

DECISION-MAKER:	CABINET
SUBJECT:	LICENSING SCHEME FOR HOUSES IN MULTIPLE OCCUPATION (HMOs)
DATE OF DECISION:	21 AUGUST 2012
REPORT OF:	CABINET MEMBER FOR HOUSING AND LEISURE
STATEMENT OF CONFIDENTIALITY	
NOT APPLICABLE	

BRIEF SUMMARY

Proposals are outlined for a Southampton Licensing Scheme for Houses in Multiple Occupation (HMOs) that will incorporate properties subject to mandatory HMO licensing and smaller properties through an Additional Licensing Scheme. This is considered to be a proportionate response to proactively improving property standards and management in Southampton's HMOs. Approval is sought to initiate a twelve week consultation on these proposals with residents, landlords and others.

RECOMMENDATIONS:

- (i) That Cabinet approves the proposals for a Southampton Licensing Scheme for Houses in Multiple Occupation (HMOs) for public consultation, for twelve weeks from 3 September 2012 to 26 November 2012.
- (ii) That Cabinet considers the outcome of the consultation at its meeting on 29 January 2013 and, if appropriate, designates the entire City as being subject to additional licensing, which will come into effect on 1 April 2013 and be phased over five years.

REASONS FOR REPORT RECOMMENDATIONS

1. Evidence shows that there are significant problems associated with Houses in Multiple Occupation (HMOs) in Southampton, including poor property conditions, poor management and anti-social 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.
2. An Additional Licensing Scheme covering smaller HMOs, including those consisting of two storeys and those occupied by three or more unrelated people, would help to improve the condition and management of these properties. This would be a proportionate response to address community concerns about the local impact of HMOs whilst ensuring safe, good quality privately rented accommodation is available to meet housing needs. The mandatory and additional elements of HMO licensing would together form the Southampton HMO Licensing Scheme.
3. The Housing Act 2004 requires a public consultation on proposals for an Additional Licensing Scheme before any designation is made.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

4. That the Council manages issues associated with HMOs without an Additional Licensing Scheme. The Article 4 Direction now means that planning permission is required for all new HMOs in the City, but this does not apply to existing HMOs. A 'virtual HMO' team, made up of all Council services involved in regulating HMOs, has targeted enforcement effectively, but the proposed Southampton HMO Licensing Scheme would enable a more proactive and comprehensive approach and will significantly assist the Council in dealing with HMO issues.
5. That an Additional Licensing Scheme be implemented without public consultation. This has been rejected as it would be unlawful. The General Consent given by the Secretary of State on 30 March 2010 to local authorities to designate an area or areas does not apply unless consultation has taken place for a minimum of ten weeks.

DETAIL (Including consultation carried out)

6. Southampton City Council values its very large private rented sector (at around 24,000 properties comprising at least 24% of the whole housing stock) and wants to see a strong, healthy and vibrant market. The sector has an important role in providing often reasonably priced housing for those not wishing or able to consider home ownership, or for those to whom social housing is not an option, as well as providing housing for the City's student population. The sector offers flexibility and capacity that is key to addressing housing need in the City. Historically, the Council has been keen to ensure that HMOs are improved. In 1995, the Council established the Freemantle and Polygon HMO Registration scheme and since April 2006 has administered a city-wide Mandatory HMO Licensing Scheme.
7. The Council is keen to ensure that the housing needs of a wide range of private rented tenants are met through well managed, quality accommodation. However, the private rented sector has some significant problems for which statutory regulation, particularly licensing, is required. The City has a large number of Houses in Multiple Occupation (HMOs), estimated at 7,000 properties. These are amongst the more difficult to manage properties in the sector. In some HMOs, the standards of management and living conditions are very poor. A licensing scheme that covers all HMOs would allow the Council to proactively identify and engage with landlords, particularly with the less responsible landlords to drive up standards in the sector. This is particularly important due to changes to the benefit system (generally for most groups of people and, since January 2012, those aged under 35 and renting from a private landlord can only receive housing benefit at a single room rate.) High densities of HMOs in some areas of the City have also led to community concerns, including noise, antisocial behaviour, crime, letting signs, waste and recycling, which licensing of all HMOs would also help to tackle.
8. Licensing has significant social and financial benefits to the general economy of the City. It maintains the buoyancy of the rental market by ensuring that the better landlords are not disadvantaged by non-compliant landlords. Evidence in other cities with additional licensing, such as Oxford, has shown that some of the worst landlords are being driven out of the market.

9. Mandatory HMO licensing, which applies nationally, is aimed at those HMOs that present the highest safety risks to occupiers, namely those of three storeys or more and occupied by five or more unrelated people. 392 properties are currently licensed under the Mandatory Licensing Scheme in Southampton.
10. In addition to these larger HMOs, research suggests that there are potentially 6,500 smaller HMOs, predominantly in the central and northern areas of the City that the current licensing scheme does not cover, among which there is evidence of unsatisfactory management, disrepair, inadequate safety standards and community harm.
11. The consultation therefore proposes that an Additional Licensing Scheme be implemented to cover smaller HMOs containing three or more people regardless of the number of storeys, throughout the entire City. The Southampton HMO Licensing Scheme would incorporate both mandatory and additional licensing schemes. Evidence suggests that the condition and management of HMOs are independent of their location in the City. Although complaints from residents about noise, waste, antisocial behaviour and other issues are concentrated in areas of the City with high densities of HMOs, very poor housing conditions and management are also often found when investigating complaints about HMOs in areas with lower densities.
12. It is proposed to phase the designations for an Additional Licensing Scheme, so that all of the 6,500 smaller HMOs will become eligible for licensing over a five year period, as set out in figure 1 below. All HMOs in an Electoral Ward would become eligible for licensing at the same time, which will help with administration and enforcement. From April 2017, all privately rented houses occupied by three or more people (including children) who form two or more households will require a licence.

Year	Electoral Wards	Properties (estimate)	Inspections (cumulative)
1	Bargate	2,000	1,300
2	Portswood and Swaythling	1,500	2,600
3	Bevois	1,500	3,900
4	Freemantle, Shirley and Bassett	750	5,200
5	Remainder of city	750	6,500

Figure 1: Proposed phasing of Additional Licensing Scheme

13. A phased implementation will help to ensure a similar number of inspections are carried out each year during the initial five year programme (1,300 a year or 25 a week). Each application will be risk assessed, with properties likely to be higher risk or poorly managed visited first. The other properties will be issued a licence following a desktop review, pending a full inspection. The Council has a duty to determine that a property is free of serious hazards within five years of it being licensed. The proposed phasing takes account of areas of the City with the highest densities of HMOs.

14. These proposals will help to more effectively integrate licensing and planning enforcement across the entire sector and a complete database of HMOs will help considerably with the determination of new planning applications.
15. 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.
16. The Southampton HMO Licensing Scheme would involve the following checks: determining that the landlord or manager is a 'fit and proper person', making sure that the property is free from serious housing hazards, checking gas and electrical safety certificates, fire safety and waste disposal arrangements. It is proposed to ensure that the property is suitable for housing people to whom the Council owes a duty under homelessness legislation. This will include asking for carbon monoxide detectors and an Energy Performance Certificate (EPC). Licence conditions would deal with antisocial behaviour, waste in gardens and lettings signs.
17. The costs of the scheme, including costs associated with monitoring and enforcement of licence conditions will be paid for by the licence fee, which is expected to be set at £500 per property for a five year licence. All inspections will be carried out by Council officers.
18. The proposed Southampton scheme is compared with the current mandatory scheme and the scheme implemented by Oxford City Council below.

	Current Scheme	Proposed Scheme	Oxford Scheme
<i>Type of HMOs included</i>	3 storeys and above with 5 or more occupiers	3 or more occupiers	3 or more occupiers
<i>Coverage</i>	City-wide	City-wide	City-wide
<i>Length of licence</i>	Five years	Five years	One year
<i>Cost to licence typical HMO for five years</i>	£225	£500	£1,211 (large) £1,006 (small)
<i>Reduced fee for private survey*</i>	Yes	No	No
<i>Higher fee for failure to apply or delay</i>	Yes	Yes	Yes
<i>Discount for multiple applications</i>	No	Yes	Yes

*Applicant can submit a survey report from an approved surveyor for a reduced fee

Figure 2: Scheme comparisons

19. Persistent failure to apply for a licence or comply with licence conditions could result in prosecution, an application for a Rent Repayment Order and, in very serious cases, for the Council to take over the management of a property.

20. The consultation will include landlords, letting agents, residents and tenants groups, universities, Shelter, local agencies (including Hampshire Fire and Rescue and Hampshire Constabulary) involved with housing and the general public. Four stakeholder focus groups are planned – in the Polygon (which will include door to door consultation to coincide with a Street Cred event); in Portswood/Highfield; at the Civic Centre; and in partnership with Southampton Solent University and the University of Southampton, for Southampton Accreditation Scheme for Student Housing (SASSH) accredited landlords. Presentations will be made at local branch meetings of the National Landlords Association (NLA) and the Southern Landlords Association (SLA). There will be paper and online questionnaires.
21. It is proposed that the scheme be reviewed after five years, which will include an evaluation of its impact on housing conditions, community concerns, health and wellbeing and supply of good quality, affordable housing.

RESOURCE IMPLICATIONS

Capital/Revenue

22. There are no capital implications.
23. The HMO licensing fees will 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. A higher or “penalty fee” is proposed for non-compliant landlords, in common with the current mandatory licensing scheme. The cost of a typical five year licence is expected to be £500, but the final cost of the scheme will depend on the outcome of the public consultation and will be submitted for approval by Cabinet in January 2013.
24. Income from the scheme would be ring-fenced for spending on regulating HMOs, including inspecting each property and ensuring compliance with licence conditions. It is anticipated that this will create 13 to 15 new jobs.

Property/Other

25. Accommodation needs for new staff will need to be assessed and the most effective use of flexible working arrangements will be made for new and existing staff, including working from home and the use of “hot desks”.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

26. Before introducing an Additional HMO Licensing Scheme, the Council must comply with the specific requirements set out within sections 56 and 57 of the Housing Act 2004. This includes being satisfied that a significant proportion of the HMOs proposed under the additional scheme are being managed sufficiently ineffectively. The Council must also consider whether there are any other courses of action available to them that might provide an effective method of achieving the objectives of any proposed designation and how the making of the designation will significantly assist the council in achieving its objectives. The Council must also consider the Departmental guidance document, “Approval Steps for Additional and Selective Licensing Designations in England”. Consultation must also take place and the scheme must be consistent with the authority’s overall housing strategy.

Other Legal Implications:

27. 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 designations fall 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

28. The recommendations are consistent with the Housing Strategy 2011-2015.

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KEY DECISION? Yes

WARDS/COMMUNITIES AFFECTED:	ALL
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SUPPORTING DOCUMENTATION

Non-confidential appendices are in the Members' Rooms and can be accessed on-line

Appendices

	None
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Integrated Impact Assessment

Do the implications/subject of the report require an Integrated Impact Assessment (IIA) to be carried out.	Yes/ No
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Other Background Documents

Integrated Impact Assessment and Other Background documents available for inspection at:

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