

Report to: Cabinet

Date of Meeting: 9 October 2017

Report Title: Report on New Additional Licensing Scheme

Report By: Andrew Palmer, Assistant Director, Housing and Built Environment

Purpose of Report

To consider proposals for adopting an Additional Licensing scheme for Houses in Multiple Occupation (HMO) in Braybrooke, Castle, Central St Leonards and Gensing wards.

Recommendation(s)

- 1. That subject to the exceptions specified in Paragraph 1.15 of the “Proposal to implement an additional HMO licensing scheme for Hastings” (Appendix 1) that all Houses in Multiple Occupation in Braybrooke, Castle, Central St Leonards and Gensing wards, are designated as subject to additional licensing under section 56(1)(b) of the Housing Act 2004**
- 2. That the designation is made on the 10 October 2017 and comes into force on the 1 April 2018 and lasts for a period of 5 years from that date**
- 3. That the principles underpinning the licensing conditions and amenity standards proposed at Appendix 2 are agreed**
- 4. That the proposed fee structure at Appendix 3 is noted and delegated approval is given to the Director of Operational Services in consultation with the Housing Portfolio Holder to finalise the fee chargeable.**
- 5. That the fee structure introduced thorough the delegation granted in 4 above and licensing principles outlined in “Proposal to implement an additional HMO licensing scheme for Hastings” Appendix 1 to this report be introduced for Mandatory Licensable HMOs from the 1 April 2018**

Reasons for Recommendations

Hastings has a proportionately large private rented sector. There is a high concentration of HMOs in areas of Hastings and St Leonards where living conditions are often well below acceptable standards. Following the successes of the 2011 additional HMO licensing scheme the Council wishes to implement a further HMO

additional licensing scheme to continue to tackle poor standards in HMOs and provide greater protection for tenants.

Introduction

1. The Private Rented Housing Sector in Hastings constitutes a large proportion of the total housing stock. Over 50% of the properties in some wards are privately rented. The historical development of Hastings and St Leonard's has left a rich legacy but also a housing stock which consists of many large houses which have subsequently been converted into self-contained flats. Due to their original conversions being of poor quality most of these flats fall into the category of Houses in Multiple Occupation (HMOs). Hastings is unusual in having so many of these HMOs (in the region of 1000) as few other towns have such large concentrations. Whilst many of the properties are well managed and kept in good repair there are a significant number that are not considered acceptable.
2. On the 13 June 2011 Cabinet approved an additional HMO licensing scheme under section 56(1)(b) of the Housing Act 2004. This scheme operated from 19 September 2011 through to 18 September 2016. Upon its completion the scheme licenced 911 HMO's in the four wards of Braybrooke, Castle, Central St Leonards and Gensing. An exit review of the 2011 scheme identified a number of successes of the scheme such as improvements to 465 properties. Whilst the exit review along with a housing stock condition survey carried out in the summer of 2016 demonstrated a general improvement to housing conditions in the four wards covered by the scheme, there is a recognition that poor conditions still prevail in some areas and a number of HMO's are still being badly managed and lack suitable and sufficient fire safety measures.

Consultation

3. The exit review of the 2011 additional HMO licensing scheme proposed that further evidence of the management conditions within HMO's in Hastings was gathered with a view to consulting on the need for a further additional HMO licensing scheme. As such a consultation document was drafted and a formal consultation commenced on 24 March 2017. The consultation ran for a period of 11 weeks.
4. The full consultation document (available at http://www.hastings.gov.uk/content/my_council/consultations/current_consultations/pdfs/Additional_HMO_Licensing_Scheme_Consultation_document.pdf) presents the detailed argument in support of introducing a new additional HMO licensing scheme along with ;
 - A schedule of proposed fees
 - A full list of licence criteria along with licence terms and conditions
 - Draft standards for HMO's
5. The consultation was undertaken through a dedicated page on the Council website which provided all the background information to the consultation along with a link to three consultation questionnaires. Separate questionnaires were provided for; landlords, tenants and other interested parties. The webpage was promoted through conventional Council media channels (including social media) and through links to the webpage being provided in all Housing Renewal correspondence.

Business cards were also produced and distributed throughout the four wards during routine Housing Renewal team activities.

6. In addition to questionnaire responses the consultation allowed for detailed written submissions. Officers also organised two public meetings in Hastings and one public meeting in St Leonards. Two of the consultation events were poorly attended however one, held in conjunction with the National Landlords Association, was better attended by over 100 local landlords.
7. The response to the consultation was not strong, with only 72 responses received to the online questionnaire (45 landlords or letting agents, 10 from tenants and 17 from other interested parties). More detailed written responses were received from three landlords, one letting agent and one chartered surveyor.
8. The full results of the consultation, along with officers' response to specific points of clarification, whilst not strikingly significant, is available at Appendix 1. In summary;
 - 70% of tenants that responded supported further additional licensing
 - 73% of landlords were opposed to further additional licensing
 - There was strong support from tenants and landlords alike to extending the geographical area of any further additional licensing scheme
 - There was general support for the proposed licence fees level and 60% of respondents supported the principle of shorter licences being issued to landlords who rent out sub-standard properties.

Proposed Fee Structure

9. The consultation included within it a proposed fee structure. The proposed fee structure is very different to that of the previous 2011 scheme. Whilst the fees in the 2011 scheme were calculated in relation to the size of the HMO to be licenced the 2017 consultation proposes a consistent fee (irrespective of size of HMO) but with licenses being issued for shorter periods (thus requiring additional fees for renewal) in cases where landlords only just meet the minimal required legal standard for managing an HMO. This method of applying fees (successfully used by Oxford City Council) has the effect of driving up standards through an element of self-regulation as it becomes economically advantageous to improve standards and receive longer licence periods.
10. Any application for HMO licence will be considered against criteria to identify how well run and how compliant with present legislation the property is. The application will then be considered as 'basic', 'advanced' or 'professional' and a licence issued for a period of one, three or five years after which a further application will need to be made. Full details of the proposed fee structure are provided at Appendix 3.

Financial Implications

11. The developed business plan for the delivery of the proposed additional HMO licensing scheme is included in Appendix 4. It is proposed to manage the scheme from within the Licensing Unit of the Housing Renewal Team who are presently administering the Councils selective licensing scheme.

12. Following the introduction of the selective licensing scheme in 2016 it has been possible to further develop the online application process (previously developed outside of the Council by Firmstep) and it is proposed that the application process for additional licensing be amalgamated into the existing online process in order to keep administrative costs to a minimal. The work to amalgamate the new application into the existing Selective Licensing form will be carried out internally following the significant experience the Corporate Improvement Team now have following various myhastings successes. The business plan is assuming that 75% of all HMO's in the area will be licenced by the end of the scheme (by March 2024); this assumption is higher than that of the 2011 scheme (which assumed 60% of all HMO's would be licenced) however officers are confident that this higher proportion is achievable using the intelligence collated from the last scheme and from the present selective licensing scheme.
13. Whilst the fee structure proposed will ensure improvement of HMO's through an element of self-regulation alongside traditional enforcement there are a greater number of assumptions required in the business plan than that of the 2011 scheme. In particular assumptions are required as to the rate at which landlords improve their management practices. As such a sensitivity analysis has been undertaken to calculate the reduction in income should all HMO's be compliant in year one. This analysis shows a risk of income throughout the lifetime of the scheme reducing by £ 583,000. The income in this situation would cover the estimated staffing for a period of 18 months, however if all HMO's were compliant in year one then staff would only be required to process those licences which could be undertaken in this 18 month period and the staffing resource therefore reduced to meet scheme income.
14. It should be noted that the actual fee proposed in appendix 3 is slightly above that which was consulted upon. Following the consultation officers have undertaken further sensitivity analysis and now recommend a figure of £400 as the best estimate of the time / cost required to administer the scheme taking into account the corporate improvement team adapting the existing online form. Please note it is possible that this estimate may be further adjusted as the development of the scheme progresses so Members are asked to allow the Director of Operational Services along with the Housing Portfolio Holder to agree the final fee prior to the scheme going live. In order to reassure potential future license applicants it is not permissible for the council to charge a fee in excess of that necessary for the operation of the scheme.
15. Should the Council approve the recommendation to implement an additional Licensing scheme, an anomaly would be created with the operation of the existing Mandatory Licensing scheme which would have different fees and five year licences only. In the interests of fairness and operational efficiency it will be prudent to harmonise the fee structure across both mandatory and additional HMO licensing and it is proposed that from the 1 April 2017 that the new fee structure as agreed in recommendation 3 is adopted for Mandatory Licensed HMOs.

Legal Implications

16. Sections 56 and 57 of the Housing Act 2004 place requirements on local authorities considering the introduction of additional licensing for HMOs and the local authority 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 to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public
 - Have regard to any information regarding the extent to which any codes of practice under section 233 have been complied with by persons managing HMOs in the relevant area
 - 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 dealing with them
 - Take reasonable steps to consult persons who are likely to be affected by the designation, for a period of not less than ten weeks, and consider any representations made in accordance with the consultation.
 - Ensure that any exercise of the power is consistent with the authority's overall housing strategy.
 - Seek to adopt a co-ordinated 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 the local authority or others.
17. These issues are all addressed in Appendix 1 and officers are confident they have complied with legislative requirements and government guidance in reaching the decision to recommend an area based additional licensing scheme.
18. Once an additional licensing scheme has been approved there are specific requirements to issue notices to publicise the scheme and ensure landlords are made aware of it. A scheme cannot come into force any earlier than three months.

Scheme Review

19. Local authorities are required to review additional licensing schemes from time to time and revoke the scheme if this is considered to be the most appropriate action. A process of review will be useful to assess whether there are ways of making the scheme more effective and ultimately to determine the success of the scheme in its later stages with a view to informing the exit strategy. The intention is to carry out an initial review at the end of 2019/20 and depending on the outcome that review a further review will be carried out at the end of 2021/2022. Progress will be assessed against the following key outcomes:
- Improvements in housing conditions for HMO tenants
 - Improved management standards
 - Increased property values keeping pace with average house price growth in the borough
 - Decrease in transience and property turnover
 - Reduction of empty properties

Conclusion

20. There is a sound evidence base which supports the adoption of an HMO additional licensing scheme in the areas of the town where there is a high concentration of

HMOs. This is considered to be an important step in raising standards and improving living conditions for tenants. The cost of running the scheme can be met from the estimated fee income generated over five years.

21. Consultation has highlighted support for licensing from private tenants. Although a number of landlords are opposed to the scheme, the number of those landlords and letting agents who responded to the Council's questionnaire indicated support for it.
22. Therefore, Cabinet is recommended to adopt an additional licensing scheme for HMOs, primarily those where section 257 of the Housing Act 2004 applies, in Braybrooke, Castle, Central St Leonards and Gensing wards.

Wards Affected

Braybrooke
Castle
Central St Leonards
Gensing

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness
Crime and Fear of Crime (Section 17)
Risk Management
Economic/Financial Implications
Organisational Consequences
Local People's Views

Additional Information

Appendix 1 – Proposal to implement an additional HMO licensing scheme for Hastings.
Appendix 2 – Proposed licence conditions and HMO Amenity Standards.
Appendix 3 – Proposed additional HMO licensing scheme fees and charges
Appendix 4 – Additional licensing scheme business plan.

Background Paper – Consultation on additional HMO licensing scheme (closed June 2017) –

http://www.hastings.gov.uk/content/my_council/consultations/current_consultations/pdfs/Additional_HMO_Licensing_Scheme_Consultation_document.pdf

Officer to Contact

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