

Meeting:	Licensing and General Purposes Committee
Date:	2 nd March 2009
Subject:	Continuation of Additional Licensing for Houses in Multiple Occupation (HMOs)
Responsible Officer:	John Edwards Divisional Director – Environmental Services
Portfolio Holder:	Councillor Susan Hall – Deputy Leader and Portfolio Holder for Environment Services and Community Safety
Exempt:	No
Enclosures:	Appendix A - Report to the Secretary of State for Communities and Local Government

Section 1 – Summary and Recommendations

Summary:

Proposal to apply to continue with and amend the discretionary Additional HMO Licensing Scheme.

Recommendations:

Recommended that the Committee agree that the Private Sector Housing Enforcement Team applies to the Secretary of State to be able to continue with the discretionary Additional HMO Licensing Scheme which has been in operation since 6th April 2006.

Reason: (For recommendation)

To enable the Council to continue to licence smaller properties so that means of escape, amenities and Anti Social Behaviour (ASB) can be dealt with effectively.

Complaints received by the Council regarding properties in the borough are mainly related to noise, fly tipping, litter, anti social behaviour and poorly managed

properties. The complaints often relate to both Additional and Mandatory HMOs. By continuing with the discretionary Additional HMO Licensing Scheme, the Council will be able to address issues such as overcrowding, lack of amenities and fire safety and also place some responsibility on Landlords to ensure the appropriate behaviour of their tenants.

Section 2 – Report

Current situation

The Mandatory Licensing Scheme for Houses in Multiple Occupation (HMOs) only covers larger HMOs which have three or more storeys and are occupied by five or more tenants who comprise two or more households. The Housing Act 2004 Part 2 defines what a HMO is and the number of occupants that can occupy a property before it becomes licensable under the mandatory scheme.

Since April 2000, Harrow Council has operated an enhanced registration scheme that registered all HMOs as per the HMO definition. *The local scheme currently licenses 320.*

The Government's Mandatory Licensing Scheme for HMOs only covers larger HMOs, i.e. buildings of three or more storeys and occupied by five or more unrelated people. *This definition covers 110 licensed premises.*

The Government authorisation for the current scheme is due to expire at the end of March 2009 and the Council will have to apply for Government consent in order to continue the enhanced local scheme.

Why a change is needed

The Private Sector Housing Enforcement Team wishes to apply to continue with the additional HMO licensing scheme but at the same time change its format from that currently in operation. In comparing the risk factors associated with HMOs, evidence has shown that the risks connected with three persons is not any greater than if five people were occupying a one or two storey property.

Also by not having to licence smaller properties occupied by less than 5 people, this would enable landlords to offer affordable accommodation without the burden of licensing fees, which in turn would benefit both landlords and tenants.

Hence, we are now proposing to revise the current scheme to reflect the evidence gathered, and from April 2009 the Council is seeking to change the criteria under the additional HMO licensing scheme so as to license two storey properties which are occupied by five or more people instead of the current minimum of three people, and to licence buildings which are converted

entirely into self contained flats which do not comply with the Building Regulations 1991, as per section 257 of the Housing Act 2004. As we consider these types of properties as high risk, licensing of these properties would enable the Council to ensure that regulations in relation to fire safety standards, basic amenities and general management of the properties are being met.

The results of questionnaires recently sent out indicate that just under 40% of the landlords and managing agents on the Council database agree that Harrow Council should continue with the additional HMO licensing regime, compared to under 30% who felt that it should be discontinued.

Implications of the Recommendation

Resources, costs

Continuing with the discretionary additional HMO licensing scheme will not require any additional resources or extra costs and will be incorporated within the existing budget.

The Council has better managed HMOs through registration and licensing schemes, with less cost implications.

The fee structure is a standard rate for all types of properties, regardless of the number of storeys or number of occupants.

Staffing/workforce

At present extra staff will not be required as we have been running this scheme since 2006. Previous to this the Council had a Registration scheme running from April 2000 to April 2006.

Legal comments

In order to make a designation of additional licensing for houses in multiple occupation in the borough, the Council has to apply to the Secretary of State for Communities and Local Government. This is in accordance with sections 56 to 60 of the Housing Act 2004, the Housing Act 2004 (Commencement No. 5 and Transitional Provisions and Savings)(England) Order 2006, and paragraphs (a), (b) and (c) of Regulation 9 (2) of the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006.

Before applying for a designation for additional HMO licensing, the local authority must:

- (a) 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

- (b) have regard to any information regarding the extent to which any codes of practice approved under the Act have been complied with by persons managing HMOs in the area concerned
- (c) consider whether there are any other courses of action available to them that might provide an effective method of dealing with the problem(s) in question
- (d) consider that making the designation will significantly assist them to deal with the problem(s) (whether or not they take any other course of action as well) and
- (e) consult persons likely to be affected by the designation

As noted above, the Council has to conduct a full consultation with stakeholders and this should include tenants, landlords and managing agents, and other members of the community who live or operate businesses or provide services within the proposed designation and outside the designation who will be affected. With regard to consultation, the authority sent out letters and survey forms to all landlords and managing agents on its database. A Public Notice was also placed in the Harrow Times on two occasions and the Council website. A copy of the survey form and questionnaires are available on the Council website.

Financial Implications

There is an income target of £21k for HMO licensing currently set. If Secretary of State declines our request to continue with the additional HMO Licensing regime, this target will have to be met singularly by Mandatory scheme. It is anticipated that by reorganising the focus on 3 storey properties the income target can be met in the short term, i.e. until all the 3 storey properties are licensed. If our further efforts to successfully apply for the additional licensing scheme fails, the income target will come under pressure in the long term.

Performance Issues

Performance issues not identified.

Risk Management Implications

If the Secretary of State approves the continuation of the Additional HMO Licensing Scheme, there will no risk implications. However, in the event of the application being rejected, we may have a reduced number of premises which require licensing, which will have a direct implication on the set target income budget, and could lead to a number of HMOs in the borough which are not managed sufficiently effectively such that they could give rise to problems for those occupying them or for members of the public.

Section 3 - Statutory Officer Clearance

Name: Sheela Thakrar.	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 17 02 09..		
Name: ...P Metha	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 17.02.09		

Section 4 - Contact Details and Background Papers

Contact: Mr P Sivashankar
Service Manager, Housing & Support Services
020 8736 6237

Background Papers:
Report to the Secretary of State