



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

21st NOVEMBER 2018

PROPOSAL TO DECLARE A NEW ADDITIONAL LICENSING SCHEME FOR HOUSES IN MULTIPLE OCCUPATION IN 2019

REPORT OF THE DIRECTOR OF PUBLIC HEALTH, PROTECTION & COMMUNITY SERVICES IN DISCUSSION WITH THE RELEVANT PORTFOLIO HOLDER, COUNCILLOR RHYS LEWIS.

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1. PURPOSE OF THE REPORT

- 1.1 To report to Cabinet on the effectiveness of the 2014 Additional Licensing Scheme for Houses in Multiple Occupation (HMOs) and propose the Council declare a New Additional Licensing Scheme for HMOs from April 2019, in accordance with the provisions of the Housing Act 2004.

2. RECOMMENDATIONS

It is recommended that the Cabinet:

- 2.1 Note the findings of the Evaluation of the 2014 Additional HMO Licensing Scheme in Rhondda Cynon Taf.
- 2.2 Note the feedback from the Health and Well-being Scrutiny Committee held on 9th October 2018 and the actions taken in response, as detailed in paragraph 5.2 and 5.5.
- 2.3 Approve the declaration of a New Additional Licensing Scheme for HMOs in Rhondda Cynon Taf, to come into force when the current scheme ends on the 31st March 2019 and instruct officers to make the necessary arrangements in accordance with the provisions of the Housing Act 2004.
- 2.4 Subject to recommendation 2.3 above, to approve the continued inclusion of all types of HMO within the scope of the new Scheme.
- 2.5 Subject to recommendation 2.4 above, approve the standard licensing conditions to be placed on all HMO licences granted by the Council under both the Mandatory Licensing Scheme, and the new Additional Licensing Scheme from April 2019 (in addition to any bespoke conditions relevant to individual licences).
- 2.6 Instruct the Director of Public Health, Protection and Community Services to develop a specific Strategy to promote and improve the Private Rented Housing Sector in RCT, for future consideration by Cabinet.

3. BACKGROUND

- 3.1 As of May 2018, there were an estimated 14,353 private rented properties across Rhondda Cynon Taf, accounting for approximately 13.35% of the housing stock. Of these 633 were licensed as houses in multiple occupation, which represents 4.4% of the private rented sector (PRS) and the majority of these properties are in the Treforest Ward.
- 3.2 Historically, HMOs in RCT have been the domain of students, however the impact of welfare reform and changes to Housing Benefit has made the scale and nature of the PRS in RCT difficult to predict. Demand for student accommodation has declined in Treforest and landlords have diversified in order to ensure their properties are occupied. Trends have shown an increased reliance on the PRS as people's housing choices are limited by the availability of housing benefit and demand for smaller accommodation including shared housing is increasing. For people who are priced out of owning their own home and who are unlikely to be able to access social housing, the PRS is often the only viable housing option available and for this reason HMOs can house some of the most vulnerable people in our communities. HMOs in are also now seen as a housing choice by young professionals, new to the employment market.
- 3.3 HMOs have been subject to proactive regulation in RCT for the last 16 years. Between 2002 and 2006 the Council operated a successful Borough wide Special Control Registration Scheme for HMOs. The Housing Act 2004 ('the Act') came into force in Wales in June 2006 and introduced powers for local authorities to regulate standards in the private rented housing sector. In particular, the Act introduced the requirement for local authorities to licence certain types of HMO, namely those of 3 storeys or above with 5 or more tenants that comprise 2 or more households; this is termed Mandatory HMO Licensing. The Act also allowed local authorities to introduce other types of licensing scheme for different types of HMO (Additional Licensing) and also to licence the single occupation rented sector (Selective Licensing). Both of these schemes are discretionary.
- 3.4 Since 2006, the Council has operated successive Additional Licensing Schemes, the most recent Scheme of which was introduced in 2014 and regulates all types of HMO including small 2 storey properties with three people living as two households and certain buildings converted to flats to pre 1991 Building Regulations standards. Large HMOs i.e. those that are 3 storeys or above with 5 or more tenants, that comprise 2 or more households have continually been regulated through the Mandatory Licensing Scheme. The purpose of implementing the 2014 scheme in particular was both to protect the safety of tenants living in HMOs and also to minimise the impact of shared housing on the character and amenity of the surrounding area. Hence conditions are included to require that landlords maintain boundaries, gardens and walls and take reasonable steps to reduce anti-social behaviour by persons living in HMOs.
- 3.5 Any Additional Licensing Scheme for HMOs declared by a Local Authority must only last for 5 years. Any decision on whether a further Additional Licensing scheme is required must be based on evidence of the need for such a scheme. In April 2007, the Welsh Assembly Government issued guidance to local authorities, indicating that they may implement Additional Licensing Schemes without obtaining Approval, providing

they can satisfy the requirements of the legislation with regard to evidence of need, consultation with interested parties and implementation. In particular, the Council must be satisfied that a significant proportion of the HMOs to be included in the Scheme are being managed ineffectively so as to give rise, or likely to give rise, to problems either for those occupying the HMO or for other residents.

4. EVALUATION OF THE 2014 ADDITIONAL LICENSING SCHEME

4.1 A full evaluation of the HMO Licensing Schemes (Additional and Mandatory), since 2014, has been undertaken by the Housing Strategy Team and the full report is included as Appendix 1.

4.2 The key findings of that evaluation are as follows:

- There are currently 633 licensed HMOs in RCT, although the potential number is higher at approximately 688 due to vacancies and under-occupation. The transient nature of occupation of HMOs requires ongoing enforcement and investigation to maintain compliance with the Scheme.
- 97% of properties subject to an application for a HMO licence were found to be non-compliant with the legal requirements. This is in spite of a significant number of applications being in respect of properties previously subject to licensing.
- Inspections undertaken after a licence has been granted show that only 40% maintained those legal standards, resulting in enforcement action to improve ongoing maintenance and condition of properties was necessary. Deficiencies were predominantly identified in relation to substandard fire precautions, poor external appearance, damp and disrepair.
- 796 significant hazards have been removed from 346 licensed HMOs as a direct result of the licensing regime.
- Anti social behaviour reports in the Treforest Ward have remained largely constant for the last 5 years although some changes in recording procedures by the Police may have impacted on the data and mean there has been a reduction in reality.
- The Property Accreditation Scheme launched in the Treforest Ward of RCT has had a positive impact on how tenants make informed choices about the property they want to live in. The Accreditation Scheme is however voluntary and open to any property in the PRS, is not therefore a substitute for regulation of the HMO sector.

5 CONSULTATION

5.1 In accordance with the legal requirement, a public consultation was undertaken between 6th August 2018 and the 15th September 2018, a period of 6 weeks. The consultation was as follows:

- On line via the Council website
- Social Media using Facebook and Twitter
- Door to door survey in Treforest
- Targeted e-mailings to landlords, students, letting agents and other stakeholders
- Targeted engagement with the Local Councillor, Treforest Residents Association and Treforest PACT

5.2 The Evaluation of the 2014 Licensing Scheme was subject to scrutiny by the Health and Wellbeing Scrutiny Committee on the 9th October 2018. At that meeting, the local member for Treforest expressed his views on the need for continued regulation of HMOs and highlighted the adverse impact on his ward from high concentrations of HMOs and poor housing standards. As a result of the examination of the Consultation undertaken, the Committee requested that a further consultation was undertaken targeting students at the University of South Wales and this was done in the week commencing 15th October 2018 and comprised face to face surveys done on the University Campus. This was to ensure a more representative sample of student and student tenant views was taken into consideration given the original consultation took place during the University holiday period.

5.3 The revised, full Consultation feedback report is produced as Appendix 2. The key findings were as follows:

- 192 responses were received to the consultation. The majority of these (65%) identified Treforest as their place of residence.
- 41% of respondents were owner occupiers, 10% were landlords, 11% were tenants and 33% were students.
- 39% of respondents had concerns about HMOs in their area, with 51% saying anti social behaviour was the main cause for concern, followed by 23% saying it was disrepair.
- 68% of respondents believed HMO licensing can improve the quality and appearance of HMOs.
- 69% of respondents believed HMO licensing can improve the safety and security of HMOs.
- 54% of respondents believed HMO licensing can be an effective way of preventing anti social behaviour, with a further 67% believing it can improve the management of HMOs.
- 71% of respondents said they want to see the Additional Licensing Scheme continue. Only 8% of respondents said they did not want it to continue.

5.4 Many respondents provided comments to illustrate their opinion and these are reproduced in full in the Report in Appendix 2. Key comments by respondent type can be summarised as follows:

- Landlords: HMO licensing is an unnecessary tax on their properties; concerns that the Scheme only captures “good landlords” and others go unregulated; comments that licensing is the wrong approach and unbalances the housing market thus driving property prices up.

- Students & tenants: wish to see increased controls especially in relation to anti social behaviour and to address poor management; a desire for higher quality HMOs.
- Owner Occupiers: need to address refuse problems; need to do more to make landlords and tenants look after properties; absent landlords are a problem; pressure on parking in Treforest; unsavoury tenants and anti social behaviour is an issue; too many HMOs and not enough affordable housing; need to protect tenants from unscrupulous landlords.

5.5 All HMO Licences granted by the Council include a set of minimum conditions which the landlord and or managing agent must adhere to, in addition to any specific conditions applied by the Council in respect of a particular property or landlord. The 2014 Scheme standard licence conditions were subject to scrutiny by the Health and Wellbeing Scrutiny Committee on the 9th October 2018. The Committee made a number of recommendations in order to strengthen the conditions attached to HMO licences in the County Borough as part of any new Scheme going forward. The proposed Licence Conditions for any new Scheme declared are outlined in Appendix 3 and the main changes can be summarised as follows:

- Ensure controls cover anti social behaviour from visitors as well as tenants.
- Require landlords and agents to notify the Council of any material change in circumstances.
- Require written statement of terms for all tenants.
- Require prescribed information to be provided to tenants about waste disposal arrangements, fire escape procedures and fire alarm activations.
- Require written emergency contact details for the landlord and agent to be given to all tenants.
- Require fixed Carbon Monoxide detectors in habitable rooms with solid fuel or gas appliances.
- Minimum of 'E' energy rating for the property, in line with new legal standards;
- Where installed, require the regular maintenance of fire sprinkler systems, in line with new Building Regulation Requirements.

6 FINANCIAL IMPLICATION(S)

6.1 The Housing Act 2004 allows local authorities to wholly recover the cost of licensing schemes from application and other associated fees. The basis of the fees charged can include the administration of the application, inspection of the property and associated enforcement actions, and wider enforcement and regulation during the period of the licence. If a new Scheme is approved, the fees to be associated with the Additional HMO Licensing Scheme will be fully reviewed prior to any formal declaration for the Scheme to ensure they are appropriate, justifiable and proportionate. The review will ensure the ongoing costs of enforcement and regulation of the scheme, as evidenced from the evaluation of the 2014 scheme, are fully recovered via the fees charged. The new fee structure will also have due regard to recent case law relating to licensing fees charged by local authorities. Subject to any decision to declare a new additional licensing scheme, the outcome of the fees review will be reported to Cabinet in a future report.

7 EQUALITY AND DIVERSITY IMPLICATIONS

- 7.1 An equality impact assessment screening form has been completed relating to the introduction of the proposed Policy and has shown no adverse affects on those groups with protected characteristics as defined under the Equality Act 2010. Consequently a full Equality Impact Assessment is not required.

8 LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED

- 8.1 Section 56 of the Housing Act 2004 states:

- (1) A Local Housing Authority may designate either-*
(a) the area of their district, or
(b) an area of their district,

as subject to additional licensing in relation to a description of HMOs specified in the designation, if the requirements of this section are met.

- (2) The authority 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 be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.*

- (3) Before making such a designation the authority must-*

- (a) take reasonable steps to consult persons who are likely to be affected by the designation; and*
(b) consider any representations made in accordance with the consultation and not withdrawn.

- (4) The power to make a designation under this section may be exercised in such a way that this Part applies to all HMOs in the area in question.*

- 8.2 In exercising its power under Section 56, the Local Housing Authority must also have regard to Section 57, which states:

- (2) The authority must ensure that any exercise of the power is consistent with the authority's overall housing strategy.*

- (3) The authority must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector, both-*

- (a) as regards combining licensing under this Part with other courses of action available to them, and*
(b) as regards combining such licensing with measures taken by other persons.

- (4) The authority must not made a particular designation under section 56 unless-*

(a) they have considered 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

(b) they consider 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).

8.3 Should the recommendation to declare a new Additional Licensing Scheme be supported, it can be concluded that the local authority has satisfied the requirements of the Housing Act 2004 (above) as follows:

- The exercise of the power is in accordance with the Council's Housing Strategy and the Council's Strategic Objectives, in particular Rhondda Cynon Taf's Single Integrated Plan '*Delivering Change*' and the 'Place' Priority of the Council which is to "*create neighbourhoods where people are proud to work and live*".
- Reasonable steps have been taken to consult persons likely to be affected by the designation through a public consultation process.
- It is considered that making the designation will significantly assist the Council to deal with problems associated with HMOs in conjunction with other courses of action such as those identified in the Community Safety Delivery Plan 2018-2021, the Empty Property Strategy 2018-2020 and the Homelessness Strategy being developed. The combination of strategic approaches will ensure that the risks, opportunities and challenges associated with shared housing continue to be appropriately managed. The development of a specific strategy to capture all of the work being done to improve and promote the private rented housing sector in RCT will further enhance the viability of this sector as a sustainable and desirable housing option for residents.

9 LINKS TO THE CORPORATE AND NATIONAL PRIORITIES AND THE WELL-BEING OF FUTURE GENERATIONS ACT

9.1 The private rented sector, including HMOs, has an important part in the housing market in RCT and makes a valuable contribution to maintaining the affordable housing supply chain, offering a viable choice of housing for many people. A safe and secure HMO sector is important to the Place priority of the Single Integrated Plan which aims to ensure that in RCT we "*create neighbourhoods where people are proud to work and live*". It also supports the People priority, whereby for many people, particularly young adults, a home in a HMO enables them to maintain independent and positive lives.

9.2 The declaration of a new Additional Licensing Scheme for HMOs demonstrates a long term commitment to improving and maintaining sustainable shared housing provision in RCT while ensuring a proactive, preventative approach to dealing with poor housing conditions and poor management. The development of a holistic Private Rented Housing Sector strategy will enhance the integrated approach already taken to improving the sector and ensure the actions from other relevant strategies in relation to Community Safety, Empty Properties and Homelessness, which affect this area of the housing market are taken forward collaboratively. The consultation undertaken

demonstrates the involvement of residents, landlords and tenants and shows the majority of respondents support the ongoing regulation of all houses in multiple occupation. This proposal is therefore made in full consideration of the sustainable development principles. The proposals will also support the Council to contribute to three of the seven well-being goals, namely:

1. A healthier Wales
2. A prosperous Wales
3. A Wales of cohesive communities

10 CONCLUSION

- 10.1 HMOs are a necessary housing option and form an important part of the housing market of RCT. The evaluation of the 2014 Additional Licensing Scheme shows the positive impact that the licensing regime has had on HMO standards, however there is clear evidence of the need for ongoing regulation of the sector to protect tenants from poor housing standards and to protect communities from the adverse impact of poorly managed HMOs. The feedback from the public consultation provides additional evidence of the impact of HMOs on our communities, in particular Treforest, and demonstrates there is significant support for the declaration of a new Scheme. Having regard to the legal tests set out in the Housing Act 2004, the evidence satisfies the legal requirements and the proposal is proportionate and justifiable.

LOCAL GOVERNMENT ACT 1972
AS AMENDED BY
THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985
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Background Papers:

Health and Wellbeing Scrutiny – [9th October 2018](#)

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