



RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL

CABINET

18th DECEMBER 2023

**PROPOSAL TO DECLARE A NEW ADDITIONAL LICENSING SCHEME FOR HOUSES IN
MULTIPLE OCCUPATION IN 2024**

**REPORT OF DIRECTOR - PUBLIC HEALTH, PROTECTION & COMMUNITY SERVICES IN
DISCUSSIONS WITH COUNCILLOR BOB HARRIS, CABINET MEMBER FOR PUBLIC
HEALTH AND COMMUNITIES**

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1. PURPOSE OF THE REPORT

- 1.1 To report to Cabinet on the effectiveness of the 2019 Additional Licensing Scheme for Houses in Multiple Occupation (HMOs) and propose the Council declare a New Additional Licensing Scheme for HMOs from April 2024, in accordance with the provisions of the Housing Act 2004.

2. RECOMMENDATIONS

It is recommended that Cabinet:

- 2.1 Note the findings of the Evaluation of the 2019 Additional HMO Licensing Scheme (see Appendix 1) in Rhondda Cynon Taf and the feedback from the Community Services Scrutiny Committee held on 21st November 2023.
- 2.2 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 31st March 2024 and instruct officers to make the necessary arrangements in accordance with the provisions of the Housing Act 2004.
- 2.3 Subject to recommendation 2.2 above, to approve the continued inclusion of all types of HMO within the scope of the new 2024 Scheme.
- 2.4 Subject to recommendation 2.2 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 2024 (in addition to any bespoke conditions relevant to individual licences).

2.5 Subject to 2:2 above approve the proposed fee structure as detailed in Appendix 4.

3. BACKGROUND

3.1 As of May 2023, there were an estimated 18,180 private rented properties across Rhondda Cynon Taf, accounting for approximately 17.6% of the housing stock. Of these 549 were licensed as houses in multiple occupation, which represents 3% of the private rented sector (PRS) and most of these properties are in the Treforest Ward.

3.2 Historically, HMOs in RCT have been the domain of students and they continue to provide a key housing option for students particularly in Treforest. As detailed in the ALS evaluation, student numbers have declined in Treforest in recent years and landlords have needed to diversify in order to ensure their properties are occupied. In addition, the impact of welfare reform and changes to Housing Benefit made the scale and nature of the PRS in RCT difficult to predict. Trends have shown an increased reliance on the PRS as people's housing choices are limited by availability of housing benefit and the demand for smaller accommodation continues to rise. For those people who are priced out of owning their own home and are unlikely to be able to access social housing, the PRS is often the only viable housing option available. HMOs are also seen as a housing choice by young professionals, new to the employment market.

3.3 HMOs have been subject to proactive regulation in RCT since 2002. 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 to licence the single occupation rented sector (Selective Licensing). Both schemes are discretionary.

3.4 Any ALS for HMOs declared by a Local Authority must only last for 5 years. Any decision on whether a further ALS 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 ALS without obtaining approval, providing they can satisfy the requirements of the legislation regarding evidence of need, consultation with interested parties and implementation.

3.5 Since 2006, the Council has operated successive Additional Licensing Schemes. The 2014 ALS introduced the regulation of 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 and comprise of 2 or more households, have continually been regulated through the Mandatory Licensing Scheme.

3.6 The 2014 Additional Licensing Scheme (ALS) was reviewed in 2018 whereby a decision was made to implement a further ALS which came into effect on 1st April 2019. The 2019

scheme maintained the same key focus introduced in the 2014 scheme which introduced particular requirements 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. Thereby conditions are included to require that landlords maintain boundaries, gardens and walls, as well as taking reasonable steps to reduce anti-social behaviour by persons living in HMOs. The current ALS is due to lapse on 31st March 2024.

- 3.7 Online applications were introduced in 2019 and this has led to an improved processing time for licenses. Applications are now complete at the point of submission, including payments and supplementary information. Furthermore in 2019 changes were made to how the fees were processed, and a two-part payment was introduced to cover costs of implementing the ALS as follows:

Part 1 - covers the reasonable costs of administering and determining the licence application.

Part 2 - is payable upon grant of the licence and will cover the reasonable costs to the Council of the ongoing regulation and enforcement.

4. EVALUATION OF THE 2019 ADDITIONAL LICENSING SCHEME

- 4.1 A full evaluation of the HMO Licensing Schemes (Additional and Mandatory), since 2019, 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:

- At the time of writing there are 549 licensed HMOs in RCT. The transient nature of occupation of HMOs requires ongoing enforcement and investigation to maintain compliance with the Scheme.
- 87% of properties subject to an application for an HMO licence were found to be non-compliant with the legal requirements. This is in spite of a significant number of the applications being in respect of properties previously subject to licensing.
- Inspections undertaken after a licence have been granted show that only 24% 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.
- 1050 significant hazards have been removed from 360 licensed HMOs as a direct result of the licensing regime. This demonstrates that without continued regulation of smaller HMOs and converted buildings, there is a high risk they could quickly deteriorate in standard and present hazards for occupants over time if the requirement for licensing ceased.
- Proactive occupancy checks, carried out from 2019 to date, have led to one landlord being prosecuted for exceeding the number of persons permitted to occupy an HMO contrary to the conditions imposed within the license and there are a further two cases pending for the same offence. The Council's Housing Standards Team are also preparing two cases in respect of the failure of a HMO licence holder to comply with HMO licensing conditions and a failure to comply with

the requirements of a statutory improvement notice. In addition, a prosecution case is being processed in respect of the failure to licence a licensable HMO.

- The data shows the number of reported Anti-social behaviour (ASB) incidents have reduced in the Treforest Ward when comparing 2017-19 period with 2020-22. However, it is noted that changes in ASB reporting methods between the two periods and the impact of the Covid pandemic could have influenced the data.

4.3 The period of the Covid pandemic proved to be detrimental in terms of the administration and enforcement of HMO licensing. During this time, HMO licence application visits and annual inspections could not be carried out. However, Officers processed applications based on confidence in the management of the specific HMO, while also attaching specific conditions to the licence when required. It was also recognised that the Covid pandemic imposed huge difficulties on landlords being able to carry out repairs and maintenance because it was problematic to obtain building services, materials and access to internal elements of properties. Material costs associated with repairs and maintenance also increased significantly.

5. CONSULTATION

5.1 In accordance with the legal requirement, a public consultation was undertaken between 5th September 2023 and 17th October 2023, a period of 6 weeks. The consultation was as follows:

- Online 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 Local members, Treforest Residents Association Treforest PACT Forum, and Officer attendance at the University Campus during Student Freshers week.

5.2 The full Consultation feedback report is produced as Appendix 3. The key findings were as follows:

- 163 responses were received to the consultation. The majority of these identified Treforest as their place of residence.
- 66% of respondents were owner occupiers, 11% were landlords and 14% were tenants.
- 76% of respondents had concerns about HMOs in their area, litter was the highest topic causing concern, followed by appearance.
- 53% of respondents believed HMO licensing can improve the quality and appearance of HMOs, with 17% disagreeing and 30% being unsure.
- 57% of respondents believed HMO licensing can improve the safety and security of HMOs, with 16% disagreeing and 27% being unsure.
- 51% of respondents believed HMO licensing can be an effective way of preventing anti-social behaviour, with 22% disagreeing and 27% being unsure.
- 63% of respondents consider it can improve the management of HMOs, with 16% disagreeing and 20% being unsure.
- 63% of respondents said they want to see the ALS continue, only 17% of respondents said they did not want it to continue.

5.3 Many respondents provided comments to illustrate their opinion, and these are reproduced in full, from Page 22 of the Report in Appendix 2. Key comments by respondent type can be summarised as follows:

- **Landlords:** The main theme of comment from landlords related to the cost of the scheme being too expensive, which was seen as an inhibiting factor in preventing more landlords licencing their properties as HMO's. Some landlords believed the ALS focused too much on compliant landlords and detracted from the ability to enforce standards, particularly the non-compliant properties or landlords.
- **Tenants:** The emphasis was on the need and responsibility to raise the quality of rented accommodation to maintain a viable rental market and social cohesion. Parking issues were also mentioned a number of times.
- **Owner Occupiers:** There was a high proportion of comment in regards to litter, poor appearance, anti-social behaviour and a lack of enforcement in the Treforest area and the negative impact this is having on the community. The general theme was the perception that there were too many HMOs in Treforest and there was a need to monitor and ameliorate the negative impacts on the community through tighter enforcement of the ALS. Many owner occupiers also complained about parking being a significant issue in the Treforest area. In general, Owner Occupiers were in agreement with the aims, objectives and continuation of the ALS so long as it was fully enforced.

5.4 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 2019 Scheme standard licence conditions were subject to scrutiny by the Community Services Scrutiny Committee on 21st November 2023. The existing 2019 conditions were deemed to be suitable going forward and Committee made a recommendation to include an additional fire safety related condition in line with recent changes (1st Oct 2023) to the Building Safety Act 2022, Section 156 provisions. Whilst enforced by the Fire Service, the condition will ensure that the Licence holder takes steps to ensure the "responsible person" carries out their new fire safety risk assessment obligations. The proposed licence conditions for the 2024 ALS are attached in Appendix 2 including the new condition (5.6).

5.5 The general feedback from the Community Services Scrutiny Committee supported the need for the Additional Licensing Scheme to continue in the future to ensure appropriate regulation of HMO's, particularly in Treforest. A number of queries were raised regarding topics such as limited tenant responses in the consultation process, HMO inspections, use of enforcement action and non-compliant landlords. The feedback from the scrutiny process was acknowledged and will be utilised to inform the preparation of any future HMO licensing consultations, particularly in respect of encouraging more responses from tenants. It was also recognised that the inspection process and effective use of enforcement powers is an important factor in maintaining and driving up standards, which will continue to be a key focus for Officers going forward.

6. WELSH LANGUAGE IMPLICATIONS

- 6.1 All correspondence associated with the public consultation were compliant with the Welsh Language (Wales) Measure 2011, whereby the Welsh language is treated no less favourably than the English language in Wales.
- 6.2 A Welsh Language Impact Assessment (WLIS) was also undertaken as part of the review of the Additional Licensing Scheme 2019, to ensure compliance with the Welsh Language (Wales) Measure 2011. See Appendix 5.
- 6.3 The HMO Additional Licensing Scheme review and its aims and objectives will have a neutral effect on the Welsh language, Welsh speakers and Welsh learners, and any plans or developments that stem from the review will fully comply with the Welsh Language Measures and the Welsh Language Standards.

7. FINANCIAL IMPLICATION(S)

- 7.1 The Housing Act 2004 allows Local Authorities to recover the cost of administering licensing scheme from application and other associated fees. The basis of the fees charged includes the administration of the application, inspection of the property and associated enforcement actions and wider enforcement and regulation during the period of the licence. The implementation costs of any licensing scheme should be wholly recovered from fees. The fees associated with the ALS have been fully reviewed to ensure they are appropriate and proportionate in line with WLGA guidance. It is proposed that the current online two-part payment system continues should the Council decide to implement a further ALS. A paper outlining the proposed fee structure for the 2024 ALS is included in Appendix 4.

8. EQUALITY AND DIVERSITY IMPLICATIONS/ SOCIO-ECONOMIC DUTY

- 8.1 An equality impact assessment including socio economic duty exercise has been undertaken. In summary the Equality Impact Assessment was completed relating to the introduction of the HMO Additional Licensing Scheme and it identifies positive and neutral impacts and no negative impacts upon the protected characteristics as defined under the Equality Act 2010. See Appendix 6.

9. LEGAL IMPLICATIONS OR LEGISLATION CONSIDERED

- 9.1 The Housing Act 2004 gave local Housing Authorities discretion to specify that landlords of some or all type of Houses in Multiple Occupation (HMOs) must apply for a licence if they want to let to tenants. This is called Additional Licensing. Each Local Authority can decide to implement an Additional Licensing Scheme to bring more HMOs within the scope of the licensing regime.

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

- 10.1 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 2020-24 Corporate Plan which aims to ensure that in RCT we create places “where people are proud to live, work and play”. It also supports the People priority, whereby for many people, particularly young adults, Residing at an HMO enables them to maintain “independent, healthy and successful” lives.

10.2 The aim of a further ALS in 2024 is 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.

11. STRATEGIC OR RELEVANT TO ELECTORAL WARDS (please specify)

11.1 The proposed ALS will have specific relevance to the Treforest ward, due to the presence of a high number of HMO’s being used as student accommodation associated with attendance at the University of South Wales in Treforest.

12. CONCLUSION

12.1 HMOs are a necessary housing option and form an important part of the housing market in RCT. The evaluation of the 2019 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, particularly in Treforest.

12.2 Should the recommendation to declare a new 2024 Additional Licensing Scheme with proposed conditions be supported, making the designation will significantly assist the Council to deal with problems relating to HMOs in conjunction with other courses of action and will ensure that the risks associated with shared housing continue to be appropriately managed.

LOCAL GOVERNMENT ACT 1972

AS AMENDED BY

THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

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Background Papers

None

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