

DECISION-MAKER:	CABINET		
SUBJECT:	HMO ADDITIONAL LICENSING DESIGNATION FOR SHIRLEY, FREEMANTLE, BASSETT AND MILLBROOK WARDS		
DATE OF DECISION:	14 JULY 2015		
REPORT OF:	CABINET MEMBER FOR HOUSING AND SUSTAINABILITY		
<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY

NOT APPLICABLE

BRIEF SUMMARY

Approval is sought for designating the area of Southampton known as Freemantle, Shirley, Bassett and Millbrook electoral wards as being subject to Additional Licensing of Houses in Multiple Occupation (HMOs), coming into effect on 20 October 2015 for a period of five years.

RECOMMENDATIONS:

- (i) To note the outcome of a full consultation, which has taken place in accordance with the Housing Act 2004; and
- (ii) To approve the designation of the area of Southampton known as Freemantle, Shirley, Bassett and Millbrook electoral wards as being subject to additional licensing, requiring all houses in multiple occupation (HMOs) to be licensed, apart from section 257 HMOs and buildings exempted by Schedule 14 of the Housing Act 2004, the designation to take effect on 20 October 2015 for a period of five years.

REASONS FOR REPORT RECOMMENDATIONS

1. The evidence shows that a significant proportion of HMOs in Freemantle, Shirley, Bassett and Millbrook wards are being managed ineffectively giving rise to problems for the tenants occupying them and/or members of the local community.
2. These problems include poor property conditions and antisocial behaviour, which are not being adequately addressed through the council's Mandatory Licensing Scheme (which covers HMOs comprising three or more storeys and occupied by five or more people) and other enforcement and regulatory

measures available.

3. The Council has considered other courses of action, including the use of existing powers under the Housing Act 2004, but has determined that these will not be as effective in dealing with the problems in question.
4. Making the designation would assist the council in dealing with the problems associated with HMOs. The Council has considered the possible negative impacts but has concluded that the proposed scheme will not increase homelessness or the number of empty properties in the area. This conclusion is based on the evidence it has, including that for the current additional licensing scheme covering the Bevois, Bargate, Portswood and Swaythling electoral wards. The introduction of a licensing scheme would give the council the resources it needs to robustly tackle problems and improve management and standards. In conjunction with other courses of action, it would also enable the council to focus on those areas with the most serious issues. The introduction of a scheme would be a proportionate response to addressing community concerns about the local impact of HMOs whilst ensuring safe, good quality privately rented accommodation is available to meet housing need.
5. Delegating authority to the Head of Regulatory and City Services for any changes required to the Council's HMO licensing policy or procedures, and undertake such actions necessary to enable the successful delivery of the scheme, subject to the appropriate consultation, will help ensure its smooth implementation from 20 October 2015. The Head of Regulatory and City Services, already has delegated authority under the Officer Scheme of Delegation to determine and alter as necessary a scale of reasonable fees for the licensing of HMOs, in consultation with the relevant Director.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

6. That the Council manages issues associated with HMOs without any Additional Licensing designations.
7. Section 57(4) of the Housing Act 2004 requires the council to consider alternatives to licensing that might provide an effective method of dealing with the problems identified. An evaluation of different options was carried out.

DETAIL (Including consultation carried out)

8. The Housing Act requires the Council to show evidence that a significant proportion of HMOs in the proposed area are being poorly managed giving rise to problems for either the tenants occupying them or members of the local community. This evidence collated includes information about the nature, condition and number of complaints received about this type of accommodation. Residents regularly complain about significant and persistent problems with noise nuisance, litter, waste, lettings boards and external conditions impacting upon the general character and amenity of the local area. The city has a higher than national average number of HMOs (approximately 9.3% against 2% nationally) and many have repair issues. Fire

safety is a big concern as well as the properties being well managed to reduce impact on neighbourhoods.

9. There have been over 2,500 applications for the existing designation in Bevois, Bargate, Portswood and Swaythling (estimated 4,500 HMOs). Over 2,000 licences have been issued. The HMO wardens are providing practical support at street level to work with tenants, landlords and residents to minimise issues including waste (over 200 cases) and letting boards (over 300 properties). Working together with other council services to ensure improvements are made that affect the overall area.
10. A consultation was approved by Cabinet in November 2014 and ran for twelve weeks from 27th January 2015. The consultation was well-publicised and had a strong response from a broad range of interested parties, including landlords, landlord associations, tenants, residents and residents groups. 503 questionnaires were completed, many with detailed comments and there were also 21 written submissions made. Approximately 100 people attended three drop in sessions, a consultation forum meeting (all arranged by the council) and two landlord forums.
11. The majority of respondents believed that the correct area had been selected to form the proposed scheme (82%) and almost everyone who responded thought that all HMOs should be included (92%). In terms of the proposed aims and objectives, there was broad support (90% agreed strongly or agreed). The majority of responses (79%) either agreed or strongly agreed that the proposals for the scheme would ensure landlords manage their properties well and also that the scheme proposals would improve the condition of HMOs in the area (80%).
12. The written submissions contained differing views, with strong support for the proposals from tenants, residents, resident groups and many landlords. The Southern Landlords Association have worked closely with the council as part of the Landlord Consultative Forum since the implementation of the first Additional HMO Licensing scheme in 2013. They have expressed support for the scheme proposals and to continue working with the council as part of the forum. The principal objections were from the National Landlords Association who expressed concerns about the impact of the proposed scheme on existing other council services, the housing market in the city being distorted as landlords either leave the HMO market or relocate their business to areas of the city where there is no licensing designation and also that the fees may be passed onto the tenants. The service needs to monitor the impact of the licensing schemes on the housing market, both designations would include the majority of HMOs estimated to be in the city. A number of written submissions from landlords questioned the timing of the proposed second designation and the ability of the council to continue seeking out and dealing robustly with non-compliant landlords in the existing area as well as starting work in the proposed new designation. The scheme is committed to identifying all HMOs in the existing designation with dedicated resources to do this; good progress has been made and three successful prosecutions have already been made with more likely to follow. The proposals for the new designation include adequate staff resource to fully deliver the scheme.
13. All representations made in accordance with the consultation were considered

and as a result, the proposed scheme was amended to remove s257 HMOs from being included (a building or part of a building converted into self-contained flats).

14. The scheme proposes the retention of the surveyor route for landlords to use. However, applications using this route would need to be made within 3 months of either the designation being made, a property becoming licensable or the acquisition of an HMO.
15. Section 57(3) of the Housing Act 2004 states that when making a designation, the council must also seek to adopt a coordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector. These have been incorporated into the Council's objectives for the proposed scheme as well as the existing scheme, to:
 - Keep occupants safe by ensuring the effective management of all HMOs;
 - Improve living conditions by ensuring that appropriate facilities are provided;
 - Improve housing standards and maintenance within HMOs, with a particular emphasis on security, fire safety and thermal comfort;
 - Ensure that landlords exercise appropriate management and supervision of their properties to help reduce any adverse impact of HMOs on the neighbourhood and local communities;
 - Build on and expand existing partnerships with landlords, managing agents, tenants, universities, community groups and others;
 - Encourage and support owners and managing agents of HMOs to work proactively with the council to achieve clearly defined standards and effective management;
 - Facilitate stable and integrated communities through policy and the proactive targeting of risk-based and proportionate interventions;
 - Reduce the number of complaints about HMOs received by the council and its partners, such as universities and the fire service;
 - Have no adverse effect on homelessness in the city;
 - Ensure there is not an increase in the number of empty properties.
16. There are an estimated 2000 HMOs in the Freemantle, Shirley, Bassett and Millbrook wards. With an estimated 4500 HMOs in the Bevois, Bargate, Portswood and Swaythling wards this equates to the majority of the estimated 7,000 HMOs across the city.
17. It is proposed that the designation will not apply to any building which is an HMO as defined by section 257 of the Housing Act 2004, relating to certain converted blocks of flats. Resident landlords with up to two lodgers are not defined as HMOs.
18. The report was considered by Overview Scrutiny and Management Committee on 11th June 2014 and the required recommendations were made:
 - (a) That the Cabinet Member considers including within the Cabinet report evidence that the HMO Additional Licensing Scheme demonstrates additional value. This is included within the detail of the report.
 - (b) That data on the contribution made by HMO Wardens is either

circulated to the Committee or incorporated within the Cabinet report. This has been included within the report.

19. A Health and Overview Scrutiny Panel enquiry was completed in 2014 looking at the impact of homelessness on the health of single people. The panel heard evidence from a wide range of witnesses and developed a series of recommendations; one of which was to undertake an evidence based review of the effectiveness of the HMO licensing scheme to ensure that standards of quality are maintained for all private sector tenants in the City and to support the decision making process for whether to expand the scheme to other wards in the city. This enquiry has been taken into account when compiling this report and its recommendations.

RESOURCE IMPLICATIONS

Capital/Revenue

20. There are no capital implications.
21. Section 63 of the Housing Act 2004 gives the council the statutory power to charge fees for HMO licensing, including additional licensing. In particular, section 63(3) states that the council may, “require the application [for an HMO licence] to be accompanied by a fee fixed by the authority.”
22. The HMO licensing fees would be set at a level that is reasonably expected to cover the costs of providing the service based on estimated officer time and associated costs involved in processing the applications, inspections, monitoring and enforcement as well as relevant overheads. The proposed fees are set out in Appendix 1. The fee levels will apply to all Licensing schemes across the city. They are structured to encourage good practice by rewarding landlords who comply with their requirements whilst assisting the council to target those who are non-compliant, and puts the scheme on a sustainable footing.

Property/Other

23. The most effective use of flexible working arrangements will be made for new and existing staff to reduce the impact on office accommodation. New staff will therefore be accommodated within the “hot desking” area in the Civic currently designated to Regulatory Services.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

24. A local Housing Authority can designate an area within its district for Additional HMO Licensing pursuant to Section 56 Housing Act 2004. For the scheme to be lawful the Local Housing Authority must comply with sections 56 to 59 inclusive of the Housing Act 2004 and also follow the Communities and Local Government guidance, entitled “Approval steps for additional and selective licensing designations in England”.
25. The legislation states that the authority must consider that a significant proportion of HMOs in the area are being managed sufficiently ineffectively as to give rise, or likely to give rise to one or more particular problems either to those occupying the HMO or for member of the public. Before making the designation the authority must take reasonable steps to consult persons who

are likely to be affected by the designation, and consider any representations made.

Other Legal Implications:

- 26. Designation of the wards subject to additional licensing cannot come into force unless the designation has been confirmed by the Secretary of State, or falls within a general approval. The proposed designation falls within the 2010 General Approval. If a designation is made, section 59 of the Housing Act 2004 provides for publication of a notice confirming the fact of designation.

POLICY FRAMEWORK IMPLICATIONS

- 27. The proposal is consistent with the Council’s Housing Strategy 2011-2015 and in particular with its objective to focus on privately rented homes in the worst condition. The Private Housing Renewal Strategy 2011-2015 also states that resources should be focused on tackling properties in the worst condition and that licensing will be carried out in accordance with the Council’s HMO Licensing Policy.
- 28. In July 2012, the Housing Strategy Action Plan was updated to incorporate a commitment to bring forward an Additional Licensing Scheme for houses in multiple occupation in 2013, following consultation, to improve the management of this type of accommodation.

KEY DECISION? Yes

WARDS/COMMUNITIES AFFECTED:	SHIRLEY, FREEMANTLE, BASSETT & MILLBROOK
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SUPPORTING DOCUMENTATION

Appendices

1.	Proposed HMO Licensing Fee structure
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Documents In Members’ Rooms

1.	Evidence to Support Additional HMO Licensing
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Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out?	Yes
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Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at: Regulatory Services, Southampton City Council, One Guildhall Square, Southampton, SO14 7FP

Title of Background Paper(s)	Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)
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None