

**PROPOSAL RELATING TO THE SCHEME OF ADDITIONAL LICENSING FOR HOUSES IN MULTIPLE OCCUPATION (HMOS)**

**1 Purpose**

- 1.1 To seek the views of the Committee on whether to allow for the expiration of the current scheme of additional licensing of HMOs (due to expire in late September 2019).

**2 Recommendations/for decision**

- 2.1 That the Scrutiny Committee offer any feedback on the proposal that the current additional Houses in Multiple Occupation (HMO) licensing scheme, covering the whole of Aylesbury Vale be allowed to expire, without re designation in September 2019.
- 2.2 That Scrutiny Committee note that the private sector housing unitary work stream commence work on collecting management data to inform the Buckinghamshire Council's approach to additional HMO licensing designation post vesting day.

**3 Executive Summary**

- 3.1 Given the extension of the statutory mandatory HMO licensing arrangements (introduced on 1 October 2018) the Council needs to decide whether to re designate an additional HMO licensing scheme, when it expires in late September this year. It is proposed that the additional licensing scheme not be re designated for the following reasons;
- Government has legislated to extend mandatory licensing for properties that it considers the highest risk and therefore priority for regulation/enforcement activity.
  - The new statutory mandatory licensing scheme now covers around 75% of all existing mandatory and additional licenses in the Vale. The old mandatory scheme would only have covered 25%.
  - The work required to designate all or part of the District for an additional licensing scheme would have a minimum lead time of four months and take a significant amount of preparatory work at a time when resources should be focused on identifying unregistered HMO's, general housing enforcement work, and ensuring services are safe and legal for vesting day of the new Buckinghamshire Council.
  - Whilst authorities can continue to designate additional licensing schemes, there must be a clear and demonstrable need, alongside a local policy framework to support such a scheme. No other Buckinghamshire Districts have an additional HMO licensing scheme and the new Buckinghamshire Council

will therefore be able to take a broader strategic view as to the potential benefits in due course.

## **4 Supporting information**

- 4.1 Houses in Multiple Occupation (HMOs) can often be occupied by the most vulnerable in society. The risk of fire, public health issues and overcrowding is greater than other types of accommodation and resources should therefore be targeted at those which represent the highest risk.
- 4.2 The Housing Act 2004 first introduced the mandatory licensing of houses in multiple occupation (HMOs). The Act also provided for licensing to be extended by a local authority to include HMOs not covered by mandatory licensing (additional licensing).
- 4.3 The Council introduced an additional licensing scheme on 27 September 2014. The additional licensing scheme designated the whole of the district and the 'additional' component was to include properties where there are three or more occupants (as opposed to the mandatory threshold at the time of five). Additional licensing schemes must be reviewed to ensure the continued benefit to occupiers and the community. A designation can last for a maximum of five years and accordingly AVDC's additional licensing scheme expires in late September 2019.
- 4.4 In order to make a new designation for additional HMO licensing, the Council must collect evidence to support their case, apply to MHCLG, undertake consultation and then wait for three months for the designation to come into effect.
- 4.5 On 1 October 2018 mandatory licensing was extended to include properties with one or two storeys, so that the standard test will now simply include a threshold of properties accommodating two or more households and five or more persons in total. In addition to the standard test there are additional mandatory tests which are unchanged;
- Buildings converted to self contained flats comprising three or more self-contained flats.
  - Buildings converted to be a mixture of self contained flat(s) and non self contained accommodation.
- Finally, changes introduced in October 2018 introduced new conditions for national minimum sleeping room sizes and waste disposal provision requirements. These will all take effect when existing licenses expire and are renewed.
- 4.6 None of the other Buckinghamshire Districts currently operate additional HMO licensing scheme and there is therefore an opportunity for the Buckinghamshire Council to bring forward a scheme for either all of, or designated areas of Buckinghamshire in due course, should it wish to do so.
- 4.7 The difference in the standards tests for the old mandatory regime, current additional scheme and new mandatory regime is set out below.

	Old mandatory threshold	AVDC 'additional' threshold	New mandatory threshold
Number of storeys	3 or more	3 or more	No minimum
Number of people	5 or more	3 or more	5 or more
Number of households	2 or more	2 or more	2 or more

4.8 Of the 163 properties currently licensed by AVDC (mandatory *and* additional licensing) only 43 would not be covered by the newer mandatory provisions. These are predominantly three/four bedroom, three/four person properties with concentrations in the Wards of Buckingham North (14) and Buckingham South (7).

## 5. Options considered

5.1 Two broad options have been considered before making recommendations to Committee.

5.2 Option 1 - That the Council allow the additional licensing scheme for the Vale to expire in September 2019, without commencing the process to re designate part of, or all of the District.

5.3 As a result of the legislation change, and without the existence of an additional licensing scheme, 43 of the properties currently licensed (as taken from data at March 2019) under the additional scheme would no longer be required to be licensed at all.

5.4 It is important to consider that properties that remain outside of the requirements of the mandatory licensing scheme are still subject to HMO management regulations and the council can still take action against the Landlord to remove any significant hazards found, by using existing powers in the Housing Act 2004.

5.5 Additionally the Housing and Planning Act 2016 also introduced new powers to deal with rogue landlords, such as Civil Penalties and the Rogue landlord database. This satisfies the MHCLG requirement for the local authority to have considered what other courses of action would be available that could deal with any issues not covered by additional licensing schemes.

5.6 Those properties that would no longer require a license represent a lower risk and do not tend to be properties that require intensive enforcement activity. There is no reason to believe that this will change just because the additional licensing scheme is allowed to expire. Less than 3% of complaints received last year (3/119) related to those currently additionally licensed HMO's which will no longer be covered by mandatory licensing. Of these three complaints, one related to the HMO exceeding its additional license conditions relating to the number of residents (meaning it will become mandatorily licensed anyway). The other two complaints did not require any enforcement action.

5.7 Highest risk HMOs tend to be converted, older, three storey properties with more than five persons resident. These types of properties will be covered by the new mandatory regime, but are often unlicensed. Anecdotally, we believe less than half of the HMO's across the Vale are actually licensed and therefore resources would be better targeted at

identifying and enforcing against unlicensed HMO's rather than additionally licensing lower risk properties.

- 5.8 There are transitional arrangements in place for existing additional licenses outside the scope of new mandatory provisions, which mean they would not automatically fall away in September 2019, rather they would run until the expiry of their five year additional license. This means conditions attached to these licenses can still be enforced against if required. Only seven of the forty three affected licenses expire before January 2021, with many running for much longer.
- 5.9 Option 2 - For the Council to proceed with exploring whether there is enough evidence to justify a specific area of the Vale for additional licensing (as opposed to the whole of the Vale), focusing on local intelligence and data matching of other Council held datasets.
- 5.10 To subsequently proceed, the Council must be convinced there is a justified case to do so and also follow the consultation process. It could be during the course of this fresh exploration exercise that it is established that there is justification to designate the whole of the Vale for an additional scheme, but this is thought unlikely because of the shift in regulatory focus by government.
- 5.11 The process required to apply to MHCLG (even if it commenced before the current scheme's expiration date), may not be completed before the expiry of the current additional scheme. This fact is not a reason to not pursue continuing the scheme in itself (if it is deemed necessary), but given the amount of work required to prepare for vesting day of the new Buckinghamshire Council it is likely that resources be better used elsewhere, especially given the extended scope of mandatory licensing.
- 5.12 The second recommendation proposed in this paper is that the Committee supports officers from across all Districts commencing research to establish if there is a clear need to establish a new additional scheme for the new Buckinghamshire Council to subsequently bring forward.

## **6 Resource implications**

- 6.1 The local authority has charged for additional HMO licenses but this is to cover the cost of the work, with no profit allowed to be included. This means letting the scheme expire would result in minimal detrimental impact because the officer time will no longer be spent on processing additional licenses. This officer time will be better spent on proactive housing enforcement work on higher risk properties.

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Background Documents

Houses in Multiple Occupation and residential property licensing reform (MHCLG)

Approval steps for additional and selective licensing designations in England (MHCLG)