

BRIEFING PAPER

SUBJECT: ADDITIONAL LICENSING SCHEME FOR HOUSES IN MULTIPLE OCCUPATION (HMOs)

DATE: 11 JUNE 2015

RECIPIENT: OVERVIEW AND SCRUTINY MANAGEMENT COMMITTEE

THIS IS NOT A DECISION PAPER

SUMMARY:

The Cabinet Member for Housing and Sustainability will take a report to Cabinet on 14 July 2015, seeking approval for the designation of Freemantle, Shirley, Bassett and Millbrook wards as being subject to additional licensing of Houses in Multiple Occupation (HMOs), to come into effect on 20 October 2015 for a period of five years.

BACKGROUND and BRIEFING DETAILS:

1. Overview and Scrutiny Management Committee considered the proposal for an additional HMO Licensing Scheme for the Bargate, Bevois, Portswood and Swaythling wards on 18 February 2013 which was implemented from 1 July 2013 after Cabinet approval. At that time it was proposed that an evaluation of the scheme would be carried out with the intention of making further designations, as appropriate, across the city.
2. The evidence shows that a significant proportion of HMOs in Freemantle, Shirley, Bassett and Millbrook wards are being managed ineffectively giving rise to problems for either the tenants occupying them or members of the local community.
3. These problems include poor property conditions and antisocial behaviour, which are not being adequately addressed through the council's Mandatory Licensing Scheme (which covers HMOs comprising three or more storeys and occupied by five or more people) and other enforcement and regulatory measures available.
4. The council has considered alternative action, including the use of existing powers under the Housing Act 2004, but has determined that these will not be as effective in dealing with the problems outlined above when compared to an additional licensing scheme.
5. Making the designation would assist the council in dealing with the problems associated with HMOs without increasing homelessness or the number of empty properties. In conjunction with other courses of action, it would enable the council to focus on those areas with the most serious issues. The licensing scheme would give the council the resources it needs to robustly tackle problems and improve management and standards. The introduction of a licensing scheme would be a proportionate response to addressing community concerns about the local impact of HMOs whilst ensuring safe, good quality privately rented accommodation is available to meet housing need.
6. All reasonable steps have been taken to consult those who are likely to be affected by the designation and representations have been considered.

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7. The outcomes of the existing additional HMO licensing designation in Bevois, Bargate, Portswood and Swaythling wards has been assessed and considered as part of the evidence. At the time the designation was made a commitment was made to evaluate the success of the scheme during its first three years of operation before designating other areas of the city, or the entire city, as being subject to additional licensing, as appropriate.
8. Consultation for the proposed licensing scheme ran for twelve weeks from 27 January 2015. The consultation was well-publicised and had a strong response from a broad range of interested parties, including landlords, landlord associations, tenants, residents and residents groups. 503 questionnaires were completed, many with detailed comments and there were also 21 written submissions made. Approximately 100 people attended three drop in sessions, a consultation forum meeting (all arranged by the council) and two landlord forums.
9. The majority of respondents believed that the correct area had been selected to form the proposed scheme (82%) and almost everyone who responded thought that all HMOs should be included (92%). In terms of the proposed aims and objectives, there was broad support (90% agreed strongly or agreed). The majority of responses (79%) either agreed or strongly agreed that the proposals for the scheme would ensure landlords manage their properties well and also that the scheme proposals would improve the condition of HMOs in the area (80%).
10. The written submissions contained differing views, with strong support for the proposals from tenants, residents, resident groups and many landlords. The Southern Landlords Association have worked closely with the council as part of the Landlord Consultative Forum since the implementation of the first Additional HMO Licensing scheme in 2013. They have expressed support for the scheme proposals and to continue working with the council as part of the Forum. The National Landlords Association was more cautious and expressed concerns about issues such as the impact of the proposed scheme on existing other services, the housing market being distorted and the fees being passed onto the tenants. A number of written submissions questioned the timing of the proposed second designation and the ability of the council to continue seeking out and dealing robustly with non-compliant landlords in the existing area as well as starting work in the proposed new designation.
11. All representations made in accordance with the consultation were considered and, as a result, the proposed scheme was amended to remove s257 HMOs from being included i.e. certain converted blocks of flats. Resident landlords with up to two lodgers are also not defined as HMOs.

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12. Section 57(3) of the Housing Act 2004 states that when making a designation, the council must also seek to adopt a coordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector. These have been incorporated into the council's objectives for the proposed scheme as well as the existing scheme, to:
- Keep occupants safe by ensuring the effective management of all HMOs;
 - Improve living conditions by ensuring that appropriate facilities are provided;
 - Improve housing standards and maintenance within HMOs, with a particular emphasis on security, fire safety and thermal comfort;
 - Ensure that landlords exercise appropriate management and supervision of their properties to help reduce any adverse impact of HMOs on the neighbourhood and local communities;
 - Build on and expand existing partnerships with landlords, managing agents, tenants, universities, community groups and others;
 - Encourage and support owners and managing agents of HMOs to work proactively with the council to achieve clearly defined standards and effective management;
 - Facilitate stable and integrated communities through policy and the proactive targeting of risk-based and proportionate interventions;
 - Reduce the number of complaints about HMOs received by the council and its partners, such as universities and the fire service;
 - Have no adverse effect on homelessness in the city;
 - Ensure there is not an increase in the number of empty properties.
13. There are an estimated 2000 HMOs in the Freemantle, Shirley, Bassett and Millbrook wards. With an estimated 4500 HMOs in the Bevois, Bargate, Portswood and Swaythling wards this equates to the majority of the estimated 7000 HMOs across the city.

RESOURCE/POLICY/FINANCIAL/LEGAL IMPLICATIONS:

14. A local Housing Authority can designate an area within its district for Additional HMO Licensing pursuant to Section 56 Housing Act 2004. For the scheme to be lawful the Local Housing Authority must comply with sections 56 to 59 inclusive of the Housing Act 2004 and also follow the Communities and Local Government guidance, entitled "Approval steps for additional and selective licensing designations in England".
15. The legislation states that the authority must consider that a significant proportion of HMOs in the area are being managed sufficiently ineffectively as to give rise, or likely to give rise to one or more particular problems either to those occupying the HMO or for member of the public. Before making the designation the authority must take reasonable steps to consult persons who are likely to be affected by the designation, and consider any representations made.
16. Section 63 of the Housing Act 2004 gives the council the statutory power to charge fees for HMO licensing, including additional licensing. In particular, section 63(3) states that the council may, "require the application [for an HMO licence] to be accompanied by a fee fixed by the authority."

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17. The HMO licensing fees would be set at a level that is reasonably expected to cover the costs of providing the service based on estimated officer time and associated costs involved in processing the applications, inspections, monitoring and enforcement as well as relevant overheads. The proposed fees are set out in Appendix 1. The fee levels will apply to all Licensing schemes across the city and are structured to encourage good practice by rewarding good landlords and assisting the council to target those who are non-compliant, whilst putting the scheme on a sustainable footing.
18. The scheme proposes the retention of the surveyor route for landlords to use. However, applications using this route would need to be made within 3 months of either the designation being made, a property becoming licensable or the acquisition of an HMO.
19. The proposal is consistent with the council's Housing Strategy 2011-2015 and in particular with its objective to focus on privately rented homes in the worst condition. The Private Housing Renewal Strategy 2011-2015 also states that resources should be focused on tackling properties in the worst condition and that licensing will be carried out in accordance with the council's HMO Licensing Policy.
20. In July 2012, the Housing Strategy Action Plan was updated to incorporate a commitment to bring forward an Additional Licensing Scheme for houses in multiple occupation by April 2013, following consultation, to improve the management of this type of accommodation.

OPTIONS and TIMESCALES:

21. Alternative options have been considered and rejected, including an option for the council to manage issues associated with HMOs without any Additional Licensing designations.
22. Subject to Cabinet approval on 14 July 2015, the designation will become effective on 20 October 2015.

Appendices/Supporting Information:

- 1 Proposed fees.
- 2 An appendix containing a detailed summary of the evidence collated to support the proposals is also available on request.

Further Information Available From:

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