

**To:** City Executive Board

**Date:** 15 October 2015

**Report of:** Executive Director, Regeneration and Housing

**Title of Report:** Additional Licensing Scheme for HMOs

### Summary and Recommendations

**Purpose of report:** The report provides the results from the consultation carried out for the HMO Licensing Scheme and seeks approval from members to designate the whole of the City as subject to additional licensing under section 56(1) (a) of the Housing Act 2004 in relation to the size and type of HMO specified in the recommendations of this report for 5 years commencing the 25 January 2016.

**Key decision:** Yes

**Executive lead member:** Cllr Ed Turner, Finance, Asset Management and Public Health

**Policy Framework:** Meeting Housing Needs and An Effective and Efficient Council

### **Recommendation(s): That the City Executive Board resolves to:**

1. Note the report of the Consultation of Licensing of Houses in Multiple Occupation 2015 and its findings attached at Appendix 1.
2. Agree that having considered the report of the consultation, which shows that a significant proportion of HMOs in the City are being managed ineffectively, an additional licensing scheme is required for a further 5 years.
3. Agree to designate the whole of the City as subject to additional licensing under section 56(1)(a) of the Housing Act 2004 for all three storey Houses in Multiple Occupation that contain three or four occupiers and all two storey Houses in Multiple Occupation that contain five or more occupiers with the designation coming into force on 25 January 2016 for a period of 5 years.
4. Agree to designate the whole of the City as subject to additional licensing under section 56(1)(a) of the Housing Act 2004 in relation to

all two storey or single storey Houses in Multiple Occupation that contain three or four occupiers and all self-contained flats that are Houses in Multiple Occupation, irrespective of the number of storeys, but, so far as concerns section 257, Houses in Multiple Occupation, limit the designation to those that are mainly or wholly tenanted, including those with resident landlords. This second designation will come into force on the 31 January 2017 and will last for 4 years.

5. Recommend Council to resolve to adopt the proposed fees and charges structure attached at Appendix 2.
6. Recommend Council to resolve to adopt the eligibility criteria for the new scheme as attached at Appendix 3.

### **Appendices**

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| Appendix 1 | Report on the Consultation of the Houses in Multiple Occupation Licensing Scheme 2015 |
| Appendix 2 | Proposed Fees and Charges post 31 January 2016  |
| Appendix 3 | Eligibility criteria for proposed scheme  |
| Appendix 4 | Risk register   |
| Appendix 5 | Equalities Impact Assessment  |

### **Background**

1. In June 2015 the findings of the review of Licensing of Houses in Multiple Occupation was reported to the City Executive Board.
2. The City Executive Board confirmed that the review showed that a significant proportion of HMOS in the Council's area are being managed ineffectively and instructed officers to proceed with a statutory 10 week consultation preparatory to renewing the licensing scheme in its entirety for a further 5 years from the 25 January 2016.
3. The City Executive Board also requested that officers provide a further report setting out the results of the statutory consultation and proposals for the licensing scheme.
4. On 12 June the Council commenced the statutory consultation for a period of 10 weeks concluding on the 24 August 2015.
5. The Consultation of Additional Licensing of Houses in Multiple Occupation 2015, is summarised in this report and set out in full at Appendix 1.

### **Legal Issues**

6. In order for the Council to 'renew' the scheme it must proceed through the statutory process as laid out in Section 56 and 57 and the guidance issued under the Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2010.

7. Section 56 of the Act places requirements upon the Local Housing Authority when considering a designation for additional licensing of HMOs, in that the Council 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 likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public; and
  - Take reasonable steps to consult with persons who are likely to be affected and consider any representations made in accordance with the consultation and not withdrawn; and
  - Have regard to any information regarding the extent to which any codes of practice approved under section 233 have been complied with by persons managing HMOs in the area (these codes relate to University managed accommodation).
8. Section 57 provides further considerations for the Local Authority in that they should ensure that:
  - Exercising the designation is consistent with the authority's overall housing strategy; and
  - Seek to adopt a coordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector as regards combining licensing with other action taken by them or others; and
  - Consider whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question; and
  - That making the designation will significantly assist them to deal with the problem or problems (whether or not they take any other course of action as well).
9. The DCLG General Approval provides the condition that any consultation period for the proposed designation should not be less than 10 weeks.
10. In February 2010 the DCLG produced general guidance around the approval steps for additional and selective licensing designations in England.
11. This document provides examples of properties being managed "*sufficiently ineffectively*" including:
  - Those whose external condition and curtilage (including yards and gardens) adversely impact upon the general character and amenity of the area in which they are located;
  - Those whose internal condition, such as poor amenities, overcrowding etc. adversely impact upon the health, safety and welfare of the occupiers and the landlords of these properties are failing to take appropriate steps to address the issues;

- Those where there is a significant and persistent problem of anti-social behaviour affecting other residents and/or the local community and the landlords of the HMOs are not taking reasonable and lawful steps to eliminate or reduce the problems; and
  - Those where the lack of management or poor management skills or practices are otherwise adversely impacting upon the welfare, health and safety of residents and/or impacting upon the wider community.
12. The Additional Licensing scheme in the City was introduced in two phases with each phase lasting for a period of 5 years. This creates a situation where Phase 1 and Phase 2 will expire on different dates (Phase 1 on the 24 January 2016 and Phase 2 on the 31 January 2017).
  13. Under section 60(2) of the Act the time must be no later than five years after the date on which the designation comes into force.
  14. The proposal is that the new designation would commence on the 25 January 2016 for a period of 5 years and include a provision for Phase 2 of the original scheme to commence on the 1 February 2017 with an expiry date of the 25 January 2021. This would align the two phases of the scheme and reduce the financial burden associated with having to revoke Phase 2 of the scheme and re-designate it following expiry in 2017.

## **Consultation of the HMO licensing scheme in Oxford 2015**

### **Key Findings from the consultation**

15. The Council adopted a range of techniques for this consultation including questionnaires, focus groups, roadshows, tenants and resident group meetings and stakeholder meetings.
16. In total the Council received 209 questionnaires, 97 online and 112 completed face to face during the roadshows. A summary of the key findings from the two approaches are set out below.
17. The results from the online questionnaires were as follows:
  - 30% of the respondents were home owners living in Oxford, 28% landlords or owners of HMOs, 13% letting or managing agents, 9% tenants who were living, or had lived in a HMO in the past 5 years in Oxford, 6% tenants living in a non HMO, 5% students and people living outside of Oxford, and 3% other.
  - 49% lived in the OX4 area, 20% in OX3, 13% outside of the City, 12% in OX2 and 6% in OX1
  - The biggest concerns raised by people living in HMOs were the difficulties in getting repairs done, lack of contact with the

Landlord/Agent, problems associated with certificates, and deposit issues

- 36% of all residents reported serious concerns with poorly managed refuse/untidy overflowing bins, and HMO property conditions; 49% raised serious concerns about external property conditions
  - 51% responded to the issue of overgrown gardens indicating it was a problem in the area where they live
  - 53% of respondents either strongly agreed or agreed that there are poorly managed HMO's in the area of Oxford where they live
  - 39% of respondents felt that living conditions in HMOs have improved and 40% either strongly agreed or agreed that the licensing scheme has improved HMOs
  - 48% of respondents strongly agreed and 16% agreed that the licensing scheme should be 'renewed' for a further 5 years. 17% strongly disagreed and 12% disagreed
  - The top four reasons for disagreeing with the renewal of the scheme were, the Council should increase the punishment for rogue landlords, fees for a licence should be reduced for compliant landlords, the process should be simplified, and licences should be issued for longer periods of validity
18. The results from the face to face questionnaires completed during the roadshows were as follows:
- 48% of respondents were home owners living in Oxford, 15% tenants in a rented property that is not an HMO, 9% landlords and home owners, 9% tenants living in an HMO, 7% living outside Oxford, 5% living with parents in Oxford, 4% a landlord, 2% students and 1% a letting or managing agent
  - 46% of respondents were from the OX4 area, 29% OX3, 12% outside the City, 10% in OX2 and 4% in OX1
  - The biggest concerns raised by people living in HMOs were fear of reporting repairs for being evicted (13%), deposit issues (15%), lack of contact with landlord/agent (15%), and difficulties getting repairs done (19%)
  - The top four problems with HMOs in an area where respondents lived were overgrown gardens (25%) poorly managed refuse (23%), poor property conditions (21%), and poor external appearance of HMOs (20%)
  - 31% of respondents either strongly agreed or agreed that there were poorly managed HMOs in the area where they live
  - 70% of people provided a neutral response to the question of whether the licence scheme has improved HMOs in their area

whilst 24% strongly agreed or agreed and 7% strongly disagreed or disagreed

- 46% strongly agreed and 26% agreed with the proposal to 'renew' the Scheme in its entirety for a further 5 years. 11% provided a neutral response and 17% either strongly disagreed or disagreed
  - The top four reasons for disagreeing with the renewal of the scheme were the Council should increase the punishment for rogue landlords (33%), fees for a licence should be reduced for complaint landlords (27%), the process should be simplified, longer licences should be issued, and HMOs are now being better managed all scoring 13%
19. The focus groups included landlords, agents, students and residents of Oxford. The common theme resulting from these groups is that there is a need to refine the scheme to reward compliant landlords and increase costs for rogue landlords. Fees and charges to reflect this should be considered and longer licences offered to compliant landlords.
20. National organisations including the National Landlords Association, Residential Landlords Association and the Citizens Advice Bureau submitted responses to the consultation together with community groups such as Oxford Community Forum and Wolvercote Neighbourhood Forum. All of the responses received have been considered as part of the development of the consultation report and are included as appendices to that document.

## **Financial Issues**

21. When setting the fees and charges structure for the licensing scheme the Council has to take account of the staff costs, training, administration and publicity and that it is not allowed to use licensing fees to raise revenue for other projects or areas of work. The expenditure and income sheet is provided at Appendix 2.
22. The original financial structure of the Scheme was designed to be 'cost neutral' to cover the costs mentioned above and to ensure that no General Fund Revenue was required to support the delivery of the Scheme.
23. The proposed fees and charges structure set out in Appendix 2 is 'cost neutral' whilst addressing the majority of the issues and concerns raised during the consultation. It will have to be ratified by full Council prior to the introduction of the new scheme. There is likely to be a deficit in the first year and will therefore require the HMO reserve to be used to allow for the 5 year income and expenditure pattern to be achieved. The fees and charges structure will also be reviewed on an annual basis and if there is a need to increase them to cover any

potential shortfall then this will be recommended and reported through the budget setting process.

24. The Council has responded to some of the key issues raised in the consultation and structured the scheme in such a way that benefits those landlords and agents that are compliant and provides incentives to improve compliance. This is reflected in the fees and charges structure and the eligibility for licences.
25. The eligibility criteria and options for licences are shown in Appendix 3. The main change is the proposed introduction of a 5 year licence for landlords who are registered under the Council's accreditation scheme.
26. Accreditation will be given to those landlords and agents who are experienced, knowledgeable in their profession and are committed to following the good practice principles set out in the Royal Institution of Chartered Surveyors (RICS) Private Rented Sector Code of Practice, which was endorsed by the Minister of State for Housing and Planning in July 2015 and is attached as an Appendix to the Report of Consultation of the HMO licensing scheme.
27. Any differentiation applied to landlords and agents based on the Eligibility Criteria, including the length of licence for which they may be considered, is justified in furtherance of the overriding public interest of improving the standard of HMOs and their management.

## **Conclusion**

28. It is clear from the findings of the review that there have been some positive successes with the introduction and delivery of the HMO licensing scheme. Standards and management of HMOs have improved since the scheme was introduced; however there is still more that needs to be done to maintain these standards and build upon the successes of the Scheme.
29. Perceptions of the scheme are generally positive and residents and tenants, in particular can see clear improvements, 39% of respondents were of the opinion that living conditions in HMOs have improved and 40% either strongly agreed or agreed that the licensing scheme has improved HMOs.
30. It is however clear from the evidence issues that the scheme has still not fully addressed the issues relating to poor management and the condition of HMOs.
31. In addition, the evolving and buoyant housing market within Oxford has resulted in the number of HMOs increasing year on year. This underlines the need to maintain a continued pressure to ensure that standards do not decline and to provide better accommodation in this sector.
32. Therefore additional licensing remains an appropriate solution for the City. This approach is consistent with the priorities set within the Council's Corporate Plan and Housing Strategy.

33. As indicated above, it is planned that the licensing scheme should be entirely self-financing so that all of the costs associated with operating the scheme are covered by the fee structure. This will ensure that there is no additional financial burden placed on the Council's budget.

**Level of risk** - a risk register is attached as Appendix 4.

### **Environmental Impact**

The option of 'do nothing' is likely to result in significant environmental impacts, particularly when the Council will otherwise have a very limited ability to maintain and improve HMO conditions, for example: energy efficiency and thermal performance, waste management and household waste recycling.

**Equality Impact Assessment**– An EIA has been completed and attached as an Appendix 5.

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