



**NORTHAMPTON**  
BOROUGH COUNCIL

## CABINET REPORT

<b>Report Title</b>	<b>Proposed Designation of an Additional HMO Licensing Scheme</b>
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**AGENDA STATUS: PUBLIC**

<b>Cabinet Meeting Date:</b>	16 October 2019
<b>Key Decision:</b>	Yes
<b>Within Policy:</b>	Yes
<b>Policy Document:</b>	No
<b>Directorate:</b>	Housing and Wellbeing
<b>Accountable Cabinet Member:</b>	Councillor Stephen Hibbert
<b>Ward(s)</b>	Abington, Billing, Boothville, Brookside, Castle, Delapre and Briar Hill, Eastfield, Headlands, Kingsley, Kingsthorpe, Obelisk, Park, Parklands, Phippsville, Rectory Farm, Riverside, Rushmills, Semilong, Spencer, Spring Park, St Davids, St James, Sunnyside, Talavera, Trinity and Westone

### 1. Purpose

- 1.1 To provide Cabinet with the results from the consultation that has been carried out in relation to the new Additional HMO (Houses in Multiple Occupation) Licensing Scheme.
- 1.2 To ask Cabinet to approve the designation of a new Additional HMO Licensing Scheme, which covers all HMOs within a selected area with three or four occupiers comprising two or more households, for a period of five years commencing on 1 February 2020.

## **2. Recommendations**

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2.1 It is **recommended** that Cabinet:

- (a) Notes the 'Consultation Report' of 3 May 2019 (attached to this report as Appendix A) and the 'Report on the findings from the Consultation on the Designation of an Additional HMO Licensing Scheme in Northampton' (attached to this report as Appendix B);
- (b) Agrees that, having considered the 'Consultation Report' (Appendix A), the 'Report on the Findings from the Consultation' (Appendix B) and the 'Hazards identified during HMO inspections' (Appendix C) which show that a significant proportion of the HMOs in the designated area are being managed ineffectively, an Additional HMO Licensing Scheme is required for a period of five years; and
- (c) Agrees to designate, with effect from 1 February 2020 for a period of five years, a selected area of the Borough (identified in the map and list of streets contained in Appendix D of this report) as being subject to Additional HMO Licensing under section 56(1)(a) of the Housing Act 2004 for the following types of HMO:
  - (i) Any HMO (irrespective of the number of storeys) that contains three or four occupiers who form two or more households; and
  - (ii) All self-contained flats (irrespective of the number of storeys) that are Houses in Multiple Occupation and contain three or four occupiers who form two or more households but, where the HMO is a section 257 House in Multiple Occupation, this Additional HMO licensing designation will only apply to those section 257 HMOs that are mainly or wholly tenanted, including those with resident landlords.

## **3. Issues and Choices**

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### **3.1 Report Background**

- 3.1.1 Bedsits and shared houses are a popular and much needed type of accommodation for students, migrant workers, people on low incomes and those who are seeking affordable, short-term to medium-term housing.
- 3.1.2 Well-managed HMOs have a vital role to play in helping to meet the housing needs of Northampton's residents. However, compared to single occupancy dwellings, HMOs do present significantly greater risks.
- 3.1.3 Over the past 3 years the Housing Enforcement Team has proactively inspected 141 mandatory HMO premises and 162 additional HMO premises within which they identified a range of hazards that have potentially put the tenants' health and safety at risk:
  - Of the 141 mandatory HMO premises inspected, 30% required interventions to address concerns about fire safety issues and 41% required action to improve inadequate facilities (see Appendix C).

- Of the 162 Additional HMO premises, 48% required interventions to address concerns about fire safety issues, 30% required action to improve inadequate facilities and 22% involved chasing up the licensees for the relevant documentation to prove their premises are fit for purpose (see Appendix C).
- 3.1.4 Where there are high concentrations of HMOs, there are noticeable impacts on local communities and the local environment. The Council receives complaints from neighbouring residents living near HMOs regarding the nuisance and anti-social behaviour that is caused by the tenants of badly managed HMOs.
  - 3.1.5 It is important the Council protects the safety and wellbeing of neighbouring residents, addresses their concerns and helps to resolve problems using its enforcement powers. Additional HMO Licensing gives the Council enhanced powers to address issues arising within licenced HMOs.
  - 3.1.6 With Additional HMO Licensing, the Council can make landlords more accountable for not only the standards and conditions within the HMOs that they let but also for their tenants' behaviour.
  - 3.1.7 Mandatory HMO licensing applies to all HMOs (in all parts of the borough) that contain five or more occupiers that form two or more households. As at 3 May 2019, there were 844 licensed HMOs in Northampton and, of these, 457 had a Mandatory HMO licence and 387 had an Additional HMO licence.
  - 3.1.8 Although Northampton has some excellent landlords and letting agents, it also has a significant number of criminal, rogue and irresponsible landlords and, through its intelligence-led, targeted approach to housing enforcement, the Council investigates, using a risk-assessed approach, on properties it believes are licensable HMOs and operating illegally without an HMO licence. Experience has shown that, when a licensable HMO is not licenced, the owner/managing agent is also likely to fail to comply with a range of regulatory requirements including the condition and safety of the premises.
  - 3.1.9 In 2014, under the Secretary of State's general approval, the Council introduced a five-year Additional HMO licensing scheme for a designated area of the borough which was based on statistical evidence that was valid at that time. This scheme (see Page 36 of Appendix A) came into force on 3 November 2014 and will expire on 2 November 2019.
  - 3.1.10 Following a review of the current evidence and the work of the Housing Enforcement Team, the Council undertook a statutory 10-week consultation on the proposal to introduce a new designation that will operate for a period of five years and include the area covered by the existing designation, together with additional areas which are mainly in the eastern part of the district.
  - 3.1.11 If the new Additional HMO licensing scheme is approved, it will come into effect on 1 February 2020 and, where a licence holder holds an Additional HMO licence when the existing scheme comes to an end on 2 November 2019, the licence holder will automatically be issued with a replacement licence, at no extra cost, for the unexpired period of their HMO licence.

## 3.2 Issues

### Designation of an Additional HMO Licensing Scheme

3.2.1 In order to designate an Additional HMO licensing scheme, the Council must proceed through the statutory process as laid out in sections 56 and 57 of the Housing Act 2004 and associated guidance: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2010.

3.2.2 Section 56 of the Housing Act 2004 places requirements upon the local housing authority when considering a designation for an Additional HMO Licensing Scheme, 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; and
- 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).

3.2.3 Section 57 of the Housing Act 2004 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; and
- Seek to adopt a coordinated 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 them or others; and
- 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).

3.2.4 The Department for Communities and Local Government (DCLG) General Approval provides the condition that any consultation period for the proposed designation should not be less than 10 weeks.

3.2.5 In February 2010, the DCLG produced general guidance around the approval steps for additional and selective licensing designations in England. This document provides examples of properties that are 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 behaviour 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.

3.2.6 Northampton’s Additional HMO licensing scheme was introduced on 3 November 2014 and will expire on 2 November 2019. Under section 60(2) of the Housing Act 2004, the date of expiry must be no later than five years after the date on which the designation comes into force.

3.2.7 The proposal is that the new designation would commence on 1 February 2020 and last for a period of 5 years, expiring on 31 January 2025.

#### The proposed designation

3.2.8 Taking into account the Housing Enforcement Team’s established intelligence-led approach to the improvement and enforcement of standards, conditions and management within HMOs – and the evidence of the local and environmental impacts of HMOs – a further designation for Additional HMO licensing is considered to be the most effective and appropriate way of ensuring that HMOs in Northampton are subject to the necessary regulation and control.

3.2.9 Based on up to date evidence and reflecting key changes resulting from the Housing and Planning Act 2016 and the subsequent amendments to the definition of Mandatory HMOs, it is proposed that an Additional HMO licensing scheme (see Appendix D) is introduced with effect from 1 February 2020.

3.2.10 If approved, the proposed designation will last for a period of five years and an area of the Borough (identified in the map and list of streets contained in Appendix D) will be subject to Additional HMO Licensing under section 56(1)(a) of the Housing Act 2004 for the following types of HMO:

- (i) Any HMO (irrespective of the number of storeys) that contains three or four occupiers who form two or more households; and
- (ii) All self-contained flats (irrespective of the number of storeys) that are Houses in Multiple Occupation and contain three or four occupiers who form two or more households but, where the HMO is a section 257 House in Multiple Occupation, this Additional HMO licensing designation will only apply to those section 257 HMOs that are mainly or wholly tenanted, including those with resident landlords.

3.2.11 It is proposed that the Additional HMO licensing designation includes the area covered by the current Additional HMO licensing designation except for two small geographical omissions in the Semilong and Obelisk wards.

3.2.12 The reason for the omission in the Semilong ward is that the excluded area contains no residential dwellings and did not need to be included in the original designation of the Additional HMO licensing scheme in 2014.

3.2.13 The reason for the omission in the Obelisk ward is that there was no evidence of HMOs in the excluded area and, as the University of Northampton has now relocated to the Waterside Campus, the likelihood of there being problematic HMOs in the excluded area in the future is too small to risk including the area when there is no evidence to justify Additional HMO licensing.

3.2.14 Additional HMO licensing can play a vital role in controlling and regulating HMOs and ensuring that legal standards are in place for fire safety, housing-related health and safety, space standards and management.

#### Consultation on the proposed designation

3.2.15 On 3 May 2019, the Council published a 'Consultation Report' (see Appendix A) and launched its 10-week consultation with the residents, groups, businesses and stakeholders who are likely to be affected by the proposed designation.

3.2.16 Details of the consultation and the proposed designation, together with copies of the Consultation Report, were publicised using a wide range of techniques and communication channels, including the Council's website, social media (Facebook and Twitter), the Landlord Forum, briefings and focus groups, features and an advert in the local newspaper, e-mails to hundreds of known landlords and letting agents and engagement with key stakeholders (including the Police, Fire Service and Immigration Service) and Council services (including Planning, Building Control, Environmental Services, Revenues & Benefits, Housing Options, Legal Services and the Anti-Social Behaviour Unit).

- 3.2.17 Consultees included other regulatory bodies, landlords and letting agents, accredited landlords, tenants, University students, residents and residents groups, parish councils, business owners and, where necessary, residents and business owners who are not in the Northampton borough but whose homes or premises are adjacent to the new designation.
- 3.2.18 All consultees were invited to share their views on the proposed scheme via the completion of a survey which was organised online through Survey Monkey.
- 3.2.19 All comments and feedback have been considered as part of the development of the consultation findings and are included in the Consultation Findings report (see Appendix B).

#### HMO Study by Loughborough University

- 3.2.20 To support the preparation of the Northampton Local Plan Part 2, the Council commissioned Loughborough University, in 2018, to carry out a study with policy recommendations. This forms part of the evidence base for the policy in the Local Plan and has been used in the formulation of the principles contained in the draft HMO Supplementary Planning Document of July 2019.
- 3.2.21 The main findings of the Loughborough University research are attached to this report as Appendix F.

#### Meeting the criteria for establishing an Additional HMO Licensing Scheme

**CRITERION ONE: The authority must consider that a significant proportion of the HMOs of the description to be included 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 HMO or for members of the public.**

- 3.2.22 As shown in Appendix C ('Hazards identified during the HMO Inspections'), 30% of licensed Mandatory HMOs and 48% of licensed Additional HMOs licenced HMOs that have been inspected during the past 3 years had fire safety issues. Furthermore, 41% of Mandatory HMOs and 30% of Additional HMOs had inadequate facilities (such as leaks, undersized rooms and dampness).
- 3.2.23 The evidence gathered suggests that a significant proportion of these HMO are managed sufficiently ineffectively to warrant the proposed licensing approach.

**CRITERION TWO: The authority must have regard to any information regarding the extent to which codes of practice approved under section 233 have been complied with, by persons managing HMOs in the area.**

- 3.2.24 The Council has had regard to the following Code of Practice under Section 233 in relation to the management of student housing and for the purposes of Schedule 14 which lists buildings which are not Houses in Multiple Occupation (HMOs) for the purposes of the Housing Act 2004:

UK Parliament SIs 2010-Present/2010/2601-2650/Housing (Codes of Management Practice) (Student Accommodation) (England) Order 2010 (SI 2010/2615) Housing (Codes of Management Practice) (Student Accommodation) (England) Order 2010.

**CRITERION THREE: The authority must consider whether there are other courses of action (whatever the nature) available to them that might prove an effective method of dealing with the problem.**

3.2.25 The Council has considered the following alternative courses of action to try and tackle the issues relating to HMOs across the borough:

- Reactive inspections and enforcement – in response to complaints from tenants, neighbours or other stakeholders. Dealing with such complaints can be time consuming and resource intensive and, without the fee income from Additional HMO Licensing, proactive action will not be possible.
- Proactive, targeted inspections and enforcement – as part of a planned programme of HMO inspections. In the absence of the Additional HMO licensing scheme, the enforcement activity will not benefit from licence conditions and standards, and there would be no control over whether the landlord/manager is a ‘fit and proper’ person to manage the HMO.
- Use of Interim Management Orders – to enable the Council to take over the management of an HMO from a landlord for up to 12 months in serious cases. As these Orders can only be used as a reactive response and for individual properties, they will only apply to a small proportion of the overall number of substandard and ineffectively managed HMOs in the borough.
- Landlord accreditation scheme – to encourage landlords to commit to meeting agreed property and letting standards. In Northampton, the Council already encourages landlords to join the DASH (Decent And Safe Housing) landlord accreditation scheme and, as an additional incentive, it provides DASH with the funding that it requires in order to offer landlords free accreditation. As landlord accreditation is voluntary, it tends to attract good, responsible landlords and is often ignored by criminal, rogue and irresponsible landlords who have little or no interest in it.
- Undertaking Mandatory HMO licensing only – to tackle only the larger HMOs containing five or more people and comprising two or more households. If this was agreed, the risks posed by smaller HMOs (containing three or four occupiers and comprising two or more households) would only be addressed through reactive inspections and enforcement
- Extending Additional HMO licensing – to include the whole of the whole of the borough. This is not something that will be pursued because the intelligence, consultation responses and enforcement records show that we do not have enough evidence to extend the scheme to the whole borough.

3.2.26 It is clear that the Council’s use of conventional engagement, enforcement and persuasion will not, on its own, result in a significant improvement in the area. Licensing has a vital role to play in addressing and resolving the problem.

**CRITERION FOUR: The authority must consider that making the designation will significantly assist them in dealing with the problems.**

3.2.27 The introduction of an Additional HMO Licensing Scheme within the designated area will achieve the following:

- The ability to deal with landlords with multiple properties and to request applications for all properties within the designated area;
- Improvements to residents' health and safety because gas and electrical installations will be safe, fire precautions will be in place and all licensed HMOs will need to comply with the Council's amenities and facilities standards in relation to room sizes, the number of occupants, the use of basements and attic rooms, the standard of kitchens, bathrooms and toilets, and the facilities for the storage, preparation and cooking of food;
- Improvements to accommodation, achieved through the use of the Housing, Health and Safety Rating System, especially where a property is excessively cold / damp, lacks security or has trip or falling hazards;
- Improved partnership working with landlords to ensure that they have a better understanding of HMO management issues (including their responsibility to control rubbish and waste and maintain the communal areas, gardens and forecourts) and have up-to-date information about the Council's services, standards and expectations, for their benefit and the benefit of their tenants;
- Improvements to the environmental impact that HMOs have on the local neighbourhood;
- Better outcomes and value for money, more effective problem-solving and sustained improvement will be achieved through closer collaboration;
- Encouragement of landlords and agents to become members of the DASH landlord accreditation scheme which is provided free of charge to landlords who have a licensed HMOs in the borough;
- Criminal and rogue landlords will be prevented from managing licensable HMOs if they are assessed as not being a 'fit and proper person';
- Reduced incidents of anti-social behaviour as Council services work together (through the HMO licensing approach) to review all activity and issues associated with each HMO at the application or investigation stage.

**CRITERION FIVE: The authority must consult persons who are likely to be affected by the designation and consider any representations.**

3.2.28 A 10-week consultation on this proposal commenced on 3 May 2019 and ended on 14 July 2019. It included an online questionnaire, a Landlord Forum event and a series of focus groups that included a presentation and discussion.

3.2.29 The consultation has provided some good feedback and has supported the evidence obtained in relation to the area suffering from a lack of HMO management, disrepair and the environmental and social impact that these properties can have on tenants and neighbours alike.

3.2.30 There were 80 responses to the on-line survey, received from residents, residents associations, landlords and letting agents.

- 62% of respondents from the on-line questionnaire either strongly agreed or agreed with the proposed scheme.
- 25 responses expressed concerns about anti-social behaviour, parking issues and rubbish / fly-tipping associated with HMOs. (64% of these felt that the Additional Licensing Scheme would help to combat these issues).
- 13% of those that agreed with the proposed scheme mentioned that the proposal would introduce a degree of control and accountability and ensure that standards within HMOs would be met.

3.2.31 The Landlord Forum was set aside for a detailed discussion on the proposed scheme with over 50 landlords and businesses in attendance.

3.2.32 A series of focus groups were arranged and attended by landlords, internal and external Stakeholders, residents associations and residents. There were also 2 briefing sessions for Members.

3.2.33 A full report on the findings from the Consultation is attached as Appendix B;

**CRITERION SIX: The authority must ensure that the exercise of power is consistent with the authority's overall housing strategy.**

3.2.34 Although local authorities no longer have a statutory responsibility to produce a housing strategy, the establishment of an Additional HMO licensing scheme is consistent with Northampton's last Housing Strategy 2013-16, the Council's Corporate Plans of 2016-20 and a raft of housing policies and initiatives that the Council has approved and introduced since 2016.

3.2.35 The reduced supply of affordable and social rented housing, together with the impact of Welfare Reform and the introduction of the single room rent for single people under the age of 35, has increased the demand for HMOs and the need to ensure that such properties are safe, well managed and properly maintained.

3.2.36 Additional HMO licensing contributes positively to the aims of the housing strategy by regulating the stock of lower cost shared housing and ensuring it meets acceptable standards and is well managed by 'fit and proper' persons.

3.2.37 The priorities in the last two Corporate Plans have included raising standards in private rented housing, working effectively to uphold licensing objectives, making effective use of enforcement powers to ensure good standards in the private rented sector and promoting good practice and landlord accreditation.

- 3.2.38 HMO licensing places an obligation on the owner or manager to notify the Council of the existence of a licensable HMO and affords the Council the opportunity to ensure that the HMO is managed by a 'fit and proper person', is not overcrowded and its amenities are adequate for the number of occupants.
- 3.2.39 Use of mandatory licensing and housing enforcement play a useful role in improving the general standard of private sector housing. However, landlord accreditation and the provision of advice can also help to ensure that landlords provide good quality accommodation.
- 3.2.40 The HMO licensing regime seeks to encourage continuous improvement by rewarding good HMO landlords / owners with longer licences. Good landlords have said they want a distinction made between them and bad landlords.
- 3.2.41 This balanced approach – which the Council has applied consistently to the borough's private rented sector since 2016 – is reflected in Northampton's Housing Enforcement, Civil Penalties and Fees and Charges policies, and the comprehensive Business Cases produced for the establishment of the Social Lettings Agency and the expansion of the Housing Enforcement Team.
- 3.2.42 The purpose of the Council's Private Sector Housing Enforcement Policy is to ensure that tenants of private landlords and registered social landlords live in homes that are free of unacceptable hazards and risks to their health and safety, all HMOs are safe and well managed, all licensable HMOs are licensed and operating in accordance with the licence conditions, and all HMOs are complying with the relevant HMO Management Regulations.
- 3.2.43 If there are serious breaches of the licensing conditions and/or serious management offences, the Council may revoke the HMO licence.
- 3.2.44 Where the Manager of an HMO has endangered the health, safety or wellbeing of occupiers, visitors or members of the general public and/or has deliberately or persistently ignored written warnings or formal notices / orders or failed to make reasonable progress in meeting the Council's requirements), the Council will consider prosecution or the imposition of a civil penalty.
- 3.2.45 If the Council is satisfied that there is no reasonable prospect of a licensable HMO being licensed (with appropriate conditions) in the near future, or if it is necessary to protect the health, safety or welfare of the occupiers of the property or properties in the vicinity, it must make an Interim Management Order in respect of the HMO. In such instances, the property will be managed by the Council's Social Lettings Agency.

**CRITERION SEVEN: The authority must seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and antisocial behaviour and as regards combining licensing with other courses of action available and as regards combining such licensing with measures taken by other persons.**

- 3.2.46 The Council and its partners have an excellent track record of multi agency working and ensuring a co-ordinated approach in dealing with homelessness, empty properties and anti-social behaviour. This is reflected in 'TOGETHER we

change lives' (our 3-year rough sleepers strategy, published in 2016), the Business Case for the establishment of the Social Lettings Agency, Northampton's multi agency Community Safety Plan 2017-20 and two Overview and Scrutiny reviews of homelessness and rough sleeping in 2017 & 2018.

- 3.2.47 Shared housing and HMOs play a vital role in meeting the housing needs of people who are sleeping rough or are at risk of having to sleep rough. The loss of such accommodation – often through 'no fault' evictions, and sometimes through unlawful evictions – is one of the main causes of homelessness.
- 3.2.48 The Council is in the process of restructuring its Housing Advice & Options Service and, as part of that restructure and with the assistance of a substantial amount of government funding, it is establishing a Single Homelessness Pathway that is designed to improve the move-on opportunities available to people who are sleeping rough or are at risk of having to sleep rough. Shared accommodation and HMOs form an integral part of that Pathway.
- 3.2.49 As explained in the Business Case, the main purpose of the Social Lettings Agency is to help the Council to improve standards in Northampton's private rented sector, bring empty homes back into use and make it easier for people who are living and working in the borough to access good quality, well managed, affordable private rented accommodation.
- 3.2.50 In addition to offering landlords a private sector leasing or housing management and lettings service, the Social Lettings Agency makes it easier for the Council to take over the control and management of a property (by making an Interim or Final Management Order) in order to protect the health, safety or welfare of the occupants and people living in the vicinity of the HMO.
- 3.2.51 Where a landlord is failing to take action to address a problem in private rented housing, the Council will consider a Special Interim Management Order in order to remove or significantly reduce an anti-social behaviour problem.
- 3.2.52 Northampton's intelligence-led, targeted approach to housing enforcement, together with its proven commitment to strong and effective partnership working, has enabled the Housing Enforcement Team to identify unlicensed HMOs and ensure that Additional HMO licensing complements the other action being taken to improve neighbourhoods and reduce the impact of poorly managed, badly maintained HMOs. This is especially important with the regeneration of Northampton which would otherwise be compromised if the private rented sector is left uncontrolled.
- 3.2.53 The Council's approach to HMOs (from a housing and planning perspective) has been informed by the research that was undertaken by Loughborough University in 2018.
- 3.2.54 It is clear from the research and evidence that the seven criteria are met, and this is reflected within this report and the supporting Appendices.
- 3.2.55 Information and intelligence has been used to identify the issues and problems caused by HMOs within the proposed Additional HMO licensing area.

3.2.56 This report and the Appendices demonstrate very clearly the advantages that the proposed Additional HMO licensing scheme will bring to the Council.

3.2.57 Evaluation of the management and processing of the existing Additional HMO licensing scheme – which has now been running for almost five years – will assist the successful implementation of the proposed licensing scheme.

### **3.3 Choices (Options)**

#### **OPTION 1: Approve the proposed designation**

3.3.1 Cabinet can decide to approve the proposed designation of the Additional HMO licensing scheme with effect from 1 February 2020.

3.3.2 This is recommended because of the impact that poor quality and ineffectively managed HMOs are having on the areas covered by the proposed designation and it is the most effective and appropriate way of ensuring that HMOs in Northampton are subject to the necessary regulation and control.

3.3.3 Implementation of the designation is consistent with the Council's overall housing strategy and will further strengthen the effectiveness of its Private Sector Housing Enforcement Policy and the strategic housing services it delivers in relation to homelessness, empty properties, housing standards and anti-social behaviour affecting Northampton's private rented sector.

3.3.4 Although careful consideration has been given to alternative courses of action that are available to effect improvements – including landlord accreditation, good practice presentations at the Landlord Forum and the establishment of a University of Northampton 'good practice alliance' – all of these initiatives are already in place and have made only a relatively small difference to the number of HMOs that are badly managed.

3.3.5 The principal benefits of the proposed designation of the Additional HMO licensing scheme also appear in **Appendix G** of this report.

#### **OPTION 2: Approve the proposed designation, but delay its implementation**

3.3.6 Cabinet can decide to approve the proposed designation of an Additional HMO licensing scheme but delay its implementation.

3.3.7 Delaying the implementation could allow poor landlords to take advantage of their tenants and see standards within HMOs slip. Compliant landlords who have an Additional HMO licence under the existing scheme may feel justifiably aggrieved by such a delay.

#### **OPTION 3: Do not approve the proposed designation**

3.3.8 Cabinet can decide not to approve the proposed designation.

3.3.9 This is not recommended because, if a new Additional HMO licensing scheme is not introduced after the existing scheme has expired, landlords and letting agents will no longer have a legal obligation to notify the Council of their HMOs (unless they are Mandatory HMOs) and the Council's database of HMOs will quickly become obsolete.

3.3.10 If there is no Additional HMO licensing scheme, assessing and dealing with the risks presented from smaller HMOs would depend on complaints or reactive responses. Without income from additional licensing, the increased resource will not be available to deal with pro-active action.

#### **OPTION 4: Approve a varied designation**

3.3.11 Cabinet can decide to vary the proposed designation to cover a different geographical area than the one that is recommended in this report and/or change the definition of the types of HMO that will be subject to the proposed Additional HMO licensing scheme.

3.3.12 This is not recommended because the proposed designation is based on the evidence gathered in respect of the areas of the borough most affected by poor quality and ineffectively managed HMOs, and the types of HMO included in the designation are those that need to be subject to regulation and control.

### **4. Implications (including financial implications)**

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#### **4.1 Policy**

4.1.1 The action that the Council is proposing to take is in line with Council policy and reflects the priorities in the Corporate Plan 2018-20.

#### **4.2 Resources and Risk**

4.2.1 The Council's Private Sector Housing Fees and Charges Policy is designed to ensure transparency, consistency and fairness in the way in which fees and charges are calculated and applied. It also seeks to encourage good behaviour and ensure that responsible landlords pay lower fees and charges.

4.2.2 The Council is allowed to recover the costs of administering the HMO licensing scheme. Assumptions have been made about the number of HMO licences that are likely to be issued or renewed each year and the resources required to administer the scheme.

4.2.3 Although there is a risk that the HMO fees and charges will not cover the full cost of administering the Additional HMO licensing scheme, this risk has been mitigated by the fact that the Council is likely to receive more HMO fee income when it expands the Additional HMO licensing scheme to include a wider area of the borough from 1 February 2020.

4.2.4 The Council will keep its HMO fees and charges under review and, if there is a need to revise them, they will be revised.

- 4.2.5 One of the other risks is that, by expanding the area covered by the Additional HMO licensing scheme, the Housing Enforcement Team may become inundated with HMO licence applications and not have the capacity to process them. This risk will be mitigated by the introduction of an online HMO licensing system – to be implemented by the commencement of the new scheme – and, if necessary, by recruiting more Officers to prevent a build-up of outstanding applications.
- 4.2.6 The cost of the new online HMO licensing system will be met from licensing fee income. The cost of any additional Officers would also be funded from the extra HMO licence fees and be subject to a comprehensive business case.

### **4.3 Legal**

- 4.3.1 A local housing authority must keep the housing conditions in their area under review with a view to identifying any action that may be needed under various statutory provisions including the Housing Act 2004 ('the 2004 Act'). If considering designating an area of additional licensing for HMOs the authority must comply with the requirements in sections 56 and 57 of the 2004 Act.
- 4.3.2 The primary test is that the authority must be satisfied that a significant proportion of HMOs which would be included in the proposed additional licensing scheme are being managed sufficiently ineffectively as to give rise, or be likely to give rise, to one or more particular problems either for those occupying those HMOs or the public. Cabinet must therefore confirm it is satisfied that the evidence set out in this report shows that poor management of those types of HMO contributes to the problems concerned.
- 4.3.3 The authority must also satisfy itself of the further matters set out in paragraphs 3.2.24 to 3.2.57 of this report, namely that it has had regard to the extent to which Codes of Practice under the 2004 Act have been complied with; that its approach is coordinated with its approach to homelessness, empty properties and ASB; that other courses of action have been considered to deal with the problems caused by ineffective management of HMOs and that the designation would assist in doing so; and, that the proposal is consistent with the Council's overall housing strategy.
- 4.3.4 The 2004 Act requires the authority to consult persons who are likely to be affected by the designation and to consider any representations made in accordance with the consultation and which are not withdrawn. Cabinet must be satisfied that the responses to the consultation which are referred to in this report, and set out in detail in Appendix B, support the proposed designation.
- 4.3.5 Once an Additional HMO Licensing Scheme has been approved, the authority must publicise the designation by placing notices at its offices, place that notice on the website and publish it in the next editions of two or more newspapers circulating in the area concerned and repeating those adverts in five further editions of those newspapers at intervals of between two and three weeks. The notice must also be sent to those who responded to the consultation, those representing landlords, tenants and letting agents, law centres and homeless

persons units. The designation may not come into force for at least 3 months after the date on which it is made, meaning that if it is to come into force on 1 February 2020, it must be made no later than 1 November 2019.

- 4.3.6 The Authority must review the designation from time to time and may revoke it if considered appropriate. Although the 2004 Act does not prescribe a fee structure in relation to licences for HMOs, case law states that the fees charged may only cover the administration of the licensing process and enforcement under Part 2 of that Act. A separate report is being taken to Cabinet in relation to the level of fees to be charged.

#### **4.4 Equality and Health**

- 4.4.1 A full Community Impact Assessment has been completed.

- 4.4.2 The proposed designation of the Additional HMO licensing scheme will help to improve housing conditions and the life chances, health and wellbeing of people with protected characteristics, including homeless people, young people, older people, people with disabilities and families with children.

- 4.4.3 By placing an obligation on the owner or manager to notify the Council of the existence of a licensable HMO and providing the Council with the opportunity to ensure that the HMO is managed by a 'fit and proper person', is safe, is not overcrowded and its amenities are adequate for the number of occupants, the Additional HMO licensing scheme will provide tenants with assurances about the condition, safety and management of their accommodation and, if their home should be licensed but is not, additional protection from eviction.

- 4.4.4 Poor living conditions – including overcrowding, damp and cold, trip hazards, unsafe gas and electrical installations, and a lack of natural light and ventilation – are known to have a significant adverse impact on the health, wellbeing and safety of all tenants, but especially on older people, people with chronic health problems, people with restricted mobility, and children.

- 4.4.5 The inspection and licensing of the HMOs covered by the proposed designation, together with the imposition and enforcement of the licensing conditions, will benefit people with protected characteristics and have a positive impact on Equality and Diversity.

- 4.4.6 The Additional HMO licensing scheme is part of the Borough Council's commitment to improving communities and our town as a place to live. In implementing the new licensing scheme, the Council will have due regard to its Public Sector Duty and will continue to work to tackle discrimination and inequality and contribute to the development of a fairer society.

#### **4.5 Consultees (Internal and External)**

- 4.5.1 Consultees included landlords & letting agents, residents & residents associations, parish councils, business owners and, where necessary, residents and business owners who are not in the Northampton borough but whose homes or premises are adjacent to the new designation. External & Internal

stakeholders including DASH, Northampton Fire Service, GLAA and the University of Northampton and Council services: Planning, Building Control, Environmental Services, Revenues & Benefits, Housing Options, Legal Services and the Anti-Social Behaviour Unit.

4.5.2 All consultees were invited to share their views on the proposed scheme via the completion of a survey which was organised online through Survey Monkey.

#### **4.6 How the Proposals deliver Priority Outcomes**

4.6.1 The proposed designation of an Additional HMO licensing scheme will help to meet 2 of the priorities in the Corporate Plan 2018 - 20:

- **More homes, better homes:** The Additional HMO licensing scheme will help the Housing Enforcement Team to identify licensable HMOs that are operating without a licence, tackle criminal, rogue and irresponsible landlords, and make effective use of its enforcement powers to ensure good standards in the private rented sector; and
- **Keeping the town and people safe:** The Additional HMO licensing scheme will support the Housing Enforcement Team's intelligence-led, targeted approach to enforcement and will improve the condition, management and safety of private rented housing in Northampton.

## **Appendices**

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Appendix A – Consultation report on the proposed implementation of an enhanced designation for Additional HMO Licensing in Northampton

Appendix B – Report on the findings from the consultation on the designation of an enhanced Additional HMO Licensing Scheme in Northampton

Appendix C – Hazards identified during HMO inspections

Appendix D – Designation of the proposed Additional HMO Licensing Scheme

Appendix E – Community Impact Assessment

Appendix F - HMO Study by Loughborough University

Appendix G - Benefits of HMO Licensing

## **Background Papers**

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Housing Strategy 2013-16

Private Sector Housing Enforcement Policy 2017

Private Sector Housing Civil Penalties Policy 2017

Private Sector Housing Fees & Charges Policy 2018

Business Case for Social Lettings Agency 2017

Business Case for the expansion of the Housing Enforcement Team 2018

A Study of Housing in Multiple Occupation Policy, Loughborough University 2018

Northampton Borough Council's Landlord's Guide to Amenities & Facilities for HMOs

Northampton's Community Safety Plan 2017-20

Northampton Borough Council's Corporate Plan 2018-20

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