

Bath & North East Somerset Council		
MEETING:	Cabinet	
MEETING DATE:	5 th September 2018	EXECUTIVE FORWARD PLAN REFERENCE:
		E 3079
TITLE:	Housing in Multiple Occupation: Additional Licensing	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Appendix 1: Designation Report		
Appendix 2: Consultation Report		
Appendix 3: Equalities Impact Assessment		

1 THE ISSUE

- 1.1 On 12th June 2013 Cabinet agreed to designate an area of Bath, based around the wards of Westmoreland, Oldfield and Widcombe, as an area subject to Additional Licensing for Houses in Multiple Occupation (HMOs). This designation will expire on the 31st December 2018.
- 1.2 Housing Services consider that the conditions for introducing a new and geographically expanded Additional Licensing scheme can be met. As such a 10 week comprehensive public consultation exercise was undertaken on a proposal to designate Bath City as an area subject to Additional Licensing.
- 1.3 This report informs Cabinet of the results of these activities and seeks a decision on whether to designate Bath City as an area subject to Additional Licensing for specified types of HMOs.

2 RECOMMENDATION

The Cabinet is asked to agree that:

- 2.1 Having studied the evidence base it is satisfied that there is a sufficiency of evidence to justify the new scheme which accords with the Services Regulations 2009 and that any detriment to landlords is outweighed by the benefits to tenants and the wider community, sufficient safeguards are in place to mitigate the impact on affected landlords and the proposed scheme is the least intrusive means of achieving the Council's legitimate aims.

2.2 An HMO Additional Licensing scheme, as detailed within the designation report attached in appendix 1, is introduced for a period of 5 years commencing on the 1st January 2019.

2.3 The Head of Housing undertakes the appropriate and statutory steps to enable the introduction of the proposed licensing scheme.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

3.1 Housing Services has already incurred the costs associated with investigating the feasibility of a new Additional Licensing scheme including developing the evidence base and undertaking public consultation. These costs have been met within existing revenue budgets.

3.2 Licensing is both administratively complex and resource intensive. However, fees can be levied to cover the administrative costs of licensing including back-office functions and property inspections. As such the introduction of the scheme will, at worst, be cost-neutral to the Council. Indeed having a better awareness and control of housing standards may reduce the demand on other Council services, such as, housing and waste enforcement activities.

3.3 The HMO licensing fee structure is detailed within the Housing Services Charging Policy and which has recently been updated. The cost of a 5 year licence is £795. However, there is a £50 reduction for on-line applications/paperless correspondence and a £100 deduction where the licence is being renewed.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

4.1 The Housing Act 2004 provides the legal basis to enable a Local Housing Authority (LHA) to introduce the Additional Licensing of HMOs subject to meeting a number of evidential tests. These are detailed more fully below and within the attached Designation Report.

4.2 Case law has established that the Provision of Services Regulations 2009 applies to additional and selective licensing schemes. Consequently, such schemes must be implemented in a non-discriminatory way; be justified by an overriding reason relating to the public interest; be proportionate to that public interest objective; be clear, unambiguous and objective; be made public in advance, and be transparent and accessible.

4.3 Local Authorities are subject to the general and specific duties set out in the Equality Act 2010. This report and its recommendations pay due regard to the Council's public sector equality duty. An equality impact assessment has been completed and is attached as Appendix 3. Adverse impacts were identified and are being mitigated in the following ways:

Issues identified	Actions required
The completion of a licence application form can be difficult for those with certain impairments or for whom reading & writing English is a challenge. There can also be communication difficulties if legal action is taken for noncompliance with the	Assistance is available to landlords to complete the application form.

HMO licence provisions.	
May make those outside the areas where additional licensing is proposed more vulnerable to lower standards in shared housing (this may impact adversely on a number of equality groups)	On-going monitoring and consideration as to whether the scheme should be extended in due course.
Potential for people to be uncomfortable or give inaccurate information when asked about living arrangements.	Sensitive consideration will need to be undertaken by Housing Officers when asking questions of people about their living arrangements when seeking to establish if a property is an HMO.

5 THE REPORT

Background

- 5.1 The Housing Act 2004 increased a LHA's ability to regulate the private rented sector by introducing three forms of licensing, these being: mandatory licensing of HMOs, additional licensing of HMOs, and selective licensing of the private rented sector. Operating an eligible property without a licence is an offence punishable by either: criminal prosecution with the potential for an unlimited fine; or as an alternative to prosecution the LHA can issue a financial penalty up to £30,000.
- 5.2 The mandatory licensing scheme has recently been enhanced and from the 1st October 2018 will cover all HMOs which house 5 people or more in 2 or more separate households. The proposed Additional Licensing scheme will expand the scope of licensing to cover those HMOs which house 3 or 4 people in 2 or more separate households in Bath City. Between the two schemes an estimated 3,000 HMOs will be covered by licensing; 1,000 through mandatory licensing and 2,000 through additional licensing.
- 5.3 The primary purpose of HMO licensing is to improve housing standards. It allows the LHA to ensure that conditions, amenity & fire safety standards comply with current legislative standards. As such the principal beneficiaries of licensing are tenants. However, within certain limitations the licence can also be used as a vehicle to improve the management of the property and to help the Council to respond to complaints by local residents about the condition of houses and the behaviour of tenants.
- 5.4 Introducing Additional Licensing is not a decision to be taken lightly by the LHA. The conditions that must be satisfied are contained in Part 2 of the Housing Act 2004 and are further detailed in guidance issued by the former Department of Communities & Local Government issued in December 2007. The guidance makes it clear that Additional Licensing is not just another tool in the toolbox and that it should only be seen as an option to use when there are real problems with HMOs that have not been solved by using other available powers and a variety of approaches.

5.5 If the LHA wishes to designate an area subject to additional HMO licensing then it will need to evidentially address the following five legal steps; these being that they:

- 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;
- consider whether there are other alternative or additional courses of action available;
- must consult persons who are likely to be affected by the designation;
- be satisfied that the designation is consistent with its overall housing strategy;
- must take a co-ordinated approach in connection with homelessness, empty properties and anti-social behaviour.

The Evidence Base

5.6 The designation report, attached in Appendix 1, contains the evidence base for meeting the evidential requirements of introducing Additional Licensing. It includes the following headline information:

- Commissioned evidence indicates that the private rented sector has expanded significantly in the district in recent years and now accounts for 27% of all stock; significantly higher than the national average (20%).
- HMO inspections at the start of the existing (and smaller) Additional HMO Licensing scheme found significant Housing Health & Safety Rating Scheme hazards in 31% of properties. A similar rate of hazards is likely to be found elsewhere in the City irrespective of the geographical area covered.
- Commissioned evidence indicates that there are significant levels of Category 1 (the most serious) Housing Health & Safety Rating Scheme hazards in the private rented sector in Bath. For most wards the levels of Category 1 hazards is higher in the HMOs than non-HMO private rented homes.
- 25% of all Housing Services service requests come from HMO occupants.
- Commissioned evidence indicates that whilst there are certain wards with high HMO concentrations there are actually significant numbers of HMOs distributed across the whole of Bath City.
- Nearly all residents not living in HMOs responding to an online/postal survey in September 2017 felt HMOs should be licensed by the council and reported a negative effect on their local area from rubbish, noise, poor garden maintenance, property condition, and overcrowding.

- Overall, support for an Additional Licensing scheme in Bath City is very strong with over eight out of ten (85%) respondents in support of the scheme and more than four out of ten (44%) feeling it will have a positive effect on them as individuals.

6 RATIONALE

6.1 The private rented sector continues to undergo significant expansion. As part of this expansion there are now an estimated 3,000 HMOs within Bath City, fuelled by a combination of increased student numbers and the demand for affordable housing options for single households. The introduction of a targeted Additional Licencing scheme would provide the LHA with a platform to effectively identify these HMOs and work with landlords, tenants and other interested parties to address housing condition and management issues to the benefit of all concerned, including the wider community.

6.2 The scheme would be reviewed annually.

7 OTHER OPTIONS CONSIDERED

7.1 A range of other options have been considered in detail and are documented within the attached Designation Report and includes:

- Do nothing - given the information contained in the Designation Report this is not considered an option.
- Targeted proactive enforcement - a fully funded pro-active inspection programme is not realistic given scale of the issue and current financial climate.
- Reactive enforcement - this will continue, however, it only address individual properties and is reliant upon the tenant making a formal complaint to the Council.
- Voluntary initiatives - past experience has shown that whilst they can be successful in improving standards a significant proportion of landlords, often those with poorer quality stock, will not engage.
- Different geographical area – the evidence supports the proposed area. This area also aligns with the Article 4 Planning Direction and thus simplifying the communication message to landlords and residents.
- Selective licensing – on the face of it there is not the evidence to support such a scheme. However, this has not been considered in detail given our focus on HMOs

8 CONSULTATION

8.1 M.E.L Research was commissioned to undertake public consultation on the proposal to introduce an Additional Licensing scheme covering Bath City. In total, 910 respondents took part in the survey with further feedback gathered from two public meetings, stakeholder interviews and written responses. The consultation period spanned 10 weeks (16th March to 25th May 2018). The main

methods of consultation were an online survey and a door to door residents' survey with a representative sample of residents from across the LHA area.

8.2 The full consultation report is contained in Appendix 2. However, the key headlines from the consultation are as follows:

- Overall, support for an Additional Licensing scheme in Bath City is very strong with over eight out of ten (85%) respondents in support of the scheme and more than four out of ten (44%) feeling it will have a positive effect on them as individuals.
- Residents and private tenants are most supportive of the scheme (both groups 90% support), with almost seven out of ten private rented tenants (69%) and 44% of residents feeling that it will have a positive impact on them. The figures are even higher when only Bath City residents are included.
- Landlords are less in favour of licensing. However, a majority of almost two thirds (64%) are still in support, whilst around three out of ten (29%) say they do not support it. Over a third of landlords (36%) say it will have a negative impact on them. In contrast, a third (32%) say that it will have no impact on them and a quarter (25%) feel it will have a positive impact.
- Around six out of ten (63%) respondents believe the originally proposed flat licence fee of £800 was reasonable, whilst just under three out of ten (29%) feel the licence fee is unreasonable. Private rented tenants and residents are again most positive about the licence fee, with 75% and 71% respectively saying it is reasonable. Landlords were significantly more negative; with around six out of ten (61%) saying it is unreasonable. It should be noted that in light of feedback the fee structure has been revised to better reflect the reduction in the cost of administering the scheme in certain circumstances.
- Overall eight out of ten respondents (80%) agree that the proposed licensing conditions are reasonable, and that they will help improve the standard of HMO properties in Bath City. Residents and PRS tenants are most supportive of the conditions (86% each feel they are reasonable), whilst landlords aren't as positive, though around six out of ten (61%) do agree the conditions are reasonable, whilst 29% do not agree.

8.3 The Planning, Housing and Economic Development PDS Panel have also been consulted on the proposal and have expressed their support.

9 RISK MANAGEMENT

9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	Graham Sabourn, Head of Housing (01225 477949).
Background papers	None
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