

REPORT TO Scrutiny Committee/Executive
Date of Meeting: 17 June 2014/24 June 2014
Report of: Assistant Director Housing
Title: Additional Licensing for certain types of Houses in Multiple Occupation (HMOs) throughout Exeter

Is this a Key Decision?

Yes.

Is this an Executive or Council Function?

Executive

1. What is the report about?

This report seeks approval to enter into a 10 week consultation period with relevant stakeholders on a proposal to extend the principles of Mandatory HMO Licensing, currently operated by Exeter City Council, through the introduction of an Additional Licensing Scheme covering specific types of HMOs.

2. Recommendations:

- i To enter into a formal 10 week consultation period with relevant stakeholders, particularly landlords, tenants, partner agencies and the public at large.
- ii That the outcome of the consultation be the subject of a further report to Scrutiny and Executive in November 2014. That report will also provide recommendations as to whether or not Additional Licensing should be progressed.

3. Reasons for the recommendation:

There are estimated to be around 2500 HMOs in Exeter. Of these some 700 are covered by the Mandatory Licensing Scheme introduced nationally in 2006.

Mandatory licensing is restricted to HMOs of three or more storeys with five or more tenants. Typically these HMOs are shared houses occupied by students and properties that have been split into bedsits (sharing facilities)

Mandatory licensing does not cover rented properties in buildings which have been poorly converted into self contained flats or to the majority of flats in multiple occupation above commercial premises. A significant proportion of these HMOs pose an increased risk in respect of fire safety and are frequently associated with poor management and with anti social behaviour arising from their tenants or visitors. Introduction of Additional Licensing would assist in tackling these problems and further the Council's objectives of improving standards in the private rented sector.

4. What are the resource implications including non financial resources.

The resource implication, should the decision be made to enter into the consultation period, would be limited at this stage to the costs associated with the production of consultation material (letters, questionnaires etc), their distribution to stake holders (around 2000 individuals and organisations) and the staff time associated with attendance at meetings together with the time required for the analysis of the responses. The cost of this can be met within the 2014/15 budget with no additional resource implications.

If, at the November cycle of meetings, the decision is taken to proceed with an Additional Licensing Scheme, the precise resource implications will be identified at that stage. An Additional Licensing Scheme is, however, forecast to generate income of approximately £70K per annum over the five-year duration of the Scheme which will be used to pay for the its administration.

5. Section 151 Officer comments:

The comments of the Section 151 officer have been incorporated into the report.

6. What are the legal aspects?

Under the provisions of Section 56 of the Housing Act 2004 local authorities may designate either –

(1)(a) the area of their district or

(1)(b) an area *in* their district

as subject to Additional Licensing in relation to a description of HMOs specified in the designation, if the requirements of the Section are met.

Those requirements are that:

(2) The authority must consider that a significant proportion of the HMOs of that description in 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 the HMOs or for members of the public.

Before making a designation the authority must—

(3)(a) take reasonable steps to consult persons who are likely to be affected by it; and

(3)(b) consider any representations made in accordance with the consultation and not withdrawn.

7. Monitoring Officer's comments:

As the proposal is in line with the Statutory requirements placed on a Council wishing to introduce an Additional Licensing Scheme, there are no further comments to make.

8. Report details:

Any tenanted property (whether a house or flat) occupied by more than one household falls within the definition of an HMO, as do certain buildings converted into self contained flats.

Under the provisions of the Housing Act 2004 the Council has a legal duty to licence larger HMOs, those being HMOs of three or more storeys which are occupied by five or more unrelated tenants. The Council currently licenses in excess of 700 such HMOs.

Because of the limitations of mandatory licensing it is estimated that there are around 1800 HMOs in Exeter which fall outside the licensing regime, 400 of which are buildings which have either been poorly converted into largely tenanted self contained flats, not meeting the requirements of the 1991 Building Regulations, or are flats in multiple occupation above commercial properties.

As the Council has a mandatory duty to inspect licensed HMOs the majority of the resources of the Private Sector Housing Team are necessarily put into these inspections rather than the proactive regulation of standards in non-licensed HMOs.

Prior to the introduction of mandatory licensing HMOs were inspected proactively, employing a risk based approach. This resulted in high risk properties (generally poorly converted buildings and flats above commercial properties) being inspected every 3 – 5 years. Since licensing was introduced this inspection regime has ceased and interventions have been limited to reactive inspections resulting from complaints, usually made by tenants. In the majority of cases these inspections result in enforcement action of one kind or another being pursued.

Under the Mandatory Licensing Scheme a licence cannot be granted unless the Council is 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. Conditions are attached to licences which require proper management arrangements to be in place.

There is no equivalent provision for HMOs that are not covered by mandatory licensing. In order to introduce these safeguards it is necessary for a local authority to designate an Additional Licensing Scheme for their area, specifying the types of HMO to be covered by the Scheme and the area covered.

The Housing Act 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. In order to designate an Additional Licensing Scheme the local authority must be satisfied that a significant proportion of HMOs of the type to be designated are being poorly managed with the result there is, or is likely to be, one or more particular problems arising either for the occupiers of the HMOs or for members of the public.

There is existing evidence that complaints relating to poor housing conditions received by the Private Sector Team predominantly relate to the conditions of self contained flats and flats above shops. Despite the relatively low number of properties in these two categories of HMO, compared to the overall private sector housing stock, they are the source of over 30% of complaints received. Inspections made as a result of these complaints almost invariably identify hazards and result in enforcement action being taken.

The same two categories of HMO generate a disproportionately large number of complaints from local residents which have a call on Council services, most notably complaints about poorly presented refuse and fly tipping. They are also the source of significant numbers of complaints relating to nuisance, such as noise nuisance, and low level anti social behaviour.

This evidence would suggest *prima facie* that the criteria for the designation of an Additional Licensing Scheme have been met but such a scheme cannot be implemented until an extensive consultation process has been undertaken. The Council has a legal duty, before making a designation, to take reasonable steps to consult persons who are likely to be affected by the designation and to consider any representations made in accordance with the consultation, and this report seeks approval to begin that consultation process.

9. How does the decision contribute to the Council's Corporate Plan?

The consultation, if agreed, will directly relate to the key action of 'Enable me to have my say and be heard'. The proposal to introduce Additional Licensing, subject to the result of the consultation, directly relates to the key actions of 'Help me find somewhere suitable to live': driving up standards in private rental properties' and is wholly consistent with the overall direction of the Council's housing strategy.

10. What risks are there and how can they be reduced?

If made, the decision to embark on a consultation on Additional Licensing has no risks associated with it, other than the risk that the Private Sector Housing and Administration Teams will be put under significant pressure by the scale of the response. This will be partially mitigated by having a web based questionnaire option in place which will reduce the administration involved and, if necessary, diverting staffing support from other teams.

11. What is the impact of the decision on equality and diversity; health and wellbeing; safeguarding children, young people and vulnerable adults, community safety and the environment?

The decision to undertake a consultation exercise has no immediate impact

12. Are there any other options?

There is no other option but to undertake a consultation if the introduction of Additional Licensing is a desired policy objective.

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Originating Officer: Keith Williams

Local Government (Access to Information) Act 1972 (as amended)
Background papers used in compiling this report:-
None

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