

DECISION-MAKER:	CABINET
SUBJECT:	ADDITIONAL LICENSING SCHEME FOR HOUSES IN MULTIPLE OCCUPATION (HMOs)
DATE OF DECISION:	26 NOVEMBER 2024
REPORT OF:	COUNCILLOR ANDY FRAMPTON CABINET MEMBER FOR HOUSING OPERATIONS

<u>CONTACT DETAILS</u>			
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STATEMENT OF CONFIDENTIALITY	
Not applicable	
BRIEF SUMMARY	
Approval is sought to initiate a twelve-week public consultation on the proposals to designate an additional Houses in Multiple Occupation (HMO) licensing scheme for the wards Banister & Polygon, Bevois, Bargate, Portswood, Swaythling, Bassett, Freemantle, Shirley & Millbrook.	
RECOMMENDATIONS:	
(i)	That Cabinet approves the proposals for a public consultation for an additional HMO licensing scheme in Banister & Polygon, Bevois, Bargate, Portswood, Swaythling, Bassett, Freemantle, Shirley & Millbrook wards. The proposed start of the consultation is from 3 rd December 2024 for twelve weeks.
(ii)	That Cabinet considers the outcome of the consultation at its meeting on 25th March 2025 and, if appropriate, designates the proposed area as being subject to additional HMO licensing, which will come into effect in May 2025, following required publication and advertising of scheme.
REASONS FOR REPORT RECOMMENDATIONS	
1.	Southampton City Council has previously designated three additional HMO licensing schemes within the city since 2013. These have covered the following wards: Bevois, Bargate, Portswood, Swaythling, Freemantle, Shirley, Bassett & Millbrook. Schemes once designated can only run for a maximum of five years, and on expiry cannot be renewed. The previous schemes have ensured that the majority of HMOs within Southampton fall

	under a licensing scheme and have to meet prescribed local standards covering, management, safety (& Fire safety) & amenities. These schemes have ensured that the HMO stock within the city is safe and well managed, reducing numbers of complaints from both tenants and nearby residents.
2.	The proposed scheme will require that all HMO properties (other than those covered by the Mandatory Licensing Scheme & HMOs governed by S257 of the Housing Act 2004) with three or more occupiers from two or more households, are licensed and must comply with any licence conditions including conditions relating to standards for safety, amenities and waste set by Southampton City Council.
3.	The previous additional HMO licensing schemes in the city resulted in over 3000 smaller HMOs being licensed. This had a very positive effect on the conditions of this type of property. Through licensing, Southampton City Council was able to deal more effectively with issues of poor property conditions, poor management and anti-social behaviour
4.	An additional HMO licensing scheme ensures that HMOs not covered by the national Mandatory licensing scheme are licensed to the same standards. It also ensures that concerns and complaints about conditions and the impacts of the HMOs on their local community can be addressed effectively and promptly. Particularly in regards issues of noise nuisance, anti-social behaviour and waste.
5.	Before any Additional HMO licensing scheme can be designated the Housing Act 2004 requires that a public consultation on the proposals be carried out. Cabinet approval is therefore required to initiate this consultation.
6.	The proposed new scheme would see between 2500-3000 smaller HMOs and HMOs within private purpose-built student accommodation blocks be subject to HMO licensing. In addition to the mandatory HMO licensing scheme this would result in approximately 5000 of the Cities estimated 6-7000 HMOs being under a licensing regime.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

7.	That the Council manages the issues associated with HMOs without an additional licensing scheme. The properties associated with the new designation approval have not been subject to any licensing since the previous schemes ended in October 2023. During this time there has been no proactive approach to deal with these properties and without a new scheme, problems associated with them cannot be as effectively or quickly addressed. The proposed new additional licensing scheme will enable a more proactive and comprehensive response and will significantly reduce complaints and problems associated with the high numbers of HMOs across this designated area.
8.	The Council could consider a city-wide scheme to cover all HMOs not captured by the Mandatory HMO licensing regime. However, there is currently insufficient evidence that there are sufficient numbers of HMOs within the other wards of the city and that these are poorly managed. The selected wards have all been subject to previous additional HMO licensing due to the numbers of HMOs and issues associated with them.

9.	The Council could solely rely on its existing regulatory powers under part 1 of the Housing Act 2004 & the Houses in Multiple Occupation (Management) Regulations 2009 to deal with issues resulting in poor management of these HMOs. However, without a licensing scheme in place the Council would only be providing a reactive response to issues arising from HMOs, whereas the licensing schemes permits a proactive approach to deal effectively with these HMOs. So, this would not be a favoured option to achieve the desired objectives.
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DETAIL (Including consultation carried out)

10.	There are an estimated 28,000 private rented properties in Southampton, of which HMOs make up approximately one quarter of this stock. The Councils objectives are to ensure that all privately rented properties are well managed and that the housing needs of the city's residents are met.
11.	Mandatory HMO licensing, which applies throughout England covers all the larger HMOs in the City. These are HMOs with five or more occupiers (from three or more households). There are approximately 2300-2500 of this type of HMO within the City out of an estimated 6000-7000 HMOs.
12.	The Council has designated three previous Additional HMO licensing schemes, which have resulted in a further 2500 HMOs being licensed, therefore covering circa 5000 HMOs and the majority of the estimated HMO stock in the city. These schemes were widely welcomed and have been integral in improving the HMO stock across the city, raising standards and reducing complaints from tenants and residents.
13.	<p>The first additional HMO licensing scheme was designated in 2013 covering all small HMOs in the Bevois, Bassett, Portswood & Swaythling Ward. This scheme expired in June 2018. The same four wards were then subject to a further additional licensing designation in October 2018 and this scheme expired in September 2023. These four wards contain the majority of the City's HMOs (both Mandatory & Additional), hence why they have been previously covered. The first scheme had a huge impact on HMO management and conditions, reducing complaints from tenants by 75% and complaints from local residents regarding noise nuisance and waste by 50%. However, full compliance with licence conditions was only 62%. Therefore, after its expiry it was deemed necessary to carry out a further designation to ensure continued improvement and ongoing management of this sector. This saw levels of compliance up to 80% by 2023.</p> <p>After a period of review and reflection of the previous schemes impact it has been determined that additional licensing is the best available tool to ensure that the smaller HMO sector continues to improve in these wards. In particular to tackle issues around anti-social behaviour and waste.</p>
14.	The other proposed wards: Shirley, Freemantle, Millbrook & Bassett were subject to an additional HMO licensing scheme in 2015 through until October 2020. This was a much smaller scheme, capturing circa 600 HMOs and on expiry was determined to have successfully achieved the desired outcomes, with circa 85% compliance with conditions and a significant reduction in complaints. It was therefore decided to keep the area under review but not immediately continue with a further designation of additional HMO licensing. Having now reflected and reviewed the previous schemes and assessed the

	current environment, it seems that a new designation to capture these wards is an appropriate method to ensure standards and management of HMOs in these wards is at the desired level and more uniform across a wider area.
15.	The Cost of the scheme, including costs associated with verification and processing of licences, monitoring and enforcement of licensing conditions will be covered by the licence fee. The fee for each HMO licence will be set appropriately to cover these costs for the five years of the scheme. The licence fees for the proposed scheme are expected to be broadly similar to the existing Mandatory licensing fees
16.	It will be an offence to operate an unlicensed HMO in the designated area. Failure to apply for a licence or comply with licence conditions will result in enforcement action. This could be through the issue of Civil Penalty notices and or prosecution.
17.	The proposed designation will not apply to any HMO covered by the Mandatory licensing regime or any building which is an HMO as defined by section 257 of the Housing Act 2004.
18.	The consultation will be widely distributed and will include landlords, letting agents, residents and tenant groups, local and national landlord associations, the Universities, local agencies & charities involved in housing and public safety, Hampshire Constabulary and Hampshire & Isle of Wight Fire & Rescue Service.
RESOURCE IMPLICATIONS	
<u>Revenue</u>	
20.	Subject to approval, the HMO licensing fees will be set at a level to cover the costs of providing the licensing scheme over its five-year duration. This will cover the costs of providing the service based on officer time and associated costs involved in verification, processing applications, inspections, monitoring and enforcement and all relevant overheads. The cost of an additional HMO licence is expected to be broadly similar to the current Mandatory HMO licensing fees. These range from £319 to £1,211. The fees will be submitted for approval by Cabinet in March 2025 following the outcome of the public consultation.
21.	The licence fees will be charged in a two-stage process. A lower Stage one fee will cover the initial verification, processing and property inspection. Stage two will cover all other actions, including issue of final licence and will be proportionately higher than stage one.
22.	All income generated by the licensing scheme is required to be spent on regulating licensable HMOs within the proposed scheme. The Council is not permitted to make financial gain from the fees associated with the licensing process. Appropriate financial management arrangements are already in place from the existing scheme to ensure compliance.
<u>Property/Other</u>	
23.	There are no property implications. Existing and new staff will be accommodated in current office and will continue to work in a 'hybrid' model, making use of flexible working arrangements.

24.	If a new scheme is introduced, team resources will be increased to manage the new licensing scheme. All new posts will be funded from the licensing fees.
LEGAL IMPLICATIONS	
<u>Statutory power to undertake proposals in the report:</u>	
25.	The Council must comply with the specific requirements set out within sections 56 and 57 of the Housing Act 2004 before designating an area as subject to additional HMO licensing. This includes the council being satisfied that a significant proportion of the HMOs within the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying or for members of the public.
26.	Before designating a scheme, the Council must consider whether there are other courses of action available to them that might provide an effective method of achieving the objectives of the proposed designation and how the approval of the designation will assist the council in achieving these.
27.	A statutory public consultation must also take place, and the representations made during the consultation period must be taken into account before any decision is made on designation of the proposed area.
28.	The proposed scheme must be consistent with the Councils housing strategy and the council must adopt a coordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour.
<u>Other Legal Implications:</u>	
29.	Designation of the area 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 sets out the publication arrangements that need to be undertaken before the scheme can start.
30.	The council has a duty under section 17 of the Crime and Disorder Act 1998 when exercising its various functions to have due regard to the likely effect on, and the need to do all that it reasonably can to prevent crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and the misuse of drugs, alcohol and other substances in its area and re-offending in its area.
RISK MANAGEMENT IMPLICATIONS	
31.	The council has a statutory duty under the Housing Act 2004 S56 to conduct an adequate consultation and must consult persons likely to be affected by the designation of a HMO licensing area. If the council does not approve the consultation, then it cannot proceed with planning an additional HMO licensing area as any designation would then be unlawful.
32.	Section 149 of the Equality Act 2010 states that a public authority, such as the council, must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Act and to advance equality of opportunity and good

	relations between persons who share a relevant protected characteristic and persons who do not share it. An Equality & Safety Impact Assessment will be drafted and brought before Members for consideration if, following consultation, a report is brought to Cabinet seeking approval to designate a scheme.
POLICY FRAMEWORK IMPLICATIONS	
33.	The recommendations are consistent with the Housing Strategy 2016-2025

KEY DECISION?	Yes
WARDS/COMMUNITIES AFFECTED:	Bevois, Bargate, Banister & Polygon, Portswood, Swaythling, Freemantle, Shirley, Basset & Millbrook
<u>SUPPORTING DOCUMENTATION</u>	
Appendices	
1.	None

Documents In Members' Rooms

1.	DPIA
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Equality Impact Assessment

Do the implications/subject of the report require an Equality and Safety Impact Assessment (ESIA) to be carried out.	No
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Data Protection Impact Assessment

Do the implications/subject of the report require a Data Protection Impact Assessment (DPIA) to be carried out.	Yes
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Other Background Documents

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)
1.	None
2.	