

Report of **Environmental Health Business Manager**

To **Executive Board**

Date : **8th October 2007**

Item No:

Title of Report: Approval to consult upon an additional HMO Licensing scheme

Summary and Recommendations



Purpose of report : To seek approval to consult upon an additional HMO licensing scheme


Key decision: No

Portfolio Holder: Councillor Murray


Scrutiny Responsibility: Housing


Ward(s) affected:All

Report Approved by

 **Portfolio Holder:** Patrick Murray


Legal: Jeremy Thomas

 **Finance:** Sarah Fogden

Policy Framework:This report supports the Council's vision statements to "rove the quality of life" and " have better housing for all"

Recommendation(s)

 Executive Board is recommended to :-

- 1 give authorisation to consult upon Additional HMO licensing as set out in the report;
- 2 agree to consult upon a stepped approach starting with option A and progressing through to option D, aimed at achieving licensing of all the HMO stock;
-  3 consult upon Additional licensing covering the whole of the City area.

Introduction

1. The Housing Act 2004 introduced licensing of Houses in Multiple Occupation (HMO). There are three schemes, which can be operated by local authorities, the mandatory scheme, additional scheme and selective licensing of private landlords.
2. Oxford City Council is currently operating the mandatory HMO licensing scheme, which covers HMOs with 3 or more storeys, occupied by 5 or more persons.
3. Additional HMO licensing is based upon the mandatory licensing scheme however the type or size of HMO requiring a licence is different depending on the local situation. Selective licensing is only available in low demand areas or where anti-social behaviour is a problem throughout the private rented sector. Oxford is clearly not a low demand housing area therefore it is unlikely that a selective licensing scheme would be approved.
4. The aim of all three schemes is to improve the living conditions, safety and management of HMOs.
5. Currently there is a handful of local authorities across the country who have shown interest in submitting an additional HMO licensing scheme and therefore once Oxford's scheme is approved, it will be one of the first, if not the first in the country.

Mandatory HMO licensing

6. In April 2006 the government introduced mandatory HMO licensing. At that time it was estimated by the Oxford House Condition Survey that there were in the order of 789 HMOs requiring a mandatory licence, the total HMO stock being 5069.
7. Therefore mandatory licensing covers 15% of the HMO stock and to date, 18 months on, 373 HMOs have been processed with 306 being licensed with conditions, equating to 6.1% of the total HMO stock. These properties have been inspected and works have been required in 98% of those processed. Experience has shown that the licensing process itself, though valuable, leads to the need for further work to raise and maintain standards.
8. The responsibility to licence a HMO is with the landlord or agent, and it is encouraging that during the initial year of licensing, applications were being submitted from landlords and agents who wanted to engage with the Council and who were keen to improve standards in their properties. However the emphasis is now changing and enforcing against those landlords who have not come forward to licence is a priority.

The Benefits of Licensing

9. The benefits of licensing are indisputable for tenants and other occupiers. In addition there are gains from the engagement of landlords with the Council, through landlord forums and through regular contact with Environmental Health. It has also given the Council detailed information about the licensable stock. Much of this information would not be readily available to the Council without licensing. This is crucial for it enables prioritised proactive working to take place, which focuses the available resources on an efficient basis.

Additional HMO licensing and controls

10. Additional licensing is operated in the same way as mandatory licensing: landlords will be required to pay a licence fee which will be collected on a 5 yearly basis, inspections of the HMO would be undertaken and works required. No new additional HMO licensing scheme is in existence in the country at the time of writing.
11. Additional licensing will bring about improvements in the management of HMOs as each HMO will be subject to conditions, if these conditions are broken or not met the licence holder can be prosecuted and the licence removed. This can have very serious effects upon the licence holder as it would affect their status as a fit and proper person and therefore could mean that they would not be able to operate other HMOs
12. The conditions, which can be applied to HMOs, include
 - Numbers of amenities present within the house - it is intended to have a sharing ratio in the order of 1 set of amenities for every 5 persons
 - Provision of heating -
 - Provision of adequate fire precautions – guidance will be provided in consultation with Oxford shire Fire Service as to the acceptable level of fire precautions required in a licensable HMO
 - The Management, use and occupation of the house – this will cover issues in relation to the physical management conditions
 - Prohibition and the use of particular parts of the dwelling – under licensing there is the ability to close one room if it is unsuitable for example because of it's size.
 - Conditions to reduce anti- social behaviour from persons visiting or occupying the property.
 - Conditions relating to gas safety and electrical safety

Evidence of need for additional licensing

13. The City Council, has over the years used a wide range of Environmental Health legislation and Housing legislation to improve the conditions and management practices within HMOs, This experience has informed the development of the work and now places the Council In a good position to apply for additional licensing, for example the Council introduced a HMO registration scheme with controls in 1999, which operated for some time in part of the city quite successfully.
14. It is clear from experience that the non-mandatory licensable HMO stock continues to cause problems. The number of service calls regarding non-licensable HMOs has shown a rise month on month and from interventions, there is a clear picture of poor practices and poor standards within this sector.(see Appendix 1 case studies)
15. Looked at another way, there is evidence to suggest that the type of HMO has no bearing upon the problems/issues reported.

Proposed scope of additional licensing in the City

16. The Council can if it wishes, decide to apply for approval of a scheme to licence all HMOs not covered by the mandatory scheme across the city. This would be the largest possible sweep of additional licensing. There would be several advantages to this approach the most notable of which would be that all HMOs would be regulated in the same way. This would be of benefit to the HMO population, which is as large as that living in the entire Council stock. Such a step would add an additional licensing programme that would quadruple the size of the existing programme.
17. To do this in one step may prove over ambitious given the resourcing that would be necessary to implement it effectively within the 5 year period. It must be remembered that part of the HMO stock is quite mobile so such an approach would probably mean processing over 6000 HMOs in 5 years. – a considerable task. A better approach may well be to work towards covering the whole of the stock in a series pf progressive steps involving separate submissions to the Secretary of State

It is therefore recommended that the Council should consult upon a stepped approach aimed at achieving licensing of all the HMO stock.

18. There is a range of options for how such a stepped approach could work

Options	Stores	Occupiers	Current estimated numbers
A	3	3-5	600
B	2	5+	1640
C	2	3-5	1750
D	NA	NA	600 (poorly converted self contained flats)

19. It can be seen that there appears to be at least four options (excluding any combination that may arise) for consultees to consider.

It is recommended that the Council starts the stepped approach with option A and progresses through to option D for practical reasons, (as option A sits alongside the mandatory licensing scheme).

20. The Council can, if it wishes, apply for the licensing scheme to cover parts of the City or the whole of the City. In the earlier registration scheme, which only applied to a small area of the City, certain landlords moved a significant part of their business to outside the area to evade the controls.

Therefore it is strongly recommended that Additional licensing cover the whole of the City area.

Communities and Local Government (CLG) expectations

21. Discussions with the Department for Communities and Local government have confirmed that the scope of any proposed scheme is the decision of the Council and that any proposal must be backed with suitable evidence of the need for an additional scheme. A key part of making a submission is feedback from consultation.

Consultation arrangements

22. The Housing Act makes it clear that the Council must consult with all parties who may be affected by the designation for additional licensing. Consultation will form a key part of the development of the proposals. Aside from tenants and other occupiers, private landlords and letting agents will be those most affected by the introduction of an additional licensing scheme. It is therefore proposed that landlords will be consulted via the Landlords Forum and the egroup which has been developed through HMO licensing.

23. Other groups we will consult with are private tenants this will be through "Your Oxford " and through work with the Students Union and

the accommodation offices at the universities, to help reach the student population. Local residents will also be consulted with via area committees, "Your Oxford", talkback survey and the website.

24. The consultation period will close at the end of December 2007 with a further detailed report being submitted to the Executive Board on the 4th February 2008. This should mean that the scheme should be approved at the close of the 2007/08 year.

Costs and Fees

25. The Government has specified that HMO licensing is a separate matter from enforcement of the management regulations and hazard control in general. Therefore if on review the fee income does not cover all costs, a new budget bid will have to be made for the next financial year. All fee income must be ploughed back into the scheme.
26. The current mandatory HMO licence fee for a 5 room application is £800 with an additional fee of £20 per letting room. It is anticipated that the licence fee for the additional scheme will be in the order of £700 to £800 subject to the number of lettings. A detailed fee structure will be required and a further report will be submitted to the Executive Board for approval. This covers the 5 year period of the licence.
27. A reduction in the fee could be considered for charities and voluntary sector organisations but any shortfall will have to be covered by the Council.

Further Reports

28. At this point in time Executive Board is being asked for permission to consult on an additional scheme, it is not being asked to agree a specific scheme. A further report will be made to the Executive Board when the results of the consultation are known.

Conclusion

29. The need for additional controls on HMO accommodation in the City is obvious and the current licensing scheme has proved a powerful tool in ensuring that landlords and agents are managing their properties to a reasonable standard. Additional licensing would assist in this process and ensure that more HMO accommodation can be controlled to the benefit of tenants, other occupiers and neighbourhoods.

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Background papers: none



Appendix 1

Florence Park Road

In August 2007 there was a fire at this property. The Fire Service reported that it was concerned that the property was let as a house in multiple occupation but was lacking even the most basic fire precautions.

On investigation the property was visited and found to be a 2 storey semi-detached house containing 5 bedsits and 6 occupants, in a road of predominantly Council owned family occupied properties. Other than a complaint of noise from the premises in 2005 there had been no other Environmental Health involvement with the property.

It was found that there was no protected escape route, no emergency lighting, no automatic fire detection, and no fire extinguishers and that there was furniture stored in the hallway and on the first floor landing..

A child aged 4 years playing with matches had apparently started the fire, 3 of the occupiers were treated for smoke inhalation following the fire though luckily all escaped serious harm.

Following the original report of the fire and subsequent visit, enforcement action has been taken against the owner requiring the installation of fire precautions to reduce the fire hazard identified.

Without the fire having taken place requiring a response from the fire service Environmental Health would not have been aware of this property.

Ridgefield Road

A mother of one of the student tenants of this property complained about the poor living conditions at the property.

The complaint stemmed from poor management and maintenance. A specific complaint concerned the fact that, it was alleged; the gas appliances had not been serviced for years. Other issues mentioned were that the kitchen facilities (refrigerator especially) were in very poor condition and that fire precautions were missing or inadequate and carpets and furniture were hazardous. The agent allegedly, admitted that the house was below standard.

Without the mothers approach this substandard and unsafe HMO would not have been brought to the attention of Environmental Health.

Upway Road

This property was inspected following a complaint from one of the residents of one of the 4 self-contained flats. A number of issues were raised as a result of this inspection including the use of a bedroom below minimum size, inadequate fire precautions and lack of controllable heating in every flat.

It was found during the investigation that the conversion of the property into 4 flats took place without Building Control approval. As a result even with the changes to the definition of an HMO introduced by the Housing Act 2004 this property would still be classed as an HMO though not subject to mandatory licensing. Occupiers of the flats are therefore not protected.

Harefields

The property is a 1980's mid terrace 3-storey HMO with 4 tenants in occupation. The fire protection is below the current standard for a 3 storey HMO as there is only battery operated smoke detection in the staircase and a fire blanket in the kitchen.

A 5th occupant had been requested to vacate the property by the landlord allegedly to avoid the need to licence the property as an HMO.

Iffley Road

This property is an end of terrace two-storey HMO with 8 students currently in occupation. Environmental Health have had a long history of involvement and enforcement with respect to this property and as a result the fire precautions and amenities meet the current standards.

However, the management of the property has given rise in the past to enforcement action to remedy neglect of management and this trend continues.

This property is not covered by the mandatory HMO licensing scheme

