

Executive Board – 19 September 2023

Subject:	Proposal for an Additional HMO Licensing Designation for privately rented houses
Corporate Director(s):	Sajeeda Rose, Growth and City Development sajeeda.rose@nottinghamcity.gov.uk Colin Parr, Communities, Environment and Resident Services colin.parr@nottinghamcity.gov.uk
Portfolio Holder(s):	Councillor Jay Hayes, Housing jay.hayes@nottinghamcity.gov.uk
Departmental Directors and Heads of Service	Colin Wilderspin, Interim Director of Communities colin.wilderspin@nottinghamcity.gov.uk Kevin Lowry, Director of Housing kevin.lowry@nottinghamcity.gov.uk Pete Mitchell – Head of Environmental Health and Public Protection pete.mitchell@nottinghamcity.gov.uk Mark Lowe, Head of Housing and Regeneration mark.lowe@nottinghamcity.gov.uk
Report author and contact details:	Sophia Beswick Project Manager, PRS Licensing, Regulation sophia.beswick@nottinghamcity.gov.uk
Other colleagues who have provided input:	Julie Liversidge, Operations Manager HMO Licensing & Compliance Julie.liversidge@nottinghamcity.gov.uk Dan Lucas - Housing Strategy and Partnerships Manager Dan.lucas2@nottinghamcity.gov.uk Ann Barrett - Team Leader, Legal Services Ann.barrett@nottinghamcity.gov.uk Susan Turner – Senior Commercial Business Partner (Resident Services) Susan.turner@nottinghamcity.gov.uk Ceri Davies - Regeneration Team Leader Ceri.davies@nottinghamcity.gov.uk
Subject to call-in:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Key Decision:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Criteria for Key Decision:	
(a)	<input type="checkbox"/> Expenditure <input checked="" type="checkbox"/> Income <input type="checkbox"/> Savings of £750,000 or more taking account of the overall impact of the decision
and/or	
(b)	Significant impact on communities living or working in two or more wards in the City <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Type of expenditure:	<input checked="" type="checkbox"/> Revenue <input type="checkbox"/> Capital
	If Capital, provide the date considered by Capital Board Date:
Total value of the decision: Gross Value	£3.16m
Wards affected:	All wards
Date of consultation with Portfolio Holder(s):	4 July 2023
Relevant Council Plan Key Outcome:	
Clean and Connected Communities	<input checked="" type="checkbox"/>
Keeping Nottingham Working	<input checked="" type="checkbox"/>
Carbon Neutral by 2028	<input checked="" type="checkbox"/>
Safer Nottingham	<input checked="" type="checkbox"/>
Child-Friendly Nottingham	<input type="checkbox"/>
Healthy and Inclusive	<input checked="" type="checkbox"/>
Keeping Nottingham Moving	<input type="checkbox"/>
Improve the City Centre	<input checked="" type="checkbox"/>
Better Housing	<input checked="" type="checkbox"/>
Financial Stability	<input type="checkbox"/>
Serving People Well	<input checked="" type="checkbox"/>

Summary of issues (including benefits to citizens/service users):

QualityHousing
A Better Quality Private Rented Sector for Nottingham for all

Private rented licensing explained

Mandatory HMO Licensing

- National scheme since 2006 which local councils must carry out
- Applies to private rented properties shared by five or more people from more than one household

Additional HMO Licensing

- First introduced in certain parts of Nottingham in 2014 where the council has evidence of a need to improve standards of quality and safety
- Applies to private rented properties shared by three or more people from more than one household

Selective Licensing

- Introduced in certain parts of Nottingham on 1 August 2018 where the council has evidence of a need to improve standards of quality and safety
- Applies to private rented properties with one household

What is a House in Multiple Occupation (HMO)?

- A property (or part of a property) with more than one household (e.g. not members of same family)
- Tenants usually share at least one amenity, such as a kitchen, sink or toilet
- Can also include shared flats within a larger building.

Nottingham City Council

Housing Licensing is key tool available to the council for tackling housing issues in the private rented sector. It is designed to tackle problems that arise from unsatisfactory management and poor quality housing and aims to drive up housing standards in the city.

Designation of an area as being subject to Additional Licensing provides the Council with additional powers to drive up management, safety and amenity standard provisions, through compliance monitoring, inspection, and enforcement activity, to address specific property issues.

This report informs Executive Board of the outcomes of the consultation which has been completed following the Board's resolution of 21 February 2023 in respect of a proposed Designation for Additional HMO Licensing to commence 1 January 2024.

Following consultation, it is proposed that a Designation covering the whole city is made. The proposed Designation is contained in Appendix 1 and the statistical evidence maps at Appendix 2. Some operational changes are also proposed (including a revised fee and updated licensing conditions) which are subject of a separate Report to this meeting given that they also relate to the scheme of Mandatory Licensing operated by the Council.

If the Designation is approved the use of Additional HMO Licensing powers would provide the following benefits as defined in the Summary of Issues section of The February Report:

- **Greater compliance with regulation** (Housing Act 2004, Part 2) for HMOs in the private rented sector
- **Better inspection, compliance and enforcement** – to enable extended proactive risk based inspection program and more targeted compliance and enforcement
- Increased influence over the quality of HMO accommodation and effectiveness of property and tenant management

- **Speedier resolution of HMO issues** – to be resolved more quickly through the intelligence the scheme provides, thus improving community cohesion and reducing negative impact of HMO on neighbourhood amenity
- **Higher levels of citizen satisfaction** – through partnership working, problem solving and contributing to wider strategic objectives of the council, improving neighbourhoods and living conditions
- **Property improvement – responsive compliance:** The council is aware that landlords improve their properties prior to inspection, by comparing information provided at the time of application, to the improved state of properties upon inspection. This illustrates the benefits of the regulatory environment in improving standards rather than the more costly, reactive, option.
- **Property improvement – voluntary compliance:** The council is aware that landlords improved their properties without intervention simply because an Additional HMO Licensing Designation was introduced, delivering improved standards for residents without further intervention. The fact that licensing exists provides a clear set of standards and expectations for licence holders, with penalties in place for failing to comply with these standards, has delivered direct improvements for residents.
- **Clear set of standards and expectations:** having penalties in place for failing to comply with these standards which include compliance with HMO regulation means licence holders cannot ignore the requirement to improve their properties.
- **Efficient intervention:** licensing allows prompt and efficient investigation of complaints and concerns as those responsible for a property can be traced and contacted quickly and easily when concerns are raised. This provides value for money to the authority and is particularly important in situations where there are immediate safety concerns that require investigation and action.
- **Landlord and agent engagement:** Through the scheme the council is able to engage positively and regularly with landlords, agents and other partners via a variety of means and can disseminate a range of information and updates swiftly and efficiently, without licensing this would not be achievable.

Does this report contain any information that is exempt from publication?

No

Recommendation(s):

- 1 To consider the results of the consultation and responses to the consultation comments as outlined in Appendix 3 - Consultation Report and Appendix 4 - Consultation Thematic Responses.
- 2 Having considered the results of the consultation, to approve the making of the Designation contained in Appendix 1 of this Report as being subject to Additional HMO Licensing for five years from 1 January 2024 and confirm that Board is satisfied: -
 - that the statutory conditions for making a Designation referred to in paragraph 1.1 of this report (and detailed in section 3.2 to 4.9 of the Executive Board Report of 21 February 2023 (The February Report) have been met
 - that the making of the Designation is consistent with the Council’s housing strategy and would form part of a coordinated approach in connection with dealing with homelessness, empty properties, antisocial behaviour (as detailed in paragraphs 1.3- 1.9 of the February Report) .
 - that other courses of action available have been considered that might provide an effective method of achieving the objectives that the Designation would be intended to achieve, (as detailed in paragraphs 5.1 - 5.5 of the February Report) and
 - that it considers making the Designation will significantly assist it to achieve that/those objectives (as detailed in paragraphs 5.6 – 6.2 of the February Report)
- 3 To delegate to the Corporate Director of Growth and City Development, in consultation with the Corporate Director of Communities, Environment and Resident Services, Section 151 Officer and Monitoring Officer and the Portfolio Holder for Housing the power to:

- i) comply with the relevant statutory requirements in relation to its notification and publication and ii) to implement the Designation and licensing scheme
- ensure the design and operation of the Additional HMO Licensing Scheme is operated through the Council's Customer Services Transformation Programme to the fullest extent possible, as mandated in the Chief Executive's instruction to senior officers dated 10th October 2022.

4 To note the continued use of existing ring-fenced reserves as detailed in paragraphs 8.3 and 8.4 of the February Report and Section 7 below, for the current designation and licences which remain in force beyond its end (31 December 2023) and for the new Designation from 1 January 2024 and those licences issued under it.

5 To note the continuation of the non-recoverable Housing Health and Safety Rating HHSRS work required under the Housing Act 2004 which cannot be covered by the Fee as detailed in section 7.2

1. Reasons for recommendations

- 1.1 The evidence which has been collated¹ indicates that the relevant statutory tests in Section 56 and 57 of the Housing Act 2004 (the Act) have been met and that an Additional Licensing Designation for the entire City district will significantly assist the Council to deal with the issues and problems identified (sections 3-6 of the February Report).
- 1.2 A consultation on the proposed Designation has been undertaken and after full consideration of the consultation responses, (a significant number of which have shown overall support for the proposal,) the case for an Additional Licensing Designation covering the entire City district still stands.
- 1.3 Nottingham's Housing Strategy 2018-2021 'Quality Homes for All' was committed to improving and maintaining good quality homes across all tenures in the city. The new draft Housing Strategy 'Homes Fit for the Future' currently being developed will continue to support these aims bolstered by the regulation of the private rented sector which the Additional HMO Licensing Scheme would provide.
- 1.4 The proposal supports the aims of the draft Student Living Strategy, for which consultation has just closed, which states: "Diversify and innovate to improve the quality, safety, affordability and location of available accommodation for all students across the City. Actively promote a growth in affordable alternative accommodation options to encourage a better balance of student housing choice across the City" and "NCC uses licensing schemes to ensure people in rented accommodation have safe, good-quality places to live".
- 1.5 The proposal supports the delivery of objectives set out in the Strategic Council Plan 2023 - 2027, particularly the outcome Better Housing and key strategic aims around tackling ASB, reduced energy use, and building quality neighbourhoods.
- 1.6 The Private Rented Sector forms a key component of the total housing supply to help people meet their housing needs when faced with homelessness. For example, of 718 households in Nottingham whose homelessness prevention duty ended during the first three quarters of 2022/23, 344 secured accommodation in the sector. Given the vulnerable situation a person will be facing when they are homeless, or in imminent risk of becoming homeless, it is important that the Council, when fulfilling its statutory duties in this regard, is able to refer homeless people to private sector accommodation that is safe and meets the standards that would be expected. The City's Homelessness Prevention Strategy 2019-2024 notes that the need for PRS accommodation continues to grow and that the Council and its partners must work with landlords to progress leasing/letting schemes to offer as an option, such as NPRAS. The Strategy also seeks

¹[https://www.legislation.gov.uk/ukpga/2004/34/section/56#:~:text=56Designation%20of%20areas%20subject%20to%20additional%20licensing&text=\(b\)an%20area%20in%20their,of%20this%20section%20are%20met.](https://www.legislation.gov.uk/ukpga/2004/34/section/56#:~:text=56Designation%20of%20areas%20subject%20to%20additional%20licensing&text=(b)an%20area%20in%20their,of%20this%20section%20are%20met.)

to work with tenants and landlords to reduce evictions from the Private Rented Sector, and to utilise the PRS as a solution to homelessness.

- 1.7 The Homelessness Prevention Strategy recognises there are many good landlords operating in Nottingham who provide a valuable source of housing for local people. However, there are other landlords in the private rented sector who do not adhere to their responsibilities in appropriately supporting their tenants and providing a decent standard of accommodation. These landlords are putting people's health, wellbeing and safety at risk and exposing them to increased risk of homelessness. This places further strain on other housing resources in the city, and the Council's services that seek to help people find suitable accommodation. This ultimately places costs on the taxpayer. Licensing can act as a valuable tool in identifying and tackling problems earlier and as a consequence, making a helpful contribution to tackling homelessness.
- 1.8 The proposals aligned well with the Government's White Paper – "A fairer private rented sector"² which recognised Additional HMO Licensing as a tool to address particular issues such as exploitation. It should be noted that the Council's current Selective Licensing Scheme is cited in the White Paper. The proposals continue to align with the Renters (Reform) Bill³ introduced to Parliament 17 May 2023 which continues to support further regulation of the private rented sector including a decent homes standard, yet to be fully defined. Section 58(1) Enforcement by local housing authorities: general duty: *It is the duty of every local housing authority to enforce the landlord legislation in its area.*

2 Background

- 2.1 An Additional HMO Licensing Designation and Scheme aimed at driving up standards for HMO accommodation was first introduced 1 January 2014. This Designation remained in place until 31 December 2018. A second designation was subsequently introduced from 1 January 2019 and is due to end on the 31 December 2023.
- 2.2 A report was presented to Executive Board at its meeting of 19 February 2023 (The February Report) regarding proposals for a third new Designation and scheme to take effect once the current (second) one has expired. The body of the February Report can be found in Appendix 6 for ease of reference and the full report and related appendices are available here at item 105:

<https://committee.nottinghamcity.gov.uk/ieListDocuments.aspx?CId=177&MId=9776>

- 2.3 The February Report sets out the proposal to use an Additional Licensing Designation to cover the entire City district. The proposal covers a wider area than the previous two designations and is based on evidence that problems are likely to arise in any area of the City where HMOs are present. The proposed Designation would require all "small HMOs" (those occupied by 3 or 4 unrelated persons in 2 or more households) to be licensed unless they are exempt. In addition to the exemptions provided by the Housing Act 2004 ("the Act") the Designation exempts s257 HMOs (certain converted blocks of flats) and HMOs which comply with an approved Code of Practice and which are administered by ANUK⁴ from the prescribed description of HMOs which the Designation covers. These exemptions reflect those applied in the current Designation as it is felt that s257 HMOs can be more appropriately and simply be regulated by the Selective or Mandatory Licensing schemes and that they are currently being administered effectively under these schemes. ANUK properties are already regulated and managed to a prescribed standard and have been exempted under both of the Council's previous Additional Licensing Designations.

² <https://www.gov.uk/government/publications/a-fairer-private-rented-sector>

³ <https://bills.parliament.uk/bills/3462>

⁴ <https://www.anuk.org.uk/about>

2.4 The February Report identified the strategic objectives which the Designation aims to assist in achieving (See 'Summary of Issues'; Section 1 'Reasons for Recommendations' and also paragraph 4.4. 'Strategic Alignment' in this report below). In particular, the Designation is aimed at tackling the Council priority of ensuring better housing by tackling poor-quality housing in Nottingham, regardless of tenure, continuing to drive up housing standards in the city, ensuring quality, sustainable communities and neighbourhoods for residents (The February Report paragraph 1.10).

The February Report in sections 3-5 also addressed the statutory conditions under which a Designation may be made and the Council's approach to assessing the evidence available against those conditions. Section 3 identified the requirements in the DCLG guidance document "Approval Steps for additional and selective licensing Designations in England" which repeats the requirements of sections 56 and 57 of the Housing Act 2004 and states that before making a Designation for licensing of a particular type of HMO or for a particular area, a local authority must:

- Consider that a significant proportion of the HMO of that description in the area are being managed sufficiently ineffectively as to give rise or be likely to give rise to one or more particular problems for those occupying the HMO or members of the public.
- 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 HMO in the area in question.
- Consider whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem(s) in question.
- Consider whether making the Designation will significantly assist them to deal with the problem(s) (whether or not they take another course of actions as well).
- Consult persons likely to be affected by the Designation.
- Ensure that the exercise of power is consistent with their overall housing strategy; and
- Seek to adopt a coordinated approach in connection with dealing with homelessness, empty property and antisocial behaviour affecting the private rented sector as regards to combining licensing with other actions taken by them or others.

In order to comply with the Housing Act 2004 and DCLG guidance which require that a significant proportion of HMO of the proposed description in the area are being managed sufficiently ineffectively, the area covered by the proposed Designation has been arrived at using the following methodology:

Since the first Designation the number and distribution of HMOs throughout the city has continued to increase including in those areas not covered by the current Designation. Given the existence of problems from HMOs in these additional areas has been recorded, it was felt appropriate to compile and analyse evidence at a city level to create a composite to establish if the statutory tests were met so as to merit consideration of a Designation covering the entire city. Data from the following categories of properties were considered in order to establish the location of HMOs of the proposed description.

- Properties currently licensed under the Additional HMO Licensing scheme, plus
- Properties with a live application to the Additional HMO Licensing scheme, plus
- Properties that are suspected of being HMOs of the proposed description by way of lapsed licence, chased licence, officer and neighbourhood intelligence and student council tax exemptions, and
- That have a valid Unique Property reference number (UPRN),
- The location of these HMOs is shown in Appendix 2 Map A.

Test 1: To establish the proportion of HMOs in the area that are giving rise to the following problems.

- ASB and Noise ASB
- Waste Management
- Property Condition and Disrepair (including those properties whose external condition and curtilage adversely impact on the general character and amenity of the area in which they are located)
- Overcrowding and illegal eviction
- Evading existing licensing scheme

Test 2: The proportion of HMOs in the area that are likely to give rise to the above problems were examined to identify: -

- the total number of licences issued with extra conditions across scheme 1 (2014-2018) and scheme 2 (2019-2022 incl.) of Additional HMO Licensing.
- the number of properties in the current scheme requiring intervention following inspection and
- the number of properties that have satisfactorily resolved issues following intervention between November 2021 and November 2022.

Methodology Conclusion

That there is sufficient and robust statistical evidence to show that:

- A significant proportion of HMOs of the proposed description in the area are being managed sufficiently ineffectively to give rise, or be likely to give rise to one or more of the particular problems identified in 4.3 above either for those occupying the HMOs or members of the public, across the entire Nottingham city district.
- These problems have arisen, persist and are likely to arise in any area of Nottingham city where HMOs are present
- The rate at which problems occur in properties subject to a consistent period of licensing provides the reasonable assumption that such problems will in fact be more prevalent among HMOs that are new to licensing or as yet unlicensed.

This information needs to be considered when determining whether a further Designation is still required and should now be made. Therefore, the Executive Board are asked to ensure they have read and understood this information, which can be found in more detail in the report available in Appendix 6 and the link above which gives access to the 10 related appendices.

2.5 Summary of the core benefits of housing licensing

The main aim of Additional HMO Licensing is to address the ineffective management of HMOs and the problems that they cause or are likely to give rise to. The problems the Council is seeking to address by making a designation were set out in paragraph 2.4 Test 1 above.

Making a Designation thereby protects tenants and ensures that their shared homes are safe and well managed. The Council also provides landlords with assistance and support to meet the relevant standards this includes the Council's monthly landlord newsletters with a following of just under 5000 recipients. Information is shared on social media with 1165 followers on Facebook and over 600 post interactions in the month up to 26 July 2023. This support and guidance includes safety advice, how to

deal with difficult tenants, (in particular those causing ASB / waste management issues) as well as support in homelessness prevention and how to sustain and manage tenancies.

2.6 Housing licensing is a key tool to ensure:

- Support and guidance is provided for landlords to enable them to maintain their properties to a good standard, enhancing the quality of housing available to people living in Nottingham
- HMOs comply with all relevant legislation
- HMOs are safe for people to live in and are well managed
- HMO amenity and space standards are maintained and/or improved
- HMOs are not overcrowded
- Partnership working towards safeguarding citizens in the identification and tackling of crime, exploitation and modern slavery through shared intelligence and joint operational interventions continues
- Tackling nuisance and antisocial behaviour relating to or emanating from HMO properties
- Waste management impacting on residents and the wider community is actively monitored to enable intervention which maintains a clean and healthy environment
- Poor landlords are identified and required to improve their properties
- Criminal landlords are located, targeted and tackled

3. Best Value –a fit for purpose approach

3.1 Strategic and operational improvements

The first and current Additional HMO Licensing Schemes have implemented a number of strategic and operational improvements which deliver greater efficiency through best value principles and ensure that Additional HMO Licensing remains fit for purpose. These include:

- A revised set of robust performance measures to be implemented which will provide evidence based assurance on the impact of Additional HMO Licensing and its legitimacy as an effective tool to improve living conditions in the sector.
- A more efficient and effective approach to processing and determining licences and their administration which involved extensive digitising of the HMO licensing archive, which is now paper free. The streamlined approach has also resulted in a 65% reduction of outstanding complex applications. This continuous improvement is ensuring licences are issued faster and a Tacit Consent Policy⁵ has now been adopted to ensure that a licence is not deemed to be granted during the processing period.
- A more efficient and effective approach to internal inspection diary management which has resulted in a 50% increase in the number of inspections carried out.
- A more proactive three tiered compliance process developed in the current scheme (as detailed in the strategic operation plan found at Appendix 7). The approach has proven very successful resulting in every licensed HMO having had at least one external inspection. This aids speedier progression of improvements which reduce the visual impact of poorly managed and maintained HMOs in local neighbourhoods whilst enabling a more targeted, risk-based approach to internal inspections.

⁵ <https://www.nottinghamcity.gov.uk/media/3376124/housing-licensing-tacit-consent-policy.pdf>

- Dealing with issues at an earlier stage before they become more significant. Proactive intervention at licensed properties allows the Council and its partners to resolve matters quickly and the use of licence conditions and supporting guidance documents to define standards and ways to comply, many of which available on the Council's website before an application is made and which are also provided when licences are issued.
- By working in partnership with our accreditation partners DASH⁶, Unipol⁷ and ANUK significant numbers of landlords have become accredited, evidencing that their properties meet a higher standard than the legal minimum level. A proportion of these properties have been inspected by these providers, taking the burden from the Council and offering value for money to the landlord through a lower licence fee. Accreditation provides assurance to the Council that relevant accreditation code standards are met, meaning a lighter touch regulatory approach can be taken in relation to these properties, reducing Council intervention.

The Council has also proposed to undertake the following to assure any scheme remains fit for purpose:

- A further housing survey and stock modelling report to be undertaken in line with the Housing Act 2004 requirement to keep housing stock under periodic review. This will also support review of the current and any future scheme.
- Social impact report to be undertaken to understand wider impact on citizens and stakeholders
- Software upgrade to be implemented for the whole of Regulatory Services in Communities, late 2023 to streamline processes.
- Centralisation of administration through the Customer Transformation Programme

The above pieces of work will help support the Council's overall assessment of the impact of any current or future Additional HMO Licensing Scheme/s and value for money delivered.

3.2 Key outcomes from the current scheme

Key outcomes from the current scheme are evidenced in the table A below:

Table A key outcomes Additional HMO Licensing Scheme 2
(current scheme at June 23)

Activity	Total
HMO interventions resulting in confirmed improvements Sept 21-June 23	659
ASB interventions (mainly waste management and noise)	750
ASB complaints managed by the HMO team directly	420
Unlicensed HMO investigations	283
External property inspections	2897
Internal property inspections	667
Fit and proper checks carried out-licence holders and property managers	3428
Safety certificates checked (gas/electric/fire) prior to issuing a licence	5480
Licence applications received	2060
Licences granted	1852
Licences in force as at 04/07/2023	1698
Licences with extra conditions added to improve amenities	870
Licences refused	12

⁶ <https://www.dashservices.org.uk/About>

⁷ <https://www.unipol.org.uk/about>

Licences revoked	167
Final Civil Penalty Notices (CPNs)	25
Proposed CPNs	39
Prosecutions	10
Improvement notices	92
Prohibition orders	64
Hazard awareness notices	73

3.3 Fee comparison with other councils

Nottingham's current Additional HMO Licensing scheme is entirely funded through a licence fee paid by landlords with a team of circa 11 staff - including administrative staff, compliance and enforcement officers, environmental health officers, managers and several support staff within the wider Council, such as IT, finance, legal and HR. A general review of fees has shown that it will be necessary to increase the current fee level to ensure the Council's costs are covered. As the proposed increase applies equally to fees charged in respect of the Mandatory Licensing Scheme, fees are covered by a separate report to this Board later on the agenda.

4 The Proposed Designation - Legislative and Strategic Alignment

4.1 Legislative and governmental guidance

The aims of any future scheme were presented at Executive Board in February for consideration and the Designation was approved in principal subject to consultation findings. The proposal meets the legal requirements laid down in the Housing Act 2004 and aligns to the Council's Strategic Plan (2023-27).

4.2 The Government have emphasised the importance of standards, safety, compliance and robust enforcement in the private rented sector in its recent White Paper 'A Fairer Private Rented Sector'⁸ published in June 2022 and the subsequent first reading of the Renters Reform Bill⁹, May 2023. In November 2022 the Housing Secretary wrote to local authorities¹⁰ asking them to prove they are assessing problems in the private rented sector by outlining their actions and interventions regarding in particular, properties affected by damp and mould and in general what plans they have to drive up standards in the private rented sector.

4.3 The White Paper specifically detailed the powers and benefits licensing can bring and includes Nottingham's Selective Licensing Scheme as a case study detailing the work to drive up property conditions, and the outcomes achieved.

Without the intelligence provided by the Council's licensing schemes it would be far more difficult to understand property conditions, report on them and intervene where necessary.

The Levelling Up white paper¹¹ built on this ambition, setting a mission for a new Decent Homes Standard in the private rented sector to be developed. It aims for the number of non-decent rented homes to be reduced by 50% by having a legally binding standard for the first time. The Government is also currently undertaking a review of the Housing Health & Safety Rating System (HHSRS) and wishes to make the system easier to understand for landlords and tenants, correct the disconnect between the HHSRS and other legislative standards, and to facilitate the effective enforcement of housing standards by local authorities. It is expected this work will be finalised in 2023/24.

⁸ <https://www.gov.uk/government/publications/a-fairer-private-rented-sector>

⁹ <https://bills.parliament.uk/bills/3462>

¹⁰ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1118877/SoS_letter_to_local_authority_chief_executive_and_council_leaders.pdf

¹¹ <https://www.gov.uk/government/publications/levelling-up-the-united-kingdom>

4.4 Strategic Alignment

Housing licensing is pivotal in delivering the following strategic objectives for the Council:

- **Better Housing** - improving housing conditions by setting a legal bar for minimum standards of housing and management and enforcing against non-compliant landlords, working with them to improve or removing them from the market as a last resort.
- **Green, Clean and Connected Communities** – requiring landlords to provide waste management plans and a quicker resolution of issues outside the property impacting on residents and the wider community. Licensing is there to protect people living within the property and those living nearby.
- **Carbon Neutral by 2028** – Through engagement and enforcement of housing standards the Council will seek to continue to improve the properties with the worst energy performance certificate (EPC) ratings. This work has started and will continue in any future scheme to support reducing tenants bills and their carbon footprints. (A new licence condition has been added to support this strategy and can be viewed in the proposed revised conditions, item 16, Appended to the Fee Report being presented on this agenda).
- **Safer Nottingham** – Through requiring landlords to take responsibility for tenants causing ASB and have an ASB plan in place the Council will, alongside working with partners, continue to contribute to making Nottingham a safer place. This is undertaken through increased Council presence in areas of concern and a reduction of properties causing repeat problems and speedier complaint resolution times by positive engagement and enforcement of licence conditions helping to reduce crime and antisocial behaviour.
- **Living Well in our Communities - Healthy Diverse and Inclusive** – through helping to improve conditions for tenants in properties that have damp and mould, cold homes / poor heating and safety / security issues and other hazards, raising the standard of the worst properties and supporting our strategic aims to give the citizens of Nottingham the best possible chance of living long, independent and healthy lives.

5. Consultation Process and Findings

5.1 Before making a final decision as to whether to make a Designation the Council is required to conduct a consultation with persons who are likely to be affected by the Designation. As long as this consultation lasts for a minimum of 10 weeks the Designation will benefit from the Secretary of State's General Approval Order 2015 and will not require separate confirmation by him. Following approval of The February Report the consultation on the proposed Designation was carried out for 12 weeks from March to May 2023 and followed the requirements set out in the Act and guidance. The consultation included information on the proposed Designation and licensing scheme, the reasons for it and how the proposed Designation had been arrived at and provided indicative information regarding fees and conditions. Details of the consultation and officers' findings from it are set out in:

- Appendix 3 SL2 Consultation Report
- Appendix 4 SL2 Consultation Thematic Responses
- Appendix 5 SL2 Consultation Activity Report

5.2 The Consultation Findings are addressed in more detail below but in summary it is felt that the case for making a new Designation of Additional HMO Licensing which covers the whole city still stands. Some changes are proposed in relation to operational aspects of the proposed scheme following consultation (such as fees and conditions) but as these also apply to the Council's Mandatory Licensing Scheme these are detailed in a separate report on this agenda.

5.3 Consultation Findings

Key information

The consultation survey attracted 322 responses and 20 consultees attended in person and online events. 48% of respondents agreed with the proposals, 43% did not agree and 9% neither agreed nor disagreed.

The findings from the Consultation are summarised in Appendix 3. This provides a breakdown in terms of who responded to the consultation, their capacity and common themes arising. Table B below provides a summary of those responses.

27% of respondents were private landlords who let property in the city, many of whom have voiced concerns over the increasing cost of managing private rented properties and suggested a correlation between having to fund a licence, PRS supply and rent levels. The Council however, has not identified any significant evidence that regulation is affecting supply other than by improving property conditions and eliminating the worst non-compliant landlords from the market who let their properties in unsafe conditions and put citizens at risk.

There were 88 (27%) consultees who responded as landlords letting properties within the city boundary, of these 12 stated that the proposed fees are too high, this was the most common response on fees. Of these responses 3 cited schemes which other councils operate with lower fees.

“The theory is good, but the price is far too high compared to other councils with the same scheme and this will push up rents that are already too high”

“I am disappointed in the high fees for HMO Licences and also that NCC seem intent on making it even more difficult (and more expensive) for [current] Licence Holders”

The points in relation to fee level and the limitations of scheme comparison are covered in more detail in the separate Fee Report on this agenda.

There were around 70 comments in support of the proposed whole city coverage for the Designation which can broadly be put into two categories:

- Will maintain high standards citywide
- Will avoid confusion and be easier to manage

“Extending the area to the whole city makes sense. If the area only covers part of the city some tenants have less protection than others.”

“I believe that this scheme has the potential to offer substantial benefits to public health and welfare”

Table B consultation overview

Summary of key consultation data
In response to the question: Evidence supports a scheme of additional HMO licensing which covers the whole city. To what Extent do you agree or disagree with the proposal:
35% of respondents strongly agree, 13% of respondents agree totalling 48% in favour of the proposed designation. 36% strongly disagree and 7% disagree totalling 43% against the proposed designation with 9% responding neither agree nor disagree.
27% of respondents were landlords letting properties within the city boundary
The majority of landlords (70%) owned 1-2 properties with 5% owning 11-20 and 2% owning more than 20
33% of respondents were landlords letting properties within the city boundary

47% of landlords who responded currently have all their properties licensed by Additional HMO Licensing. 3% with more than half licensed, 14% with less than half licensed and 38% with none licensed (this could mean the properties are outside of the current designation or exempt)
2% of respondents were tenants in living in social housing.
3% of respondents were tenants living in additional HMO properties.
3% of respondents were representing a community or voluntary organisation operating within city.
6% of respondents were students.
12% of respondents were tenants living in any other private rented accommodation.
13% of respondents were representing a business association or group operating within the city.
67% of respondents were homeowners.
70 % of respondents were Nottingham residents.
83% of respondents were responding as individuals.
The highest number of landlord consultation responses came from landlords letting properties in Lenton and Wollaton East and Hyson Green and Arboretum.
The highest numbers of consultation responses came from citizens living in Lenton and Wollaton East, Mapperley, Castle and Sherwood.

A more detailed consideration of the themes arising from the consultation is given in Appendix 4 and particular regard should be given to these Appendices (3 & 4) when considering this report. However, in brief, key concerns and mitigation or response are listed in Table C below:

5.4 Consultation thematic responses

Table C Summary of key consultation concerns and mitigation/response

Objection / Concurrence / View	Mitigation/Response
Whole city coverage – against – use existing powers under the housing act, penalties and prosecutions	<p>Having taken great care to use all known available data to make an informed decision the council believes a whole city designation for Additional HMO Licensing is justified on the evidence and will offer the best outcomes for the citizens of Nottingham with regard to regulating all HMOs and addressing the problems likely to arise from them.</p> <p>Information was gathered from a variety of sources including intelligence from the mandatory and selective licensing schemes, the proactive investigatory team who work to identify unlicensed properties and other data such as council tax status as well as data from the Building Research Institute on the location of HMOs.</p> <p>Penalties and prosecutions are not a desired outcome but a last resort when every attempt has been made to support landlords to become licensed or to improve their properties to the required standard. Therefore, although any civil penalties collected are ring fenced to support further Housing enforcement, funding of enforcement from penalties alone is not feasible.</p> <p>Having noted the views of consultees the council still believes that other courses of action alone would not offer the benefits of the proposed scheme.</p> <p>The council detail its enforcement activities on the website here; Investigating Housing Offence - Nottingham City Council</p>
Whole city coverage - for	To date during the first two additional licensing designations / schemes the council have operated, citizens have repeatedly found the partial designation of licensing (not covering

Objection / Concurrence / View	Mitigation/Response
	<p>the whole city) confusing. There are many citizens, both involved in the private rented sector and those who simply live alongside it, who welcome whole city coverage to reduce confusion and to offer the same level of regulation for all private rented HMO. City wide coverage is justifiable and will offer protection for both tenants and good landlords from the rogue landlords who offer substandard, unsafe accommodation.</p> <p>The licensing team offer advice and support to both tenants and landlords including specialist work by the tenancy matters team on matters such as tenancies and eviction; hosts landlord and agent forums and issues a regular newsletter with updates on the private rented sector.</p> <p>The council works with educational establishments, organisations, charities and other groups to support a healthy private rented sector for all types of property.</p>
HMOs quality and regulation	<p>The council notes the concern of citizens regarding the quality and regulation of HMOs. The ability for local authorities / councils to designate Additional HMO Licensing Schemes has been granted by government in order to enable the council to address these issues with all of the powers it has available under the Housing Act 2004 and other relevant legislation and guidance.</p> <p>There is no minimum or maximum limit for the number of licences which may be granted across the city. The legal requirement is that properties operating as HMOs within the designated area must apply for a licence to operate legally.</p>
Fees / Cost Fear of costs being passed to landlords and tenants	<p>The fee reflects the actual costs of administering the scheme. The Council has used the most recent version of the Local Government Association toolkit available for precisely for this type of process, to set the fee. The council is not allowed to make a profit from the licence fee and the fee has not been calculated on a profit-making basis.</p> <p>The licensing fee gives a landlord the legal right to occupy the HMO within the designation as long as their property meets the required standards. The scheme gives the council proactive powers of enforcement, it is not a transaction whereby a service is provided for the fee. Penalties are set either by the courts when prosecuting or in relation to the Council's Civil Financial Penalties Policy and associated legislation.</p> <p>The council agrees that good landlords should be recognised and that they should pay less. This is why there is a proposed lower fee for accredited landlords saving them £350. The lower fee for accredited landlords has been recommended in order to recognise good landlords and to encourage more landlords to become accredited. The number of accredited landlords continues to grow in the current second scheme.</p> <p>The current accreditation partners the Council works with have a good track record of inspections, support, and removal of landlords that fail in their accreditation duties. The assessment of other suggested bodies showed that they did not provide the same level and range of inspection and monitoring of those they accredited. This was required to provide similar reassurances to the council as to the fitness and suitability of the schemes, landlords and agents that they can accredited.</p>
Fees agree	<p>The fee reflects the costs of administering and enforcing the scheme. The council has used the most recent version of the Local Government Association guidance "Open for Business LGA guidance on locally set licence fees" available for precisely this type of process, to set the fee. The council is not allowed to make a profit from the licence fee and the fee has not been calculated on a profit-making basis.</p> <p>https://www.local.gov.uk/sites/default/files/documents/5%2013%20%20OpenForBusiness_02_web.pdf</p>

Objection / Concurrence / View	Mitigation/Response
Fees disagree	<p>The fee reflects the costs of administering and enforcing the scheme. The council has used the most recent version of the Local Government Association guidance “Open for Business LGA guidance on locally set licence fees” available for precisely this type of process, to set the fee. The council is not allowed to make a profit from the licence fee and the fee has not been calculated on a profit-making basis.</p> <p>https://www.local.gov.uk/sites/default/files/documents/5%2013%20%20OpenForBusiness_02_web.pdf</p>
Tackling rogue landlords	<p>The council agrees that rogue landlords should be identified and dealt with as soon as possible, the proposed whole city coverage for the Additional HMO Licensing designation and scheme should assist in this.</p> <p>We work closely with various teams who respond to complaints regarding privately rented properties. Where it is identified these are HMOs there are a range of actions which we take including joint visits with other teams, prioritising properties which have received complaints relating to investigations and compliance.</p> <p>We regularly publish our monthly enforcement figures here along with our policies for Civil Financial Penalties, Rogue Landlord Database and Banning Orders: https://www.nottinghamcity.gov.uk/information-for-residents/housing/private-rented-accommodation/investigating-housing-offences/</p>
Quantity and density of HMOs	<p>The council also notes respondents’ comments on the quantity and density of HMOs which have been passed to the Planning Department for their information. Private rented sector licensing schemes do not have jurisdiction over planning matters such as the permission or restriction of conversion of properties to HMOs or the building of new HMOs and this consultation was solely to seek citizens views on the proposed designation and scheme of Additional HMO Licensing. Should anyone require further information regarding these matters, please contact the planning department directly at: planningcomments@nottinghamcity.gov.uk</p>
The proposal as a whole	<p>Most responses in this section of the consultation were further views on the matters covered earlier in the survey.</p> <p>The council notes a number of consultation responses received directly and also outside of the survey by individuals, groups and bodies with an interest in the proposal which are outside the scope of the consultation and thanks them along with all respondents who took the time to put forward their views.</p>

The consultation supports the recommendation to proceed with the Designation by:

- The majority of consultees supporting the proposal and full city coverage
- The majority of consultees were confident the proposed scheme would improve the health, safety and wellbeing of citizens who live in and around HMOs
- Recognising that although there has been improvement to HMOs through licensing activities there is still more work to be done
- Confirming that consultees have concerns about Rogue Landlords and their lack of compliance, calling for more to be done to tackle them
- Evidencing that strategic partners such as the Police and Universities are fully in support of a third Designation

6. Other options considered in making recommendations

6.1 The Council could consider the following alternative options to an Additional HMO Licensing Designation as listed in Table D below:

Table D Options Appraisal

Other Options	Implications / Impact	Recommendation
<p>To not pursue a Designation further.</p>	<ul style="list-style-type: none"> • Any necessary enforcement would result in required interventions being resourced by existing council functions • The council would lose the proactive power of entry • Interventions would only be carried out on a reactive basis following complaints • Increased number of complaints and complaint resolution time increasing • The number of interventions and outcomes would be greatly reduced • The absence of additional regulation would leave the market the main driver for property improvements • The council would no longer hold the intelligence gathered on persons responsible for HMO properties or engage with them in the same way • The council's ability to provide assurance regarding its regulation of HMOs would be limited, placing the council in a weaker position • Continued compliance with satisfactory standards would be limited in the absence of proactive regulation. • To date partial Designations have resulted in displacement of HMOs to non-licensed areas. This combined with growth in the sector has led to an increasing number of HMOs which have never been subject to any oversight or regulation • Ceasing to have an Additional HMO Licensing Designation would mean a return to reactive regulation. This would jeopardise citizens access to quality safe homes • Citizens access to recourse regarding the negative impact of sub-standard HMOs in their neighbourhoods would decrease 	<p>To reject, as evidence shows a clear need for the Designation and scheme and the Consultation exercise has shown general support.</p>
<p>Consideration of a smaller scheme Designation.</p>	<ul style="list-style-type: none"> • A smaller Designation would limit opportunity to continue the improvements made by the first two Designations • A smaller Designation would increase the number of properties continuing to 	<p>To reject, as evidence gathered indicates a whole city Designation of Additional HMO Licensing will most effectively tackle</p>

Other Options	Implications / Impact	Recommendation
	<p>cause an issue due to unsatisfactory management and displacement of HMOs and associated issues to outside the regulated area.</p> <ul style="list-style-type: none"> • A smaller Designation of Additional HMO Licensing would mean inconsistency with Mandatory Licensing which is impractical when considering they are subject to the same safety and amenity regulations in law. • A smaller Designation would continue to allow lack of understanding as to the geography of the Designation to be a factor in non-compliance via reduced take up of HMO licences 	<p>HMO issues and protect citizens.</p>
<p>Voluntary accreditation only.</p>	<ul style="list-style-type: none"> • Eliminates the council's right of proactive entry to Additional HMO properties • Accreditation schemes have a set of standards (or codes) relating to the management or physical condition of properties and recognise landlords who achieve these requirements across their portfolios • The council currently works with DASH, UNIPOL and ANUK as its accreditation providers. Voluntary accreditation with the Nottingham Standard (DASH and UNIPOL) has seen an increase in membership with the lower fee incentive that also delivers a better outcome in this area. 	<p>To reject, the option of using voluntary schemes alone would not be expected to deliver necessary improvements. (Voluntary schemes alongside Additional HMO Licensing are considered more effective as landlord accreditation has worked well in conjunction with licensing).</p>
<p>Targeted use of Interim Management Orders (IMOs) and Final Management Orders (FMOs).</p>	<ul style="list-style-type: none"> • The Housing Act 2004 gives local authorities powers to use Management Orders for tackling comprehensive and serious management failures. However, these are complex to implement and administer (and thus expensive) as they involve taking over the management of the property and are done on a case-by-case basis with individual properties • They are also reactive for dwellings where such problems are apparent and as such do not provide value for money compared to a proactive approach which prevents or addresses problems sooner and limits citizens exposure to poor standards 	<p>To reject, this is not a preferable option for driving up standards across an area and would not provide a level of improvement in standards that Additional HMO Licensing can deliver (IMOs and FMOs can be used in individual cases if required alongside licensing).</p>

Other Options	Implications / Impact	Recommendation
Direction under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015	<ul style="list-style-type: none"> • Nottingham already has a citywide Article 4 Direction meaning planning permission is required to convert a family home (C3) to a HMO (C4), and Planning and HMO licensing sections work together to locate HMOs that are evading one, other or both regulations. • Article 4 however only regulates the control of development for planning purposes by removing permitted development rights thereby potentially restricting the number of new HMOs being created by change of use, it does not tackle conditions or management issues in HMOs, existing or new. 	Insufficient on its own - Article 4 and Planning Control in general are focussed on the suitability of a land use rather than the detailed regulation, control and management of that use.

6.2 Why other courses of action are not sufficient in isolation to achieve the Council's objectives

Other initiatives / tools combined with the use of statutory powers have been successful however Additional HMO Licensing is one of the only proactive tools that has the power to tackle a broad range of issues in Private Rented Sector HMOs including property conditions, property amenities, ASB, crime and deprivation (see section 3.2 of The February Report for the list of conditions required to make a Designation, section 4 for the evidence prepared and section 5 for detail on how these conditions have and will be addressed by Additional HMO Licensing).

Additional HMO Licensing allows the Council to properly resource tackling these issues within the sector and to be proactive about it. Properties that tenants may not realise are in poor condition / without adequate amenities / badly managed, and properties where the tenants know there is an issue but don't know how to complain or are fearful of what might happen if they do complain will be tackled through licensing. Additional HMO Licensing provides the tools and opportunity to engage and work with landlords if they wish to improve, or work towards removing them from the market if they do not to make way for responsible landlords.

6.3 The benefits of Additional HMO Licensing are further defined below:

Property improvement – clear standards – the Council's three tier compliance approach has created a process for landlords to meet required standards and provides the resource to make sure they do. A clear set of standards and expectations for licence holders, with penalties in place for failing to comply with these standards, has delivered direct improvements for citizens.

Landlord and agent engagement – Through the scheme the Council is able to engage positively and regularly with landlords, agents and other partners via a variety of means and can disseminate a range of information and updates swiftly and efficiently, without licensing this would not be achievable.

Efficient intervention – Licensing allows prompt and efficient investigation of complaints and concerns as those responsible for a property can be traced and contacted quickly and easily when concerns are raised. This provides value for money to the authority and is particularly important in situations where there are immediate safety concerns that require investigation and action.

Conclusion – Notwithstanding that 43% of respondents to the consultation disagreed with the proposal, the Council believes, along with the majority of consultees, that the benefits of the regulatory environment Additional HMO Licensing provides for citizens justifies the recommendation to implement the proposed Designation. For the reasons set out in this report it is considered that the evidence contained in the February Report along with the consultation findings meet the statutory conditions for making a Designation and will significantly assist the Council to deal with the problems identified in paragraph 4.3 of the February Report arising, or likely to arise, from the ineffective management of HMOs to be covered by the Designation. In addition, the making of the designation will significantly assist the Council to meet its objectives set out in the Strategic Plan and highlighted in paragraph 4.4 above. The making of a Designation is consistent with the authority’s overall housing strategy and the authority’s approach to homelessness, empty properties and antisocial behaviour with regard to combining Additional HMO Licensing with other courses of action available to it. Other options available alone are not considered to provide the benefits and value of an Additional HMO Licensing Scheme. As a result, it is recommended that the proposed Designation and scheme of Additional HMO Licensing would provide the best option to improve standards in the private rented sector across the city where evidence indicates there are a range of problems to be addressed. This provides the best value for both residents and for the local authority.

7. Income and Costs

- 7.1 The Mandatory and Additional HMO Schemes have the same fee structure and those fees are calculated based on a combined process which delivers economies of scale and therefore best value. Based on intelligence from previous schemes 90% of eligible properties will most likely proactively apply for a licence during the five years (leaving 10% to be identified through proactive investigation by the licensing team) and the income profile is based on this projection. As in previous schemes income will not be received uniformly throughout the 5-year period. Therefore, an earmarked reserve (this refers to the financial treatment not the funds which will be placed within it) is essential for the balance of revenue and expenditure over the 5 years and non-recoverable costs detailed in section 7.2 below and will be drawn down as required.

As is currently the case the reserve will be ring fenced for the delivery of all HMO licensing as per the Local Government Association (LGA) 2017 guidance on locally set licence fees “Open For Business”¹² (see excerpt Table E below) which clearly states fee income should not be drawn into the Council’s general fund. The reserves are managed in accordance with CIPFA and LGA guidance and the Council’s financial regulations. Operation and monitoring of the reserves is overseen by the department’s Finance Business Partner in conjunction with the budget holder. This monitoring would continue in the proposed new Additional HMO Licensing Scheme.

¹² <https://www.local.gov.uk/publications/open-business-lga-guidance-locally-set-licence-fees>

Table E - LGA guidance on locally set licence fees

Do	Don't	Maybe
Check the relevant legislation	Use a surplus from one fee to subsidise another	Include the costs of enforcement against unlicensed traders
Calculate processing costs and enforcement costs separately and ensure that any fees covered by the Services Directive are charged to applicants and new licensees in two stages	Allow fees income to be drawn into the council's general fund	Include a condition on the issued licence that requires the payment of the enforcement part of the fee, where this is not charged upfront
Clearly communicate to applicants the elements that make up the fee	Allow fee levels to roll-over each year without a review	
Ensure fees are determined by the right person	Forget to ask the courts to award costs during a prosecution	
Include staff on-costs		
Include training costs for officers and councillors		

The Additional and Mandatory licence fees would continue to be periodically reviewed with the same combined calculation method. The total combined number of applications is forecast at 5,300 (3,000 Mandatory, 2,300 Additional) and this total has been used to determine the fee. As previously indicated the calculation and approval of the relevant fee structure forms the subject of a separate report on the Board's agenda. It is however proposed that the relevant fees be introduced from 1 October 2023 hence they will apply to both the current and proposed Designations.

It is proposed to continue with the three-tier fee structure operated since 2018.

- “less compliant fee” - would be higher than the standard fee making less compliant landlords pay the highest fee, reflecting the additional work/compliance activity associated with such applications and licences.
- “accredited fee” - would be lower than the standard fee reflecting both the lower level of work associated with such applications and acting as an encouragement for applicants to become accredited.
- “standard fee” – would be paid by the majority of applicants.

Table F below details the fee with the first payment Part A due at the application stage and the second payment Part B due prior to the final licence being issued. Further additional fees may also be charges dependent on the particular circumstances of the application (eg for missed inspections or copy documents.) It is not proposed that these additional fees will be increased - see separate fees report later on this Agenda)

Table F: Final Part A and B HMO Fees (Mandatory & Additional)

Licence Fee	Current	Proposed
Standard fee	1 st payment (Part A) £890 2 nd payment (Part B) £440 Total £1330	1 st payment (Part A) £670 2 nd payment (Part B) £803 Total £1473
Less compliant fee	1 st payment (Part A) £890 2 nd payment (Part B) £830 Total £1720	1 st payment (part A) £670 2 nd payment (Part B) £1311 Total £1981
Accredited fee	1 st payment (Part A) - £615 2 nd payment (Part B) -£375 Total £990	1 st payment (Part A) £670 2 nd payment (Part B) £453 Total £1123

Table G below shows the income forecast per number of projected licence types for the proposed Designation.:

Table G Additional HMO licensing fee income forecast

Licence Type	No of Licences Estimated	Cost of Licence	TOTAL INCOME £m
Accredited Fee	920	£1,123	£1,033,160
Standard Fee	1,196	£1,473	£1,761,708
Less Compliant Fee	184	£1,981	£364,504
Totals	2,300		£3,159,372

Staffing

Both Additional and Mandatory licences are administered by one dedicated HMO team. The fee forecast indicates that 25 full time equivalents (FTE) will be required to operate the two licensing schemes. Broken down this is approximately 11 FTE for additional and 14 FTE for mandatory.

Table H Staffing and other costs Additional

	Number of Staff Per year ¹	Salaries Including on Costs (£'m)	Overhead costs (£'m)	Set up Costs (£'m) ²	Total (£'m) ³
Totals	11	2.44	0.68	0.037	3.159

¹ average number of staff 11 based on anticipated applications split across the different fee types

² set up costs within the fee include an estimate for publicising the scheme and replacement equipment.

³ N.B. all projected income and costs may be subject to change prior to and during implementation in line with Customer First, Business Support Transformation and other variables.

7.2 Non-recoverable costs

For the additional scheme non recoverable costs i.e. those works that are not recoverable through this licence fee are forecast this year at £57K, over 5 years they are estimated to be £287K with inflation added see Table I below.

Table I Non-recoverable costs over 5 years Additional only proportion (0.44 x Licensing Support Officer and 0.88 x Compliance Officer)

Summary	Per Year (£)	5 Years (£)
Employees Cost	49,042	245,210
Operational Cost	8,285	41,425
Total	57,327	286,635

These costs are required to cover Housing Health and Safety Rating System (HHSRS)¹³ other element of work and are required to be met through the General Fund. This is a core statutory duty of the Council in any event, under the Housing Act 2004 Part 1. This amount equates to 3 officers to support the delivery of both Mandatory and Additional licensing schemes in improving property conditions,

¹³ <https://www.gov.uk/government/publications/housing-health-and-safety-rating-system-guidance-for-landlords-and-property-related-professionals>

capturing a best value approach of “doing it once and do it well” housing inspections. The non-recoverable costs of £660K for the both schemes are covered through the budgets already held within other departments of the Council, therefore already within the MTFP, so are not included within the licence fee. The combined cost is show in table J below.

Table J Non-recoverable costs over 5 years Additional and Mandatory combined (1x Licensing Support Officer, 2 x Compliance Officer)

Summary	Per Year (£)	5 Years (£)
Employees Cost	113,000	565,000
Operational Cost	19,090	95,448
Total	132,090	660,448

7.3 Further, the fee calculations include the following projected costs:

- Staffing costs to run the schemes, these have been included at productive hours 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 costs.
- Set-up costs.
- Exit costs.
- Staff overhead costs.
- Inflation factors.

These costs include central establishment charges and labour recharges towards services provided to the proposed scheme which have been calculated proportionately in line with “Open for business: LGA guidance on locally set licence fees” core principles which state fees should be: non-discriminatory; justified; proportionate; clear; objective; made public in advance; transparent and accessible. See Table J below.

Table J - Central establishment charges and labour recharges

Total for the 5 years of the scheme	(£'m)
Central establishment charges	0.272
Labour recharges	0.316
Grand Total	0.588

8. Consideration of risk

8.1 There are risks which could have an impact both prior to commencement of the Designation (if approved) and whilst operating it. An example of some of these risks with proposed mitigation are below in Table K below:

Table K Risk

Risk	Mitigation
Level of applications vary	Monitor levels of applications closely. Use of reserve accounts as necessary during the duration of the scheme to assist with managing the budget, when fluctuations in applications

Risk	Mitigation
	and fee income does not match with consistent levels of operational activity.
Landlords may gain accreditation in order to secure a lower fee and the number of accredited landlords could change impacting costs and income.	Work closely with accreditation partners to monitor these numbers and to ensure that accreditation continues to be strongly indicative of full compliance and lesser operational interventions undertaking. Since scheme 1 & 2 the council has a good understanding of the likely numbers of accredited applications and this will be monitored closely.
If operational activity identifies unexpected deviation in quality of property (better or worse) which impacts operational input required, staffing balance or costs causing them to be different to those that are anticipated	To monitor this closely and re-adjust operating model as/if appropriate.
If there are any legislative / guidance changes and/or case law rulings	To continue to maintain awareness of any proposed and actual changes to guidance and legislation, understand the impact this may have on the scheme and take mitigating action if required
The volatile state of national finance and unknown potential inflationary pressures	To keep the fee under regular review, adjusting as appropriate during the scheme. It is permitted to adjust the fee mid Designation/scheme as required.
There are wider economic factors, e.g. recession, rent level changes and changes to taxation which may impact on a variety of factors such as number of privately rented properties available and ability to pay licence fees which could impact the PRS market.	To continue on-going monitoring of the number of applications being received against projections. To stay aware of on-going changes in the wider economy that may impact on scheme delivery and the ability of landlords to complete administrative undertakings and comply with additional regulatory requirements in a timely manner.
Ability to recruit appropriate number of experienced and qualified staff to support scheme delivery due to availability of staff and pressure from other local housing authorities that are implementing schemes locally / regionally.	To continue to support the development of colleagues in the team including apprenticeships and other appropriate training opportunities. To work with colleagues in HR to ensure we can maximise recruitment of staff from as wide a pool as possible, considering alternatives to traditional recruitment routes. To maintain awareness of the need for NCC to offer competitive salaries to recruit and retain staff.
Additional HMO Licensing is a discretionary scheme of housing licensing and benefits from the Secretary of State's general approval as long as a minimum period of 10 weeks consultation is carried out. It can however be challenged at Judicial Review, as was the case with the first Designation in 2014, which NCC successfully withstood.	Officers are confident that the evidence for the scheme is robust and meets the tests required to make an Additional HMO Licensing Designation, and that this position would be reasonably defensible if challenged.
Flare replacement, issues with upgrade, integration and continuity	Work is ongoing to identify and mitigate potential blockages. However, overall, once the system is operational there should be

Risk	Mitigation
	improvements and efficiencies to support scheme implementation.
Risk of having to operate standalone without the Mandatory Licensing Scheme	Although fixed costs would fall fully on the Additional licensing scheme should the mandatory scheme be withdrawn by government, a fee review would be undertaken to recalibrate the scheme to ensure it remains cost neutral, there would undoubtedly be a period allowed for closedown of such schemes to accommodate the changes.

8.2 The value and sensitivity of risks to the business model listed above cannot be fully quantified at this time; however, these will be developed as the scheme progresses. During this time the following need to be in place to ensure the early identification of risk and the ability to undertake corrective action mitigating any impact to the organisation:

- Robust performance monitoring frameworks for both operational and financial targets.
- Staffing and activity levels to be monitored against the fee in line with projected licences to assure the scheme has adequate resource throughout its lifecycle and remains cost neutral.

9. Finance colleague comments (including implications and value for money/VAT)

9.1 The total cost of the scheme over the five years is estimated to be £7.280m based on an estimated total number of 5,300 licenses. These licenses are broken down into three subcategories of Accredited/Standard and Less Compliant with a varying level of fee dependant on categorisation with the breakdown shown in Table D.

9.2 There is risk associated with predicting the income and associated costs relating to these licenses, as the income is dependent on the number of licensable premises. This number can be subject to change relating to the ongoing usage of the properties as HMO's, categorisation of the properties with related fee level, and also wider economic implications that could affect the housing/rental sector.

9.3 The new Additional licensing scheme can draw on economies of scale and effectively utilise the skills of the existing workforce across both the Additional and Mandatory Licensing schemes.

9.4 The costs of managing the Licensing function is covered in full by the fees that can be charged to the landlords for this scheme. It has been assessed that the additional resources needed to manage the policy will be approximately £7.280m for the 5 years and fees have been set linked to this using the latest property data for the existing scheme to recover these costs in full.

9.5 These costs include an assumed level of inflation, although considering the recent market volatility the assumed cost inflation will need to be reviewed regularly against actual costs to ensure sufficient. Total income will ultimately be dependent on the numbers of applications and therefore expenditure will need to be carefully managed so that the costs are always covered by income with annual reviews.

9.6 The set-up fees for the new licensing scheme are expected to be minimal due to the existing scheme staffing etc being expected to seamlessly transition between schemes. An estimation of Exit costs has also been included in the cost assumptions.

9.7 The scheme costs will ultimately be met from the fees charged to Landlords from financial year 2023/24 onwards for the expected 5-year duration. This is self-funded and as such there will be no gain or loss in association with this scheme, with the scheme remaining cost neutral with no MTFP impact. All conditions and requirements of the scheme must be met by the Service.

9.8 There are two Reserves in place for the current scheme which it is anticipating will be utilised for the new scheme going forward which will support the fluctuations of income expected over the life of the scheme.

Susan Turner – Senior Commercial Business Partner 2 August 2023

10. Legal colleague comments

10.1 In order for the Board to approve a Designation for Additional HMO Licensing councillors must be satisfied that the test in section 56(2) of the Housing Act 2004 is met namely “The authority 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.” In addition, section 57 requires a Designation to be: -

- consistent with the authority's overall housing strategy.
- part of a co-ordinated approach in connection with dealing with homelessness, empty properties and antisocial behaviour affecting the private rented sector, and for
- the authority to have considered 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, and
- that it considers that making the Designation will significantly assist it to deal with the problem or problems (whether or not they take any other course of action as well).

10.2 The issues identified above were all addressed in the February Report and councillors should satisfy themselves that these tests are met and of the evidential basis of the Corporate Directors’ recommendations before approving the Designation. Whilst guidance has been issued on the making of such Designations it is silent on the issue matters such as what constitutes a “significant proportion” and the methodology to be adopted in determining this criteria. The Board therefore has a wide discretion as to the approach it may take so long as it is ultimately reasonable and justifiable.

10.3 The problems identified in paragraph 4.3 of the February Report which the Designation is intended to address are consistent with those cited in the guidance as examples of properties being managed sufficiently ineffectively, and as a result having a detrimental effect on a local area and it therefore seems reasonable for Board to consider them.

10.4 A Designation cannot come into force unless it is either confirmed by the Secretary of State or falls within the terms of a general approval issued by him or her. As consultation on the proposal was carried out for over 10 weeks the Designation will fall within the General Approval Order issued by the Secretary of State in 2015 and will not be required to undergo a separate confirmation process.

Ann Barrett Team Leader, Planning Environment and Leisure Solicitors 3 August 2023

11. Procurement N/A

12. Strategic Assets and Property N/A

13. HR N/A Comments stand from the February Report

14. IT N/A Comments stand from the February Report

15. Crime and Disorder Implications (If Applicable)

15.1 The use of Additional HMO Licensing is consistent with the Council’s overall strategic approach to a safer Nottingham:

“Nottingham will be a safer city with low levels of crime and antisocial behaviour (ASB). People will feel safe and secure in the city centre, their neighbourhood and their home.”

By collaborating with our statutory partners and voluntary sector through partnership working to address crime and community safety issues licensing can continue to deliver on this outcome by improving property standards and management towards safer homes and more cohesive neighbourhoods.

16. Social value considerations (If Applicable)

16.1 The use of Additional HMO 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 HMO Licensing, by tackling the problems which 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.

17. Regard to the NHS Constitution (If Applicable)

17.1 The NHS Constitution has as one of its guiding principles that the NHS will work across organisational boundaries. It says: “The NHS is committed to working jointly with other local authority services, other public sector organisations and a wide range of private and voluntary sector organisations to provide and deliver improvements in health and wellbeing”. The Council’s approach to housing also follows this principle, seeking to work with a range of other services to improve citizens’ lives, not least their health and wellbeing. One of the key benefits the Council believes that Additional HMO Licensing will bring is improved housing conditions; the positive impact that better housing can make on health and wellbeing has been demonstrated both nationally and locally.

18. Equality Impact Assessment (EIA)

18.1 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 8, and due regard will be given to any implications identified in it.

19. Data Protection Impact Assessment (DPIA)

19.1 Has the data protection impact of the proposals in this report been assessed?

No

A DPIA is not required because:

Yes

Attached as Appendix 9 and due regard will be given to any implications identified in it.

20 Carbon Impact Assessment (CIA)

20.1 Has the carbon impact of the proposals in this report been assessed?

No

Yes

Attached as Appendix 10 and due regard will be given to any implications identified in it.

21 List of background papers relied upon in writing this report (not including published documents or confidential or exempt information)

21.1 N/A

22 Published documents referred to in this report

- 22.1 A Fairer Private Rented Sector 2022 (White Paper)
Dealing with licence applications under Parts 2 and 3 of the Housing Act 2004 (Regulation 19 of the Provision of Services Regulations 2009) – Nottingham City Council Tacit Consent Policy
Housing Act 2004
Executive Board report: Proposal for a scheme of Additional HMO Licensing for privately rented houses 21 February 2023 (The February Report)
Housing Licensing Houses in Multiple Occupation HMO Revised Fees 2023
Housing health and safety rating system (HHSRS): guidance for landlords and property-related professionals May 2006
Housing standards in rented properties in England Nov 2022 (Secretary of State Letter)
Levelling up the United Kingdom February 2022 (Levelling up White Paper)
National Audit Office (NAO) Regulation of Private Renting 2021
Nottingham Homelessness Prevention Strategy 2019-2024
Open for business: LGA guidance on locally set licence fees (2017)
The City's Housing Strategy: Quality Homes for All 2018-2021
The Renters Reform Bill July 2023
The Strategic Council Plan 2021-2023 and 2023-2027