

**EXETER CITY COUNCIL**  
**SCRUTINY COMMITTEE – COMMUNITY**  
**18 JANUARY 2011**

**ADDITIONAL LICENSING OF HOUSES IN MULTIPLE OCCUPATION**

**1. PURPOSE OF THE REPORT**

- 1.1 This report examines the potential of introducing an additional licensing scheme for houses in multiple occupation (HMOs), either in certain areas of the City or for specific types of HMOs, with the view of bringing a further report before Members in 2011 proposing to implement such a scheme.

**2. BACKGROUND**

- 2.1 One of the Council's priority objectives is to safeguard and improve the private sector housing stock in Exeter, which is made up of around 42 000 dwellings in the owner-occupied and privately rented sectors. At nearly twice the national average, Exeter has a large private rented sector (18% of the private stock) and large number of HMOs, estimated at 2160 or 5.2% of the private stock; two and a half times the national average of 2%. It is the private rented sector, particularly HMOs, where the poorest housing conditions are found.
- 2.2 Any property being occupied by more than one household (where a household could be an individual) falls within the definition of an HMO, as do certain buildings converted into flats. Under the provisions of the Housing Act 2004 the Council has a legal duty to licence certain HMOs, those being HMOs on three or more stories which are occupied by five or more unrelated tenants. The Council currently licenses 789 such HMOs. None of these licensed HMOs are converted buildings, the majority being student 'shared houses'.
- 2.3 In order for an HMO licence to be granted the Council must be satisfied that the licence holder is a 'fit and proper person' and that the HMO meets certain standards relating to its repair, level of facilities and adequacy of means of escape from fire. In addition conditions are attached to licences which specify the level of management required.
- 2.4 Licences are granted for a five year period during which the Council has a duty to fully inspect the property in order to ensure that standards are being met.
- 2.5 The licensed HMOs are heavily concentrated in the Polsloe and St James wards but because of the limitations of mandatory licensing it is estimated that only around half of the HMOs in those wards alone fall under the scheme. Many properties, for example the majority in the Monks Rd and Park Road neighbourhoods, whether shared houses or poorly converted buildings containing flats are only two stories in height so do not fall within the mandatory licensing regime, despite the fact that many of the properties are sufficiently large to allow occupation by five or more tenants.
- 2.6 As the Council has a mandatory duty to inspect licensed HMOs the majority of the resources of the Private Sector Housing Section of the Environmental Health Unit are necessarily put into these inspections rather than the enforcement of standards in non-licensed HMOs. This does mean that the standards of repair, facilities and management in un-licensed HMOs are not being regulated to the same degree, and the tenants potentially disadvantaged or put at risk.

### **3. MECHANISM FOR MAKING A SCHEME**

- 3.1 The Housing Act 2004 enables a local authority to designate either the whole of its area or an area within its district as subject to additional licensing in relation to specified descriptions of HMOs as long as the requirements of the Act are met.
- 3.2 In order to designate an area for additional licensing the local authority must be satisfied that a significant proportion of HMOs of the type to be designated within the area specified are being ineffectively managed with the result there is, or is likely to be one or more particular problem arising either for the occupiers of the HMOs or for members of the public, (the particular problems envisaged by the Act are homelessness, empty properties and anti-social behaviour).
- 3.3 Before making a designation the Council must first take reasonable steps to consult persons who are likely to be affected by the designation and have regard to their representations. The need for approval from the Secretary of State before making a designation was removed by the Coalition government with the result that if additional licensing was felt appropriate a designation could be made by Council alone.
- 3.4 Should a designation be made, all HMOs of the designated type falling within the designated area will be subject to a licensing regime exactly the same as for HMOs that fall within the mandatory licensing scheme, and subject to a licensing fee, currently £620.

### **4. PROPOSAL**

- 4.1 It is proposed that, subject to Member approval, investigations are undertaken with a view to identifying whether any areas of the City would justify and benefit from the introduction of an additional licensing scheme as a means of safeguarding the residents of HMOs or members of the public from anti social behaviour resulting from the poor management of HMOs in those areas. If any such areas are identified it will then be necessary to identify which types of HMO that it would be deemed appropriate to designate.
- 4.2 An area of high density of HMOs currently exists in the wards surrounding Exeter University (St. James, St. Davids, Polsloe, Newtown and Pennsylvania), and these are predominantly student shared houses, estimated to number 2200, (700 of which are already licensed under the mandatory scheme). There have been ongoing issues with the management of many of these HMOs including from noise nuisance, problems with refuse storage/presentation, poor facilities and sub-standard means of escape from fire.
- 4.3 Furthermore, the issue of concentrations of student HMOs in these wards has led to the proposal to exercise planning controls in the form of an Article 4 Direction to constrain the numbers of HMOs in these areas. It is within the same boundary of the area that would be covered by the Direction that any additional licensing scheme appears most valid.
- 4.4 Once these investigations have been undertaken it is proposed that a further report is brought before Members. If Members are in agreement, and subject to public consultation, then it is anticipated that an additional licensing scheme would be introduced on the third or fourth quarter of 2011/12.

### **5. MANAGEMENT OF AN ADDITIONAL LICENSING SCHEME**

- 5.1 The Council has operated a mandatory licensing scheme since 2006 and has therefore gained good experience in managing such schemes; this experience will be very useful in relation to operating any new scheme.
- 5.2 Any new scheme would operate on the basis that any owner of an HMO in the designated area would need to make application to the Council detailing particulars of the property and

ownership. This application would be accompanied by a fee. The Council would use the information in the application to prioritise inspection over the 5 year term of a licence, dealing with the worse first, and applying conditions to the licence where warranted. It would be an offence for an HMO owner in the designated area to run an unlicensed HMO, and the Council would seek to prosecute those owners who refused to license their properties, (the experience of the mandatory scheme is that very few owners fail to license their properties).

- 5.3 The premises would be scheduled for inspection on a priority basis over the 5 year term, therefore, for a scheme covering 1500 HMOs, this would equate to 300 inspections per year. Owners would need to renew their licences after the 5 year term ended.

## **6. POTENTIAL IMPACT OF SCHEME**

- 6.1 From the Council's experience of the mandatory scheme, introducing another scheme to cover the smaller HMOs is unlikely to impact upon the privately rented housing market to any great extent. The current licence fee of £620 equates to a monthly expenditure of £10:30 over the 5 year term for the owner, and therefore does not act as a particular deterrent to operating an HMO. It may, however, dissuade prospective new owners from opening an HMO in the designated area, who then may look outside the area to open an HMO.
- 6.2 The scheme will however, inform the Council about the HMOs operating in part of the City, and facilitate proper regulation of these premises to ensure that they are safe for the tenants, and properly managed for the benefit of the neighbourhood.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 The course of action proposed in this report have no financial implications but should the decision be made to proceed with additional licensing there will clearly be need for additional staff resources, which would be entirely funded by the licensing fee. These financial implications will be covered in a future report.

## **8. RECOMMENDED that**

Scrutiny Committee – Community:

- 1) supports the proposal to further investigate the introduction of additional HMO licensing scheme in part of the City; and
- 2) requests that officers bring a further report to this committee and the Executive, detailing a viable scheme to cover part of the City where greater regulation of HMOs is justified.

## **HEAD OF ENVIRONMENTAL HEALTH SERVICES**

S:LP/Committee/111SCC2  
7.1.11

COMMUNITY & ENVIRONMENT DIRECTORATE

**Local Government (Access to Information) Act 1985 (as amended)**  
**Background papers used in compiling this report:**