

Subject:	Houses in Multiple Occupation (HMO) licensing update.		
Date of Meeting:	30 April 2014		
Report of:	Executive Director Environment Development & Housing		
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Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 Designation of an Additional Licensing scheme for smaller Houses in Multiple Occupation (HMO) in the five Lewes Road wards commenced on 5 November 2012 for a period of 5 years following Housing Committee approval on 20 June 2012. This designation is in addition to the existing mandatory Licensing scheme for larger HMOs applied across the City.
- 1.2 Housing Committee approved the designation on the basis of extensive consultation and robust evidence that a significant proportion of the smaller HMOs in the five Lewes Road wards affected were being managed sufficiently ineffectively as to give rise to one or more particular problems either for those occupying the HMOs or for members of the public. The designation aligned to issues identified and actions arising from the Student Housing Strategy (2009-14) and Students in the Community scrutiny report (January 2010).
- 1.3 On 19 June 2013 Housing Committee noted progress with implementation of the Additional Licensing scheme in the five Lewes Road wards since the commencement of designation. The aim of this report is to further update Housing Committee on progress to date including: applications received; draft and full licences issued; licence conditions applied; current mapping of licensed HMOs in the five wards. As part of the context for the current review of the City-wide Housing Strategy the report also updates on growth in the private rented sector across the City, requests for assistance received by the Private Sector Housing Team and spread of Mandatory licensed HMOs across all wards.
- 1.4 The Housing Committee report (20 June 2012) set out provisions for future review of the Additional Licensing scheme progress within the 5 year designation advising that 'The scheme will be reviewed after 2 years of implementation'. Review of the Additional HMO Licensing scheme will be reported back to Housing Committee.

2. RECOMMENDATIONS:

- 2.1 That Housing Committee note progress with implementation of the Additional Licensing scheme in the five Lewes Road wards since the commencement of designation on 5 November 2012.

3. CONTEXT/ BACKGROUND INFORMATION

Private Rented Sector – the National picture

- 3.1 The Private Rented Sector is growing nationally, consisting 16.5% of households in 3.8m homes. Government response to a recent Communities and Local Government (CLG) Select Committee report into the Private Rented Sector supports a culture change in the sector seeking a ‘family friendly’ model for longer tenancies and a model tenancy agreement, developed with the sector to encourage longer tenancies beyond the statutory minimum. There are also proposals for a (non-statutory) Tenant Charter to ensure all tenants know what to expect and where to go if things go wrong. The Government has also sought to encourage lenders to allow longer initial fixed terms for Buy to Let (BTL) borrowers and institutional investors, motivated by yield not capital appreciation. However there are no proposals for any wide ranging legislative review and no national licensing scheme at this time. The Government does propose a compulsory redress scheme for agents – allowing independent review and potential compensation where unclear on fees - and to extend Rent Repayment Orders to where unsafe / sub-standard accommodation is deliberately let.
- 3.2 The Government measures, in support of seeking a wider range of investors to build new homes for private rent, include: The Montague review on barriers to investment in Private Rented Sector homes; 2011 Changes to Stamp Duty Land Tax (SDLT) with reductions for large scale investors; Build to Rent – up to £1bn equity finance to house builders / developers; Debt Guarantee scheme - £10bn on debt raised to invest in new privately rented homes to attract fixed income investors seeking a stable long term return on investment without exposure to residential property risk; Private Rented Task Force set up aligned to developers, management bodies and institutional investors to support expansion of the private rented sector and the above initiatives.
- 3.3 In addition, some local authorities are reviewing their role as potential purchasers/lessees of new accommodation and exploring ways in which they can secure access to new supplies of private rented stock on longer term leases or outright purchase.

Private Rented Sector in Brighton & Hove

- 3.4 Brighton & Hove is a growing city with an expanding private rented sector, including the number of HMOs, as demand rises and fewer households access owner occupation. Owner occupation in the City is reducing, lower than the national average, at 54% (65,835) of all housing stock (including shared ownership). There has been significant growth in the private rented sector in the city, increasing by 45.7% (an extra 10,691 homes), and now standing at 34,081 homes (Private renting from a landlord or letting agency), 28% of all housing

stock (the 9th largest private rented sector in England & Wales). The City has the 6th highest proportion of converted dwellings or shared houses (houses in multiple occupation and bedsits) in England & Wales. Social Housing makes up a small proportion of the overall housing in the city (lower than England & Wales average) with 9.8% of homes owned by the local authority and 5.1 % by housing associations (Census 2011).

- 3.5 Tenure by household type (2011 Census) for the five Lewes Road wards subject to the additional licensing designation shows a breakdown of private rented sector percentage (all types of private rented) by ward as follows: St. Peter's & North Laine, 48% private rented; Queen's Park, 36% private rented; Hanover & Elm Grove, 35% private rented; Moulsecoomb & Bevendean, 23% private rented; Hollingdean & Stanmer, 17% private rented. (Full tables are in Appendix 2 of this report).
- 3.6 When comparing the increase between households private renting from a landlord or letting agency from the 2001 Census to the 2011 Census, the percentage difference by ward for the five Lewes Road wards subject to the additional licensing designation is as follows: Moulsecoomb & Bevendean, 117% difference; Hollingdean & Stanmer, 102% difference; St. Peter's & North Laine, 54% difference; Hanover & Elm Grove, 45% difference; Queen's Park, 34% difference. (Full tables are in Appendix 2 of this report).
- 3.7 Brighton & Hove City Council values the private rented sector and wants to see a strong, healthy and vibrant market. The sector has an important role in providing housing options for those not wishing or not able to consider home ownership or for those to whom social housing is not an option, as well as providing housing for the city's large student population. The council is keen to ensure that the sector meets the demands placed upon it by the housing needs of the wide range of tenants it services by providing well managed and quality accommodation. Over recent years, the property market has seen a surge in "Buy-to-Let" investors. The effects of a slowdown in the housing market may have had some deterrent impact on investment nationally, however local experience has been that demand for the private rented sector has remained strong because of population growth, continued university expansion and more households delaying becoming owner-occupiers and renting privately.
- 3.8 The private rented sector is an important source of flexible housing supply in the city with a range of benefits including: Catering for a highly mobile population; Supporting university growth to the benefit of the local economy, labour market and cultural offer; Helping to address housing need in the city; Supporting investment in improving city housing stock; Supporting direct and indirect employment, including in local trades and businesses.
- 3.9 In terms of the quality of private rented sector homes, our Private Sector Stock Condition Survey (2008) indicated that 35% of all private sector homes fail the Decent Homes Standard (national average 27.1%) and 36.9% of private rented homes fail it. This failure is largely driven by category 1 hazards under the Housing Health and Safety Rating System and poor standards of thermal

comfort. This is likely to be aligned to the fact that a significant proportion of the city's stock was built before 1919, much higher than the national average, with solid walls and sliding sash windows, hindering energy efficiency with 42% of carbon emissions in the City coming from domestic sources.

- 3.10 The private rented sector does have some problems for which statutory regulation, particularly licensing, is required. The Brighton & Hove City Council Stock Condition Survey (2008) and other data highlights that Brighton & Hove has an exceptionally high number of HMOs. Some are small bed-sits, others large shared houses. Many of the small bed-sits are concentrated in the centre of the City and often provide accommodation for the more vulnerable households. As has previously been reported to Housing Committee there is also a significant and growing number of smaller HMOs along the Lewes Road 'corridor' providing housing for students and young professionals sharing the cost of rents.
- 3.11 HMOs are amongst the more difficult to manage properties in the sector. In some HMOs the standards of management and living conditions can be poor, for example research has shown the risk in HMOs from hazards such as fire can be as much as four or more times higher than the risk in a residential property occupied by a single household. Licensing allows local authorities to proactively identify and engage with landlords, particularly with the less responsible private landlords.

Mandatory Licensing of Houses in Multiple Occupation

- 3.12 Regulations issued under the Housing Act 2004 introduced, across the whole of England and Wales, the mandatory licensing of HMOs that have three or more storeys and are occupied by five or more people who are living in two or more households. The council currently license, or have licence applications for, 1010 larger Houses in Multiple Occupation across the city under the national mandatory HMO licensing scheme. The five wards with the highest number of HMOs licensed under this mandatory scheme are outlined below. A full breakdown for mandatory licensed HMOs across all wards is in Appendix 2.

Ward Name	Number of Licences
St. Peter's & North Laine	239 – (24%)
Hanover & Elm Grove	208 – (21%)
Queen's Park	114 – (11%)
Moulsecoomb & Bevendean	92 - (9%)
Hollingdean & Stanmer	67 – (7%)

Student Housing Strategy

- 3.13 Following resident and councillor concerns, Housing Committee approved the Additional Licensing designation on the basis of evidence that a significant proportion of the smaller HMOs in the five Lewes Road wards affected were being managed sufficiently ineffectively as to give rise to problems either for those occupying them or for members of the public.

- 3.14 The council had been evidencing management issues arising in relation to smaller HMOs in the five Lewes Road wards since 2008, following reporting of University of Brighton research on this issue to Strategic Housing Partnership, a scrutiny report on Students in the Community on 28 January 2010 and the Student Housing Strategy. The Student Housing Strategy, adopted in November 2009, is part of the overarching city-wide Housing Strategy 2009 – 2014. Welcoming the economic contribution of the universities to the city, the Student Housing Strategy outlined a strategic approach to the supply and management of student housing in the City.
- 3.15 While in no way limited to or seeking to target student households, implementation of additional HMO licensing schemes in the City was included in the Student Housing Strategy action plan along with other measures to support and enhance the quality and management of housing and residential environments within HMO dominated ‘studentified’ neighbourhoods.
- 3.16 A Planning update on an Article 4 Direction to control the change of use from a private family house to a house in multiple occupation which came into effect in April 4th 2013 is attached as Appendix 1 of this report.
- 3.17 In addition to continued joint working with both Universities in areas including enhancement of their community liaison work, the Student Housing Strategy also sought to promote and enable the appropriate development of purpose built student accommodation at suitable locations within the City. In June 2013 Housing Committee were advised that over 2000 units of new purpose built student housing had been approved in the city including large developments at Northfield, University of Sussex Campus and Varley Halls of Residence in Coldean for the University of Brighton. A further 940 rooms in purpose built student housing have been approved across 6 sites, including City College Pelham Street and the former Co-op in London Road. Planning applications have been received but not yet determined for a further 4508 rooms on two sites, Circus Street (486 rooms) and University of Sussex Campus (4022 rooms). An additional 750 student rooms are allocated in the Submission City Plan Part 1 under policy CP21 at Preston Barracks with no Planning application received to date.
- 3.18 We are currently in the scoping phase of the new Housing Strategy, which is likely to retain the above priorities. HMOs and quality issues have been key themes of the current scoping phase with the Student Unions of both universities stating support for HMO licensing and the Additional Licensing Scheme due to perceived improvement in recourse and standards. In addition, Communities of Interest including the Black and Minority Ethnic Community Partnership have raised issues around the private rented sector and HMOs, particularly in relation to repairs and overcrowding.

Additional Licensing of Houses in Multiple Occupation

- 3.19 Before introducing an Additional HMO Licensing Scheme, the council must comply with the specific requirements set out within sections 56 and 57 of the Housing Act 2004. This includes being satisfied that a significant proportion of

the HMOs proposed to be licensed under the scheme are being managed sufficiently ineffectively. The scheme must be consistent with the authority's overall housing strategy. Failure to do this would leave the Council open to Judicial Review.

- 3.20 Housing Committee on 20 June 2012 designated the wards of Hanover & Elm Grove, Moulsecoomb & Bevendean, St Peters & North Laine, Hollingdean & Stanmer and Queen's Park as subject to Additional Licensing under S56(1) of the Housing Act 2004 in relation to smaller Houses in Multiple Occupation of two or more storeys and three or more occupiers. The designation came into force from 5 November 2012.
- 3.21 The designation was agreed following an extensive two phase consultation exercise. Housing Committee considered representations, a comprehensive evidence base and resourcing before they made their decision to approve the Additional Licensing designation. Additional Licensing schemes may be introduced for a period not exceeding 5 years.
- 3.22 As of 9 April 2014 the Council has received 1880 valid Additional Licence applications, broken down by ward as below:

Ward Name	Applications Received
Hanover & Elm Grove	500
Hollingdean & Stanmer	199
Moulsecoomb & Bevendean	727
Queen's Park	97
St. Peter's & North Laine	357
Total	1880

As of 9 April 2014 the draft licences issued by ward are as follows:

Ward Name	Draft Licences Issued
Hanover & Elm Grove	476
Hollingdean & Stanmer	192
Moulsecoomb & Bevendean	694
Queen's Park	92
St. Peter's & North Laine	340
Total	1794

Of these, full licences issued as of the 9 April 2014 by ward are as follows:

Ward Name	Full Licences Issued
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Hanover & Elm Grove	430
Hollingdean & Stanmer	169
Moulsecoomb & Bevendean	608
Queen's Park	72
St. Peter's & North Laine	304
Total	1583

Updated mapping of HMOs licensed (or where applications have been received) under the national mandatory and additional licensing schemes reflecting a snapshot of data as of 28 February 2014 is attached in Appendix 2.

Additional licensing conditions

- 3.23 Under additional licensing landlords and managers of smaller HMOs have to: meet appropriate personal and professional standards of conduct; upgrade poorer buildings to minimum safety standards including fire and electrical safety; exercise appropriate management and supervision of the buildings to help reduce any adverse impact of HMOs on the neighbourhood; meet council standards for licensable HMOs.
- 3.24 We have been very careful to consult widely on the HMO standards we apply in order to avoid unnecessary or over elaborate works being requested to bring homes up to licensing requirements. Consultation on revised HMO standards was undertaken as part of the wider consultation leading to the additional licensing designation. Housing Committee (20 June 2012) approved the Brighton & Hove City Council Standards for Licensable Houses in Multiple Occupation. Following further representations from landlords and managing agents, in particular in relation to kitchen sizes, Housing Committee (26 September 2012) agreed to some revision in standards to ensure that they are not too onerous. We have also worked closely with landlords on implementation of standards allowing time to complete works where necessary and appropriate.
- 3.25 The following eight mandatory conditions, detailed in Appendix 2, are applied to each HMO licence: Electrical; Fire; Gas; Property changes; Property maintenance; furniture; rubbish recycling; tenancy agreement. In addition Special Conditions may be applied to specific properties, where appropriate, in addition to the eight mandatory conditions. Full details of mandatory and special conditions applied to date under the additional licensing designation are detailed in Appendix 1 (snapshot as of 28 February 2014).
- 3.26 A total of 7605 Special Conditions have been applied to licences issued (as of 28 February 2014) When issuing a licence landlords are allowed an agreed time to comply with the conditions applied, which the Private Sector Housing Team will then follow up with a check visit within a specified timescale. While not all Special Conditions will have yet fallen due for compliance, to date 2124 (28%) have been complied with. The five most common Special Conditions applied to additional HMO licences are below, with more details in Appendix 2:

	Hanover & Elm Grove	Hollingdean & Stanmer	Moulsecoomb & Bevendean	Queen's Park	St Peter's & North Laine	Total
Structural fire Works	423	129	492	57	279	1380
Fire Alarms	324	112	411	40	205	1092
Other Fire Works	470	143	526	64	314	1517
Management/ Repairs	295	93	360	38	193	979
Loft Insulation	231	69	291	23	142	756

3.27 In the Housing Committee report of 20 June 2012 we estimated that there were potentially between 1,500 and 3,000 smaller HMOs in the five wards that may be subject to licensing under the Additional Licensing proposals. In order to ensure that landlords and agents of all licensable HMOs in the five Lewes Road wards comply with the Additional Licensing designation the Private Sector Housing Team have also begun an enforcement programme targeting unlicensed HMOs. Under this programme we have identified up to 900 dwellings which may be licensable but where licence applications have not been received. We are working through this list and to date have received 350 additional and mandatory licence applications as a result. In addition, one landlord has been prosecuted after failing to respond to requests to submit a licence application.

Private Sector Housing - other service requests

3.28 In addition to HMO licensing the Private Sector Housing Team deal with service requests about standards within private sector housing in the city - including such issues as dampness, disrepair and drainage - and with complaints concerning nuisance caused by the condition of neighbouring properties. Service requests are reactive requests for assistance received by phone, email or in writing or via referral from other teams or agencies. By way of illustration of additional activity undertaken other than HMO licensing since the additional licensing designation, there were 1657 service requests received between 5 November 2012 and 28 February 2014 across all wards in the city. The table below summarises the four most common service request types during this period (more information is in Appendix 2):

Request Type Description	No. of Requests	Proportion of Total
Dampness	626	37.78%
Disrepair	341	20.58%
Inspection request from Homemove team to help inform Housing Register band	99	5.97%
Nuisance from adjacent property	94	5.67%

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The 2004 Housing Act (Section 56(2)) requires that before making an additional HMO licensing designation for a particular type of HMO, or for a particular area, a local authority must 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.
- 4.2 A two stage appraisal of the options open to the Council was carried out in accordance with Government guidance and reported to Housing Committee on 20 June 2012 in order to inform the decision on the additional licensing designation. The first stage involved the development of key options available for tackling poor quality problematic HMOs in the City and consideration of the strengths and weaknesses of each. The second stage involved the appraisal of the options against seven objectives identified to help contribute towards the Council's vision for the city's private rented sector.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 In order to introduce Additional Licensing for Houses in Multiple Occupation or any Selective Licensing local authorities are required to consult with local residents, landlords and tenants for a minimum of ten weeks.
- 5.2 In line with these statutory requirements Housing Committee report of 20 September 2012 outlined extensive consultation undertaken on Additional Licensing proposals for the five Lewes Road wards. In addition to attending various meetings including with landlord groups, representatives of letting agents and Local Action Teams Housing Committee were advised of the following responses to consultation that took place from 18 January to 31 March 2012:
- 311 responses were received via the consultation portal (the majority from landlords and agents) with 44% (136) in favour and 56% (173) against.
 - 1010 responses were received from the door to door survey of residents and businesses in the 5 wards. 71% (713) were in favour and 8% (81) against, with 14% (146) undecided and 7% (70) not answered.

6. CONCLUSION

- 6.1 This update report is for information only.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 There are no direct financial implications arising from this report. The fees charged are based on the estimated cost of delivering the service over the 5 year scheme. The original estimates were based on processing 2000 licences over the 5 year period and as stated above, 1,880 applications, have been received as of 9th April 2014. Fee income of £1.123m has been received by 31st March 2014 which is being used to fund this service over the 5 year term.

Finance Officer Consulted: Name Michelle Herrington Date:13/04/14

Legal Implications:

- 7.2 There are no significant legal implications arising from this report. Having introduced an additional licensing scheme, the council is statutorily required by section 60 (3) of the Housing Act 2004 from time to time to review its operation. The commitment to review the scheme in paragraph 1.4 after two years is compatible with that obligation.

Lawyer Consulted: Name Liz Woodley

Date: 15/04/14

Equalities Implications:

- 7.3 A full equalities impact assessment was undertaken in relation to the additional licensing designation for the five Lewes Road wards. No negative consequences of additional licensing were identified. A further equalities impact assessment would need to be undertaken should any further licensing proposals be forthcoming.

Sustainability Implications:

- 7.4 Maintenance and improvement of existing housing stock is generally more sustainable than continued deterioration. Adoption of measures such as licensing of HMOs should improve management and standards for the residents in those homes and the liveability of residential areas impacted by large numbers of HMOs more generally.

Any Other Significant Implications:

Crime & Disorder Implications:

- 7.5 An Additional Licensing designation aligns to evidence of significant management issues and poor property condition that need addressing within a designated area.

Risk and Opportunity Management Implications:

- 7.6 The risks associated with the proposals in this report have been managed in compliance with the Council's risk management strategy and a full risk log was presented to Housing Committee on 20 June 2012.

Public Health Implications:

- 7.7 In terms of community wellbeing and resilience the Director of Public Health's Annual Report identifies that Housing in Brighton & Hove represents a particular vulnerability for children and adults. The Joint Strategic Needs Assessment identifies that poor housing conditions present risks to health. Any improvement of management and standards of HMOs arising from HMO licensing should have a beneficial Public Health impact.

Corporate / Citywide Implications:

- 7.8 Housing Committee approved the Additional Licensing designation on the basis of extensive consultation and robust evidence that a significant proportion of the smaller HMOs in the five Lewes Road wards affected were being managed sufficiently ineffectively as to give rise to one or more particular problems either for those occupying the HMOs or for members of the public. The scheme should have a beneficial impact on communities in the areas covered by the designation. Residents in other parts of the city may consider that issues that have led to proposals for additional licensing in the five identified wards also exist in their area. The experience with mandatory licensing suggests that additional licensing would have no significant adverse effect on property supply.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix 1 - Planning update on Article 4 Direction.
2. Appendix 2 – Additional licensing for HMOs April 2014 update.

Documents in Members' Rooms

1. None

Background Documents

1. Housing Committee 20 June 2012: Proposed Additional Licensing Scheme for Houses in Multiple Occupation (HMO), including Appendix 1: Report for Additional Licensing for Housing in Multiple Occupation; Appendix 2: Standards.
2. Housing Committee 26 September 2012: Update on the Implementation of the Additional Licensing Scheme for Houses in Multiple Occupation (HMO).
3. Housing Committee 19 June 2013: HMO Licensing Update.

Appendix 1– Planning update on Article 4 Direction.

An Article 4 Direction to control the change of use from a private family house to a house in multiple occupation (Classes C4 or Sui Generis) came into effect in April 4th 2013.

Previous experience with Article 4 directions of different types has usually established that after an initial bedding in period applications for changes that do not comply with the intent of the Article 4 reduce to minimal levels.

In this case the Article 4 direction was brought into effect on the basis of the evidence available to the council at the time on the number of existing HMO's. This was largely based upon Council tax records (a door to door survey of five wards being judged impractical and in any case external visual inspection was unlikely to be conclusive on whether properties were HMO's). What is apparent is that as the licensing regime progresses this is yielding considerably more data than we had prior to bringing in the extended licensing regime or the Article 4 Direction. From this exercise we have become aware that the original estimate of existing HMO's was an underestimate. It is also apparent that in several areas the density of HMO's is already very high. As the Article 4 is not retrospective, a number of small areas within the five wards are already at, or above, saturation levels for HMO's and no action available to the council will return them to balanced mixed communities.

The clear distinction here is that properties that were in use as HMOs prior to the Article 4 coming into effect are authorised and the Article 4 Direction cannot be imposed retrospectively in planning terms, as it can under Housing Licensing Legislation. As such there are many HMOs within the 5 wards covered by the Article 4 direction that are authorised (by virtue of their existence in that use prior to 4 April 2013) and thus planning enforcement action cannot be taken on these. Action can only be taken on new Class C4 or Sui Generis HMOs that are implemented within the 5 wards from 4 April 2013 which do not have planning permission.

The mapping of HMO's, which commenced prior to bringing the Article 4 into effect, is constantly being updated. All available data, including that uncovered by the additional licensing scheme, is being mapped and the latest versions of that information will be available as part of this report. This constantly updated data is being used for the determination of planning applications for changes of use to HMOs within the 5 wards.

Given the history of other article 4 directions which were essentially complied with voluntarily it was not anticipated that bringing into effect the Article 4 direction would require any increase in enforcement activity. The desire of local communities to check all newly licensed properties was not predicted. However, as stated above this is not necessarily relevant as some newly licensed properties would have been in use as an HMO prior to 4 April 2013, and thus there is no planning breach taking place. The only reason new licenses were required is due to the new licensing regime that was also introduced. All alleged breaches of change of use that have been reported have been, or are in the process of being, investigated. There is a clear expectation amongst community groups that a proactive campaign to check all HMO's would be undertaken and there is insufficient resource to do this within the planning enforcement team.

In order to undertake the tasks desired by the local community and Members, this would involve a dedicated team of officers who could proactively ensure that all HMO's licensed by the housing team were either in HMO use prior to April 2013 or the necessary consents are in place. If either of these are not the case, the team of dedicated officers could then proceed with formal enforcement action where necessary.