

CHESHIRE EAST COUNCIL

Jobs, Regeneration and Assets Overview and Scrutiny Briefing Paper

Date of Meeting: 21 November 2016

Report of: Housing Standards & Adaptations Manager

Subject/Title: Houses in Multiple Occupation

Portfolio Holder: Councillor Ainsley Arnold

Introduction

1. The private rented sector has recently seen rapid growth and is now the second largest tenure behind home ownership. It offers a flexible form of tenure and meets a wide range of housing needs. It contributes to greater labour market mobility and is increasingly the tenure of choice for young people. Cheshire East plays an essential role in quality assurance in this sector, and is committed to ensuring that existing housing is of good quality and provides a safe and warm environment in which people can thrive. This and other growth, regeneration and community priorities in Cheshire East are vital to promoting a strong 'sense of place' for our residents and businesses, and play a key role in driving new investment and jobs.
2. Houses in multiple occupation (HMOs) are a vital component of our housing offer, providing accommodation for tenants who are unable to afford to rent a self contained property, or who enjoy the flexibility that renting a room in a property offers to them.
3. A HMO is defined under sections 254 and 257 of the Housing Act 2004. An HMO can be a building or part of a building if it is:
 - Occupied by 3 or more people who form more than one household, and where those people share (or lack) one or more basic amenities, such as a WC, personal washing and cooking facilities; or
 - A converted building containing one or more units of accommodation that **do not** consist entirely of self-contained flats. There is no requirement that the occupiers share facilities; or
 - A converted building consisting entirely of self-contained flats, where the building work undertaken in connection with the conversion did not comply with the 1991 Building Regulations, and more than one third of the flats are occupied under short tenancies.
4. The following types of property are considered as HMOs:
 - **Shared houses**, for example, a house shared by a group of friends, students or individuals unknown to each other where there is some sharing of amenities
 - A house divided into individual **bedsits**, for example, each bedsit may have its own cooking facilities, but the bathroom is shared.
 - A **flat in multiple occupation**, for example, a converted or a purpose built flat which is occupied by two friends and they share a kitchen and a bathroom. The rest of the building may contain flats in single occupation.
 - **Partial conversions**, for example, floor by floor lets, where each floor of a house may be let separately and be provided with cooking and bathroom facilities, but the building has not been fully converted or separated into individual flats, each with its own entrance. There may or may not be other fully converted flats in the building.
 - **Fully self-contained flats** which do not meet the 1991 Building Regulations standard.

Mandatory HMO Licensing

5. Some larger HMOs require a licence to be issued by the local housing authority. Licensing is mandatory for all HMOs which have 3 or more storeys, with 5 or more occupants forming more than one household. The licensing process considers whether the property is suitable to be occupied as a HMO, taking into account the number, type and quality of amenities, whether the licence holder and/or manager is a fit and proper person, and the management arrangements for the property. Applicants must pay a licence fee which covers the reasonable cost of processing the licence application, and the licence lasts up to 5 years. Licence holders must apply to renew a licence; there is no automatic renewal process.
6. Mandatory conditions of licences are enforced, including annual gas safety certificates, ensuring electrical appliances and furniture are safe, smoke alarms are in proper working order, and tenancy agreements for tenants.
7. In a Government consultation paper issued on 18 October 2016, the Department for Communities and Local Government (DCLG) confirmed its decision to extend the scope of mandatory licensing of HMOs in England, subject to parliamentary approval. The significant change is that the Government intends to remove the existing 'three storey' rule so that all HMOs with 5 or more occupants will require a licence. A separate briefing paper for Members is being circulated seeking views in order to formulate our response.
8. It is proposed that the extended mandatory licensing scheme will commence in 2017. There will be a grace period of six months for landlords to apply for a licence; after the grace period has ended it will be an offence to operate an unlicensed HMO.

Additional HMO Licensing

9. Part 2 of the Housing Act 2004 gives a discretionary power to local authorities to designate areas where smaller HMOs are also required to be licensed. The designated area can be the whole or part of the authority area. The authority must consider that a significant proportion of the HMOs are being managed sufficiently ineffectively so as to give rise to, or be likely to give rise to, problems for either the occupiers or the local community.
10. The first step to implementing an additional HMO licensing scheme is to ensure that it is consistent with the authority's Housing Strategy, and the approach is co-ordinated in dealing with homelessness, empty properties and anti-social behaviour in the private rented sector. The authority should consider other schemes and strategies that can be adopted that could achieve the same objectives that a designation scheme may achieve. It is important that collaborative working is in place so that an additional licensing scheme is able to form part of a wider strategic solution to housing and social problems in the designated area.
11. Any designation will need to pass a strong evidential test. Evidence specific to HMOs should include:
 1. Complaints received about housing conditions
 2. Category 1 and 2 hazards
 3. Known cases of overcrowding
 4. ASB, noise and nuisance incidents
 5. Enforcement action undertaken
 6. Waste complaints
 7. Management complaints
 8. Protection from eviction / harassment cases and interventions

12. The local authority must undertake a structured consultation exercise for a minimum of 10 weeks prior to designating an area for additional licensing.
13. A General Consent approved in March 2015 has removed the requirement for the Secretary of State to approve an additional licensing scheme, and it is for the local authority to approve the designation.

Selective Licensing in the Private Rented Sector

14. Part 3 of the Housing Act 2004 introduced a discretionary power to introduce a scheme to license private rented properties in a local authority area. The authority can designate the whole or any part or parts of the area as subject to selective licensing. HMOs in the designated area that are already subject to mandatory licensing would be exempt from a selective licensing scheme, but unlicensed HMOs would be equally liable to licensing as any single-let property in the designated area.
15. Selective licensing was introduced to assist in the regeneration of areas which have a high proportion of private rented properties (in excess of 19% of the housing stock in that area) and are suffering from one or more of the following:
 1. low housing demand, taking into account property values, turnover, number of properties for sale or rent, void periods, and vacant stock,
 2. significant and/or persistent levels of anti-social behaviour within the curtilage or immediate vicinity of the rented property,
 3. poor property conditions, considering the age and visual appearance of properties, and whether a review of housing conditions would warrant a significant intervention,
 4. high levels of migration from other areas as well as overseas, represented by a population increase of 15% or more over a 12 month period and a significant number of the migrants occupying private rented properties,
 5. high levels of deprivation when compared to other areas, taking into account employment status, health, average incomes, and access to services,
 6. high levels of crime compared to other areas in the local authority or above the national average, or significant increases over a 12 month period, and taking into account the nature of the crime and whether it is affecting or being caused by people in the private rented sector.
16. Similar to the additional licensing, local authorities should consider whether there are any alternative strategies to achieve the objectives it hopes to achieve by introducing selective licensing. It must also be consistent with the authority's Housing Strategy and consider strategies to tackle homelessness, empty properties and anti-social behaviour.
17. A minimum 10 week consultation must be undertaken. Where a proposed selective licensing scheme amounts to less than 20% of either the geographical area covered by the authority or 20% of the local private rented sector, a General Consent gives local authorities the power to implement a scheme. Larger schemes must be approved by the Secretary of State.

HMO Management Regulations

18. The 2006 regulations place a number of duties on managers of HMOs:
 1. To provide contact information to occupiers
 2. To maintain fire safety throughout the property
 3. To protect occupiers from injury, maintain common parts, fixtures, fittings and appliances, and maintain living accommodation
 4. To maintain water supply and drainage
 5. To supply and maintain electricity [and gas]

6. To maintain common parts, fixtures, fittings and appliances
 7. To provide waste disposal facilities
19. A local authority can make an interim management order of up to 12 months if a property is being poorly managed and is not able to be licensed. The effect of a management order is that control is taken away from the owner or manager and places control in the hands of the council.

Local picture in Cheshire East

20. There are an estimated 600 HMOs in Cheshire East, providing accommodation for around 3,000 residents. Around 460 of these HMOs are shared houses; 90 are buildings with self contained flats converted prior to the 1991 Building Regulations; and 48 are licensed HMOs providing accommodation for up to 329 people.
21. Around 70% of the HMOs are believed to be in the Crewe area, 13% are in Macclesfield and the remaining 17% are pepper-potted across Cheshire East. 26 of the 48 licensed HMOs are in Crewe, 17 are in Macclesfield, with the remainder being located in Middlewich, Nantwich and Handforth.
22. Maximum occupancy levels are based on room sizes; larger properties with higher occupancies don't really feature in our housing stock, with less than 20 properties across the whole area where 10 or more people are permitted to occupy the properties.
23. Whilst the number of properties currently requiring a licence is low in Cheshire East at 48, the proposed Government extension to the mandatory licensing scheme is estimated to bring a further 330 properties into the licensing regime.
24. All licensed HMOs are inspected annually; property conditions are found to be generally good and any items of disrepair or fire safety failures are resolved by property owners and managers.
25. Officers carry out a risk based inspection programme for non-licensable HMOs. The frequency of inspections is based on the property condition, occupancy, layout and any other features that increase the risk of injury within the property, and are inspected at a frequency of between 1 and 5 years. The frequency is increased where significant problems arise. 83 non-licensable properties were inspected in 2014/15 and 119 in 2015/16; 100 have been inspected within the first 7 months of this year so we are on track to increase the number of HMO inspections this year.
26. The use of enforcement notices is low in Cheshire East due to the generally compliant landlords in Cheshire East, good working relationships developed by officers with landlords, and a stepped approach to enforcement: offering information and advice, informal action and on the few occasions where this is not successful, initiating enforcement action. Management orders have not been used in Cheshire East, although the HMO Management Regulations are frequently cited in discussions with owners and managers.
27. Work is underway to establish whether there is sufficient evidence to consider additional or selective licensing in Cheshire East. This work will be completed by February 2017.
28. Planning has commenced for the proposed extension of the mandatory licensing scheme, with consideration being given to identifying properties, a communication plan, licence fee structure, and ensuring sufficient resources are in place to process applications and ensure HMO licence conditions are complied with.