



Agenda Item

Local Development Framework Working Group

10 January 2011

Report of the Director of City Strategy

Houses in Multiple Occupation and Article 4 Directions

Summary

1. This report follows on from the paper considered by Members on the 6 September 2010 which provided an update of work undertaken in exploring a planning response to the issue of Houses in Multiple Occupation (HMOs) including the possibility of Article 4 Directions being used. In York, HMOs typically take the form of short term lets catering for student households. The report provides a summary of work undertaken since 6 September 2010 comprising the following:
 - an update of new government guidance regarding Article 4 Directions;
 - information of other Local Authority approaches to implementing Article 4 Directions;
 - work undertaken to date on developing an evidence base exploring:
 - the spatial extent and concentrations of student housing;
 - quantitative research covering crime and housing statistics;
 - qualitative research comprising street surveys and contact with residents, including the Badger Hill Residents Community Group and Osbaldwick Parish Council; and
 - guidance from Legal Services on the appropriateness of implementing an Article 4 Direction.
2. The report provides Members with potential options for progressing this work including undertaking consultation before making a decision on whether to implement an Article 4 Direction.

Background

3. The report presented on 6 September 2010 considered the spatial distribution of student housing across the city at Ward level and explored whether concentrations of student housing was having a detrimental effect on neighbourhoods. As discussed in the previous report the impacts of large numbers of student housing can be social, cultural, physical and economic. However it is often the social element that is considered to be of primary concerns regarding student housing. The perceived indicators of the potential effects of large numbers of short term lets often cited by local residents in student areas comprise:
 - higher incidences of anti social behaviour;

- increased levels of crime and the fear of crime (often with students being the victims of crime themselves);
 - poorer standards of property maintenance and repair;
 - littering and accumulation of rubbish;
 - noise between dwellings at all times and especially music at night, alongside late night street disturbance;
 - decreased demand for some local services, particularly local schools;
 - increased parking pressures arising from shared households;
 - changes in type of retail provision, particularly local shops becoming take-aways; and
 - lack of community integration and 'community spirit' resulting in less commitment to maintain the quality of the local environment.
4. Information collected at Ward level did not indicate any significant deviations from the average across a wide range of indicators such as crime, littering and noise. However it was acknowledged that information at Ward level may be hiding more pronounced concentrations of student housing at a more local level, which may be impacting on neighbourhoods. Accordingly, further work has been undertaken to explore more localised concentrations of student housing. To assess whether these concentrations are having a negative effect on their neighbourhoods information has been collated across a range of indicators. Given that data has historically been collated at ward level and is therefore more readily available at this scale, a mix of quantitative and qualitative data has been critical.

Motion for Accreditation Scheme and Petition for Selective HMO Licensing in Hull Road

5. At the Full Council meeting of 7 October 2010 Members considered a petition received on behalf of residents of Hull Road, asking the Council to apply for selective licensing powers over houses in multiple occupation in the Hull Road Ward. A report is currently being prepared by colleagues in Housing to advise Members of the petition received. This will be presented to the Executive Member Decision Session – Neighbourhood Services on 18 January 2011.
6. At the same Full Council meeting Members considered a motion submitted for consideration directly by Council on selective licensing of student properties. Following amendments to the motion, on being put to the vote the amendment was carried requesting the Director for Communities and Neighbourhoods to work with the local Development Framework Working Group to bring a report to the Executive outlining the options available to the council to address residents' concerns about HMOs in the city, including the introduction of an accreditation scheme. Colleagues in Housing are currently exploring how best to implement an accreditation scheme and have advise that they are likely to report back to Members on this issue in Spring 2011.

Article 4 Directions

Legislation update

7. Since the 6 September 2010 LDF Working Group meeting, Statutory Instruments laid before Parliament, making changes of use from Class C3 (dwellinghouses) to Class C4 (HMOs) permitted development, came into effect on 1 October 2010. This means that planning permission for this change in use is not required. Should Local Authorities wish to exert tighter planning controls on the development of HMOs, permitted development rights would have to be removed through an Article 4 Direction. An Article 4 Direction would mean that planning permission, within a given area, would then be required for a change of use from a dwelling house to an HMO. It should be noted that the effect of an Article 4 Direction is not to prohibit development, but to require a planning application to be submitted for development proposals, to which it applies, in a particular geographical area. As such, there would be a requirement to develop a policy response to provide guidance for determining planning applications.

New Government Guidance

8. On the 5 November 2010 new guidance on the use of Article 4 Directions was published by CLG. Detailed discussion and meetings have taken place with colleagues in Legal Services, which have highlighted the points below:
 - The revised guidance issued on 5 November 2010 says that Local Planning Authorities (LPAs) should consider making Article 4 Directions where evidence suggests that the exercise of permitted development rights would harm local amenity or the proper planning of the area.
 - The guidance refers to 'potential harm' and says that LPAs may taken into account whether the exercise of permitted development rights would undermine the visual amenity of the area and undermine local objectives to create or maintain mixed communities.
 - The 5 November 2010 guidance also says that there should be a particularly strong justification for the withdrawal of permitted development rights covering a wide area.
 - The previous approach to Article 4 Directions was that they were used to correct an existing problem. Now it appears that a direction can be made in respect of *potential harm* to an area, to control problems before they occur in exceptional circumstances where evidence suggests that the exercise of permitted development rights would harm local amenity or the proper planning of the area.
 - This new approach set out in the revised guidance means that a LPA can pursue a wide Article 4 Direction to cover an area where there is not a high concentration of HMOs, provided there is clear and strong justification to do so, such as that there is evidence that a concentration of HMOs would have harmful impacts that are real and not perceived and that HMOs would be displaced from controlled areas to adjacent areas with harmful impacts. A wide direction is therefore necessary to effect control as

multiple directions would otherwise be required which could not be introduced quickly enough.

9. Further discussions have taken place to examine the outcomes of the evidence base in exploring whether the evidence justifies making an Article 4 Direction. Advice from colleagues in Legal Services on this issue is set out later in this report from Paragraph 58.

Planning Fees

10. One of the costs to Local Authorities of using Article 4 Directions to control HMO is that planning applications are free under an Article 4 Direction. This may act as a discouragement to implementing an Article 4 Direction if they have to fund the cost of the applications which arise. However, a consultation on proposals for changes to planning application fees in England has been launched. This gives Local Authorities the power to set their own fees. It also offers an opportunity to extend the range of fees charged, including to Article 4 Directions. The intention is to introduce the legislation in April, so that they can be used from October 2011.

Other Local Authorities Approaches to Article 4 Directions

11. Officers have been monitoring other Local Authorities approaches to HMOs. A summary of emerging approaches to implementing Article 4 Directions for managing HMOs is set out below:
 - Manchester City Council, Milton Keynes Council, Bournemouth Borough Council and Portsmouth City Council have implemented a Local Authority wide Article 4 Direction. Discussions with Officers from Manchester City Council have taken place to fully understand their approach.
 - Canterbury City Council have implemented an Article 4 Direction that covers the main urban area.
 - Newcastle City Council and Exeter City Council have implemented Article 4 Directions at a more local level, covering partial wards and groups of streets.
 - There are differences in the level of detail of Local Authority's evidence base to support the making of Directions.
 - All Local Authorities have highlighted resident's concerns in their justification for implementing an Article 4 Direction
 - In all cases 12 months notice of the Direction has been given to ensure no liability for compensation claims.
 - Portsmouth City Council and Bournemouth Borough Council have proposed that there will be no charge for submitting a planning application for change of use from C3 to C4 once the Direction has come into effect.
12. Research has shown a varied approach to implementing Article 4 Directions with regard to geographic coverage and the level of detail of evidence bases to support making the Direction. However, in accordance with advice from colleagues in Legal Services set out in paragraph 8 above, it is considered

appropriate that a robust evidence base be developed to inform whether an Article 4 Direction is appropriate for York.

Developing an Evidence Base

13. As discussed in the previous report it is important to establish whether there are issues arising from short term lets for students in the city requiring further control through an Article 4 Direction and policy approach. Below is a summary of work undertaken since the last meeting.

The spatial extent of student housing

Spread of student housing

14. An historical mapping exercise has been undertaken to explore the spatial spread of student households since 2000. Data for 2000, 2005 and 2010 has been mapped at Output Area¹ level showing the spread of student housing and can be found at Annex 1. Council Tax student housing exemption data has been mapped. This applies to properties occupied only by one or more students either as full time or term time accommodation. Properties falling within 'Halls of residence' on campus have not been included. It does however include some off campus accommodation owned or managed by the universities. Properties that contain a mix of students and non students have also not been included at this stage; given we are trying to demonstrate the effect of student housing it seemed most appropriate to concentrate on housing likely to be occupied solely by that group. It is acknowledged that the number of households containing a mix of students and non students would be higher.
15. The mapping shows that in recent years concentrations of student households have begun to spread across the city, particularly into parts of the Hull Road, Heslington and Fishergate Wards. It is likely that this represents students living in the private rented sector and attending the University of York. There has also been a marked increase of student households in the Clifton and Guildhall Wards which can be attributed to York St. John University. Concentrations have also been identified in the Heworth Ward, this could be linked to students attending either university.
16. The maps at Annex 1 show that in 2000 there were 6 Output Areas with 20% and above concentrations of student housing, in 2005 this increased to 11 Output Areas and in 2010 this increased further to 19 Output Areas. It should be noted that in some cases the significantly high numbers of student households can be attributed to purpose built managed student accommodation. Further information can be found in the Street Surveys section at Annex 4. In several Output Areas there is evidence that the number of student households has doubled and sometimes tripled in the ten year period from 2000 to 2010. In one Output Area the number of student households is more than six times higher, as shown in Figure 1 overleaf.

¹ From the Office of National Statistics, approximately 125 properties per Output Area

Figure 1: Increases in student households

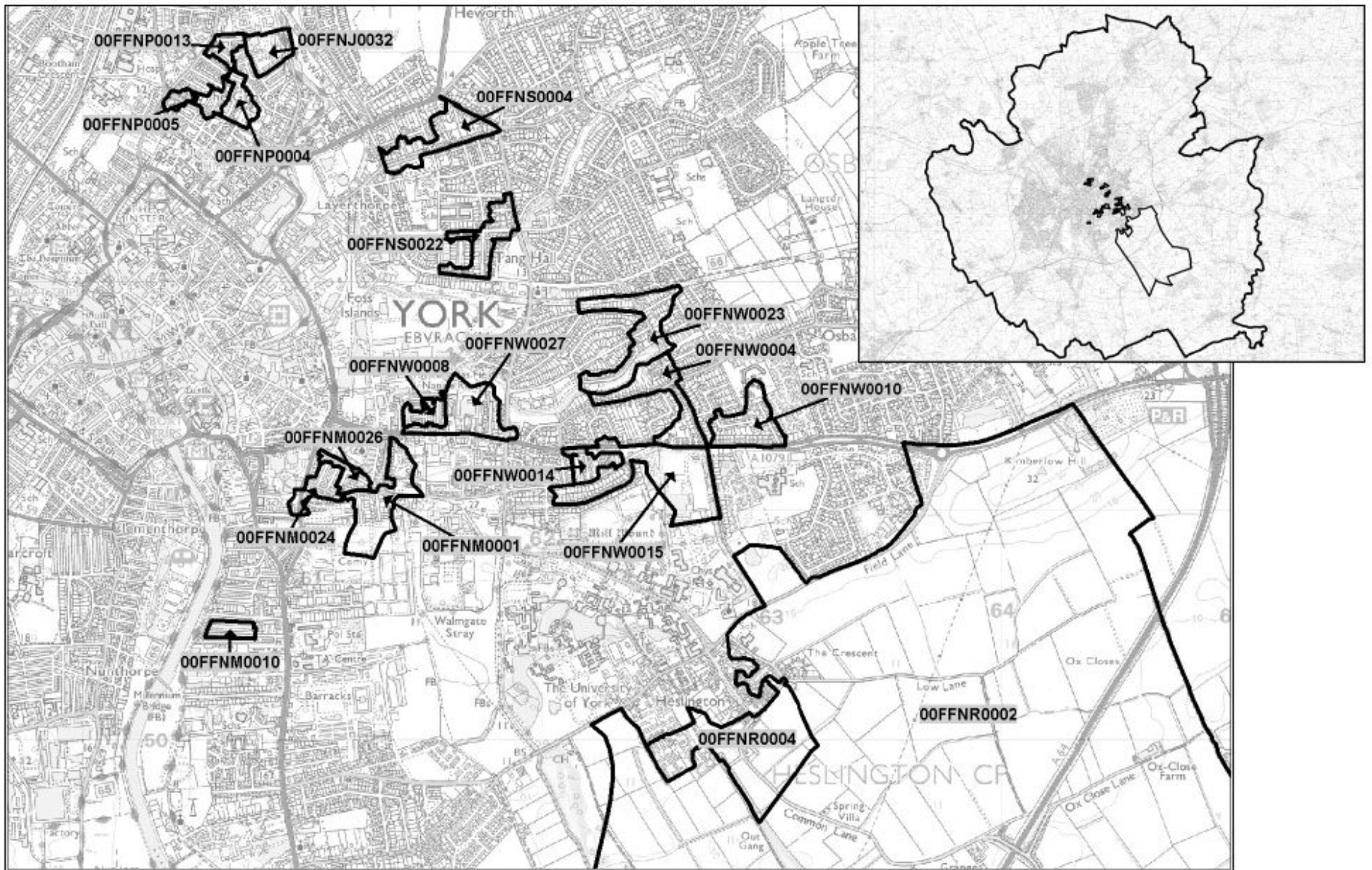
Output Area*	Number of Student Households			Percentage Increase 2000-2010
	2000	2005	2010	
00FFNJ0032	87	88	88	1
00FFNM0001	14	23	29	107
00FFNM0010	17	33	29	71
00FFNM0024	34	39	63	85
00FFNM0026	21	29	46	119
00FFNP0004	8	19	29	263
00FFNP0005	13	21	28	115
00FFNP0013	7	13	26	271
00FFNR0002	35	40	42	20
00FFNR0004	58	65	77	33
00FFNS0004	8	14	46	475
00FFNS0022	12	17	25	108
00FFNW0004	8	15	31	288
00FFNW0008	19	31	37	95
00FFNW0010	9	20	33	267
00FFNW0014	32	55	84	163
00FFNW0015	9	12	31	244
00FFNW0023	5	19	35	600
00FFNW0027	13	62	85	554

* See Figure 2 for location

Source: Council Tax Exemptions Data

17. Based on these past trends it would be reasonable to assert that permitted development comprising a change of use to student HMO would be likely to take place in the future. Moreover, given the clustering that has already taken place in the Clifton/Guildhall Wards and in Hull Road in particular it is likely that if unmanaged this would continue and could create unbalanced communities. It is also likely that new clusters may develop.
18. In addition to student HMOs there are a large number of HMOs occupied by other groups of unrelated people sharing a house or flat, such as young professionals. However the Council has no complete record of these at present.

Figure 2: Location of Output Areas



Localised concentrations of student housing

19. The further mapping work allows the identification of localised concentrations of student housing. Output Area level is considered the smallest scale appropriate to explore these concentrations with regard to data collation and meaningful statistical relevance.
20. The map overleaf at Figure 3 indicates pockets of concentrations in the following wards; Fishergate, Heslington, Hull Road, Heworth, Guildhall and Clifton. 19 Output Areas were identified across these Wards where the proportion of student housing concentrations is at or above 20%.
21. The 19 Output Areas shown more clearly at Figure 4 have been the starting point of our work to explore the potential indicators associated with high concentrations of student housing.

Figure 3: Concentrations of Student Housing Across the City

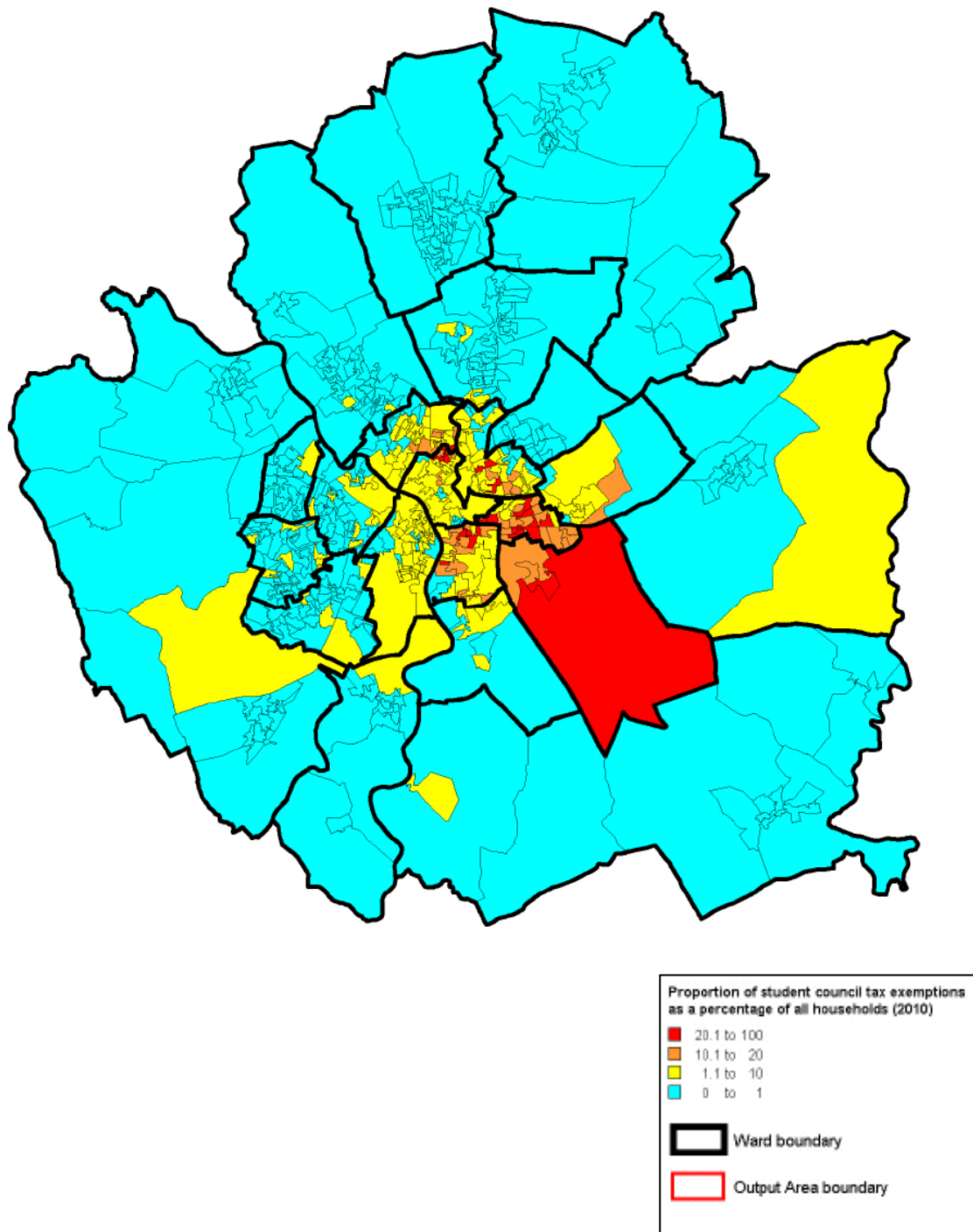
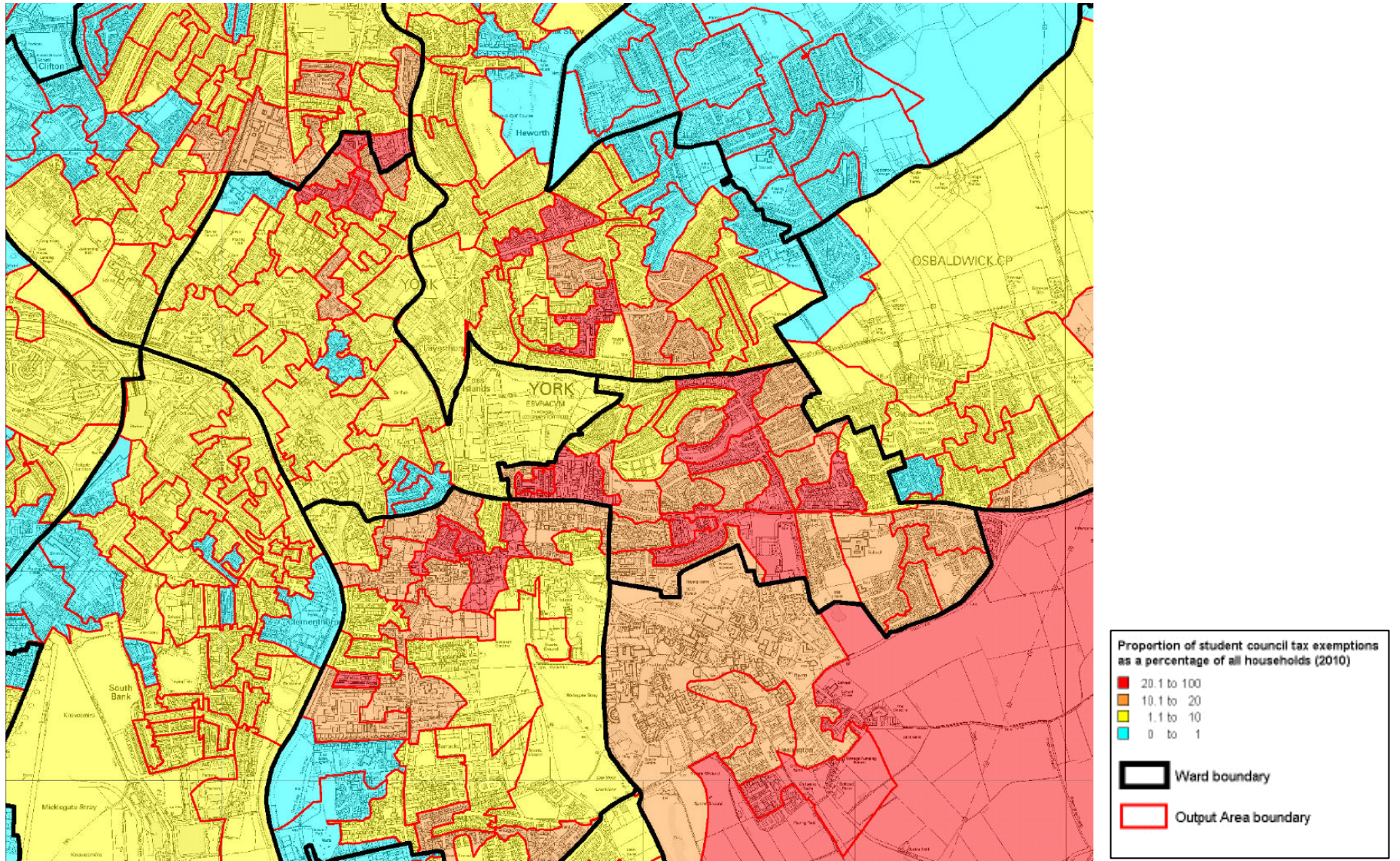


Figure 4: Output Areas with highest concentrations of Student Housing



Exploring the impacts of student housing

Quantitative research

Safer York Partnership Data

22. Through collaborative working with colleagues at the Safer York Partnership, data has been obtained for the 19 Output Areas with the highest concentration of student housing (see Figure 4). Data has been provided across a range of indicators including incidences of littering, noise complaints and burglaries, it is set out in detail at Annex 2. Data shows that incidences of crime were higher than average in several of the Output Areas with high proportions of student housing. In particular, there is evidence of higher than average incidences of noise nuisances, littering, burglaries and anti-social behaviour in some Output Areas with high levels of student housing. Whilst this shows a correlation between student areas and higher than average incidences of crime, anti-social behaviour, burglary, noise nuisance and litter it should be noted that not all incidences can be directly attributed to students themselves. Indeed students are often themselves the victims of crime, such as burglary.
23. Discussions with colleagues in crime reduction at the Safer York Partnership have highlighted the significant work being done seeking to reduce crime levels in student areas. Work has included setting up a multi agency burglary task group and crime reduction group, which involves partnership working with both the University of York and York St. John University. This involves work to target students moving out of managed university accommodation into the private rented sector in their second year of study, including on campus initiatives, email bulletins and work with the student unions. Colleagues have indicated that landlords generally have a good standard of security in their properties and it is therefore students who are being targeting to become more safety conscious.
24. Despite a number of initiatives targeting student areas and students themselves outlined above, data collected shows that crime levels still remain higher than average in several student areas.

Hometrack Data

25. Members commented at the 6 September LDF Working Group there is anecdotal information that families who were looking to move into larger accommodation were having to move away from particular areas because family accommodation was being bought above the market value for the purpose of subdividing the accommodation. To address these comments we have explored what information is available to substantiate this anecdotal evidence.
26. Following discussions with colleagues in Housing we have contacted officers at the Golden Triangle Partnership who have access to an online tool called 'Hometrack'. This provides in-depth, up-to-date and independent survey of

house prices and market trends in England and Wales. Officers at the Golden Triangle Partnership were able to produce a data report. We have analysed this data (see Annex 3) and drawn the conclusions below:

- There is no positive correlation between student areas and inflated house prices however there appears to be some correlation between student areas and significant percentage increases in house prices between 2002 and 2010.
- There are higher than average percentages of private rented properties in the student areas which could be contributing to increased competition between buy to let landlords and owner occupiers.
- Given that the historic spread and increases in student households identified in Figure 1 and Annex 1 are likely to continue if unmanaged, it is reasonable to assert that prices may continue to rise over the longer term and competition between buy to let landlords and owner occupiers will continue both in existing student areas and in new areas as the clustering effect takes hold.
- Further work into these issues is necessary to determine more definitely the effect student housing may be having on the housing market, particularly for owner occupiers and families. This work would include conducting telephone interviews with Estate Agents to obtain their professional views on whether they are seeing families pushed out of student areas by the buy to let market.

Education Data

27. We have been working alongside colleagues in Education to explore the effect concentrations of student houses is having on school role numbers. This is in response to Members comments that the conclusion from our initial work was not supported by Members' local knowledge of falling roles and potential school amalgamations in some areas.
28. There is a view that a high proportion of students within any given area could mean there will be a lower proportion of school pupils within that same area. Work has been undertaken by colleagues in Education to examine whether this conclusion can be drawn based upon analysis of data in several areas of the city. Specifically, this work sought to identify if there is a relationship, between a high proportion of student households within an area and a low proportion of primary age pupils. Council Tax exemptions and School Census datasets have been aggregated geographically by Output Area and school catchment area.
29. Groups of output areas approximating the catchment areas of six schools have been analysed. These schools comprise:
 - Derwent Infant and Junior (Derwent North and South catchments);
 - Osbaldwick Primary;
 - Badger Hill Primary;
 - St Lawrence's Primary;
 - Park Grove Primary; and

- Dringhouses Primary.
30. The first five of these areas have been chosen because some of the Output Areas that make up their catchment areas have a high proportion of student households. The Dringhouses catchment area is made up of several Output Areas that contain few or zero student households and has been included as a 'control' area by means of comparison.
 31. The outcomes of this exercise identified that although there are a small number of individual Output Areas where both the number of student households is high and the proportion of primary age children is low it is not possible to conclude that there is an overall relationship between the two in the areas analysed. This would indicate that there are other variables which impact upon the proportion of primary pupils in a given catchment area. Future research could examine the relationship between the published league table performance of a school and the number of children living within catchment. For example schools that achieve 'outstanding' reports from Ofsted may be more appealing to parents.
 32. Annex 3 examines each area in more detail, providing an analysis of the relationship between student exemptions and primary pupil numbers.

Qualitative research

Street Surveys

33. Street Surveys have been undertaken for the 19 Output Areas with 20% and over concentrations student housing (see Figure 4) covering the following Wards; Fishergate, Heslington, Heworth, Hull Road, Guildhall and Clifton. The street surveys focused on a range of potential indicators associated with high concentrations of student housing (such as property maintenance, parking pressures, littering) with the aim of providing more localised evidence of any issues. Street Surveys were also carried out in 'control' areas with fewer student households to act as a comparator.
34. Detailed commentaries of the 19 Output Areas can be found at Annex 4. Overall, the street surveys identified some environmental issues, however these were evident in both the areas with large concentrations of student housing and the control areas. As such, the findings were inconclusive and did not offer a direct correlation between high concentrations of student housing and poor quality of environment in the survey areas. However, a number of residents have expressed concern regarding the impact student housing is having in their neighbourhoods, in both in and area the areas surveyed alongside other wider areas such as Badger Hill and Osbaldwick, as discussed below.

Badger Hill Residents' Community Group Survey

35. Following correspondence with representatives from the Badger Hill Residents Community Group (BHRCG) a meeting has taken place to discuss

residents concerns and the outcomes of a survey undertaken by the BHRCG. The main findings of their survey can be summarised as follows. Please see Annex 4 for detailed comments regarding Badger Hill residents' concerns.

- 164 individuals completed the survey² out of a population of approximately 1,200 people (taken from the 2001 Census)
 - Many residents in Badger Hill are becoming increasingly concerned about the growth in numbers of HMOs (often occupied by students) and the impact this is having.
 - 97% of respondents said they had been adversely affected by the growth of HMOs citing noise, parking, litter, poor maintenance and antisocial behaviour as the main issues.
 - 81% of respondents know someone who has moved or is considering because of growth in HMOs.
 - 98% of residents who took part in the survey would like the Council to control HMOs in Badger Hill.
36. The BHRCG have also received a petition from 30 people living in Low Mill Close, Badger Hill, supporting the introduction of an Article 4 Direction for the area to reduce the amount of student housing.

Osboldwick Parish Council

37. A meeting has also taken place with representatives from Osboldwick Parish Council to discuss residents' concerns in Osboldwick. Concerns have been raised by the elderly and young families highlighting that it is an issue effecting whole communities. It was considered that there is an incompatibility between transient students and established residents The main concerns include noise nuisance, parking pressure, the loss of family homes and the general negative effect student housing in Osboldwick is deemed to be having on quality of life and the feel and character of the area. Further detail regarding the Parish Council's concerns is set out in Annex 4.
38. Distribution of HMOs was felt to be a key issue alongside density. Accordingly, it was suggested that HMOs need to be managed through the implementation of an Article 4 Direction. The Parish Council consider that any Article 4 Direction should be on a city wide scale, such as in Manchester, to ensure displacement doesn't occur. Subject to its legal suitability, it is also requested that the 12 month notice period for introduction of an Article 4 Direction could begin (if Members agree in principle to an Article 4) as soon as possible prior to the full direction being drawn up.

Residents' Correspondence

39. Since the LDF Working Group on 6 September we've been contacted by over 50 residents regarding student housing/HMOs. We have noted their concerns

² It should be noted that the survey was distributed to as many owner-occupiers as possible using a network of volunteers across all parts of Badger Hill. This figure relates to individuals rather than households. It was not circulated to all households in the area.

and issues raised. In some cases we have offered to meet with residents (see above). Resident's main concerns relate to restricting the number of HMOs, with some setting out specific issues caused by concentrations of student houses in their street. Several residents also sought clarification of how we would undertake the further proposed work discussed at the 6 September LDF Working Group meeting. A summary of comments received can be found at Annex 4.

Summary

40. To date, the evidence base demonstrates the following:

Spread of student housing

41. Mapping shows a significant spread of concentrations of student housing since 2000 in the following wards; Hull Road, Heslington, Fishergate, Heworth, Guildhall and Clifton. In some cases, the number of student households is more than six times higher from 2000 to 2010. Mapping also shows a clustering effect developing. It is likely that unless managed the spread of concentrations of student housing will continue.

Anti social behaviour/crime

42. Data from the Safer York Partnership indicates that several of the student areas experience above average incidences of antisocial behaviour and crime. In some student areas more than double the average number of incidents of crime and anti social behaviour were recorded. This is despite numerous initiatives targeting student areas and students to decrease crime levels. It should be noted that crime in student areas cannot be attributed to students, indeed students are often themselves the victims of crime, such as burglaries.

Poorer standards of property maintenance and repair

43. Residents have indicated that there are a number of environmental problems visible in areas with high concentrations of student housing such as properties in a state of disrepair and neglected gardens. Stating that a contributing factor is the higher levels of transience caused by large proportions of privately rented properties and lower levels of owner occupation; meaning that people may feel less desire to look after the area if they are only staying for a short time, and landlords may not maintain their properties to the same level as owner occupiers or longer term tenants.

Littering and accumulation of rubbish

44. Incidences of littering recorded by the Council's Neighbourhood Services are above average in several of the areas with the highest proportion of student houses. Work is undertaken by the Council to prepare for the start and finish of each academic year to try to mitigate the environmental problems which

are worse at these times. However, residents have raised littering and the accumulation of rubbish as an issue on a number of occasions.

Noise nuisance

45. Noise nuisance is most keenly felt by long-term residents in areas where student concentrations have risen recently but were traditionally catered for families. Many residents in these areas feel that noise is having a negative impact on their residential amenity. In some Output Areas where there are 20% and over concentrations of student housing the number of noise nuisances complaints received by the Council were double the city average.

Demand/effects on local services

46. Residents have expressed concern that local retail services are catering for the student population at the expense of established residents. Analysis of the street surveys indicated that there were a large proportion of take-aways in the student areas, however this is not restricted to student areas and was evident in the 'control' comparison streets. With regard to schools, there is no positive correlation between high proportion of students and low proportion of school age children, indicating there are other variables which impact upon school role numbers. However, it is acknowledged that where there are few school age pupils living in an area this has implications for the social and community interactions that typically take place between children and parents at the school gate within local communities.

Parking pressures

47. Analysis of the Street Surveys was inconclusive regarding parking pressures in student areas, with many student areas having permit parking as means of control. However, residents have expressed concerns regarding parking on grass verges and the blocking of junctions, which they state is due to more people living in a converted HMO than would generally live in the same size house occupied by a family.

Lack of community integration and 'community spirit'.

48. Residents have expressed significant concerns regarding the effects large concentrations of student housing is having on community spirit, with a number of residents, the BHRCH and Osbaldwick Parish Council commenting a lack of integration between transience student residents and established residents.

Ongoing work

49. As part of our ongoing further work we are in the process of arranging public consultation in the form of a focus group event and an online questionnaire. This would contribute to the evidence base and informing any policy approach. However, given the scale of work involved in setting up, running and analysing the outcomes of the focus group and online student

questionnaire and in light of University term dates it is likely that these elements of our work will not be completed until late January/February 2011. It is also necessary to conduct telephone interviews with Estate Agents to explore whether families are being pushed out of student areas.

Focus Group

50. A focus group will take place early in January, mindful of University term dates. It is envisaged that this would be a half day event. The focus group will further explore student housing issues and discuss balanced communities and a threshold of when a community becomes imbalanced. This would inform any policy approach. It will also be an opportunity to discuss an accreditation scheme (see Paragraph 6). Representatives from the following groups will be invited:

- Residents (those that have sent correspondence expressing their interest in this issue).
- Parish and Ward Councillors.
- City of York Council Officers from a range of teams (planning, environmental health, parking services, housing, education, Safer York Partnership).
- Students.
- Representatives from Student Unions.
- Representatives from all Higher Education Institutions.
- Representatives from the Talkabout Panel.

Online Survey

51. Discussions have taken place with colleagues in Marketing and Communications regarding the possibility of running an online questionnaire to be emailed to students to explore the drivers behind the student housing market. We are in the process of preparing the questionnaire and collaborating with the universities to obtain circulation lists. The survey will explore issues such as the following; rental rates, satisfaction with accommodation, preferred locations to live and reasons why and the likelihood of staying in York, and where they would be likely to locate. It is likely that this questionnaire will be circulated early in the new year, with analysis expected early February.

Telephone Interviews with Estate Agents

52. As set out in paragraph 26, further work is necessary to explore the effect student housing is having on the wider housing market and in particular on owner occupation and family housing. This work would include conducting telephone interviews with Estate Agents to obtain their professional views on whether they are seeing families pushed out of student areas by the buy to let market, relating to the loss of family housing and whether house prices are being inflated by the private rented sector.

Analysis

53. Legislation came into effect on 1 October 2010 whereby changes from C3 (dwellinghouse) to C4 (House in Multiple Occupation) became permitted development meaning that planning permission is no longer required to turn a house into an HMO. As such, the only way for Local Authorities to regain control of HMO development is to implement an Article 4 Direction withdrawing the permitted development right and requiring the submission of a planning application for this change of use.
54. Historic mapping shows a clear spread of student housing in several of the cities Wards over the ten year period between 2000 and 2010, indicating clustering in the Clifton/Guildhall Wards and Hull Road. It is likely that without being managed, changes of use to student HMOs will continue, leading to further clusters of concentrations of student housing. This evidence of the spread of student housing provides a strong justification for implementing an Article 4 Direction on a city wide scale.
55. The emerging evidence base indicates that it is likely that the concentrations of student housing identified in our mapping exercise are having a detrimental impact on their neighbourhoods. These impacts can be identified through quantitative and qualitative work. This work indicates that areas with high concentrations of student housing suffer from crime, burglary, noise nuisance and poor quality of environment. Albeit not all crime can be attributed directly to students, who are often the victim of crime themselves.
56. Although Output Areas in Badger Hill and Osbaldwick are not currently experiencing student household concentrations of 20% or above the outcomes of the BHRCG survey and residents concerns from both areas are important given the evidence of the historic spread of student housing. If left unmanaged it is likely that residents concerns could be exacerbated in the future as student households and clustering continues. Particularly give that these areas are approaching concentrations of 20%.
57. Given recent guidance from CLG and emerging approaches in other Local Authorities, it is Officers opinion that the preferred approach to any Article 4 Direction would be for a city wide Article 4 Direction, covering the main urban area, mindful of advice from Legal on what evidence is required. This is considered to offer the most equitable approach and will give us maximum flexibility in managing student housing/HMOs. It would also prevent the displacement of any issues which would be likely to occur if a Direction was implemented at a smaller scale. It should be noted that the effect of an Article 4 Direction is not to prohibit development, but to require a planning application to be submitted. As such, there would also be a requirement to develop a policy response to provide guidance for determining planning applications. A policy approach could be developed based upon a threshold approach, identified through the consultation described above.

Guidance from Legal Services

58. The Council can remove permitted development rights through the Article 4 Direction process to cover any geographic area where it is satisfied that it is expedient to do so. Directions can be property or area specific, or they can cover an entire Local Authority area. The reasons for making an Article 4 Direction should be justified by evidence of local circumstances being such that there are compelling reasons to impose an exceptional control and should be in accordance with Government guidance. Government guidance states that there should be particularly strong justification for the withdrawal of permitted development rights relating to a wide area. A proportionate approach consistent with the guidance is less likely to be the subject of legal challenge.
59. Planning controls introduced by Article 4 Directions can either take effect immediately or could come into effect after a minimum period of 12 months. In the case of a non-immediate Article 4 Direction, there would be a 12 month period during which landlords can convert their dwellinghouses (C3) to HMOs (C4) using permitted development rights.
60. The main difference between the types of Article 4 Direction is the issue of compensation liability for the Local Authority. There is no provision for compensation claims against Councils in respect of non-immediate Article 4 Directions, that come into effect after a minimum period of 12-months following designation. In the case of Article 4 Directions with immediate effect, Local Authorities are at high risk of substantial compensation claims by applicants, who can claim compensation under section 108 of the Town and Country Planning Act 1990 (as amended). They can do so if their planning applications, submitted within one year of the Article 4 Direction designation, are either refused planning permission or granted planning permission subject to more limiting conditions than permitted development would normally allow. They are entitled to claim compensation for financial losses incurred, including process costs, loss of land value and loss of future income.
61. A formal consultation/publicity period would be required in making any Article 4 Direction and any responses received must be considered before confirmation of the Direction.
62. If the Council introduces an Article 4 Direction to control the change of use from C3 to C4 HMO in any given area, the Council will need to develop a clear planning policy position on HMOs against which new HMO applications can be assessed.
63. It appears from the evidence base work detailed in this report that high concentrations of HMOs are having detrimental impacts on their neighbourhoods sufficient to justify the use of an Article 4 Direction that covers areas where there is an existing problem. A Direction that relates to a wide geographical area such as the main urban area of the city or the entire area of the Local Planning Authority requires particularly strong justification. Whilst the evidence does not appear to justify the blanket withdrawal of

permitted development rights across the entire area of the Authority, it does indicate a need to manage the urban areas that currently have a lesser concentration of HMOs to prevent HMOs moving from areas covered by an Article 4 Direction to those without it. The ongoing consultation work referred to in paragraphs 50 to 52 of the report would enable an informed decision to be made as to the appropriate geographic scope of an Article 4 Direction, which would need to be defined on a plan. This consultation work would also provide a more robust evidence base for a wide Article 4 Direction in the event of any legal challenge.

Options

64. The options below are available to Members.

Option One: Await the outcomes from the focus group and student survey before considering making an Article 4 Direction to remove permitted development rights for changes from Class C3 (dwellinghouse) to Class C4 (HMOs).

Option Two: Progress with implementing a city wide Article 4 Direction, that covers the main urban area, as soon possible to remove permitted development rights for changes from Class C3 (dwellinghouse) to Class C4 (HMOs).

Option Three: Progress with implementing a more limited, area specific Article 4 Direction as soon possible, to remove permitted development rights for changes from Class C3 (dwellinghouse) to Class C4 (HMOs).

Option Four: An alternative approach as directed by Members of the LDF Working Group

Analysis of Options

Option One

65. Whilst it is acknowledged that the evidence base work is robust, consultation forms an important element of the planning system, providing a valuable qualitative strand to evidence base work. Officers will run a focus group event and online questionnaire as set out in paragraphs 50 and 51. Analysis from this work will provide comments from a range of stakeholders and provide a useful understanding of the drivers of the student housing market. After the further proposed work is undertaken the evidence base will be robust and an informed decision can then be made on the appropriateness of an Article 4 Direction and at what geographic scale. The outcomes of the consultation exercise will also form an essential element of policy formation should an Article 4 Direction be implemented.

Option Two

66. The evidence base work undertaken to date indicates that an Article 4 Direction could be justified to allow the Council to manage the spread of HMOs and in particular student housing. Albeit, consultation with stakeholders has not yet been undertaken (see above). The most appropriate scale for an Article 4 Direction is considered to be city wide, as this is felt to be the most equitable approach and offers the most flexibility in managing HMOs. A non immediate Direction, giving 12 months notice so that the council is not liable to compensation is considered to be the only credible option. This is in line with the approach taken by several other Local Authorities (see paragraph 11).

Option Three

67. Implementing an Article 4 Direction relating to a more tightly drawn boundary may be appropriate. This option would involve further analysis of the mapping to assess which areas the Direction should apply. Having regard to the spatial distribution of student housing this is likely to result in several separate areas being identified rather than one contiguous area. It should be noted that this approach may still result in further concentrations of student housing developing in areas adjacent to areas covered by Article 4 Direction. As for Option Two, this option would result in a non immediate Direction being implemented to avoid compensation liability.

Option Four

68. Members may wish to propose an alternative approach. This could include implementing an immediate Article 4 Direction (either city wide or to specific areas) bringing with it potentially significant levels of compensation which the council would be liable to pay. Alternatively, Members may decide that an Article 4 Direction is not appropriate for York.

Next Steps

69. If Members were to approve the Officers recommendation below to undertake the consultation element of the evidence base work prior to making a decision on implementing an Article 4 Direction it is likely that these elements of the evidence base will be completed by January/February and following analysis, reported back to Members in March to allow a decision to be made on implementing an Article 4 Direction. When reported back to Members, Officers will be in a position to provide a recommendation on whether it is appropriate to implement a Direction and the geographic scale of any direction.
70. If members were to go for Option 2 or 3 above, it would be necessary to seek Executive approval to implement an Article 4 Direction. This would require the Executive to delegate authority to the Director of City Strategy, in consultation with the Executive Member, to publish an intention to make an Article 4 Direction (with 12 months notice) to consider any representations made and confirm the direction if appropriate.

Corporate Priorities

71. Exploring the impacts of student housing relates to the following Corporate Strategy Priorities:

- The Sustainable City;
- Thriving City;
- The Learning City;
- The City of Culture;
- The Safer City;
- The Healthy City; and
- The Inclusive City.

Implications

72. The implications are as listed below:

- **Financial:** Yes, the body of the report addresses the significant potential compensation liability should the Council make an Article 4 Direction in any given area with immediate effect. See Paragraph 60.
- **Human Resources (HR):** None
- **Equalities:** None
- **Legal:** Yes, legal and compensation issues are addressed in the body of the report (see Paragraphs 58 to 63). It is difficult to quantify the potential level of compensation the Council may be liable for should it make an Article 4 Direction in any given area with immediate effect. However, the potential for compensation is of significant concern, hence the officer recommendation that an immediate Direction should not be implemented.
- **Crime and Disorder:** None
- **Information Technology (IT):** None
- **Property:** None
- **Other:** None

Recommendation

72. That the LDF Working Group recommend the Executive to:

- (i) Instruct Officers to undertake further work as outlined in Option One.

Reason: To complete the consultation element of the evidence base to justify an Article 4 Direction.

Contact Details

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Report Approved

Date 22 December 2010

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report

Technical Annexes

Annex 1: Spread of Student Housing 2000-2010

Annex 2: Output Areas with 20% or higher proportion of student housing

Annex 3: Quantitative Evidence Base

Annex 4: Qualitative Evidence Base

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