we have been able to direct our partners to purchase properties, particularly at auction, which have the potential to be converted into high density HMOs. Not only have we been able to ensure that good quality, lower density, accommodation is made available, but also that the properties will be well managed thereafter.

Housing Enforcement Policy

- 5.1 As well as improving the condition and management of HMOs, the enforcement of housing standards legislation does exert some influence on landlords either intending to establish an HMO or already operating one. Faced with the high cost of bringing their property up to standard, particularly fire safety provision, a landlord may prefer to let it for occupation by one household.
- 5.2 Unfortunately, in the absence of a rigorous inspection programme, which currently is well beyond the capacity of existing staffing resources, HMOs will, in many cases, continue to be established and operated without the knowledge of the Council.
- 5.3 Since 1999, the Council has operated a Registration Scheme for HMOs in the city. This has been partially successful in addressing this problem but, even by the end of 2004/05, only 260 properties a small proportion of those falling within the scope of the scheme have been registered. This again is partly as a consequence of staff resource problems which are now, to some extent, being addressed. It is also because, as the Scheme has progressed, more and more seriously substandard HMOs are being identified which require significant levels of enforcement action in order to bring them up to a standard sufficient to enable them to be registered.
- 5.4 The Housing Act 2004 will introduce a mandatory licensing scheme for HMOs with effect from October 2005. This will replace all existing HMO registration schemes operated by local authorities but will restrict the category of HMO which has to be licensed to those of three or more storeys which are occupied by five or more people who comprise two or more households. The Act does also revise the definition of 'HMO' to the extent that it will exclude properties that have been converted into self contained flats within, effectively, the last 15 years. This means that many properties currently registered under the Council's Registration Scheme will not fall within the scope of the new licensing provisions.
- 5.5 However, these new provisions will place the onus on landlords of HMOs, which become licensable with effect from October to obtain a licence with a stiff penalty for those who operate such premises without one. The Act also requires that the local authority is satisfied that the licence holder is a 'fit and proper person'. Taken together, these new provisions will help the Council exercise greater control over the management and standards of a reasonable proportion of HMOs in the city but will add a further significant administrative burden.

- 5.6 There are also provisions in the new Act for local authorities, with the approval of the Secretary of State, to create two other licensing schemes:
- additional licensing schemes to cover categories of HMO, which are exempt from mandatory licensing
 - selective licensing to cover particular, or all, types of private rented property in areas of low demand or where there are serious problems with anti-social behaviour.

The current situation in Derby

- 6.1 Using the Council's existing data, supported by a city-wide street survey, it has been possible, to estimate the number and type of HMOs currently operating in Derby. This survey suggests that there may be over 3,250 such properties, which although including student shared housing – now within the definition of HMO under the Housing Act 2004 – represents a significant increase on 800, the estimated figure in 1999.
- 6.2 On a ward by ward basis, Arboretum Ward has an estimated 1,121 HMOs, some 34% of the estimated city-wide total, followed by Abbey Ward with 612 –19%, and Darley Ward with 441 – 14%.
- 6.3 The fact that Arboretum Ward has the highest number of HMOs is not particularly surprising. It contains significant numbers of large older properties which lend themselves to conversion. There are approaching 850 three-storey properties within the ward; accounting for almost 30% of the total for the city. It is also, for the most part, convenient for the city centre for the many low income, single person householders likely to be in need of the type of accommodation which HMOs provide. Many of the relevant support services and agencies for the most vulnerable of such householders are also located nearby.
- 6.4 The recent growth in the numbers of refugees and migrant workers needing accommodation in the city has also been a major factor in the increase in HMOs not just in Arboretum but elsewhere.

Conclusion

- 7.1 HMOs clearly play a vital role in the supply of affordable accommodation in the city, in particular for single people. Given that in 2004/05 single person households accounted for 43% of those on the Council's Joint Housing Register, some 4,699 households, it would appear that this role will need to continue and possibly expand further in the future.
- 7.2 It is also apparent that while market demand currently encourages the conversion of larger old properties into smaller units, the demand for properties of this type for single family owner occupation is significantly weaker, particularly in the inner city areas. Without conversion, therefore, there is the real danger that many such properties would remain empty.

- 7.3 However, it is understandable that concerns are raised over the potentially adverse impact on residential amenity that too much conversion activity can have, particularly in those areas where dwelling densities are already high. It would seem, therefore, incumbent on the Council, in the absence of any real powers to control the establishment of HMOs, to make sure that through joint working arrangements everything possible is done to mitigate the problems that can often arise through such development. Because of the nature of many HMOs and their residents, the problems they can create are diverse. This means that the roles and responsibilities of those having to deal with such problems are spread across not only different departments of the Council but also various external agencies. The Council has clear enforcement functions to deal with, for example, housing conditions, noise nuisance or accumulations of refuse. However, in themselves, these will not address underlying social issues, which are often the root cause of many of the problems arising.
- 7.4 Joint working already plays an important part in the implementation of various partnership based strategies, in particular that of the Hartington Street Renewal Area. However, it is often constrained by competing priorities, a lack of dedicated resources and crucially perhaps, the lack of any one person with the authority and responsibility to direct where those resources that are available are deployed.
- 7.5 The establishment of a multi-agency task force, with its own dedicated resources, to deal specifically with all the issues associated with HMOs in a co-ordinated way may be a way forward here. However, this would have significant resource implications for all those who may become involved. It may also be premature to pursue such an approach until the full impact of the forthcoming implementation of the new Housing Act in terms of the licensing provisions, in particular, is properly assessed.
- 7.6 The issue of licensing and how it will be administered will be the subject of a further Cabinet report in the near future.
- 7.7 One issue that can be addressed in the short term is the linking of planning and housing policy to make sure that influence over the development of the HMO sector can be maximised. An opportunity to do this arises in the current CDLP review.
- 7.8 Council Cabinet is therefore asked to agree at this stage to the principle of linking planning and housing policies by highlighting the need for this in the reasoned justification to Policy H23 in the CDLP Review which deals with underused buildings. The detailed wording to this will then be included in a full CDLP Review modifications report to Cabinet in September 2005 and, if approved, will be placed on deposit for public comment in the normal way.