



Extra Controls in the Private Rented Sector

Environment and Regeneration
Overview and Scrutiny Committee
23 January 2018

Background



- Strategic Housing workplan 2017-18 – *“Examine the evidence base for extra controls in the private rented sector”*
- Members’ concerns:
 - Effect on communities and neighbourhoods
 - Poor housing conditions and overcrowding
 - Exploitation of tenants
 - Waste and flytipping
- Calls for greater regulation of HMOs / compulsory landlord registration scheme
- Working group

Working Group Terms of Reference



1. To gather, review and evaluate evidence to establish the need for:
 - Selective licensing of the private rented sector (“compulsory landlord registration scheme”)
 - Additional licensing of HMOs
 - Article 4 direction under the Town and Country Planning Order 1995
2. To plan for the communication and delivery of the extension to the mandatory licensing scheme for HMOs
3. To consider links with other work streams, eg Local Plan Policy SC4 (Residential Mix)

Extension to Mandatory Licensing of HMOs



- Proposal by the Department for Communities and Local Government in 2015 and subject to further consultation in 2016
- Announcement 28 December 2017 – plans to go ahead in 2018 and legislation is now being prepared

An entire house or flat which is let to 5 or more tenants who form 2 or more households and who share facilities – this is a HMO that will require a licence, regardless of how many storeys the property is set out over

- Minimum room sizes introduced
- Licence holders will be required to comply with LA schemes for waste management

Implications for Cheshire East



- The number of HMOs that will require a licence will increase 10-fold – from nearly 50, to around 500.
- Around 50 will remain exempt from licensing – buildings that were converted prior to 1996 Building Regulations
- An estimated 100 properties will not require a licence due to their small size

Implementation



- Increase in staffing levels – full cost recovery through licence fees charged to the landlord
- Local communication plan targeting landlords and tenants to build on any national communications
- Strengthen our 'fit and proper' test
- Two phases to the implementation:
 1. A six-month period where landlords must apply for a licence: LAs cannot fine or prosecute a landlord for failing to apply during this period
 2. After six months, any landlord who has failed to apply can be prosecuted or a civil penalty applied
- Continue our inspection programme for the 150 properties that don't require a licence

Option for Additional Licensing of HMOs



We have the option to introduce an Additional Licensing scheme for the remaining unlicensed HMOs:

- Those with less than 5 tenants
- Those converted prior to the 1996 Building Regulations

Subject to their being evidence that a significant proportion of these HMOs are being ineffectively managed.

Insufficient evidence at this time for this group of properties that an additional licensing scheme is required – but to re-evaluate this following implementation of the mandatory licensing

Actions (1)



Recommendation	Action	Timescale
1. Focus on the implementation of the extension to the mandatory licensing scheme	Put staffing resources in place	Subject to implementation date for legislation – estimated April 2018
	Develop and launch a communications plan	
2. Pro-active work to inspect the HMOs that fall outside of the mandatory licensing scheme	Continue with the existing programme of HMO inspections	Ongoing
3. Not to introduce additional licensing at this time due to a lack of sufficient and robust evidence to support it	Re-evaluate the evidence for additional licensing of c150 unlicensed properties	12 months after implementation of mandatory licensing

HMOs and Planning



Type of HMO	Planning permission
1. Small shared houses or flats occupied by between 3 and 6 unrelated individuals who share basic amenities = Use class C4 Small houses in Multiple Occupation	Change of use from dwelling house (C3) to HMO (C4) is 'permitted development'
2. Those with more than 6 unrelated individuals who share basic amenities = 'sui generis' (not within a use class)	Change of use from dwellinghouse (C3) to HMO (sui generis) requires planning permission

HMOs and Planning



- Permitted development rights can be removed through an Article 4 Direction in a designated area, so that planning permission is required for the development of all HMOs, regardless of the size of the property
- Mapping exercise undertaken to show spatial distribution of HMOs in Cheshire East
 - Identifies a concentration of HMOs in a small neighbourhood in Crewe South

A4D process



- **Non-immediate:**
 - takes effect 12 months from LPA giving notice of making the direction
 - within that 12 months, decision must be made to confirm A4D following public consultation
- **Immediate:**
 - must be confirmed by LPA within 6 months and following public consultation
 - LPA liable for compensation for 12 months from being made

Evidence.....

Planning Practice Guidance: "The use of article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. The potential harm that the direction is intended to address should be clearly identified."

Other A4D considerations



- Does not change what is already there
- An A4D is not a moratorium on HMOs – it just means that all proposed HMOs will require PP (....which may still be granted)
- The Council receives no planning application fee for development proposals that would otherwise have been PD
- Associated local policy/guidance will be required
- An 'immediate' A4D would expose the Council to compensation
- Could a 'non-immediate' A4D may result in more HMOs being created in the short-term?
- Need for ongoing monitoring – to assess continued need for A4D and any other impacts
- Equalities impact assessment normally carried out

Actions (2)



Recommendation	Action	Timescale
1. Give further consideration to an Article 4 Direction to remove permitted development rights in respect of HMOs	Evidence collation in relation to specific identified areas	July 2018

Selective Licensing
“compulsory landlord registration scheme”



- Area with a high proportion of private rented housing (>19%), and one or more of the following:
 - Low housing demand
 - Significant and persistent anti social behaviour
 - Poor property conditions
 - High levels of migration / deprivation / crime
- Borough-wide scheme not suitable due to proportion of private rented housing (12.5%, Census 2011)
- Crewe and Macclesfield schemes also dismissed (Crewe 16.0%; Macclesfield 13.4%)
- Merit in considering localised schemes in Crewe Central / Crewe South – further in depth analysis required

Actions (3)



Recommendation	Action	Timescale
1. Not to introduce selective licensing at this time – further in-depth analysis of Crewe Central / Crewe South needed	In-depth analysis of evidence in Crewe Central / Crewe South	January 2019
2. Improve data collection by front line services to ensure the data we own is at the highest level of reliability	Review data quality, collection and recording methods and make recommendations / implement solutions	April 2018
3. Encourage reporting of poor housing conditions / poor management	Communications plan to increase tenants' awareness of their rights	April 2018



Questions?

Thank you.

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