

<b>18 December 2018</b>		<b>ITEM: 10</b>
<b>Housing Overview &amp; Scrutiny Committee</b>		
<b>Consultation Update on the Housing Option of Additional Licensing scheme</b>		
<b>Wards and communities affected:</b> All	<b>Key Decision:</b> Key	
<b>Report of:</b> Dulal Ahmed Housing Enforcement Manager		
<b>Accountable Assistant Director:</b> Carol Hinvest, Assistant Director of Housing		
<b>Accountable Director:</b> Roger Harris Corporate Director of Adults, Housing and Health		
<b>This report is Public</b>		

## **Executive Summary**

On December 13 2016, the Housing Overview & Scrutiny Committee agreed that officers should explore introducing Additional Licensing of privately rented properties that would not be covered by the mandatory licensing of Houses in Multiple Occupation (HMO) coming into force on 1 October 2018.

Legislative guidance has been followed on the approval steps for additional licensing.

This report sets out the findings of the public consultation exercise programme from July 9<sup>th</sup> to September 24<sup>th</sup> 2018 to gather views and representations before any recommendations to Cabinet to implement an Additional Licencing scheme.

This proposed scheme will give greater protection to HMO tenants if approved. Its estimated 700 unlicensed shared houses with 2800 households live in Thurrock not subject to mandatory licensing.

Under the proposals, landlords would need to obtain a licence for an HMO falling within Additional Licensing scheme for which there is a fee. The fee is charged to cover the costs of processing an application, monitoring compliance with licence conditions and enforcing the scheme.

### **1. Recommendation(s)**

#### **1.1 Note the new extended mandatory HMO licensing scheme came into force on October 1 2018**

- 1.2 Note Additional HMO licensing falls outside the scope of mandatory HMO licencing of private rented property which is let to 5 or tenants who form two or more households**
- 1.3 Note the proposed Additional Licensing designated areas in the borough will be subject to licensing for private rented property which is let to 3 to 4 tenants who form two or more households**
- 1.4 Note the outcomes of the public consultation exercise with a view to making recommendations to Cabinet.**

## **2. Introduction and Background**

- 2.1 On December 13 2016, the Housing Overview & Scrutiny agreed to the proposal for the council to explore the option of Additional Licensing scheme. The council has tested its appropriateness in Thurrock and feel this new scheme will be more effective because it will cover far more HMOs than the Government's new mandatory scheme.
- 2.2 A House in Multiple Occupation (HMO) is:-
  - i. A privately rented property which is let to three or more tenants who form two or more households and who share a kitchen, bathroom or toilet. However, HMOs of this description are not subject to mandatory licensing.
  - ii. A building which is converted entirely into self-contained flats, if the conversion did not meet the standards of the 1991 Building Regulations and more than one third of the flats are let on short term tenancies. These properties are otherwise known as section 257 HMOs.
- 2.3 Thurrock has around 700 HMOs not subject to mandatory licensing in certain parts of the borough.
- 2.4 The standards of management and living conditions in some HMOs can be poor especially unlicensed HMOs who do not proactively manage their properties, nor address the unacceptable behaviour of their tenants.
- 2.5 A licensable HMO under the Government's extended mandatory scheme is:
  - i. A private rented property occupied by 5 or more occupiers living in two or more households and share amenities such as kitchen, bathroom or toilet.
- 2.6 We have gathered evidence of poor management and living conditions below minimum housing standards of tenants to explore licensing for properties let to 3 to 4 tenants.
- 2.7 To make a designation for additional licensing scheme and satisfy the grounds on which a scheme can be introduced the council must show that a significant proportion of HMOs [of that description in 2.2] within its area are

being managed ineffectively as it 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.

- 2.8 Section 56 of the Housing Act 2004 gives powers to local authorities to designate areas or the whole of the area, within their district as subject to additional licensing in respect of some or all of the HMOs in its area that are not already subject to mandatory licensing.
- 2.9 Additional licensing would be appropriate for Thurrock to improve local standards as HMOs present a higher risk to safety and health of the occupants than other homes, particularly in relation to injury from fire, overcrowding or lack of amenities.
- 2.10 Although Secretary of State approval is not necessary for the council to adopt a scheme it does have to properly evidence the need and comply with legislative requirements such as conducting a consultation with those affected.
- 2.11 The Government's extended mandatory HMO definition in point 2.5 came into force on October 1 2018 under the Housing Act 2004 for licensing purposes
- 2.12 Forty new applications were received accompanied with a fee payable to the council for HMOs occupied by five or more unrelated persons.
- 2.13 If approved the Additional Licensing scheme will run alongside the mandatory HMO licensing scheme. Unlike the mandatory licensing scheme, the proposed additional licensing scheme lasts for a period of five years before the council must review its continued justification in order to readopt it.
- 2.14 HMO landlords covered in the additional licensing scheme must pay the council a licence fee to rent out their property. The private housing service inspects all properties to ensure they are up to minimum housing standards, suitable for the number of occupiers and the team carries out a fit and proper test that the proposed license holder is suitable to be manager of the house before granting a license.

### **3. Proposed Additional Licensing Scheme**

- 3.1 The demand for affordable housing in Thurrock has increased over the last 5 years. Small HMOs have been popular with landlords providing multiple homes to satisfy consumer demand without being subject to licensing regulations.
- 3.2 Although HMOs provide a valuable resource to the housing market a high concentration of HMOs in a neighbourhood can have a detrimental effect on the surrounding properties and their neighbourhood. Thurrock has around 700 HMO properties in its area that are not covered by the mandatory Licencing scheme and a large number of service requests have management issues

such as anti-social behaviour by tenants, unacceptable waste storage and disposal and overcrowding.

3.3 The following areas have been selected due to their high concentration of HMOs and wider associated problems requiring the intervention of council services and community safety partners. This forms the evidence and reasons for Additional Licensing in Thurrock.

- ✓ Grays Thurrock
- ✓ Grays Riverside
- ✓ Little Thurrock Blackshots
- ✓ Stifford Clays
- ✓ West Thurrock and South Stifford
- ✓ Ockendon
- ✓ Belhus
- ✓ Aveley and Uplands
- ✓ Tilbury Riverside and Thurrock Park
- ✓ Tilbury St Chads
- ✓ Chadwell St Mary

3.4 The proposed licensing scheme can regulate this area so that the council can address these management issues with the landlord or his or her agent under their license conditions. For example, by requiring landlords to take action in dealing with Anti-Social Behaviour [ASB], the Additional Licensing scheme can help to ensure that ASB is dealt with more quickly and efficiently in HMOs, thereby preventing small problems escalating and prevention of negative effects on public health.

3.5 Also, if a landlord or managing agent allows a HMO to be occupied by more people/households than is licensed it is an offence punishable on summary conviction to an unlimited fine. A Civil Penalty Notice of up to £30k is an alternative sanction available to the council.

3.6 However, if the breach is serious or persistent e.g. failure to tackle their anti-social behaviour tenants their licence may be entirely revoked. If the council revokes the licence it will consider its housing options of taking over the HMO management.

3.7 The council has established the evidence base needed to support the introduction of a designated additional licensing scheme in parts of the borough. This information was shared during the consultation process with those affected by the scheme and the wider general public. See point 5.2.

#### 4. **The benefits of Additional Licensing Scheme**

4.1 Most local authorities report a positive effect of licensing on the physical condition of properties, the quality management and the quality of accommodation.

- 4.2 We believe that the potential benefits to public health include a reduction of ill health due to overcrowding conditions, reducing risks from cold homes; combat stress factors triggered by ASB behaviours and reduce the risks of injuries at home. The benefits are also likely to impact more vulnerable groups living in HMOs most greatly such as the elderly and poorer households and therefore can help to address health inequalities.
- 4.3 If additional licensing is introduced it would considerably increase the scope of the limited mandatory Licensing scheme based on the current definition of an HMO for which 40 licenses are pending to be licensed at the time of this report.
- 4.4 HMOs are increasingly being used as a way to cope with increased demand for housing for single adults as rent levels and house prices prevent many single adults from living in their own property.

## 5. **Consultation Approach**

- 5.1 Section 56[3] of the Housing Act 2004 requires that:

Before making a designation of an area subject to Additional Licensing the authority must

[a] take reasonable steps to consult persons who are likely to be affected by the designation and

[b] consider any representations made in accordance with the consultation and not withdrawn

- 5.2 The consultation process lasted for 11 weeks from July 9 to September 24 2018. The consultation documents consisted of:

*Additional Licensing Evidence file, Additional Licensing frequent asked questions, HMO definitions, HMO draft licence conditions and a map of the proposed licensing areas*

- 5.3 Respondents were invited to complete an online survey on the council's consultation portal, see appendix 1, which was designed to help structure responses about Thurrock and HMOs. It also contained a space to capture comments about the council's proposed HMO licence conditions to raise their management standards and reduce problems associated with HMOs in the proposed scheme.
- 5.4 The consultation was published by a media release including within specialist residential property publications, adverts within newspaper publications in borough and surrounding areas that may be affected by the scheme, see appendix 2 and details of the consultation were promoted using social media e.g. Twitter and Facebook throughout the consultation period.

- 5.5 Local residents including tenants, letting/managing agents, businesses and stakeholders in Thurrock, Barking and Dagenham, Basildon, Billiercay & Wickford, Brentwood, Castlepoint, Chelmsford, Rochford, Southend, Havering and Waltham Forest were consulted.
- 5.6 326 letters were also sent to private landlords and letting agents about the proposed scheme and information was also circulated by email to managing/letting agents of how to respond to the consultation.
- 5.7 Presentations were given at four public consultation meetings hosted by the private housing service to residents, private landlords and letting/managing agents. Those attending had an opportunity to engage with council staff who gave detailed feedback about the scheme and gave details of how to get involved. Our landlord forums are attended by private tenants, landlords and letting agents who are part of our landlord mailing list and the wider public.
- 5.8 Meetings were also held with representatives of the community safety partnership about raising awareness of the scheme to the Police, Fire Authority, Public Health, Probation, Adults, and Children Services with an interest in private housing within Thurrock.

## 6. Results from the on line survey

- 6.1 163 surveys were completed on line and the responses are summarised in the table below.

	<b>Support</b>	<b>Oppose</b>
Overall , how much do you support or oppose the introduction of an Additional Licensing scheme	141	15

	<b>Agree</b>	<b>Disagree</b>
To what extent do you agree or disagree that the Additional Licensing Scheme will assist poor performing HMOs raise their standards	135	16
To what extent do you agree or disagree that the Additional Licensing improve the health and safety of tenants living in HMOs	134	17
To what extent do you agree or disagree that the Additional Licensing will help to ensure that HMOs are better maintained and managed	135	17
To what extent do you agree or disagree that properties in Grays, South Ockendon, Tilbury , West Thurrock, and Purfleet should be included in the proposed areas for Additional Licensing	135	19

	<b>Problem</b>	<b>Not a problem</b>
To what extent do you believe anti-Social behaviour to be a problem in Thurrock?	154	5

	<b>Whole</b>	<b>Parts</b>
If the council introduces Additional Licensing , should it cover the whole borough or just parts of the borough	69	86

	Satisfied	Dissatisfied
Overall, how satisfied are you with Thurrock as a place to live, work or rent your property	118	25

- 6.2 73% of respondents strongly supported the introduction of an Additional Licensing scheme. Over three quarters of respondents agreed that properties in the proposed licensing areas should be included within the scheme.
- 6.3 A very high percentage of respondents 83% and 82% respectively felt Additional Licensing would assist poor performing HMO landlords raise their standards and improve the health and safety of tenants living in HMOs.
- 6.4 95% of respondents believed ASB to be a problem in Thurrock. Residents living in the proposed licensing areas experience higher incidence of ASB where small HMOs not subject to mandatory licensing are located.
- 6.5 72% of respondents were satisfied with Thurrock as a place to live, work or rent their property but it showed many residents felt there are problems in the borough related to poorly managed HMO and private sector accommodation.
- 6.6 The table below provides a breakdown according to the type of respondent.

Respondent breakdown	No.
<b>Providing your own personal response</b>	90
<b>Submitting a response on behalf of an organisation</b>	4
<b>Responding as a private landlord or a letting or managing agent</b>	62
<b>[No Response]</b>	7

- 6.7 Of those who completed the survey 120 lived within Thurrock.
- 6.8 It is clear from the consultation results that 55% residents and 38% landlords who completed the survey supported the proposal of regulating small HMOs to raise standards.
- 6.9 The evidence base and the survey findings also showed many residents living within Thurrock do feel there are problems in the borough in relation to poorly managed HMO and private sector accommodation. The following neighbourhood issues had the highest response rate as problems for residents in Thurrock.

Neighbourhood Problems	No. of respondents
Waste	155

Anti-Social Behaviour	154
Crime	154
Migration	154
Litter	153
Abandoned vehicles	151

6.10 The council's full response to the consultation can be found in appendix three.

## 7. Results in relation to the proposal

7.1 Respondents generally agreed the Additional Licensing scheme would improve their neighbourhood and make a positive contribution to Thurrock reducing problems associated with HMOs.

7.2 Respondents also strongly felt the whole of the borough should be covered by the proposals not just certain parts.

## 8. Results in relation to supporting the scheme

8.1 Overall, 73% respondents strongly agreed to the scheme. The table below provides a breakdown of this support.

	No.
<b>Strongly Support</b>	119
<b>Support</b>	22
<b>Neither Support or Oppose</b>	6
<b>Oppose</b>	3
<b>Strongly Oppose</b>	12
<b>No Response</b>	1

## 9. Representation

9.1 The Residential Landlord Association raised some questions about the proposal. All of these questions have been answered in a formal response from the council. None of the issues that were raised we felt were substantial enough to cause any concern or for changes to the proposal to be made.

## 10. Fee Structure

10.1 The proposed fee structure to the Additional Licensing scheme will be recommended to Cabinet within the council's Fee & Charges Report 2019/20. The Housing Overview & Scrutiny will have oversight of this.

10.2 A breakdown of the proposed fee can be found in the appendix.

## 11. Reasons for Recommendation



- 11.1 Licensing is consistent with the council Housing Strategy 2015-2020 for the management of HMOs. It recommended regulation to ensure homes are fit and safe.
- 11.2 It enables proactive housing enforcement to tackle poor housing conditions, improvement management standards and reduce health inequalities.
- 11.3 We have produced detailed evidence and we consider it a proportionate response to the issues with management, property conditions and ASB that existing interventions have not been able to resolve.
- 11.4 Part 2 of the Housing Act 2004 gives local authorities the power to declare Discretionary Licensing areas where problems in the private rented sector have been identified. There are a number of areas in the Borough where the problems with the private rented sector would warrant additional licencing.
- 11.5 Consideration has been given to other options:
- [a] Do nothing and carry on Mandatory licensing but this does not extend to small HMOs;
- [b] Continue to respond to complaints and carry out inspections and enforcement action. However, this is not an effective use of our resources with complaints prioritised on the basis of a risk assessment;
- [c] Continue to promote landlord accreditation and guidance through landlord forums. The number of accredited landlords operating in Thurrock is 281 out of 11,000 homes within the private rented sector recorded at the last census in 2011
- [d] The adoption of Article 4 Direction of the Town and County Planning Act [General Permitted Development ] (England) Order 2015 to withdraw development rights to change a use of from a single dwelling house [use class 3 ] to a small HMO shared by 3 to six persons unrelated[ use class 4]. The council wants to work with private landlords to increase the number of homes to meet local housing demand rather than reduce the supply of one bedroom properties.
- 11.6 Mandatory HMO licensing will not tackle problems associated with non-licensable HMOs including small HMOs that are badly managed, are not being properly managed or are causing a problem in the borough.

## **12 Consultation (including Overview and Scrutiny, if applicable)**

- 12.1 The council carried out a full ranging consultation programme over 11 weeks to obtain the views of key stakeholders including landlords, letting /managing agents, tenants, residents, businesses, stakeholder representatives organisations, as well as neighbouring boroughs.

- 12.2 The results of the consultation will be shared on the council's website.
- 12.3 The committee to consider all the relevant issues before determining whether to introduce a designated scheme in the borough.

### **13. Impact on corporate policies, priorities, performance and community impact**

- 13.1 Licensing will improve the health and wellbeing of private tenants through the reduction of poor and unsafe housing conditions and will enable the authority to bring about general improvements in the neighbourhoods where licencing takes place.

### **14. Implications**

#### **14.1 Financial**

Implications verified by: **Julie Curtis**  
**HRA and Development Accountant**

Based on the HMO licence fee of £950 and the estimated number of small HMOs in the area the theoretical General Fund income could be up to £665k over 5 years. Staffing costs will have to be considered to administer the Additional Licensing scheme.

Section 63[3] of the Housing Act 2004 provides that license applications may be accompanied by a fee to be determined by the local housing authority [LHA]. In setting its fee LHA may take into account all costs it's incurred in carrying out its licensing function which we have done for licence applications for up to a 5 year period. The costs, fees and discounts are subject to review annually.

All income generated through the licencing scheme is ring-fenced to administer the scheme and improve the HMO offer in the Borough.

#### **14.2 Legal**

Implications verified by: **Chima Obichkwu**  
**Housing Solicitor**

Part 2 of the Housing Act 2004 provides for the licensing of HMOs. The Act imposes a statutory duty on local authorities to license privately rented HMOS that are occupied by 5 more persons forms two or more households where there is sharing of basic amenities. The council however has discretion to extend that that licencing to other HMOs. In making that decision the Council must:

- i. 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.
- ii. Consider whether there are other course of action available to them [of whatever the nature] that might provide an effective method of dealing with the problem or problems in question.
- iii. Consider 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]
- iv. Consider people are likely to be affected by the designation
- v. Ensure that the exercise is consistent with the overall housing strategy; and seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty homes and anti-social behaviour affecting the private rented sector as regards combing licensing with other action taken by them or others.
- vi. Be satisfied that the evidence relived on by the council is sufficiently robust to justify the designation

In terms of enforcement action, under section 95 of the Housing Act 2004, it is offence under section 5 of the Act not to licence a property which is licensable.

### 14.3 Diversity and Equality

Implications verified by: **Rebecca Price**  
**Community Development Officer**

The Community and Equality Impact Assessment is in the appendix. Licensing raises HMO standards. This scheme will improve standards for tenants in HMOs regardless of whether they belong to a protected group[s] or not.

The council addresses community and tenant concerns of, overcrowding, safety, security, and improving management and maintenance in the private rented sector

The proposed additional licensing scheme therefore has a positive effect on a wide range of residents in HMOs. It allows the council to remedy poor conditions in the private rented sector that can have an adverse effect on health in general and can exacerbate medical conditions. The council can take the appropriate action required under mandatory and additional licensing.

### 14.4 Staffing implications (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

The council has forecast around 700 properties in the borough could require a licence therefore staffing implications have been considered to manage this scheme.

The income generated from licensing will finance the staff to administer the scheme as all licensing income is ring fenced as per the regulatory guidance on HMO fees.

**15. Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

Implementation of Mandatory Licensing of Houses in Multiple Occupation and the introduction of an Additional Licensing scheme, 10 July 2018

<https://democracy.thurrock.gov.uk/ieListDocuments.aspx?CId=167&MID=5481#A18238>

Update on HMO Licensing Fee Consultation and the Proposal of Additional Licensing, 13 December 2016

<http://democracy.thurrock.gov.uk/documents/g5067/Public%20reports%20pack%2013th-Dec-2016%2019.00%20Housing%20Overview%20and%20Scrutiny%20Committee.pdf?T=10>

**16. Appendices to the report**

Appendix 1; Additional Licensing Evidence report (*Copies of the report can be found in the Members area and will be tabled on the night*)

Appendix 2; Consultation Frequent Questions and Answers (*Copies of the report can be found in the Members area and will be tabled on the night*)

Appendix 3; HMO Fee Structure 2019/20

Appendix 4; Community and Equality Impact Assessment (*Copies of the report can be found in the Members area and will be tabled on the night*)

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