

Cabinet

13th February 2024

Name of Cabinet Member:

Cabinet Member for Policing and Equalities – Councillor A S Khan
Cabinet Member for Housing and Communities – Councillor D Welsh

Director Approving Submission of the report:

Chief Legal Officer

Ward(s) affected:

All

Title:

Proposed statutory consultation for the designation of a new Additional HMO Licensing Scheme 2025 – 2030

Is this a key decision?

Yes - the proposals will significantly affect residents or businesses in all wards of the City

Executive Summary:

The provision of good quality housing for Coventry residents is a key priority for the City Council.

Houses in Multiple Occupation (HMOs) are a major concern in Coventry. It is estimated that Coventry is one of the top 14 authorities having the highest number of HMOs in England and Wales with around 6,800 HMOs or 26% of the total Private Rented Sector (PRS) stock.

Planning policy has been developed by the Council to create and sustain an appropriate 'mixed and balanced communities', by encouraging the spread of sustainable and viable options for accommodation. Notwithstanding, the city does have large areas where HMOs within the PRS are substantial in number.

It is recognised that there are many good quality landlords operating in the city, but unfortunately there are also those who do not maintain their properties leaving tenants at risk and giving potential problems to neighbouring properties.

Under the Housing Act 2004 the Government have legislated to provide local authorities with powers to tackle poor quality HMOs in the PRS through Mandatory Licensing,

however this only relates to those HMOs that have 5 or more occupants from two or more households.

HMOs with 3 or 4 occupants from 2 or more households form an unusually high percentage of houses in the city (approx. 63%) and provide much needed accommodation for residents, particularly students who would typically live in this type of accommodation following their first year at university.

In 2019 the Council approved a report to designate the whole of its area subject to Additional Licensing which provides a mechanism to secure the improvement of all of the HMO stock in the city. When it was first introduced the overall purpose of the licensing scheme was to: 'alleviate the housing situation by setting and maintaining minimum standards across the city in the most vulnerable sector of Coventry's private rental market'.

The scheme runs for a period of 5 years and commenced on 4th May 2020 and will cease on 4th May 2025 and means that all HMOs including properties converted into self-contained flats without Building Regulation Approval (sec 257 HMOs); require a licence.

Recommendations:

Cabinet is recommended to:

- 1) Consider the Additional Licensing Review Report 2023 and resolve there is a need to make a new designation for a citywide Additional Licensing scheme commencing from 5th May 2025.
- 2) Authorise a citywide statutory 12-week consultation beginning on 26th of February 2024 and ending on 17th of May 2024.
- 3) Request a future report setting out the responses received to the statutory period of public engagement, proposed HMO licensing policy, standards and fees and charges for the new Additional Licensing scheme.

List of Appendices included:

- Appendix 1 – Report on the review of Additional Licensing scheme 2023
- Appendix 2 – Options Appraisal Document
- Appendix 3 – Consultation Plan
- Appendix 4 – Timeline for Additional Licensing
- Appendix 5 – HMO Licence Fees and Charges
- Appendix 6 – Equalities Impact Assessment

Background papers:

None

Other useful documents:

Housing & Homelessness Strategy 2019 - 2024

Housing Act 2004.

Additional and Selective Licensing in the Private Rented Sector - A Guide for Local Authorities, published by the MHCLG in March 2015.

General Approval April 2015

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title: Additional Licensing in Coventry

1. Context (or background)

- 1.1. HMOs are properties that are occupied by a least 3 different tenants, forming more than 1 household whereby the tenants share facilities such as cooking or sanitary facilities. The definition of a HMO includes bedsits, shared houses, flats, lettings with their own facilities but which are not self-contained, and some types of poorly converted self-contained flats.
- 1.2. The Housing Act 2004 provides the power to the Council to introduce an Additional Licensing Scheme in its area. The power was intended to address the impact of poor-quality HMOs that fall outside of the mandatory licensing HMO definition and address management issues and poor property conditions.
- 1.3. In May 2020 the Council introduced a citywide Additional Licensing scheme which required all HMOs in Coventry to be licensed. The scheme runs for a period of 5 years and as such will cease on 4th May 2025.
- 1.4. Within the Act there is a legal requirement to review the scheme “*from time to time*”. To fulfil this requirement a consultation exercise was undertaken between July and October 2023 to seek views from all stakeholders on the progress of the scheme so far.
- 1.5. The review showed that the licensing scheme has made good progress in improving standards in a large number of HMOs. However, there are still a significant number of properties that remain unlicensed and there are issues with non-compliance. The full set of results from the review and consultation can be found in **Appendix 1** to the report.
- 1.6. A report was submitted to Cabinet on the 12th of December 2023 setting out the findings of the review and it was resolved that Cabinet:
 - 1) Notes and accepts the comments and recommendations from the Communities and Neighbourhoods Scrutiny Board (4).
 - 2) Notes the results of the Review of Licensing of Houses in Multiple Occupation 2023 and its findings.
 - 3) Requests that a future report be submitted to Cabinet setting out proposals for the future of the current additional licensing scheme.

2. Options considered and recommended proposal

- 2.1. A number of options have been considered in relation to the future of the HMO licensing scheme, these options were to a) renew the scheme in its entirety, b) renew the scheme in parts of the city or c) not renew the scheme.
- 2.2. The preferred option from the appraisal is to a) renew the scheme in its entirety. The full appraisal document can be seen at **Appendix 2** to the report.
- 2.3. The main reasons for supporting the option A) renewal of the scheme in its entirety are as follows:

- 2.4. HMOs are a major concern in Coventry. It is estimated that Coventry has the 14th highest number of HMOs in England and Wales. Only the large metropolitan and unitary authorities and some London Boroughs contain more. They form a high percentage of houses in the city which is attributed to high numbers of students attending both Coventry and Warwick University.
- 2.5. High house prices create a situation that puts the home ownership market beyond a large number of residents and places a burden on the PRS. Sharing accommodation is the only viable option for a large proportion of young and low-income households. Licensing ensures that the Council has a comprehensive toolkit to deal with poor conditions and issues around anti-social behaviour in all HMOs, thereby improving the living conditions for those residents in occupation and those who are affected by HMOs in the neighbourhood.
- 2.6. Planning policy has been developed by the Council to create 'mixed and balanced communities', which looks to limit the levels of HMOs in the sector so that there is a spread of sustainable and viable options for accommodation but despite all this the Council still have large numbers of HMOs in the PRS.
- 2.7. The problems associated with living in a HMO have been well documented over the years and are known to professionals working in the sector. The recent review of the current Additional HMO Licensing Scheme also indicates that a significant proportion of HMOs in the Council's area are still being managed ineffectively, with over 75,000 conditions being added to licences requiring the licence holder to carry out works to bring properties up to the appropriate standard and to manage them effectively to address issues around ASB and waste.
- 2.8. The current spread of HMOs is not concentrated in one particular area and the issues regarding this type of accommodation are widespread. Partial licensing of HMOs would likely result in an increase of HMOs in areas which were not subject to licensing or covered by the Council's Article 4 direction and leave the Council with limited options for regulating these properties.

3. Consultation Approach and Strategy

- 3.1. The approach is primarily governed by the provisions of the Housing Act 2004 and Government guidance (revised April 2010 & March 2015) and contains a statutory requirement to consult for a minimum period of 10 weeks on any proposals to designate an area subject to Additional Licensing.
- 3.2. A city wide 12-week consultation will therefore commence on 26th of February 2024 and end on 17th of May 2024, which will demonstrate that the Council has satisfied the legal requirement to take reasonable steps to consult with those people who may be affected by the designation. This includes neighbouring areas outside of the city boundary.
- 3.3. A detailed consultation plan is attached as Appendix 3 to the report setting out how the Council will meet these requirements. The strategy will be to use a mix of communication channels. The approach will also be informed by an Equalities Impact Assessment (EIA).

3.4. In summary this will include the following:

- A dedicated Let's Talk page containing an online questionnaire tailored to gauge cross section of views on the proposals;
- Focus groups with key stakeholder groups i.e. Landlords, Agents, Tenants, Residents and other key organisations such as the Police;
- Drop-in sessions in various parts of the city;
- E-communications through social media and the Council's website; and
- Workshops with Landlords and Agents to present the proposals.

3.5. Upon the completion of the consultation a report will be provided to Cabinet to consider the results of the consultation and any future structure of the scheme.

4. Timetable for implementing this decision

4.1. The proposed timetable for implementing the recommendations of this report is set out at Appendix 4 to the report .

4.2. Although this is a new designation the process is being implemented to ensure the delivery of a continuous scheme and as such the commencement date of the new scheme will be 5th May 2025. Once this designation comes into force it will also be subject to a statutory review and can only last a maximum of five years.

5. Comments from Chief Operating Officer (Section 151 Officer) and Chief Legal Officer

5.1. Financial implications

The financial implications associated with the recommendations are limited to the costs associated with implementing the consultation exercise and the fees developed to cover the cost of implementing and delivering the scheme.

Section 63 of the Housing Act 2004 permits the Council to require any application for a licence under Part 2 is accompanied by a licence fee and that this fee may properly cover all costs incurred by the Council in carrying out its functions.

When setting the fees and charges structure for the licensing scheme the Council can take account of the staff costs, training, administration and publicity, it is however not permitted to use licensing fees to raise revenue for other projects or areas of work.

The financial structure of the Scheme has been designed to be 'cost neutral' to cover the costs mentioned above and to ensure that no General Fund Revenue is required to support the delivery of the Scheme. The proposed criteria for each type of licence is set out in Appendix 5 to the report.

The European Union Services Directive 2006 changed the basis upon which fees for certain licences and permissions could be charged by the issuing authorities. In particular licensing authorities may not set fees that are dissuasive, and any fees

must be reasonable and proportionate to the cost of the licensing process and the issuing of the licence. These provisions have been taken into account in setting the fees.

In addition a judgement, in the Supreme Court (Hemming v Westminster case UKSC 2013/0146), has provided further clarification of the type of costs which may be taken into account when setting fees, and when fees may be payable. The council will follow this decision and therefore fees will be payable in two parts to meet with the European Directive requirements.

The fees and charges structure will be reviewed on an annual basis and published in advance of each financial year. If there is a need to increase fees to cover any potential shortfall then this will be recommended and reported through the budget setting process.

The Council will aim to continue to structure the scheme in such a way that benefits those landlords and agents that are compliant and provides incentives to improve compliance, whilst managing the opportunities for the non-compliant through higher fees and shorter licences. This will be reflected in the fees and charges structure and the eligibility and length of licences.

5.2. Legal implications

In April 2015 the then, Secretary of State for Communities and Local Government gave Local Authorities general approval regarding the approval steps for additional and selective licensing designations in England. When considering the introduction of an Additional Licensing scheme the Council 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 2015.

Section 56 of the Act places requirements upon the Council 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;
- 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).

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;
- Seek to adopt a coordinated approach in connection with dealing with homelessness, empty properties and anti-social behavior affecting the PRS as regards combining licensing with other action taken by them or others;
- 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).

The General Approval provides the condition that any consultation period for the proposed designation should not be less than 10 weeks.

The guidance for the general approval also 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 behavior 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.

Part 2 of the Housing Act 2004 sets out the scheme for licensing HMOs in a local housing authority area. Under section 56(1) of the Act a local housing authority can designate the whole or any part or parts of its area subject to additional licensing. Where an additional licensing designation is made it applies to all HMOs specified in the designation.

6. Other implications

6.1. How will this contribute to achievement of the One Coventry Plan?

<https://www.coventry.gov.uk/strategies-plans-policies/one-coventry-plan>

The One Coventry Plan 2022 - 2030 takes forward the main themes agreed by the Council in recent years. It reaffirms the Council's ambition of "Working together to improve our city and the lives of those who live, work and study here".

This ambition is driven through three corporate priorities which directly address the needs of the city:

- Improving outcomes and tackling inequalities within our communities
- Improving the economic prosperity of the city and regions
- Tackling the causes and consequences of climate change

The Health and Wellbeing Strategy 2023 - 2026 recognises that where we live can have a significant impact on our wellbeing. Despite improving local housing systems, the city still has high levels of homelessness; highlighting a need to work together with partners to improve the use of existing homes and empty dwellings. Household overcrowding is more prevalent in Coventry than national and regional averages. Census 2021 counts 10,196 Coventry households as overcrowded, having fewer rooms than a minimum standard for the number of occupants. This amounts to 7.7% of all households, so overcrowding rates in Coventry are higher than West Midlands (5.4%) and England overall (6.4%). However, overcrowding has reduced since 2011 when it was at 9.5% of households.

Housing & Homelessness Strategy 2019 - 2024 affirms the Council's view that housing is fundamental to the wellbeing of people, their families and their communities. Decent housing provides a stable base on which people can build their lives and build successful communities. Poor or unsuitable housing, however, can have negative impacts on many other areas of personal and community life as well as physical and mental health and wellbeing. If you do not have decent housing, everything else becomes much more difficult. Improving housing options, conditions and neighbourhoods within the city via delivery of this strategy is essential for economic growth, improving outcomes for children including their educational attainment, health and wellbeing, and community cohesion. The strategy plays a crucial role in ensuring decent homes, housing choice and support for Coventry citizens through various themes including:

Support for people and communities - Some communities are experiencing the impact of an increasing proportion of housing that is converted to multiple occupation, especially (but not exclusively) for student housing. Where HMOs are well managed and maintained, they provide an important housing option. However, where there is poor management and poor standards, this can have a detrimental effect on the occupiers and adversely impact on the local community.

Improving the use of existing homes - It is important to increase the number of homes to meet the city's growth needs, but the majority of housing available in the city is already in existence. There are approximately 142,000 existing homes in the city, compared to 24,600 additional homes to be provided over the life of the Local

Plan (to 2031). The condition of the existing housing stock is important to ensure that residents are living in decent, safe accommodation which is suited to their needs. Rented homes must be well managed by landlords who meet their responsibilities, and tenants should understand their rights and their own responsibilities too.

Improving outcomes and tackling inequalities within our communities

Additional Licensing will together with other agencies, make communities safer and reduce crime and anti-social behaviour.

It will improve health and wellbeing by providing safer and healthier rented accommodation that is well managed with reduced overcrowding and will reduce health inequalities and protect the most vulnerable by improving the standard of poorly managed homes without the need to report problems. It will help prevent homelessness due to poorly managed or rogue landlord actions.

6.2 How is risk being managed?

The statutory process required to designate an Additional Licensing scheme is being followed to ensure full compliance and a minimum 10-week consultation will be undertaken.

The consultation will be designed to ensure our compliance with legislation and statutory guidance, minimising the risk of legal challenge.

6.3 What is the impact on the organisation?

The approval of the recommendations to conduct a consultation should have limited impact on the organisation. There is no human resource, financial or ICT implications as the consultation exercise will be carried out using current resources.

The implementation and delivery of the scheme will require additional resources which have been accounted for within the fees and charges for licences.

6.4 Equalities / EIA

The report makes links to the Council's Equality and Diversity Policies and a specific Equalities Assessment has been completed for this report and is attached at Appendix 6 to the report.

6.5 Implications for (or impact on) climate change and the environment?

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

6.6 Implications for partner organisations?

The proposals to consult on an Additional Licensing scheme contributes towards the work of the Community Safety Partnership.

The effective operation of the consultation will enable the Council to make clear and informed decisions about the structure of the Additional Licensing scheme in the city which will directly impact on the quality and management of HMOs in the PRS and on the co-existence of HMOs with local residents and communities.

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