

To: Value and Performance Scrutiny Committee

Date: 27th November 2012

Report of: Head of Environmental Development

Title of Report: Housing in Multiple Occupation (HMO) Licensing – an update

Summary and Recommendations

Purpose of report: To update the Committee with regard to the progress and impact of the HMO Licensing Scheme in Oxford

Portfolio Holder: Councillor Ed Turner, Finance and Efficiency

Report Approved by: Head of Environmental Development

Finance: Paul Swaffield

Legal: Jeremy Franklin

Policy Framework: Meeting Housing Need

Recommendation(s): Members are asked to note the contents of the report and to ask Officers to provide to the Value and Performance Scrutiny Committee the results of a landlord survey when they are published.

1.0 Introduction

1.1 The mandatory licensing scheme for HMOs introduced by the Housing Act 2004 successfully improved the condition and management of 551 larger three or more storey HMO properties containing five or more tenants. However, this was only a small part of the HMO stock in the City and the majority therefore went unregulated. An additional licensing scheme for HMOs using powers contained in the Housing Act 2004 was considered the best option to improve this situation and a scheme was approved by the Council in October 2010, after Housing Minister John Healey issued a 'general consent' allowing authorities to pursue their own additional licensing schemes. The scheme was introduced in two stages.

1.2 The first stage commenced on the 24th January 2011 and required the licensing of all three or more storey HMO properties and the larger two storey HMO properties that contained five or more tenants. The second stage commenced on the 30th January 2012 and required all remaining HMO

properties in the City to obtain a licence. Until very recently Oxford was the only local authority in the UK to require every HMO throughout its area to be licensed, and this will involve an active process of intervention, rather than paper licensing.

1.3 The programme will include a first cycle of over 6 years so by 2017 the entire HMO stock will have been licensed.

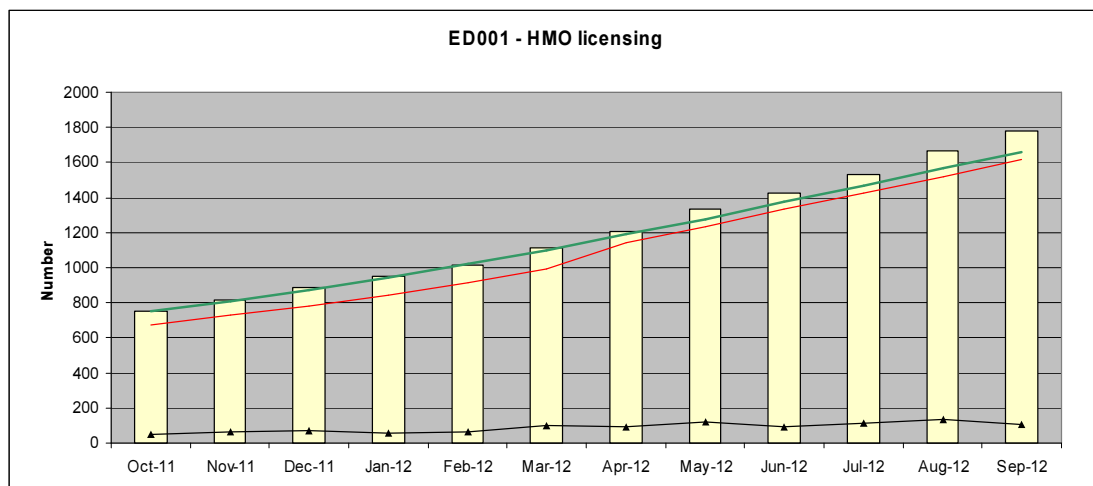
1.4 The scheme is totally self funding so the cost of reducing the fee would mean either a reduction of the resources going into it, or the council would have to fund the shortfall.

2.0 Progress to date

2.1 Since the introduction of the scheme a total of 1219 applications have been received by Environmental Development for larger HMOs and 1068 applications for smaller HMOs. There have also been 115 applications for mandatory licensable HMOs. The Environmental Development service has already received 25% more applications than originally estimated in the period, and this figure is likely to rise to 40% by the end of March 2013.

	Estimated applications Jan 11 - Mar 13	Actual applications to date Jan 11 – Sep 12
Mandatory HMOs	51	115
Large HMOs	918	1219
Small HMOs	973	1068
Totals	1942	2402

2.2 The impact of the planning restrictions on HMOs introduced by the Article 4 Directive can clearly be seen as 1113 applications were received between 1st January 2012 and the end of February 2012 when it came into force. This was 40% more than the expected total for the entire 2011/12 year. Another indication of the scale of the applications being dealt with is that in the 5 years before the scheme began, a total of 722 applications had been processed resulting in 551 licensed HMOs.



Month 2012	Apr	May	Jun	Jul	Aug	Sep
Target	1190	1280	1375	1470	1565	1660
Intervention	1145	1235	1330	1425	1520	1615
To date	1208	1330	1422	1534	1670	1779
Periodic	95	122	95	112	134	109

2.3 To date 1228 licences have been issued since the scheme began and the corporate target is on track.

3.0 Enforcement

3.1 A strict enforcement line has seen Oxford become one of the toughest local authorities in the UK for private sector housing standards. There is a significant amount of enforcement work being carried out on the non-compliant part of the HMO stock involving following up on service calls from tenants, councillors and residents and for checking suspected licensable HMOs. To date 165 cases have been investigated and closed and a further 148 are still under investigation.

3.2 Since the scheme commenced in January 2011 a total of 19 cases have either been successfully prosecuted in the courts or dealt with by way of issuing a formal caution. In addition one HMO has been the subject of an Interim Management Order where the Council has taken over the landlord function of the property. There are currently a further 8 cases pending legal action.

3.3 The Housing Act 2004 makes it a requirement that the applicant and persons associated or formerly associated with the applicant must be fit and proper persons to hold a licence. This excludes close family members and business associates or employees who have committed relevant offences. Each case must be determined on its own merits, but a man found not fit and proper cannot simply use his wife, brother or son to hold the licence for example.

3.4 Each applicant has to sign a declaration as part of the application form that they have given true answers to questions regarding their fit and proper status and whether they are associated to anyone who has been convicted. This is further checked on our databases prior to the issue of the licence to establish whether there is a history of non-compliance. Property ownership and Council Tax records and web searches are also used to establish links to people who are considered not fit and proper. This system helps identify family members and links to businesses.

3.5 This fit and proper test for landlords has proved a deterrent for non-compliant landlords who have to resort to using letting agents or other fit and proper people to hold the HMO licence on their behalf. Two letting agents have been declared not fit and proper organisations to manage HMOs.

3.6 To date all the landlords who have been advised that they are not fit and proper when they apply for a licence have amended their application and secured the services of a fit and proper person rather than have the Council formally refuse their application. Those landlords who make an application whilst a legal case is underway are also informed that they will lose their fit and proper status if convicted and advised to amend their applications accordingly.

3.7 This is an area where there is currently very little case law and we are expecting legal challenges where we have declared a person to be not fit and proper by their association with someone who has been convicted of relevant offences.

4.0 Impact on standards

4.1 The impact of licensing on standards within HMOs is significant. The decision to inspect every HMO prior to issuing a licence has proven valuable with very few HMOs being found to be fully compliant with national minimum standards. The House Condition Survey of 2005 estimated that 70% of Oxford's HMOs were non-compliant, but to date, over 90% of HMOs inspected have required additional conditions on the licence to secure compliance.

4.2 The primary cause for additional licence conditions is improving fire precautions to the minimum standards required by national guidance.

4.3 The Council has a Facilities and Amenities Guide which provides guidance for landlords on what are considered acceptable standards for facilities such as kitchens, toilets etc. There have been allegations from some landlords that the Council has been gold plating these standards, but the guidance has been compared with other similar authorities guidance and found to be broadly in line.

4.4 The average cost for upgrading a property to minimum legal standards is £1,552, which is significantly lower than the £4,200 average cost for a mandatory licensable HMO.

4.4 There has been a noticeable impact on service requests related to the private rented sector. A before and after comparison of service request codes reveals the following:

	23/5/09 – 23/1/11	24/1/11 – 28/9/12	Change
Tenancy Issues	781	792	No real change
Noisy parties	396	225	Down 43%
Rubbish	2283	1312	Down 43%
Poor Conditions	1046	791	Down 25%

5.0 The impact of licensing on the availability of rental accommodation

5.1 It is difficult to obtain accurate and complete data on the availability of rental accommodation. Our experience at the start of mandatory licensing was that landlords said that they would move out of the HMO market and there would be a significant shortage of HMO accommodation in Oxford. What happened was that some sold up and others moved in to take their place because of the profitability of renting HMOs in Oxford.

5.2 Very few HMO licence applications drop completely out of the system. There have been 102 withdrawals and of these approximately one third have been rented to a family, one third have been sold and a third have been withdrawn by the council because the applicant failed to pay the fee. These withdrawals are being followed up to check for occupancy.

5.3 A total of 117 mandatory licensable HMOs have come forward which is nearly 80 more than estimated by this stage which means that properties previously occupied by four tenants have now been licensed for more. There have also been a significant number of additional HMOs that have come to light that were not on the Environmental Development database, which indicates that there are more HMOs in Oxford than initially estimated.

5.4 There have been concerns that the small bedrooms found in typical 1930's houses built for families would all fail the space requirements. In answering a recent Freedom of Information request, it was noted that only 40 bedrooms have been found to be too small to be used as a bedroom. This shows the pragmatic approach being taken by officers from Environmental Development.

5.5 There have been anecdotal stories of tenants not having their tenancies renewed because the landlord did not want to licence the property as an HMO, but no accurate data on the numbers can be provided. Those that have come to our attention for a response number approximately 25. There have also been a handful of cases brought to our attention by tenants regarding the difficulty of finding smaller three person HMOs to rent. Our experience with mandatory licensing was that landlords claimed to have reduced tenant numbers to avoid licensing, so it was inevitable that there would be instances of landlords making a choice whether to licence or not wherever the bar was set for licensing. It is the officer's view that if the bar was set at four or five persons, exactly the same issues would be being raised.

5.6 There have also been comments from some agents that there are some landlords with smaller HMOs, not rented to students, who are avoiding licensing and waiting to be caught. These will be dealt with when large scale proactive work begins next year to root out unlicensed HMOs. There have also been instances where a large property has been rented out to a family

who are then forced to sublet to pay the rent and by doing so they create an HMO. We have advised agents to ensure they carry out suitable financial checks to satisfy themselves that prospective tenants can afford to pay the rent.

5.7 According to Housing Options the only impact they have noticed from HMO licensing is a small increase in the number of larger four bed properties for families owned by landlords who do not want to licence their HMOs.

6.0 Have rental prices in the private sector increased in the last year and could this be due to HMO licensing?

6.1 Oxford has a particularly buoyant rental market and has the highest rents outside London. Nationally rental levels have gone up and Oxford is no exception. The Housing Options team view is that the main reason for this is the lack of first time buyers who either do not want to buy or more likely cannot get a mortgage and are choosing to rent in the private sector instead. This additional demand is the chief driver for rent increases as many of these frustrated first time buyers are young professionals who can and are prepared to pay the higher rents asked for by letting agents.

6.2 It is very difficult to ascertain exact figures regarding what is happening with rents. The problem with data from the Rents Officer is that it includes rents from about two thirds of the County so does not actually indicate what is happening in Oxford. The exception is the shared room rate as most of this information is derived from Oxford data and this shows a small increase for the last year.

6.3 Benefits Officers have tried to compile their own data using websites such as Gumtree and Right Move and this tends to show more of an upward trend in rents. However The Rent Officer tells us that this is inaccurate as often sitting tenants end up renegotiating the rent to keep it the same. As such it is difficult to know exactly what is happening. What is certain, is that HMO Licensing has not had a significant impact on rents when compared to other factors. This is because the fees are relatively low costs. The initial fee of £378 equates to £1.82 per week per room for a four person HMO and the annual renewal fee of £157 is less than a months rent for a private parking space in Gloucester Green Car Park.

7.0 Conclusions

7.1 HMO Licensing is progressing well and the corporate performance indicator is on track. The scheme has received a significantly higher than expected number of applications and by the fall in service requests it can demonstrate some early progress with regard to the improvement of the condition of the HMO stock and an improvement in its management.

7.2 At this stage there is little evidence of the potentially negative effect of significantly reducing the availability of accommodation in the city and it also appears to have had little impact on rental values.

7.3 A telephone survey of private sector landlords is due to take place in October in conjunction with the Home Choice Team and this will be used as an opportunity to find out the views of landlords regarding a number of issues, including HMO licensing.

8.0 Recommendations

8.1 That the Committee notes the report Housing in Multiple Occupation (HMO) Licensing – an update.

8.2 That the results of the telephone survey of private sector landlords are provided to the Principal Scrutiny Officer to be reported back to the Committee.

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Background papers:

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