
Scrutiny Co-ordination Committee
Cabinet
Council

21 August 2024
27 August 2024
3 September 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:

Director of Law and Governance

Ward(s) affected:

All

Title: Additional HMO Licensing Scheme 2025 – 2030

Is this a key decision?

Yes – The proposals impact on more than two Wards in the City

Executive Summary:

This report provides the results of a statutory consultation carried out in relation to the future of additional licensing in Coventry and seeks approval 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 a period of 5 years commencing on the 4th May 2025.

The Council designated the whole of the city subject to additional licensing scheme from the 4th May 2020 and any such scheme can only last for a period of 5 years.

Section 60 of the Housing Act 2004 provides that a designation must from ‘time to time’ be reviewed and can be revoked following a review, but in any case, must end 5 years after it has been made.

On the 13th June 2023 a report was submitted to Cabinet seeking authority to conduct a 12-week consultation as part of the review of the additional licensing scheme in operation.

The review was completed in December 2023 and a report was submitted to Cabinet on the 12th December 2023 setting out the results in relation to the additional licensing scheme in operation.

A further report was submitted to Cabinet on the 13th February 2024 seeking approval to carry out a statutory consultation beginning on the 26th of February 2024 and ending on the 17th of May 2024 on the future of additional licensing in Coventry.

This report provides the results of the statutory consultation and proposals to implement an additional licensing scheme commencing on the 4th May 2025 for a period of no longer than 5 years. The results of the statutory consultation are provided at Appendix 1.

Recommendations:

Scrutiny Co-ordination Committee is recommended to consider the report and submit any comments/recommendations to Cabinet for consideration at their meeting on 27 August, 2024

Cabinet is requested to recommend that Council:-

1. Consider any comments/recommendations received from Scrutiny Co-ordination Committee
2. Consider the results of the statutory consultation and approve the following:
 - I. Designate the whole of Coventry City as subject to Additional Licensing under Section 56(1)(a) of the Housing Act 2004 for all Houses in Multiple Occupation (HMOs), irrespective of the number of storeys, that contain three or four occupiers;
 - II. Designate the whole of Coventry City as subject to Additional Licensing under Section 56(1)(a) of the Housing Act 2004 for all HMOs as defined under Section 257 of that Act where those HMOs are mainly or wholly tenanted, including those with resident landlords, unless if it is either:
 - a. a section 257 HMO consisting solely of two flats where neither of the flats is situated above or below commercial premises; or
 - b. a section 257 HMO where the flats share no internal or external common parts, and which are no more than two storeys high;
 - III. That the designations in paragraphs I and II above come into force on the 4th May 2025 for a period of 5 years;
 - IV. Delegate authority to the Director of Law and Governance to sign the Coventry City Council Designation of an Area for Additional Licensing of Houses in Multiple Occupation 2025 as attached at Appendix 2;
 - V. Resolve to adopt the HMO Licensing Policy 2025 as attached at Appendix 3 and review fees periodically to ensure they remain reasonable and proportionate and address any issues relating to surpluses or deficits in accordance with case law and the EU Services Directive.

Council is recommended to:-

1. Consider any comments/recommendations from Scrutiny Co-ordination

Committee

2. Consider the results of the statutory consultation and approve the following:
 - I. Designate the whole of Coventry City as subject to Additional Licensing under Section 56(1)(a) of the Housing Act 2004 for all Houses in Multiple Occupation (HMOs), irrespective of the number of storeys, that contain three or four occupiers;
 - II. Designate the whole of Coventry City as subject to Additional Licensing under Section 56(1)(a) of the Housing Act 2004 for all HMOs as defined under Section 257 of that Act where those HMOs are mainly or wholly tenanted, including those with resident landlords, unless if it is either:
 - a. a section 257 HMO consisting solely of two flats where neither of the flats is situated above or below commercial premises; or
 - b. a section 257 HMO where the flats share no internal or external common parts, and which are no more than two storeys high;
 - III. That the designations in paragraphs I and II above come into force on the 4th May 2025 for a period of 5 years;
 - IV. Delegate authority to the Director of Law and Governance to sign the Coventry City Council Designation of an Area for Additional Licensing of Houses in Multiple Occupation 2025 as attached at Appendix 2;
 - V. Resolve to adopt the HMO Licensing Policy 2025 as attached at Appendix 3 and review fees periodically to ensure they remain reasonable and proportionate and address any issues relating to surpluses or deficits in accordance with case law and the EU Services Directive.

List of Appendices included:

- Appendix 1 – Results of statutory consultation
- Appendix 2 – Additional Licensing Designation 2025
- Appendix 3 – HMO Licensing Policy 2025
- Appendix 4 – Option appraisal
- Appendix 5 – Timeline for Implementation
- Appendix 6 – Equality and Impact Assessment

Background papers:

None

Other useful documents:

- Cabinet report of the 13th June 2023
- Communities and Neighbourhoods Scrutiny Board (4) report of 7th December 2023
- Cabinet report of the 12th December 2023
- Cabinet report of the 13th February 2024
- 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?

Yes – 21 August, 2024

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?

Yes – 3 September, 2024

Report title: Additional HMO Licensing Scheme 2025 – 2030.

1. Context (or background)

- 1.1. HMOs are properties that are occupied by a least 3 people in two or more households who share at least one basic amenity i.e. a kitchen, bathroom or toilet. The definition of a HMO includes bedsits, shared houses, flats, lettings with their own facilities and some types of poorly converted self-contained flats.
- 1.2. The Housing Act 2004 provides a 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. On the 4th 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 the 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, for example, the Council has added around 11,598 conditions to licences that has resulted in approx. £1.6m being invested into improving conditions. This investment would not have happened without the scheme, but there are still a significant number of properties that remain unlicensed and there continues to be issues with non-compliance and poor management.
- 1.6. The Council has been proactive in its approach to enforcement of unlicensed HMOs and non-compliance, so much so that this was recognised by the National Residential Landlord Association (NRLA) in their paper - the Enforcement Lottery: civil penalty usage by local authorities, which acknowledged that Coventry ranked first for issuing the most civil penalties for HMO offences in England.
- 1.7. It is clear however, that more needs to be done as a significant proportion of HMOs in the Council’s area are still being managed ineffectively, and unlicensed properties are still present.
- 1.8. The focus of this scheme will therefore be to proactively target those unlicensed and non-compliant properties whilst ensuring that those properties that are already licensed continue to provide the standards required under the requirements of the licensing regulatory framework.
- 1.9. Cabinet considered a report on the 13th February 2024 and approved recommendations to proceed with a statutory consultation on the designation of a further scheme from the 4th May 2025 to the 4th May 2030. The city-wide consultation ran for 12 weeks from the 26th of February 2024 to the 17th of May 2024.

1.10. This report provides Cabinet with the results of this statutory consultation and seeks a decision from Cabinet to consider the designation of the whole of Coventry as subject to additional HMO licensing for a further five years following the expiry of the existing 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 is to a) renew the scheme in its entirety.

2.3. 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.

2.4. High house prices create a situation that puts the home ownership market beyond a large number of residents and places a burden on the private rented sector. 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.

2.5. 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.

2.6. The problems associated with living in a HMO have been well documented over the years and are known to professionals working in the sector and the current spread of HMOs is not concentrated in one particular area and therefore the issues regarding this type of accommodation are widespread.

2.7. 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.

2.8. The full option appraisal document is provided at Appendix 4.

3. Consultation Approach and Strategy

3.1. The approach to consultation is primarily governed by the provisions of the Housing Act 2004 and Government guidance (revised April 2010 & March 2015) which 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 commenced on 26th February 2024 and ended on 17th May 2024, which demonstrates 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 included neighbouring areas outside of the City boundary.
- 3.3. A detailed consultation plan was provided in the Cabinet report approved on the 13th February 2024 setting out how the Council met these requirements. The consultation adopted a mix of communication channels. In summary these included:
 - 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;
 - 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.
- 3.4. In total, the consultation generated 183 survey responses on the Council's Let's Talk page and a further 160 responses from the charity Acorn, who carried out their own independent case work. 214 people attended the various consultation event/workshops. 4 stakeholders were interviewed and 6 individuals or organisations responded with formal written submissions to the consultation.
- 3.5. Of the 160 responses to the online survey; 24 were from landlords and managing agents, 124 were from members of the public living in Coventry, 12 were from tenants of HMO's, with the remainder made up of other stakeholders.
- 3.6. Overall, 137 respondents either strongly agreed or agreed (105 strongly agreed and 32 agreed) that the Council should renew the Additional Licensing Scheme.

4. Timetable for implementing this decision

- 4.1. The proposed timetable for implementing the recommendations of this report is set out at Appendix 5.
- 4.2. As any Additional Licensing Scheme can only run for a period of 5 years this is in effect a new designation and as such the process is being implemented to ensure the continuous delivery of the first scheme. 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 the Director of Finance and Resources and the Director of Law and Governance

5.1. Financial implications

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 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 continue to 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 periodically and published in advance of each change during the 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 private rented sector 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
- 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?

6.3 A statutory consultation has been undertaken in accordance with section 56(3) of the 2004 Act. The consultation satisfied the requirements of the 2004 Act and the Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015.

6.4 What is the impact on the organisation?

6.5 The approval of the recommendations has human resource and ICT implications. A restructuring exercise has been factored into the timeline for implementation to ensure that resources are in place should the recommendations of this report be approved.

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.

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

The option of “do nothing” considered in the option 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 effective operation of the consultation has enabled the Council to make clear and informed decisions about the future 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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Gill Carter	Solicitor	Law and Governance	24 th 2024 July	27 th July 2024
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Councillor A S Khan	Cabinet Member	-	24 th 2024 July	1 st 2024 August

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Councillor D Welsh	Cabinet Member for Housing and Communities	-	24 th July 2024	30 th July 2024

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