

Agenda item:

**[No.]**

**Overview and Scrutiny Committee**

**On 1<sup>st</sup> December 2008**

Report Title:

**Houses in Multiple Occupation – Feasibility Report on proposed Scrutiny Review**

Report authorised by:

**Cllr Gideon Bull, Chair of the Overview and Scrutiny Committee**

Contact Officer:

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Wards(s) affected: **N/A**

Report for: **[Key / Non-Key Decision]**

**1. Purpose of the report (That is, the decision required)**

1.1 In June 2008 the Overview and Scrutiny Committee asked for a one off feasibility report on the practicality of undertaking an in-depth review on the issues surrounding the licensing of Houses in Multiple Occupation.

1.2 The aim of this report is to consider the feasibility of the Overview and Scrutiny Committee commissioning a scrutiny review on the licensing of Houses in Multiple Occupation.

**2. Introduction by Cabinet Member (if necessary)**

2.1 N/A

**3. State link(s) with Council Plan Priorities and actions and /or other Strategies:**

3.1 The content of this report links with the following Council strategies and plans:

- Sustainable Community Strategy

*People at the Heart of Change* - “We will continue to increase the availability of affordable housing through the optimum use of existing dwellings and by building more affordable homes.”

*Healthier people with a better quality of life* – “We will invest in the housing stock in Haringey to increase the supply of affordable housing, to reduce overcrowding and to improve our housing stock”.

- Local Area Agreement target and Well-Being Strategic Framework

*Economic Wellbeing Priority* - “Maximise the supply of good quality affordable housing available....”

- Housing Strategy 2009-2019 which is currently being drafted.
- Unitary Development Plan, July 2006

#### **4. Recommendations**

4.1 That the Overview and Scrutiny Committee does not commission a review into HMO licensing at this time.

4.2 That the Overview and Scrutiny Committee asks the Strategic Housing Service to report back on the conclusions of the working group on discretionary and selective licensing.

#### **5. Reason for recommendation(s)**

5.1 As mentioned below the Service is currently working through the remaining submitted license applications before moving on to the task of identifying landlords who may not wish to be known to the local authority, a Housing Strategy (which will incorporate the wider issues associated with HMO’s is currently being drafted), and a working group has been set up to investigate the feasibility of selective and discretionary licensing (further details in section 7 below) in two particular areas of the borough.

5.2 Due to this work being carried it is felt that an in-depth review into the area would not add any value and may duplicate work which is currently taking place.

#### **6. Other options considered**

6.1 The purpose of this report is to assess the feasibility of the Overview and Scrutiny

Committee commissioning an in-depth review on the licensing of Houses in Multiple Occupation in Haringey. Therefore the only options considered are whether or not the commissioning of an in-depth review into this area would add value to the service and therefore be feasible.

## 7 Summary

### 7.1 Legislation

7.1.1 The Housing Act 2004, which came into force from April 2006 made a number of changes in provisions for the assessment of housing conditions and brought in regulations for Houses in Multiple Occupation (HMO). The act looked to clarify exactly what a HMO is and to make it compulsory for all Local Authorities to license 'larger, high risk HMOs'. The Act further empowered Local Authorities to license other HMOs which do not fall into the compulsory category<sup>1</sup>.

### 7.2 Housing Act 2004

7.2.1 Under the Housing Act 2004, if you let a property which falls within the categories below, it is classed as a House in Multiple Occupation (HMO):

- “an entire house or flat which is let to **three or more** tenants who form **two or more** households and who share a kitchen, bathroom or toilet
- a house which has been converted entirely into bed sits or other non-self-contained accommodation and which is let to **three or more** tenants who form **two or more** households and who share kitchen, bathroom or toilet facilities
- a converted house which contains one or more flats which are not wholly self contained (i.e. the flat does not contain within it a kitchen, bathroom and toilet) and which is occupied by **three or more** tenants who form **two or more** households
- a building which is converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations and more than one-third of the flats are let on short-term tenancies in order to be an HMO the property must be used as the tenants' only or main residence and it should be used solely or mainly to house tenants.”<sup>2</sup>

7.2.2 It is important to note that not all HMOs are licensable. A licensable HMO is “any three storey property, or two story over shops, which has five or more occupants within two or more households” with shared facilities<sup>3</sup>.

7.2.3 Haringey Unitary Development Plan acknowledges the importance of HMOs as a source of low cost accommodation in the borough<sup>4</sup> and therefore understands

<sup>1</sup> Licensing of houses in multiple occupation (hmos), A guide for landlords

<sup>2</sup> Licensing of Houses in Multiple Occupation, Department for Communities and Local Government, 2007

<sup>3</sup> Houses of Multiple Occupation Issues Paper, Haringey Council, Housing Dept.

<sup>4</sup> Haringey Unitary Development Plan 2006, Part 4: Housing.

<sup>5</sup> Houses of Multiple Occupation Issues Paper, Haringey Council, Housing Dept.

HMOs to be an important element of the borough's housing stock. It is also noted that they contribute towards meeting the borough's housing target. However, the Council's policy is to restrict the conversion of single dwellings into flats and HMOs for the following reasons:

- "To retain an adequate stock of small family housing, for which there is a strong demand
- To provide flats of an acceptable standard and mix of sizes to contribute towards meeting housing needs
- To prevent the creation of unsatisfactory levels of on-street parking / congestion within a particular area
- To prevent an over-concentration of conversions/HMOs which would harm the character or amenity of an area."<sup>5</sup>

### **7.3 Haringey Housing Strategy 2009-2019**

7.3.1 The Housing Strategy, is currently being drafted with the Council's key partners. This strategy will cover all aspects of housing, including that of HMOs and discretionary licensing.

### **7.4 Haringey Context**

7.4.1 Since the Housing Act 2004 came into force in 2006, the Housing Team have processed over three hundred applications, with approximately sixty applications pending<sup>6</sup>. These are anticipated to have been processed by the end of the financial year.

The licensing process

7.4.2 Once a mandatory license application is received and processed, the property in question is inspected by a member of the team to ensure that all relevant housing standards are met, this includes a consultation with the Fire Services. Should there be any areas in which the Officer is not happy, a plan is drawn up to rectify this and another inspection is undertaken within a specified time frame. During this time the landlord will be issued a license with conditions attached, e.g. ensuring works on the property are undertaken. A further inspection is then undertaken at a later date to ensure that the appropriate conditions are now met. Should these conditions have not been met then enforcement action is taken.

7.4.3 It is important to note that the responsibility to obtain a license lies with the Landlord and not with the Local Authority. Therefore it is the landlords who are obliged by law to contact the Local Authority and not vice versa. Failure to do so is an offence, and there are powers in place to enable the local authority to remove properties from any landlord should they be prosecuted and found to be 'not fit and proper for the purpose' of managing properties.

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<sup>6</sup> Private Sector Housing Team, figures as of August 2008.

<sup>7</sup> Discretionary licensing briefing document, Haringey Council, Housing Dept.

7.4.4 The next phase for Haringey is tackling the landlords who have not approached the local authority for a license and do not necessarily want to be found. This is done by researching documents which Haringey has access to for example, council tax records. The team also relies on information to be fed through from other teams which they can then follow up. At this stage it is important to note that due to the resource intensity of this stage, there are likely to be less outputs in terms of licenses issued.

### **Selective and Additional Licenses**

7.4.5 As well as the Mandatory licenses as laid out above, the Housing Act 2004 made further provisions which allow Local Authorities to license other HMOs in their area. These are known as Selective and Additional discretionary powers.

- Additional – licensing designation for a particular type of HMO, or for a particular local area.
- Selective – licensing designation for a particular area where there is particular low housing demand or their area is experiencing 'significant and persistent problems caused by Anti-social behaviour'.<sup>7</sup>

7.4.6 In order for these powers to be enforced in an area the Local Authority must make their case to the Secretary of State for approval. The licensing of a type of HMO or area must support the overall aims of the local authorities strategies, for example be having a negative impact on the ability to achieve their Community Strategy priorities and other local targets. The HMO or area must also be a proven problem to the local authority.

7.4.7 Types of questions that the Secretary of State would expect to be thoroughly answered before allowing the HMO or area to be licensed are:

- Exactly what is the problem in the area/Ward?
- Can it be proven to be associated with a particular type of HMO?
- Will the licensing of the HMO stop this problem?

7.4.8 Haringey has set up a working group, Chaired by the Cabinet Member for Safer Communities and Enforcement, Cllr Canver, which is currently investigating the possibility of two areas for selective discretionary licensing: Myddleton Road and Green Lanes. In order to get the desired impact a specific area within the above locations would need to be identified for the licensing. The work of the group is to understand what is happening within the two target areas, examine the existing powers available and their effectiveness and to agree a strategy which has a chance of making a difference. Discretionary licensing is one of those issues to be assessed.

7.4.9 Before coming to a decision the working group will be considering a number of factors for example:

- Whether the prospective use of this power is in line with the overall community strategy.

- Whether there are any alternative courses of action.
- Whether the making of this designation will significantly assist in achieving the Council's objectives.

7.4.10 Should the working group decide that the use of selective discretionary licenses in the best way forward they would also need to submit a detailed portfolio to the Secretary of State including, for example:

- Maps of the types of properties being considered for the licensing
- Consultation reports from residents, landlords and other agencies to gain their perspectives.
- Detailed inspection programmes to substantiate the claims.
- A resource plan, detailing how the licensing would be supported.

7.4.11 The working group is due to report it's finding in approximately May 2009.

## **7.5 Key Issues with HMO Licensing**

7.5.1 *The key issue related to HMO's is the understanding of the term HMO.* There is a lack of understanding as to the definition of a HMO. For example, newly converted flats may be perceived as a HMO whilst not being defined as a HMO in legislation. Subsequently the local authority does not have the same powers to address issues. HMO's are branded as a problem, when the main issue is the proliferation of converted units in to self contained flats or studio's.

7.5.2 Haringey undertook an awareness raising campaign to make landlords aware of their responsibility in obtaining a license. However, these campaigns may only touch the 'good landlords' and not the ones that wish to evade the process. Tackling the landlords that may not wish to be found is the next phase of work for local authorities across the board.

## **8. Chief Financial Officer Comments**

8.1 The licence fee generates income for the council which is used to off-set the costs of this function. The working group on licensing may also want to consider and review the fee system and structure with the aim of maximising the income available for the council to off-set costs and to achieve any budget target.

## **9. Head of Legal Services Comments**

9.1 There do not appear to be any legal implications that need to be considered if the recommendation is that the Overview and Scrutiny committee does not commission a review into HMO licensing at this time, as is suggested at paragraph 4.1; but rather asks our internal Strategic Housing Service to report back on the working groups conclusions on discretionary and selective licensing. The working group is due to feed back their findings in May 2009.

## **10. Head of Procurement Comments –[ Required for Procurement Committee]**

10.1 N/A

### **11. Consultation**

12.1 This report has been written in consultation with the Strategic Housing Service, specifically the Service Manager for Health and Housing who is responsible for the Licensing of Houses in Multiple Occupation.

### **13. Service Financial Comments**

13.1 There are no financial implications for the Overview and Scrutiny service arising from this report.

### **14. Use of appendices /Tables and photographs**

14.1 N/A

### **15. Local Government (Access to Information) Act 1985**

- a. Licensing of houses in multiple occupation (hmos), A guide for landlords
- b. Licensing of Houses in Multiple Occupation, Department for Communities and Local Government, 2007
- c. Houses of Multiple Occupation Issues Paper, Haringey Council, Housing Dept.
- d. Haringey Unitary Development Plan 2006, Part 4: Housing.
- e. Houses of Multiple Occupation Issues Paper, Haringey Council, Housing Dept.
- f. Discretionary licensing briefing document, Haringey Council, Housing Dept.