

Arun District Council

REPORT TO:	Environment Committee 21 November 2023
SUBJECT:	Additional Houses in Multiple Occupation Licensing Scheme
LEAD OFFICER:	Karl Roberts – Interim CEO and Director of Growth
LEAD MEMBER:	Councillor Sue Wallsgrove
WARDS:	River, Marine and Hotham
CORPORATE PRIORITY / POLICY CONTEXT / CORPORATE VISION: The Council’s Vision 2022 – 2026 has four key themes, one of which is “delivering the right homes in the right places”. To achieve this, amongst other measures, the council will “ensure the existing housing stock in the district (private sector and council owned) is maintained to a high standard”.	
DIRECTORATE POLICY CONTEXT: The service vision set out in the Directorate of Growth business Plan is to “raise the standard of private sector housing within the District and improve the health and wellbeing of its residents”. Introducing an Additional Houses in Multiple Occupation (HMO) Licensing Scheme will provide the resources to enable a proactive inspection regime of the properties included within the scheme. It will also provide greater confidence that there are adequate safeguards in place to help ensure that people in these types of properties are provided with appropriate, safe, good standard and affordable accommodation in private rented sector properties in the wards where the scheme is in place.	
FINANCIAL SUMMARY: With any licensing scheme fees can be charged to cover the cost of administering the scheme.	

1. PURPOSE OF REPORT

- 1.1. To provide the results and outcomes of the 10 week statutory consultation on a proposed additional HMO Licensing scheme in the wards of River, Hotham and Marine.

2. RECOMMENDATIONS

- 2.1. The Environment Committee having considered the results of the consultation in relation to the proposed additional HMO Licensing Scheme as summarised in the report resolves:

- 2.1.1. To recommend to full Council to Designate the whole of the three wards of Marine, Hotham and River as subject to Additional Licensing under section 56(1)(a) of the Housing Act 2003 for all Houses in Multiple Occupation that contain three or four occupiers making up two or more households, irrespective of the number of storeys, and those properties defined as Section 257 Houses in Multiple Occupation under Housing Act 2004. Such designation to take effect in the financial year 2024/2025 and last for 5 years, the specific date to be agreed by the Group Head of Technical Services in consultation with Legal Services.
- 2.1.2. The fees for Additional HMO Licensing as set out in 4.35 be agreed for 2024/25.
- 2.1.3. To recommend to Policy and Finance Committee that the resources as set out in paragraph 4.29 are agreed in order to implement the additional HMO licensing scheme within the three wards of River, Marine and Hotham.

3. EXECUTIVE SUMMARY

- 3.1. At the Environment Committee on 14 July 2022 members agreed to instigating the consultation process for a proposed additional licensing scheme for HMOs for the wards Marine, Hotham and River, to cover privately rented properties occupied by three or four people making up two or more households and properties converted into self contained flats that meet the definition of Section 257 HMOs.
- 3.2. The statutory 10 week consultation took place between 12 June to 20 August 2023 and this report details the results and outcomes of this consultation.

4. DETAIL

- 4.1. At the meeting of Full Council on 25 February 2020 a resolution was passed which stated: -

“The Council is asked to support a request for officers to explore what options might exist for introducing further controls on the definition, number and quality of homes in Multiple Occupation and prepare appropriate reports for the relevant decision body of the Council”
- 4.2. On 5 November 2020, the Housing and Customer Services Working Group recommended to Cabinet to continue to research and gather further evidence to help establish whether additional HMO licensing or selective licensing of the private rented sector was justified.
- 4.3. In addition Planning Policy presented a report to Development Control Committee on 28 October 2020 to recommend to Full Council that further research was undertaken to establish robust evidence to determine the justification and role for designating Article 4 Direction(s).

- 4.4. Both of these committee decisions were agreed and officers from Private Sector Housing and Public Health Team and Planning Policy jointly procured the services of a consultancy to undertake the required additional research.
- 4.5. The Building Research Establishment (BRE) were successful with their quote and project proposal and have provided the Council with a report on their findings.
- 4.6. The BRE report was presented to the Environment Committee on 14 July 2023. The Committee agreed to the instigating of the consultation process for a proposed additional licensing scheme for HMOs for the wards Marine, Hotham and River, to cover privately rented properties occupied by three or four people making up two or more households and properties converted into self-contained flats that meet the definition of Section 257 HMOs.
- 4.7. Section 257 HMOs are a converted block of flats, either the whole building or part of the building, where the following apply:
- The building or part of it (including those with commercial premises within the overall building and including common parts of buildings) has been converted into self contained; and
 - The conversion into self contained flats did not (and still does not) meet the Building Regulations 1991 (or later); and
 - Less than two thirds of the flats are owner occupied.
- 4.8. Planning Policy presented the research findings to Planning Committee on 26 October 2022 who resolved that:
- Notice be given of the authority's intention to designate Article 4 Directions under Article 4 (1) Schedule 3 (1) separately, for the three Wards of Marine, Hotham and River, following a notice period of six weeks (including to the Secretary of State) commencing on 2 November 2022 (which specifies a twenty one day representation period).
 - Any representations and amendments be reported back to Planning Committee on 11 January 2023, prior to recommending the Article 4 Directions be confirmed by Full Council on 18 January 2023 to commence on 19 January 2023.
 - The collective evidence studies demonstrably showed harm to the wards of River, Marine and Hotham, arising from the concentration of HMO developments and that this be used as a material consideration in determining further HMO proposals in those areas.
- 4.9. Therefore the outcome of this article 4 directive coming into force on 19 January 2023, means that a planning application is required to change the use of a dwelling house to a HMO which are shared houses occupied by between 3 and 6 unrelated individuals, as their only main residence, who share basic amenities such as a kitchen or bathroom.

4.10. The Article 4 direction is in the River, Hotham and Marine wards where existing future high concentrations of HMOs are considered likely to be harmful to the amenity or wellbeing of local residents and communities, As a result, the making of Article 4 direction ensures that the issue and impacts arising from this form of development can be properly assessed through planning policy.

Consultation Outcomes

4.11. The Private Sector Housing and Public Health Team carried out a 10 week statutory consultation on the proposed additional HMO licensing scheme between 12 June – 20 August 2023.

4.12. See paragraph 5.0 below for details of how the consultation took place.

4.13. The consultation results and feedback report is provided in Appendix 1 to this report. There were 99 responses to the survey, 69 being owner occupiers, 14 tenants, 10 landlords and 6 other. There were also 5 individual representations provided.

4.14. 55% of respondents said that they did not, based on their experience or opinion, agree that private landlords within the district maintain their properties to a good standard.

4.15. 29.6% thought that properties within the River ward Littlehampton, Hotham and Marin wards in Bognor Regis were more poorly maintained than those within the district as a whole.

4.16. The majority of respondents strongly agreed with the types of properties to be included within the proposed scheme:

Type of Property	Percentage Strongly Agree
Houses with 3 or 4 Occupants in 2 or more households sharing facilities	41.8%
Purpose built rented flats with 3 or 4 occupants in 2 or more households sharing facilities	34.7%
Building converted into flats with 3 or 4 occupants in 2 or more households in each flat sharing facilities	43.9%
Common parts of buildings converted into section 257 flats	28.6%

4.17. 38.8% of respondents either strongly disagreed or disagreed with the proposed licence fee. 20.4% of respondents strongly agreed or agreed with the proposed licence fee.

- 4.18. Representation was received from the National Residential Landlords Association (NRLA). They have a shared interest with the Council in ensuring a high quality private rented sector but strongly disagrees that the introduction of additional licensing is the most effective approach to achieve this aim both in the short term and long term.
- 4.19. Representation was received from Littlehampton Town Council:
- “This consultation was considered by the Town Council’s Planning and Transportation Committee at its meeting held on Monday 17 July 2023, particularly with reference to the proposed introduction of additional HMO licensing in the River Ward in Littlehampton and supported the Scheme. Members welcomed the move to capture accommodation which otherwise escaped the legislation and regulations for this type of housing that were currently in place. The majority of private landlords were considered responsible. However, it was clear from both the representation and reports that Members received from constituents, that the new regime and the proposed system of reporting, would provide a much needed mechanism for raising these issues and seeking redress.”*
- 4.20. The low response, in comparison to the number of properties within the three wards effected and the number of letters and emails circulated as part of the consultation, does make extrapolation of the results difficult. This has to be borne in mind when assessing any meaningful conclusion.
- 4.21. In summary there was agreement and support for the types of properties to be included within the scheme, the wards to be targeted and what the aims of the scheme will achieve. However, it must be noted that the highest number of respondents were from either tenants or owner occupiers, as opposed to landlords.

Resources

- 4.22. The BRE previously provided a stock modelling report in 2020 on the wider private sector housing stock. Research undertaken by the BRE uses stock modelling data, they therefore use a variety of sources for example, national annual house condition surveys, Energy Performance Certificate data, tenancy deposit data and Experian data. This enables them to make a predictive assessment of house conditions and the geographical distribution of properties of interest.
- 4.23. Using this report and data the Private Sector Housing and Public Health Team checked these figures in terms of mandatory licensed HMOs. This established that around a third of the properties identified within the report were actually HMOs that required a licence.
- 4.24. Using the recent research undertaken by the BRE it identified that there would be a potential 344 additional properties requiring a license in the 3 wards. Based on previous findings the figures for the 3 to 4 person HMOs in the three wards have been reduced by one third, to project a more accurate fee income.

- 4.25. There is no comparable data to determine the accuracy of the Section 257 numbers provided therefore those within the BRE report have been included but it is acknowledged they may not be 100% accurate.
- 4.26. In total therefore there is estimated to be an additional 267 HMOs that would fall within scope of the proposed scheme
- 4.27. From experience of administering the mandatory HMO scheme the fee process has been broken down into its respective tasks and the time taken for each grade of officer eg. Team Leader, HMO Officer and Technical Support Assistant.
- 4.28. The cost to the Council of the respective posts are:

Post	Grade	Cost (£)
Team Leader	Scale 11	57,224
HMO Officer	Scale 9	49,026
Technical Support Assistant	Scale 5	33,992

- 4.29. In view of this the proposed increase in resources to implement the proposed additional HMO licensing scheme is:

FTE	Post	Cost (£)
1.0	Team Leader	57,224
0.4	HMO Officer	19,610.40
0.3	Technical Support	10,197.60
	TOTAL	87,032
	Over 5 Years	435,160

- 4.30. The aim of the Team Leader post would be to undertake a case load and be operational as well as having management/supervisory responsibilities.
- 4.31. There will be additional costs in terms of IT for all staff and equipment for inspections for the Team Leader and HMO Officer, that will be required. The approximate cost for these are:

Laptop	£550
Mobile Phone	£374

Damp Meter	£200
Disto (Laser measuring Device)	£150
Lone Working Device	£200
Personal Protective Equipment	£500

- 4.32. With any licensing scheme fees can be charged to recover the cost of administering the scheme. An analysis of the current mandatory licensing regime has been undertaken to ensure the Council has used a clear evidence base to set fees in order to fully recover the allowable costs it incurs in regulating these properties.
- 4.33. This continues to be reviewed to ensure tasks are being undertaken by the appropriate member of staff, that the times allocated to each task are an accurate average and whether efficiencies can be made by use of IT systems.
- 4.34. The fees cover the administration of the HMO Licensing process:
- Receipt of application
 - Checking the application, documentation provided and fee payments
 - Inspection of the property,
 - Producing a draft license for consultation,
 - Dealing with any representations made as part of the consultation
 - Producing the final license
 - Follow up visits and correspondence to ensure works identified as part of the licence conditions are completed

The fees do not cover other work undertaken by the HMO Officers:

- Proactive checks to identify unlicensed HMOs
- Enforcement of unlicensed HMOs – undertaking investigations, gathering evidence, obtaining and executing warrants, inspections, PACE interviews, Enforcement Review Panel, prosecution or civil penalty notices etc
- Working with landlords to reduce the number of occupants so the property falls outside of the scope of licensing – issuing a Temporary Exemption Notices
- Range of service requests of non licensed HMOs
- Planning consultations

4.35. Proposed fees for the additional HMO Licensing Scheme

Part One: Initial Application Fee	Amount Payable
Three-person or four person house base fee	£1662.10
Part Two: Licence Issue Fee	Amount Payable
Licence Issues Fee	£355.30

Part One: Initial Application Fee	Amount Payable
Three person or four person flat/apartment base fee	£1497.10
Part Two: Licence Issue Fee	Amount Payable
Licence issue fee	£355.30

Part One: Initial Application Fee	Amount Payable
Section 257 HMO base fee per building up to two storeys – only external parts and common parts such as hallways and landings under the control of the freeholder	£1332.10
Section 257 HMO case fee per building more than two storeys – only external parts such as hallways and landings under the control of the freeholder	£1386
Part Two: Licence Issue Fee	Amount Payable
Licence Issue Fee	£355.3

4.36. Using the BRE research and the potential number of new properties requiring licensing and the proposed license fees the fee income over 5 years is estimated at £466,135.80.

4.37. Summary of finances:

Estimated Income Generation over 5 Years:

Fees	£466,135.80
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Resources Over 5 Years:

Salaries	£435,160
Equipment etc	£4,498
TOTAL	£439,658

- 4.38. The proposed resources are therefore within the estimated income generation.
- 4.39. Any Additional HMO licensing scheme that is designated by a Local Authority lasts for a 5 year period and the Council would be required to review the scheme to determine whether it should continue and/or be expanded. A further report would therefore be presented to the Environment Committee with the results of the review and recommendation as to whether the scheme should continue for a further 5 years and consider whether the scheme should be expanded to additional wards within the district.
- 4.40. In conclusion the research showed that based upon modelled data there is sufficient evidence to support the introduction of an additional HMO licensing scheme in Arun. The analysis indicates that conditions in many of these properties where sharing of cooking, washing or toilet facilities is happening or where a building has been converted without Building Control approval into self-contained flats, may be below acceptable standards.
- 4.41. Therefore introducing an additional HMO licensing scheme will provide greater confidence that there are adequate safeguards in place to help ensure that people in these types of properties are provided with appropriate, safe, good standard and affordable accommodation in private rented sector properties in the wards where the scheme is in place.
- 4.42. Whilst the consultation received a low response rate, there was a general support of the scheme, its aims, the type of properties and the wards included.
- 4.43. The resources required for the proposed scheme have been calculated and outlined in paragraph 4.29, these are expected to broadly be recovered from licensing fees.
- 4.44. It is therefore recommended to proceed with the process for designation of the three wards for a period of 5 years.
- 4.45. As required by the legislation a review of the outcomes and impact of the scheme will take place prior to the 5 year expiry of the designation of the scheme. A report will be presented to the Environment Committee on the findings of this review to make a decision as to whether the scheme should be extended and designated for a further 5 year period and whether additional areas within the district should be included.

5. CONSULTATION

- 5.1. A public statutory 10 week consultation took place between 12 June – 20 August 2023.
- 5.2. The Council's website was used to detail the proposals and provide information and a copy of the consultation document was available.
- 5.3. The consultation was advertised in local media and social media posts to advise that it was taking place and how to participate.
- 5.4. Paper copies of the consultation document and posters showing the details of the proposed scheme were available in the Arun Civic Centre and Bognor Regis Town Hall. Paper copies of the consultation document were also available at a number of local libraries within the district.
- 5.5. Students enrolled at the University of Chichester were able to view the consultation document at the University's accommodation office.
- 5.6. Feedback could be provided via an online survey form which was accessible from the Council's website.
- 5.7. Letters/leaflets advertising the consultation were sent to all residents and businesses within the wards of River, Hotham and Marine.
- 5.8. Two Landlords forum events took place:
 - In person Landlords Forum meeting held at Arun Civic Centre 26 July 2023
 - Remote meeting via Zoom, hosted and organised by National Residential Landlords Association (NRLA) 18 August 2023.
- 5.9. A wide portfolio of stakeholders and other people affected by the proposal, as well as internal stakeholders and department have been contacted regarding the consultation, including ward members, Councillors at both district and parish level, local MPs, landlord/property owners in the proposed ward areas and neighbouring ward areas tenants in the proposed ward areas, West Sussex Fire and Rescue Service, Sussex Police, letting and managing agents, the University of Chichester and Bognor Regis College, landlords on the Chichester and Arun Accreditation Scheme, landlord representatives such as the NRLA, local resident associations, Citizens Advice, West Sussex County Council, neighbouring local authorities and general public.

6. OPTIONS / ALTERNATIVES CONSIDERED

- 6.1. To agree not to pursue additional HMO licensing. Officers would therefore continue to investigate complaints reactively rather than being able to proactively tackle the standard of accommodation through inspection.

- 6.2. To employ additional staff to implement a proactive inspection regime without introducing additional HMO licensing of the private rented sector. This approach would assist with tackling poor housing conditions, but without the creation of a licensing scheme enforcement powers are more restricted. This option would also require additional funding from the Council's general fund to recruit staff and unlike with a licensing scheme costs cannot be recovered through fees.

7. COMMENTS BY THE GROUP HEAD OF FINANCE/SECTION 151 OFFICER

- 7.1. The income projected to be received with the introduction of this scheme over the 5 year period is by no means guaranteed. The additional core increase in cost to the establishment, as detailed would be a permanent cost. There is a risk that could result in additional growth, should the income fail to materialise. Other options could be explored to mitigate any potential growth, with a more flexible approach to the staffing required.

8. RISK ASSESSMENT CONSIDERATIONS

- 8.1. The BRE report identified that the wards of River, Hotham and Marine had the largest number of HMOs which were in disrepair and poorly managed. Not introducing the proposed additional HMO licensing scheme would mean that a proactive inspection regime is not implemented to be able to ensure these properties are brought up to minimum health and safety standards.
- 8.2. Using the research undertaken by the BRE it identified that there would be a potential 344 additional properties requiring a license in the 3 wards. Having previously checked the accuracy of BRE stock modelling on mandatory licensed HMO figures it has been established that the figures provided were a third accurate. Based on this the figures for the 3 to 4 person HMOs in the three wards have been reduced by one third, to project a more accurate fee income.
- 8.3. Comparable data is not available to determine the accuracy of the properties classified as Section 257 numbers provided therefore those within the BRE report have been included but it is acknowledged they may not be 100% accurate. In total therefore there is estimated to be an additional 267 HMOs that would fall within scope of the proposed scheme.
- 8.4. The BRE data is based on modelling and therefore there is a risk that the figures provided could be over or under estimated, which will have an impact on the income generation.
- 8.5. The scheme, if designated, would be for a period of 5 years after which a review of its outcomes and impacts is undertaken. A further report would be presented to Environment Committee for a decision as to whether, based on the review findings, the scheme should continue for a further 5 years and also whether it should be expanded to other wards within the district. If the Environment Committee decide not to continue the scheme beyond the initial 5 years then there is the risk of potential redundancy costs for staff if redeployment is not possible within the Council.

8.6. From experience Private Sector Housing and Environmental Health have experienced difficulties in recruitment of qualified staff, therefore there is a risk that any proposed positions may be difficult to recruit to.

9. COMMENTS OF THE GROUP HEAD OF LAW AND GOVERNANCE & MONITORING OFFICER

9.1. This report asks Committee to recommend to full Council to Designate the whole of the three wards of Marine, Hotham and River as subject to Additional Licensing under section 56(1)(a) of the Housing Act 2003.

9.2. This report further asks the committee to agree to the schedule of fees. Charges for HMO License fees are governed by Section 63(3),(4) and (7) of the Housing Act 2004 and the *Provision of Services Regulations 2009*(as amended). The Provision of Services Regulations have been considered by the Courts in *Gaskin v London Borough of Richmond*, and *Hemming v Westminster City Council*. These provisions and the court judgements establish that (1) Fees charged by the Council must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities. (Regulation 18(4) of the Regulations) and (2) that fees should not be used as an economic deterrent to certain activities or to raise funds.

10. HUMAN RESOURCES IMPACT

10.1. The recruitment of additional staff as identified within paragraph 4.29 of the report will be required, with support from the HR Team.

10.2. As detailed in paragraph 8.5 above, if the scheme does not continue beyond the initial 5 year period there will be potential implications of redundancy for those staff employed. It is not possible to predict what these costs will be as it is dependant upon who is employed and factors such as whether they have continuous service and their age which will impact upon the redundancy calculations.

10.3. Fixed term contracts are appropriate for employment up to a 2 year period, there after the member of staff would be protected and have additional rights in terms of redundancy for example. Contracts could be offered on a 5 year basis however, it would be made clear as part of the recruitment process, through the advert and at interview, and in any job offer correspondence that funding for the role is only for a fixed period and stating for how long. Any employee on a fixed term would not be treated any less favourably the only difference from the start of their employment is that they have a possible end date, and a clause addressing this could be included in any contract of employment.

10.4. Recruiting on this basis would not be practical for the 5 year term of the scheme and would not be a means of reducing costs.

11. HEALTH & SAFETY IMPACT

11.1 There are direct health and safety impacts from these proposals. Risk assessments are already in place in relation to inspections and other visits made to HMOs, and these are kept under review to ensure that all reasonably practicable measures are taken to ensure the safety of officers.

11.1. The proposed Additional HMO Licensing Scheme would ensure minimum health and safety standards within privately rented accommodation for some of the more vulnerable residents in the wards of River, Hotham and Marine.

12. PROPERTY & ESTATES IMPACT

12.1. There will be no direct impact on the management of the Council's property portfolio

13. EQUALITIES IMPACT ASSESSMENT (EIA) / SOCIAL VALUE

13.1. An Equality Impact Assessment has been completed and is attached at Appendix 2. The provision of this does not affect disproportionately one or more of the nine characteristics outlined in the Equality Act 2010.

14. CLIMATE CHANGE & ENVIRONMENTAL IMPACT/SOCIAL VALUE

14.1. The additional licensing scheme applies to the wards of River, Marine and Hotham these are the most deprived areas within the district therefore the scheme will have a positive impact on those tenants who are socio economically disadvantaged. Good quality housing is important for people to achieve their educational and professional potential.

14.2. The process of requiring a licence will mean that action will be taken to raise the quality of private rented accommodation, resolve hazards which can include excess cold and ensure higher standards. The improved standards will be particularly beneficial for the most vulnerable tenants, who perhaps currently live in sub-standard accommodation. As well as the health benefit there will also be reductions of emissions associated with heating where homes are made to be more energy efficient, either through improvements to building envelopes or improvements to heating systems

15. CRIME AND DISORDER REDUCTION IMPACT

15.1. Property licensing is intended to raise the standards of condition and management by landlords of rented properties. With greater engagement with landlords it is anticipated this will help reduce anti social behaviour and crime.

16. HUMAN RIGHTS IMPACT

- 16.1. Consultation in relation to the proposed Additional HMO Licensing scheme was carried out as details in paragraph 5.0 of this report. The consultation whilst statutory also provided an opportunity for the public, businesses and stakeholders to provide feedback, ensuring that any human rights concerns could be highlighted and considered by the Environment Committee.

17. FREEDOM OF INFORMATION / DATA PROTECTION CONSIDERATIONS

- 17.1. Consultation feedback has been managed in accordance with GDPR provisions. Consultation responses are reported back to Committee within this report, and have been appropriately summarised and/or redacted to ensure compliance with GDPR.

CONTACT OFFICER:

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BACKGROUND DOCUMENTS:

[Additional HMO licensing consultation 2023 | Arun District Council](#)

[Environment Committee Report 14 July 2022](#)

Appendix 1 – Consultation results and feedback report

Appendix 2 – Equality Impact Assessment