

**EXECUTIVE BOARD – 18 September 2018**

<b>Subject:</b>	<b>IMPLEMENTATION OF PROPOSED SCHEME OF ADDITIONAL LICENSING OF HOUSES IN MULTIPLE OCCPATION</b>
<b>Corporate Director(s)/Director(s):</b>	Chris Henning, Corporate Director for Development & Growth Andy Vaughan, Corporate Director for Commercial & Operations Andrew Errington, Director for Community Protection
<b>Portfolio Holder(s):</b>	Councillor Jane Urquhart, Portfolio Holder for Housing and Planning Councillor Toby Neal, Portfolio Holder for Community Protection
<b>Report author and contact details:</b>	Ceri Davies, Housing Strategy Specialist <a href="mailto:Ceri.davies@nottinghamcity.gov.uk">Ceri.davies@nottinghamcity.gov.uk</a> 0115 8763530
<b>Subject to call-in:</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Key Decision:</b>	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Criteria for Key Decision:</b>	
<b>(a)</b>	<input type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 or more taking account of the overall impact of the decision
<b>and/or</b>	
<b>(b)</b>	Significant impact on communities living or working in two or more wards in the City <input type="checkbox"/> Yes <input type="checkbox"/> No
<b>Type of expenditure:</b>	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital
<b>Total value of the decision:</b>	<b>£3,309,210</b>
<b>Wards affected:</b>	Arboretum, Berridge, Bridge, Dales, Dunkirk & Lenton, Mapperley, Radford & Park, Sherwood, St Ann's, Wollaton East & Lenton Abbey in respect of Additional Licensing.
<b>All Wards</b>	in respect of Licence Conditions
<b>Date of consultation with Portfolio Holder(s):</b>	<b>20/08/2018</b>
<b>Relevant Council Plan Key Theme:</b>	
Strategic Regeneration and Development	<input type="checkbox"/>
Schools	<input type="checkbox"/>
Planning and Housing	<input checked="" type="checkbox"/>
Community Services	<input type="checkbox"/>
Energy, Sustainability and Customer	<input type="checkbox"/>
Jobs, Growth and Transport	<input type="checkbox"/>
Adults, Health and Community Sector	<input type="checkbox"/>
Children, Early Intervention and Early Years	<input type="checkbox"/>
Leisure and Culture	<input type="checkbox"/>
Resources and Neighbourhood Regeneration	<input type="checkbox"/>
<b>Summary of issues (including benefits to citizens/service users):</b>	
<p>This report informs Executive Board of the outcomes of the consultation that has taken place on proposals for a new scheme of Additional Licensing of Houses in Multiple Occupation (HMOs) to operate for 5 years from January 2019.</p> <p>Implementation of the proposed scheme will mean that an estimated 2,500 HMOs in the designated area that are not subject to Mandatory Licensing (i.e. HMOs with 3 or 4 people sharing and certain small blocks of flats) will be required to obtain a licence.</p> <p>The implementation of the proposed scheme will allow for these properties and their operation to be subject to proactive licensing requirements that would not otherwise be available and contribute to the Council continuing to deliver and build on the following benefits:</p> <ul style="list-style-type: none"> <li>• higher standards of HMO accommodation and ensuring effective management through more extensive control;</li> <li>• protecting the health, safety and well being of tenants and communities;</li> <li>• neighbourhood improvement and the prevention and control of anti-social behaviour;</li> <li>• easier identification of rogue landlords and enabling action to be taken to respond to this</li> </ul>	

behaviour;

- completing a full suite of private sector licensing schemes, allowing for a consistent and robust approach to raising standards.

The report also makes recommendations relating to the Council's standard conditions for HMOs and licence fees that will apply to both Mandatory and Additional Licensing schemes.

**Exempt information: State 'None' or complete the following**

None

**Recommendation(s):**

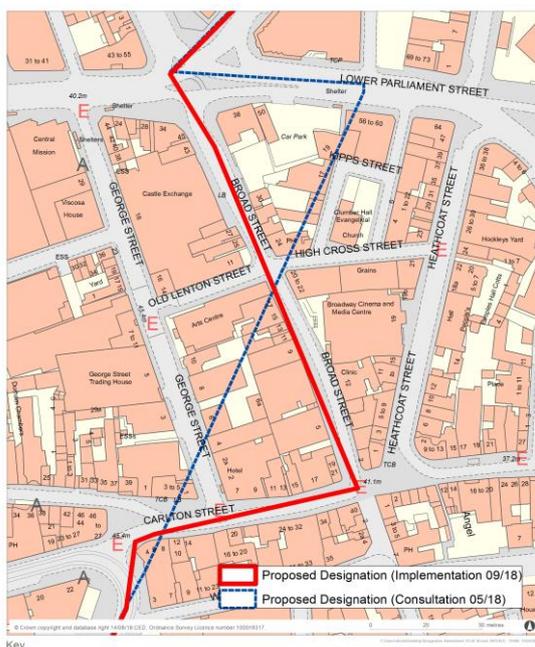
- 1** To consider the Consultation Analysis (Appendix IA) and also the responses regarding objections to the consultation proposal (Appendix IB)
- 2** To confirm that the Board is satisfied that:
  - (a) a significant proportion of HMOs in the proposed designated area are being managed sufficiently ineffectively as to give rise to problems (such as disrepair, noise and litter) either for those occupying the HMOs or members of the public; and
  - (b) making HMOs in that area subject to Additional Licensing will significantly assist the Council to deal with those problems.
- 3** That the area designated on the plan attached to the proposed Designation in Appendix 2 be made subject to Additional Licensing, with the Designation to come into force on 1 January 2019 and to run for a period of 5 years with applications being accepted from 1 December 2018.
- 4** That the Director of Legal and Democratic Services be authorised to make the Designation.
- 5** That the Corporate Directors for Development and Growth and Commercial and Operations be authorised to take all necessary steps (statutory or otherwise) to publish and advertise the Designation.
- 6** That the Standard Conditions of Licence for both Additional Licensing and Mandatory Licensing outlined in Appendix 3, be adopted for licences granted on or after 19 September 2018.
- 7** To grant delegated authority to the Director of Community Protection to make changes to the operational delivery of the scheme during its five-year lifetime, which includes changes to the expenditure from within the agreed overall budget, recruitment, licence conditions, structural service change and fee review. Such delegated authority to be exercised in consultation with the relevant Portfolio Holder, where appropriate, and/or in accordance with constitutional requirements.
- 8** To agree the resources and operational model detailed in Appendix 4.
- 9** That the outcomes from the scheme be monitored and a full evaluation take place during the duration of the scheme with the results of the evaluation to be reported to the Executive Board in 2021/22 to enable it to take a decision as to a proposed course of action prior to the Designation expiring on 31 December 2023.
- 10** To **approve** the establishment of the scheme over the five-year period, with an estimated value of **£3,309,210** and to **approve** the spend as detailed in sections 4.6 of this report from **1<sup>st</sup> January 2019** until the end of the Additional Licensing scheme on **31<sup>st</sup> December 2023**.

# 1 REASONS FOR RECOMMENDATIONS

- 1.1 The consultation has shown overall support for the proposal. Residents within the Designation and Tenants of HMOs showed strongest agreement with and support for the proposals, with their experience and views arguably warranting significant weight. The views of those opposed to the scheme have been fully taken into account and a full table of issues raised and the Council's response to these appears in Appendix 1B. The themes of the objections or opposing comments strongly echo those of the last, 2013-2018, scheme consultation.
- 1.2 With regard to the statutory tests, each is considered to have been met as follows:

**1.2.1 Consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public:** it is considered that this test is met. These issues were addressed in paragraphs 2.4.4 – 2.4.7 of the April Report which outlined that the proposed designated area was based around census output areas containing at least 10 or more non-mandatory licensed HMOs where 20% or more had received at least one complaint relating to various environmental, disrepair overcrowding or ASB issues between 1 January 2014 and December 2017. The area had further been defined by reference to natural and physical boundaries to arrive at a coherent and precise boundary for the designation. This approach is the same as was used for the current scheme of Additional Licensing and which withstood judicial review.

1.2.2 As indicated above the area to be designated has been defined by reference to natural and physical boundaries, the designation consulted upon incorrectly showed the boundary of the designation to the north west of the Lace Market area crossing through buildings rather than aligning with the streets as a natural or legible boundary. This has been rectified in the Plan attached to the Designation at Appendix 2 and does not expand the designation to any buildings or areas beyond those already covered or immediately abutting that shown in the consultation.



**1.2.3 Have regard to any information regarding the extent to which any codes of practice approved under section 233 have been complied with by persons managing HMOs in the area in question.** As there is general compliance properties which comply with the approved Codes of Practice covering large purpose built and converted student accommodation and larger developments and which are administered by Accreditation Network UK (ANUK) were excluded from the current scheme of Additional Licensing. It is proposed that they continue to be excluded from the requirement to obtain a licence within the new Designation as indicated in paragraph 2.5.1 of the April Report.

**1.2.4 Consider whether there are any other courses of action available (of whatever nature) that might provide an effective method of dealing with the problem or problems in question:** paragraphs 2.6.1 to 2.6.5 of the April Report outlined the range of schemes, accreditation and initiatives that have been operated with a view to improving engagement with landlords and property management and conditions. A review of the existing scheme of Additional Licensing and responses to the consultation indicate that the additional activity undertaken and the means/tools available with Additional Licensing have allowed outcomes that would not otherwise have been possible. It also concluded that this progress would be unlikely to be sustained in the absence of such a scheme. Further, a proactive as opposed to reactive approach and the benefits this entails for all stakeholders would not be possible with basic powers or standard regulation.

**1.2.5 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):** There are powers that are available within legislation to deal with poor conditions, poor management of HMOs and anti-social behaviour. As indicated in paragraphs 2.6.3 to 2.6.5 of the April Report these include, for example, requiring works to be carried out and prosecution. such powers are usually used reactively following complaint. Undertaking reactive work is more resource intensive and only deals with problems once they have arisen. Additional Licensing provides additional powers that significantly assist in dealing with poor management of properties, allowing the Council to continue to improve standards of management in this sector by requiring licence holders to be more proactive in their approach.

Benefits of licensing include:

- owners will proactively provide information on the location and details of the HMO they are responsible for;
- landlords have to be assessed as fit and proper to manage ;
- clear and explicit standards (some of which would otherwise not be required) are introduced that will improve the safety poorly managed accommodation and its impact on the neighbourhood;
- identifying and tackling issues under the Housing Health and Safety Rating System (HHSRS) when properties are inspected for licensing purposes, issues. (N.B. this is not covered by the licence fee). This will help to prevent hazards to health and contribute to Council objectives relating to the reduction of excess winter deaths, fuel poverty, falls, and reducing crime and anti social behaviour.

- an increased ability to provide information to landlords about good practice but also increased enforcement tools which can be used against non-compliant or rogue landlords such as prosecution for failure to licence and failure to comply with licensing conditions, potentially driving them out of the market.
- power to inspect properties that would not otherwise been inspected unless complaints had been received.

The outputs of the 2014-2018 scheme (to end of year 4, December 2017) of Additional Licensing with regard to issue of licences, inspections, issue of safety certificates and enforcement activity are detailed in the April Report at paragraphs 2.3.1 to 2.3.11.

In the first 6 months of year 5 (January 2018 to June 2018) a further 111 applications have been received, 142 licenses issued, 13 licenses refused and 5 licenses revoked; a further 1065 safety documents have been inspected and verified and 84 compliance visits made. The overall percentage of applications that have required a finder's fee has risen 12 percent (to 23%) as a result of this periods work.

**1.2.6 Consult persons likely to be affected by the proposal.** Consultation was carried out with full regard to MHCLG guidance.

**1.2.7 Ensure that the exercise of the power is consistent with their overall housing strategy; and seek to adopt a coordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector as regards combining licensing with other action taken by them or other:** The ways in which the making of the Designation meets this test were set out in paragraph 2.7.1-of the April Report. Furthermore, the implementation of a scheme of Additional Licensing is complementary to Nottingham's existing schemes of Mandatory and Selective Licensing, allowing for a robust and consistent approach to improving the quality of private sector rented properties, which is one of the Council's key strategic housing objectives. The proposed scheme is also important in ensuring the provision of decent standards in affordable or lower cost accommodation which accommodates vulnerable households and is a solution to homelessness. The proposed scheme is consistent with regeneration objectives: the Council needs to ensure that parts of the city which are being regenerated are not undermined by poor quality, ineffectively managed shared housing. Finally, Additional Licensing provides an additional tool in addressing anti-social behaviour in that the licence conditions require them to enforce tenancy conditions robustly and deal effectively with ASB perpetrated by their tenants.

1.2.8 In light of the above it is considered that the proposed Designation meets the relevant statutory tests and that it is appropriate and proportionate for it to be adopted. In addition to the exemption proposed in paragraph 2.2.3 above relating to properties managed by ANUK it is also recommended that the Designation exclude section 257 HMOs for the reasons indicated in paragraph 2.5.2 of the April Report and paragraph 2.6.6 below

## **2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)**

2.1 The background to this proposal is covered comprehensively in the report that was considered by Executive Board in April 2018 (the "April Report"):

The April Report outlined the outcome of an evidence gathering exercise, looking at whether there was a need to continue either the existing or another scheme of Additional Licensing of HMOs for a further 5 years from January 2019. It set out the statutory tests that need to be met in order to adopt a scheme. These are that the Authority:

- (a) must consider that a significant proportion of the HMOs of the relevant description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise to one or more particular problems either for those occupying the HMOs or for members of the public;
- (b) must have regard to any information regarding the extent to which any codes of practice approved under section 233 of the Housing Act 2004 have been complied with by persons managing HMOs in the area in question;
- (c) must consider whether there are any other courses of action available to it (of whatever nature) that might provide an effective method of dealing with the problem or problems in question;
- (d) must 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);
- (e) must have consulted persons likely to be affected by the designation;
- (f) must ensure that the exercise of the power is consistent with the Authority's overall housing strategy; and
- (g) must seek to adopt a coordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector as regards combining licensing with other action taken by them or others.

These tests remain applicable to the consideration of this report and are addressed more fully below.

2.2 The April Report documented how evidence had been collected and analysed from complaints data relating to HMOs outside of Mandatory Licensing. The data suggested that test (a) above was met and a scheme of Additional Licensing was appropriate in an area which was subsequently agreed as the proposed area for designation. This area comprised the 2014-18 designated area plus some additional areas of Sherwood, St Anns, New Basford and the City Centre.

2.3 The April Report also documented how the other tests were considered to be met, and gave officers the authority to carry out a statutory consultation on the proposal; this took place for 11.5 weeks between May and July 2018.

2.4 The consultation followed the guidance issued by the Department of Communities and Local Government (now Ministry of Housing, Communities and Local Government) (MHCLG) on consulting on proposed schemes of additional licensing and took the form of:

- web based consultation and on-line survey (the principal methodology);
- the distribution of information leaflets within the proposed designation
- invitation for written submissions; and attendance at meetings within communities and with stakeholders.

## Consultation

2.5 A full report of the consultation results is at Appendix I. The key findings were as follows:

- A majority of survey respondents, 65%, strongly agreed or agreed that the proposed scheme should be implemented.
- A majority of survey respondents (64% and 66% respectively) strongly agreed or agreed that Additional Licensing could help improve the management of HMOs and that improvements were needed.
- A majority of survey respondents agreed with the tiered fee structure (that is, fee levels according to level of engagement, from lowest fees for accredited landlords to the highest fee for landlords who have to be pursued)
- The majority of tenants and residents were supportive of the proposals and a majority of landlords opposed it. The tiered fee structure however was supported by tenants, residents and landlords.
- 10 written submissions were received, of which eight were supportive of the proposal, and two opposed. Some very significant local stakeholders were supportive of the scheme, for example the two universities. Landlord organisations were opposed to the proposals.
- The survey also allowed for additional comments which have been documented and analysed.
- 346 comments were provided in total across the 3 survey sections. Most comments were provided by those who agreed or strongly agreed with the questions. Many comments and comment topics were repeated in each section.
- In summary:

Those in favour of the proposals	Those opposed to the proposals
<p>Need more enforcement and increased landlord accountability.</p> <p>HMOs cause issues of ASB, disturbance, waste, issues with bins and property/garden condition.</p> <p>That the current scheme has made improvements and licensing is needed/should continue.</p> <p>That safe accommodation was important</p>	<p>That licensing is an income generating scheme for the councils</p> <p>That only bad landlords should be targeted/licensing won't address rogue landlords</p> <p>That existing powers are sufficient</p> <p>That licensing will increase rent</p>

Fuller details of objections to the proposal have been documented in the table in Appendix 1-B together with comments in response to these objections.

## 2.6 Operational Delivery

2.6.1 The April Report indicated that non-recoverable resources (see paragraph 4.6, Table 1) would be required to operationally deliver Additional Licensing should it be

agreed. Whilst the Board's general approval is being sought in relation to various operational issues outlined below it should be noted that operational matters are generally dealt with under delegated powers at both officer and Portfolio Holder level. The operation of the Additional Licensing scheme will be kept under review and may be subject to further change during the duration of the Scheme under such powers and in accordance with constitutional and statutory requirements.

2.6.2 Fees: In the light of experience with the current scheme of Additional Licensing, case law and in keeping with suggestions made by landlords in the past, it is proposed that a tiered fee structure replace the existing fee structure: accredited landlords pay a lower fee and consistently non-compliant landlords pay a higher fee, with a standard fee applying to non-accredited landlords who are compliant or have a history being less compliant. Proposals for a revised fee structure for both Additional and Mandatory licensing are dealt with in a separate report on this agenda, "Housing Licensing Houses in Multiple Occupation (HMO) Revised Fee Structure 2018".

2.6.3 Licence conditions: In light of both the review of Additional Licensing and forthcoming statutory changes to Mandatory Licensing the opportunity has been taken to review the standard licence conditions applied to all licences regulated under Part 2 of the Housing Act 2004. It is proposed that the conditions at Appendix 3 be approved for implementation for both Mandatory and Additional Licensing and be applied to any new or renewed licences for the two schemes and any licences that need to "passport" between the two schemes as a result of the statutory changes, with effect from the passing of recommendation number 6 above.

2.6.4 In addition to the standard conditions at Appendix 3 the Council can impose specific conditions tailored to the circumstances of a particular application. The Council wants to work with licence holders to ensure they possess the relevant skills and competence to manage their properties. Whilst not part of the proposed general conditions, a specific condition for licence holders to undergo training may be imposed in certain circumstances where it is felt necessary: for example, if the licence holder has received complaints about their property; enforcement action has been taken against them; or during the processing of the application there are concerns about the competency of the proposed licence holder. The Council will engage with training providers to consider suitable training that is available.

2.6.5 Operational Model. It is proposed that the Operational Model at Appendix 4 be approved for both Mandatory and Additional Licensing and be applied to any new or renewed licences granted under either scheme and to any licences that passport between the two schemes (e.g. where a HMO is currently licensed under the Additional Licensing scheme but will meet the new definition for mandatory Licensing from 1 October 2018).

The schemes will be aligned to ensure that operational delivery is consistent across all three licensing schemes as detailed in Appendix 4.

It is proposed that any new Additional Licence applications received in the period up to 31<sup>st</sup> December 2018 will be processed and "passported" into the newly proposed scheme of Additional Licensing if approved. This means they will be granted to expire within the timeframe of the new Designation and subject to the revised standard conditions. It is also proposed that where appropriate "overhanging licences" (i.e. those granted under the current scheme for a duration which expires after 31 December 2018) will be "passported" into the new

proposed scheme of Additional Licensing in accordance with the detailed requirements in Appendix 4.

2.6.6 Removal of s.257 HMOs from Additional Licensing: As indicated above it is proposed that section 257 HMOs will be exempt from the proposed Designation. However, the introduction of Selective Licensing alongside Additional and Mandatory schemes means that the individual flats comprised in such properties may be required to hold a licence in their own right, should they be privately rented and be occupied in a way that meets the criteria for one of the licensing schemes. The number of s.257 HMO applications is not high and should any be received during the last 3 months of the current Additional Licensing scheme it is proposed that they be redirected for consideration under the relevant alternative scheme if appropriate.

### **3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS**

3.1 Not to adopt a scheme of Additional Licensing: rejected as because Additional Licensing has provided means of proactive engagement and delivered outcomes that would not otherwise have been achieved., Further, to have no scheme would prevent further progress in improving standards being made, with a serious risk that standards would regress from those at present under the existing scheme.

3.2 Seek to achieve the required improvements via accreditation schemes: rejected because accreditation can only ever be voluntary and will not capture those landlords who continue to mismanage their properties and do not engage. Accreditation and licensing are considered to be complementary tools and not mutually exclusive.

### **4 FINANCE COLLEAGUE COMMENTS (INCLUDING IMPLICATIONS AND VALUE FOR MONEY/VAT)**

Advice provided by Michelle Pullen, Finance Manager, Community Protection/Commercial and Operations, Byron House, Maid Marion Way, Nottingham, NG1 6HS (9 August 2018)

4.1 The estimated value of this scheme over the five-year period is **£3,309,210.**

4.2 I. Based on research and evidence gathering, it is estimated that there are circa. 2500 private rented properties that potentially fall within the Additional Licensing Designation. Through the review of information held it is considered there are potentially 6271 HMOs that will require a licence if the Additional Licensing scheme is agreed. In our experience 75% of applications are received with little or no intervention required and the remaining 25% requiring, locating and investigating.

II. Renewal applications have been predicted (based on the issue of licences under the current schemes) for the two schemes at 1500 Additional & 2500 Mandatory.

III. A 20% variable forecast has been added as an adjustment to the total number of renewal applications forecast, bringing the final number to **4800 (1800 Additional & 3000 Mandatory)** rounded up to the nearest one hundred. Twenty percent is added to reflect the predicted churn against estimates, but this could be subject to significant variation for example

from the volatility of the housing market and other changes currently unknowns such as legislation.

4.3 This is a self-funded scheme. There will be no gain or loss in association with this scheme, it must remain cost neutral, and therefore there will be no negative impact to the MTFP.

4.4 The licence fees have been calculated by using an updated Local Government Association (LGA) toolkit to ensure value for money, but also to ensure that all allowable costs are recovered.

4.5 The assumed costs included are:

- Staffing costs to run the scheme, these have been included at productive hours only as per the guidance and relevant staff grades for each piece of work.
- Processing costs of each licence, application, checking etc. – this has been calculated using percentages for the amount of time taken.
- Enforcement costs (as per recent change to legislation).
- Management fees
- Exit costs.
- Overhead costs to include accommodation, IT, HR, Finance & Legal support.
- Inflation factors.
- There are no start-up costs as the scheme will continue after the old scheme has ended

4.6 **Table 1** below is a breakdown of costs. Included is an average of compliance 1 and compliance 2 works, plus the enforcement element which is part of the higher fee as these costs may be required for non-compliant properties. Also included are costs that are not recoverable by the fee. I have included these elements to ensure all potential costs are captured in this decision.

<b>Table 1: Estimated Operating Costs of scheme</b>	<b>£</b>
<b>Personnel Costs</b>	<b>2,452,400</b>
Enforcement Costs	207,714
Telephony	2,730
Premises	130,891
Transport	11,589
Supplies & Services	36,053
IT Support & New IT system	87,120
Other overheads inc EHO, Legal, Finance, HR , Business Analyst support functions	202,713
<b>Operating Costs</b>	<b>678,810</b>
<b>One off costs including exit fees</b>	<b>105,000</b>
<b>Non-recoverable costs - see Table 2*</b>	<b>73,000</b>
<b>Total Number of Licences</b>	<b>1,800</b>
<b>Total Costs</b>	<b>3,309,210</b>

\* These costs are not part of the fee

The costs are a guide and need to be flexible throughout the 5 year period based on demand and the risks highlighted in point 4.11 of this report

- 4.7 A key decision report has been written for the approval of a new fee structure for the current Additional scheme (ending in December 2018) and for the renewal of the additional scheme and the Mandatory scheme. The actual fee setting, using the LGA toolkit as described in 4.8 has been based on the combined team of officers covering activities generated by the Mandatory and Additional Licensing schemes as this proved to be the most effective use of resources, ensuring efficiency and reduced costs. By combining the 2 schemes together, the costs were divided by a total of 4,800 licences (3,000 for Mandatory and 1,800 for Additional)

The costs in Table 1 above have been calculated by separating out the scheme and treating it as though it would run on an individual basis. The table reflects what the scheme would cost if the workforce is divided into specific schemes and all costs, including fixed overheads are split by the lower number of 1,800 licences.

Calculations indicate the standard fee would need to increase to £1,568 – an increase of £238

Table 1 also includes costs that are non-recoverable by the fee, which are detailed in table 2.

- 4.8 The 2 schemes are entirely separate and are to remain as such. Despite being brought together to ensure efficiency as part of the fee setting, the recording and reporting of income and expenditure will be maintained separately to ensure the funds collected are being used appropriately.
- 4.9 In the event that the amount of licences received varies from the estimated 1,800 properties, the income will invariably change, costs would remain in line to reflect this. In the event that the licence numbers exceed the 1,800, additional resources would be factored in and budgeted for accordingly. Likewise, if income falls below, the operating model would be reduced to reflect this. The scheme will remain self-sufficient.

## **Risks**

- 4.10 I. There are risks to this scheme which could have an impact on the financial business model (covered below)

II. An example of some of the risks that could impact on the schemes financial viability and would require a resources review to mitigate are:

- Level of applications vary.
- Landlords may gain accreditation in order to secure a lower fee. Accredited landlords could receive a reduction of £340. Significant changes to accreditation numbers will affect costs and income.
- If operational activity identifies unexpected qualities of property (better or worse) which would mean staffing balance or costs are different to those that are anticipated.
- If there is any legislative, guidance changes and/or case law rulings
- Any other changes to service delivery which is impacted by issues for example, IT, accreditation providers, staffing, accommodation etc., it may be necessary to amend the business model

III. There is risk associated with predicting income levels as the income is dependent on the number of licensable premises; this number is subject to significant churn and is currently uncertain with the change to the Mandatory definition. In brief the new Mandatory licensing definition has removed the requirement for properties to have three storeys. It now includes properties that are occupied by five or more persons forming two or more households sharing amenities regardless of the number of storeys so will include some flats and larger properties that would have been covered by the Additional scheme

IV. The valuation and sensitivity of risks above currently cannot be quantified however; these will be developed as the scheme progresses. During this time the following needs to be in place to ensure the early warning of risks and the ability to undertake corrective action mitigating any financial impact to the organisation:

- Robust performance monitoring frameworks for both operational and financial targets
- Staffing flexibility set up to be able to align to activity levels.
- The business model includes full staffing exit costs (as referred to above).

4.11 The scheme will run for a **five year** period. Every year, a balanced net zero budget will be set based on projected activity. Monthly budget monitoring will ensure the budget stays on track. Periodically where necessary, the budget may be re-aligned in year to reflect changes in activity.

4.12 There is also the inevitability that applications will not be made uniformly over the duration of the scheme. As with previous similar licensing schemes, it is likely that a larger proportion of income will come in in the early years, meaning there will be no impact on borrowing from the authority. A cash flow statement is currently being developed which will be updated regularly to reflect the actual activity of the scheme. As this scheme needs to be self-financing with no gain or loss to be aligned to the Local Authority, the peaks and troughs in both income and expenditure has to be managed.

4.13 This will be done by applying the relevant accounting treatment – Receipts in Advance. This form of accounting treatment has been confirmed by CIPFA. This will ensure there is no impact on the MTFP and the scheme remains viable for the whole term.

4.14 The Additional Licencing scheme also includes non-recoverable costs, which over the five years are estimated to be at £73k. These are set out in **Table 2** below and are reflected in table 1.

<b>Table 2: Estimated Non-recoverable costs</b>	
<b>Costs</b>	<b>£'000</b>
Housing rating Inspection	39
Prosecutions of licence conditions through the courts	23
Tribunal costs including Legal	11

The Non Recoverable costs of £73k (£14.6 annually) are covered through the budgets already held within other departments of the council, therefore within the MTFP, so there will be no impact.

## **5 LEGAL AND PROCUREMENT COLLEAGUE COMMENTS (INCLUDING RISK MANAGEMENT ISSUES, AND LEGAL, CRIME AND DISORDER ACT AND PROCUREMENT IMPLICATIONS)**

Advice provided by Ann Barratt, Team Leader, Planning and Environment Team, Legal Services, Nottingham City Council, Loxley House, Station Street, Nottingham, NG2 3NG (21 August 2018)

- 5.1 In order for Board to approve a designation making an area subject to a scheme of Additional Licensing, Councillors must be satisfied that the statutory tests outlined in paragraph 2.2.1 – 2.2.7 above are met and with the evidential basis of the Corporate Director's recommendations. Due regard should be had to the consultation analysis and responses and the officer's comments made in relation to them in Appendix 1
- 5.2 The adoption of the current scheme of Additional Licensing was contentious and was (unsuccessfully) challenged by way of Judicial Review. The adoption of the proposed Designation is equally susceptible to challenge which could have significant financial and reputational consequences affecting the implementation of the scheme. There is a three month period in which a Judicial Review application can be made and if permission is granted such challenges often take in excess of a year to be concluded. Other operational elements of the scheme such as the imposition of conditions may be challenged on appeal in individual cases.

## **6 STRATEGIC ASSETS & PROPERTY COLLEAGUE COMMENTS (FOR DECISIONS RELATING TO ALL PROPERTY ASSETS AND ASSOCIATED INFRASTRUCTURE)**

- 6.1 Not applicable.

## **7 SOCIAL VALUE CONSIDERATIONS**

- 7.1 The use of Additional Licensing is consistent with the Council's overall strategic approach to housing and its approach to a number of key priorities for the City. Additional Licensing, by tackling the problems that are evidenced in the proposal, will help to achieve a number of positive outcomes in terms of regeneration, health and wellbeing, and community safety, which are all major priorities for the city. This will help to deliver improved outcomes for citizens.

## **8 REGARD TO THE NHS CONSTITUTION**

- 8.1 The foundation for good public health is a safe home. It has been estimated that poor housing in England costs over £600 million annually and the total cost to society is over £1.5 billion a year (*The Real Cost of Poor Housing*: Davison et al, 2010). The impact of poor housing includes loss of earnings, underachievement at school, social exclusion, poor physical and mental health and costs to the NHS.

8.2 The Additional Licensing of HMOs means that around 2,500 HMOs will be potentially be brought into a framework of proactive control and an assessment process. This brings a real opportunity to better protect the health of tenants in this type of accommodation. Licensing requires fundamental safety protection linked to gas, electrics, fire, number of occupants, size and amenities. Whilst its enforcement is not covered by the licence fee, checks utilising the Housing Health and Safety Rating System (HHSRS) are carried out on all licensable HMOs. These assessments consider 29 hazards to health which include, for example: excess cold, falls, entry by intruders and damp and mould, and where hazards exist requires that action is taken to remedy them.

8.3 There is information that these actions contribute to improved health outcomes, other social benefits and reduced costs to the NHS; work carried out by the Building Research Establishment (BRE) and the Chartered Institute of Environmental Health evidences this.

## **9 EQUALITY IMPACT ASSESSMENT (EIA)**

9.1 Has the equality impact of the proposals in this report been assessed?

No

An EIA is not required because:  
(Please explain why an EIA is not necessary)

Yes

Attached as Appendix 5, and due regard will be given to any implications identified in it.

## **10 LIST OF BACKGROUND PAPERS RELIED UPON IN WRITING THIS REPORT (NOT INCLUDING PUBLISHED DOCUMENTS OR CONFIDENTIAL OR EXEMPT INFORMATION)**

10.1 None.

## **11 PUBLISHED DOCUMENTS REFERRED TO IN THIS REPORT**

- *Executive Board Report April 2018 :*  
<http://committee.nottinghamcity.gov.uk/documents/s71103/18.04.06%20Additional%20Licensing%20Consultation%20Final%20for%20Upload.pdf>
- *Approval steps for additional and selective licensing designations in England,* Department for Communities and Local Government, 2010:  
<http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/publications/housing/approvalsteps>
- The Housing Act, 2004: <http://www.legislation.gov.uk/ukpga/2004/34/contents>
- *The Real Cost of Poor Housing:* Davidson et al, 2010.