

EXECUTIVE BOARD – 17 April 2018

Subject:	Proposed Designation for a scheme of Additional Licensing for Houses in Multiple Occupation
Corporate Director(s)/Director(s):	David Bishop, Deputy Chief Executive and Corporate Director for Development and Growth Andy Vaughan, Corporate Director, Commercial and Operations
Portfolio Holder(s):	Cllr Jane Urquhart, Portfolio Holder for Planning, Housing and Heritage Cllr Toby Neal, Portfolio Holder for Community Protection
Report author and contact details:	Ceri Davies, Housing Strategy Specialist (Housing Strategy) tel 8763530, 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 checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Income <input type="checkbox"/> Savings of £1,000,000 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
Total value of the decision:	£2,900,000 (gross), £62,000 (net expenditure) over five years
Wards affected:	Arboretum, Berridge, Bridge, Dales, Dunkirk and Lenton, Mapperley, Radford & Park, Sherwood, St Ann's, Wollaton East and Lenton Abbey
Date of consultation with Portfolio Holder(s):	15th January and 22nd February 2018
Relevant Council Plan Key Theme:	
Strategic Regeneration and Development	-
Schools	-
Planning and Housing	x
Community Services	x
Energy, Sustainability and Customer	x
Jobs, Growth and Transport	-
Adults, Health and Community Sector	x
Children, Early Intervention and Early Years	x
Leisure and Culture	-
Resources and Neighbourhood Regeneration	x
Summary of issues (including benefits to citizens/service users):	
<p>This report informs Executive Board of the data collection and analysis work that has been completed to inform a decision to be made on a proposed Designation for a new scheme of Additional Licensing for houses in multiple occupation (HMOs), the current scheme being due to end in December 2018. Should the proposed Designation be approved by the Board a public consultation will take place.</p> <p>Continued use of the Additional Licensing powers will provide the following benefits:</p> <ul style="list-style-type: none"> • An opportunity to continue to influence higher standards of HMO accommodation and to ensure effective management through more extensive control; and • Lead to higher levels of citizen satisfaction with Private Rented Sector accommodation within the City. <p>The report outlines the outcomes of evidence gathering surrounding the continuing need for Additional Licensing within the City and presents a proposed Designation for consideration.</p>	

Note: Additional Licensing is a separate consideration to, and this report is separate from that regarding, Selective Licensing.

Exempt information: None

Recommendation(s):

1. The Board confirms that at this stage they propose to pursue a scheme of Additional Licensing as outlined in the report.
2. That the draft Designation contained in Appendix One be approved for consultation in accordance with the Department for Communities and Local Government (DCLG) guidance document *Approval steps for Additional and Selective Licensing Designations in England*.
3. The Board agrees that the outcome(s) of the consultation are reported to Executive Board to consider whether the Designation should be approved

1 REASONS FOR RECOMMENDATIONS

- 1.1 The evidence collected suggests that a scheme of Additional Licensing is needed in the Designation shown, and the conditions for implementing a scheme have been met.
- 1.2 The legislation requires that there must be a public consultation of at least ten weeks before a local housing authority can approve a designation.

2 BACKGROUND (INCLUDING OUTCOMES OF CONSULTATION)

- 2.1 Additional Licensing of houses in multiple occupation (HMOs) is a power available to local housing authorities within the provisions of the Housing Act 2004. This is a discretionary form of licensing that can be used in addition to the Mandatory Licensing of HMOs within the Act, which states that HMOs which have three storeys or more occupants comprising 2 or more households that are sharing amenities must be licenced. Additional Licensing can be used to license HMOs of any number of storeys with less than 5 occupants comprising 2 or more households that are sharing amenities.
- 2.2 From 1st October 2018 the definition of HMOs that are covered by Mandatory Licensing will change, with the storey element removed. This will mean that some HMOs that are currently or would potentially be licensed under Additional Licensing will move to Mandatory Licensing; the majority of HMOs in Nottingham will still be licensable under the proposed Additional Licensing scheme.

2.3 Additional Licensing in Nottingham to date

- 2.3.1** Nottingham is in its final year of the five-year Additional Licensing scheme that is due to end on December 31st 2018. The delivery of the scheme has been effective in its operation and it has had a positive impact in addressing issues associated with HMOs. The nature of the scheme means that measuring performance is complex and its full impact will not be able to be measured until its conclusion. Combined with Mandatory Licensing and Nottingham's scheme of Selective Licensing, Additional Licensing remains a key tactic in effort to improve the quality of the Private Rented Sector.
- 2.3.2** A review of the existing scheme (January 2014 to May 2017) demonstrates some measurable success and effectiveness. However, it shows that even as the scheme is in its final stages, a lack of engagement with the scheme and non-compliance from landlords persists and that further compliance and enforcement action is required to achieve the scheme outcomes.
- 2.3.3** Between January 2014 and March 2018, 2,665 applications were received and 2,458 processed in total, including secondary issuing after change of ownership, refusals and those subsequently revoked. The scheme however, continues to process c.30 applications a month, which is believed to be more than can be accounted for by new ownerships and movements into Additional Licensing from Mandatory Licensing or single occupancy.
- 2.3.4** At 4th April 2018 there were 2,276 active, additionally licensed HMOs and 212 applications being processed.
- 2.3.5** The review does show Additional Licensing has supported property improvement and the management of HMOs, however it has also demonstrated there is still considerable progress to be made across this sector. Between January 2014 and May 2017 less than half of HMOs inspected were compliant at first inspection and two-thirds required further conditions adding to the standard licence conditions. Additional Licensing has enabled properties to become compliant and have their amenities and facilities improved, however a lack of compliance is still indicated.
- 2.3.6** Two-thirds of properties that were not compliant at first inspection, showed improvement at subsequent inspections. This was achieved through positive intervention(s), engagement and strict inspection regimes. Such improvements have come at a cost to the resourcing of the scheme overall however, with multiple visits and inspections placing large demands on officer time and resource, slowing down the process of administering and issuing licences to other landlords.
- 2.3.7** Failure to comply has resulted in positive action being taken and in some cases the outright refusal to issue licenses to landlords, with some being declared not fit and proper to manage a HMO and hold a licence. As a result, some of these landlords have removed properties from the market or enabled the transfer into the ownership or management of new responsible and compliant landlords, thus taking rogue landlords out of the market completely. Where appropriate, new civil penalty powers have also been used to tackle non-compliance.

2.3.8 In the year to date, there has been a decrease in the amount of ASB (particularly noise related) complaints and reports relating to HMOs that have extra licence conditions enforced and where these conditions have complimented other enforcement activity. Such conditions help ensure landlords of previously problematic HMO properties manage and tackle ASB more effectively.

2.3.9 The ability to access and regularly inspect properties is a vital tool that the scheme provides. It encourages a proactive and responsible management culture among compliant landlords, including increased professionalism for some smaller or non-portfolio landlords. The scheme has also benefitted the City by improving communication and engagement with tenants, helping them understand the property and management standards they should expect and promoting responsible behaviour by them when occupying homes in the Private Rented Sector. It has also been invaluable in identifying safeguarding concerns, as well as in preventing, intervening and detecting more serious, organised and major crimes such exploitation and modern slavery.

2.3.10 Maintaining Additional Licensing alongside the other two licensing schemes will enable a consistent, consolidated and robust approach to raising standards across the Private Rented Sector. It will help prevent landlords from changing the occupancy levels or location of their portfolio in order to avoid compliance with other licensing schemes.

2.3.11 The final phase of the current scheme will focus on compliance, enforcement and delivery of the scheme outcomes before its close on 31st December 2018. With Mandatory Licensing established and Selective Licensing to launch on 1st August 2018, the outcomes of this scheme of Additional Licensing as well as the continuation of a refreshed scheme, play a pivotal role in protecting our citizens.

2.4 The evidence for a new scheme

2.4.1 Officers have carried out an evidence collecting and analysis exercise to see where a further scheme is required once the original has ended, and the types of HMO that should be included.

2.4.2 The CLG guidance document “approval Steps for additional and Selective Licensing designations in England” states 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 HMOS 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 HMOs or members of the public.
- 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.
- Consider whether there are any other courses of action available to them (of whatever nature) that might provide an effective methods 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 coordination approach in connection with dealing with homelessness, empty property and anti-social behaviour affecting the Private Rented Sector as regards to combining licensing with other action stake by them or others.

2.4.3 An evidence base has been collected to inform the proposed Designation using records relating to HMO addresses and complaints held on the Environmental Health “CIVICA” database.

2.4.4 In order to comply with the Housing Act 2014 and DCLG guidance that require that a significant proportion of HMOs 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 same statistical test and broadly the same overall methodology. The designation is based on:

- a. Census output areas (COAs) containing 10 or more HMOs that would be licensable under an Additional Licensing where 20% of these HMOs have received one or more complaint or service request recorded in CIVICA or Community Protection Warnings or Notices between January 2014 and December 2017 concerning:
 - Waste and refuse (fly tipping, refuse accumulation, bins on streets)
 - Noise
 - Housing disrepair, conditions and detriment to amenity
 - Overcrowding, fire safety, HMO licensing
(the methodology used for the 2014-18 designation)
- b. COAs where statistics indicate the level of complaints or service requests against HMOs of the type licensable means HMOs creating significant issue for the area overall.
- c. Input from ward councillors and stakeholders in areas where progress in effective management is considered contingent on the continuation of Additional Licensing.
- d. The review of the 2014-18 scheme and the need for Additional Licensing to sustain the progress already made. Whilst a decrease in the number of COAs from the 2014-18 designated area now meeting the above test (due to a reduction in complaints) has occurred, if licensing was removed from these COAs, it would result in a designation that lacked coherence and, given the concentration of HMOs in those COAs, a real likelihood that problems would return in the absence of a combination of licensing and enforcement. For these reasons these COAs have been retained within the proposed Designation.

2.4.5 The proposed Designation, if based solely on COAs and complaints data would create an abstract boundary that would not necessarily fit with public perception and potentially make the scheme’s operation confusing. It has therefore been further defined to include natural or physical boundaries that provide a more coherent or legible area.

2.4.6 Officers are satisfied that the area of the Designation contains a significant proportion of the type of properties that cause or are likely to cause the

problems set out in the DCLG guidance due to sufficiently ineffective management. Whilst the current scheme has helped to achieve significant progress in improving property conditions and the management of HMOs, there is recognition at central government level that licensing may have to be a long-term strategy and will not provide instant solutions. The evidence suggests that problems persist and that the statutory tests are met to merit a further Designation to take effect on the expiry of the current one.

2.4.7 A map proposed Designation is shown at Annex A of Appendix One. Coverage comprises the 2014-2018 designation plus areas of Sherwood, St Ann's, New Basford and the City Centre that have met the statistical test. These "new" areas contain c.150 HMO of the type licensable under Additional Licensing

2.5 Classes of HMO to be excluded from the Designation

2.5.1 When making a Designation the Authority may choose to exempt certain classes of HMO in addition to those that are exempt by law. As indicated above the Authority must 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 Nottingham, there are a number of premises that do comply with these codes, namely purpose built or purpose converted student accommodation administered by Accreditation Network UK (ANUK). These properties were exempted from the 2014-2018 scheme and as there is continued compliance with these codes it is proposed that these properties also be exempted from any new designation and scheme.

2.5.2 The existing Designation currently applies to HMOs as defined by s.257 of the Act (certain older conversions to flats). Under the current Additional Licensing Scheme, the Authority has found s.257 HMOs complex and problematic to regulate within the terms of the legislation. The person required to licence the s.257 HMO is usually the person responsible for the entire building (i.e. freeholder), however they will not necessarily have control over the flats that are being rented out in a way that is compatible with Additional Licensing's operation. It is proposed therefore, that s.257 HMOs be exempt from the 2019-23 Designation. This will not however mean that these properties go unregulated; with the changes to Mandatory Licensing and the introduction of Selective Licensing these properties (or private rented flats within) are likely to be licensable under one or other of those schemes.

2.6 Other Courses of Action

2.6.1 Before implementing a scheme of Additional Licensing the Council 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. Over the past decade the Council has operated a range of schemes and initiatives aimed at improving property conditions in the private rented sector, the management of HMOs, and the promotion of a more positive presence of HMO in the wider housing market and community. These were considered when the current Additional Licensing scheme was proposed. Some of these have continued, and there have been new initiatives introduced. These include:

- The “Nottingham Standard”, combining the UNIPOL and DASH accreditation schemes under one accreditation mark, and significantly increasing the numbers of properties covered by accreditation
- Specialist teams to deal with ASB and environmental crime
- Community Protection Service, with NCC and Nottinghamshire Police working together to proactively and reactively tackle ASB at a local or community level
- A wide range of partnerships developed by Community Protection across the statutory and voluntary sector to address some of the issues raised by HMOs and the wider private rented sector
- Three successful Rogue Landlord programmes, utilising grant secured from Government
- “Nottingham Together” – the programme of activity (including housing) within the City’s migrant communities to build greater community cohesion, funded via the Government’s Controlling Migration fund.
- Landlord engagement via regular meetings with the key landlord groups and participation in their events
- Use of the internet and social media to promote the work of the Council in the Private Rented Sector, raise awareness of tenants’ rights and responsibilities and provide ways for tenants to make complaints via the “Nottingham Renters” site
- The “Nouse” Strategic Housing Network, promoting positive practice in the Private Rented Sector and providing housing market news and information for landlords and tenants.
- The Nottingham Private Rented Accommodation Scheme (NPRAS) to encourage landlords to work with NCC’s Housing Aid in providing accommodation for homeless households and enable the Council to discharge its duties via the Private Rented Sector
- The continued employment of a Student Strategy Manager post at NCC to lead a more coordinated, partnership approach to student issues across the City, including housing.
- The continued response by Safer Housing Teams in Environmental Health to complaints about housing conditions with the appropriate enforcement ranging from asking to prohibitions, prosecutions and financial penalties.

2.6.2 These initiatives have proven successful in both raising standards and levels of engagement and awareness within the Private Rented Sector, particularly when linked to the current scheme of Additional Licensing. Despite these schemes and initiatives, problems still exist in the proposed Designation:

2.6.3 Enforcement powers are also available under the Act and Regulations. Community Protection’s Houses in Multiple Occupation (HMO) team respond reactively to health and safety concerns about poor accommodation in the private rented sector.

2.6.4 Whilst powers such as Emergency Prohibition Orders (EPOs) already exist within the Housing Act 2004 to deal with situations that are an imminent danger to the health and safety of the occupants, Additional Licensing requires landlords to be proactive in managing the risks in their properties and ensure improved management. Therefore, Additional Licensing potentially reduces the requirement to use powers such as EPOs.

2.6.5 In some cases, landlords have undertaken works at very short notice to deal with serious hazards rather than face formal enforcement action but only because of the reactive intervention of colleagues in the HMO Team. However, in order to address

the problems that persist within HMOs in the City, the continued use of Additional Licensing is required.

2.7 Fit with the Council's Strategic Approach

2.7.1 As stated above, the Council is further required to ensure that the exercise of power is consistent with their overall housing strategy; and to seek to adopt a coordinated approach in connection with dealing with homelessness, empty property and anti-social behaviour affecting the private rented sector. To take each of these in turn:

- **The Housing Strategy**

The Council is about to consult on a new housing strategy which will span the years 2018-21. The document, entitled "Quality Housing for All" has an overall objective that all Nottingham's citizens should be able to access a good quality home irrespective of its tenure. In terms of the Private Rented Sector this will primarily be delivered through the implementation of a scheme of Selective Licensing covering the majority of the City's Private Rented Sector, and by building the case for a further scheme of Additional Licensing for HMOs on the expiry of the current scheme.

- **Homelessness**

The use and availability of decent and affordable accommodation is key to addressing and preventing homelessness, which has increased considerably in the past 2 years. In order to meet its relief duties within the Homelessness Reduction Act the Council will be looking increasingly to the Private Rented Sector as a source of accommodation. Shared accommodation is particularly important in meeting the housing needs of younger, single people who are only able to claim the single room rate of local housing allowance. Tackling poor property or living conditions as well as poor tenancy management can make accommodation more sustainable and prevent homelessness presentations. In recognition of the growing importance of the Private Rented Sector in homelessness prevention and relief there will be increased levels of joint working between Housing Aid officers dealing with homelessness and the Housing Licensing and Compliance and Safer Housing Teams in the form of a new "Housing Hub".

- **Empty Homes**

Additional Licensing will enable HMOs that come back into use to ensure decent, well-managed accommodation.

- **Anti-social behaviour**

The Council works to reduce anti-social behaviour (ASB) across the City. Additional Licensing is an additional tool that can be utilised to ensure landlords manage their properties and tenants in an appropriate manner. Where required colleagues in Community Protection would be able to identify and provide evidence of licence holders that are failing to comply with the HMO licence conditions.

The making of the Designation is felt to be consistent with these strategies and to form part of a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the Private Rented Sector.

A scheme of Additional Licensing will significantly assist in achieving improved property conditions and standards as well as reducing ASB, as it allows for properties not meeting minimum requirement to be excluded from the market if they do not comply, therefore protecting tenants and the wider community from their negative impact. Further, the administrative practicalities of the scheme (e.g. having access to landlord details) allows better and more timely communication and issue resolution, maintaining progress and improvements over the longer term.

2.8 Operational Matters

- 2.8.1** The Designation can operate for a maximum of 5 years and there is a statutory duty to review the Designation from time to time. It is proposed that this Designation run for a 5 year period in order that it provide maximum benefit.
- 2.8.2** It is proposed that the licence conditions at Appendix Two be applied in the new scheme. The consultation will include information on the licence conditions and indicative fees, though both may be subject to change.
- 2.8.3** The departmental operation of the various Private Rented Sector licensing regimes is the subject of ongoing reviews and some changes are proposed to the way that applications for Additional Licensing are administered and the fees that are charged. Operational issues are generally dealt with under delegated powers.

2.8.4 Fees

It is proposed that the fees be amended to reflect a more targeted approach. It is proposed that in addition to the existing “standard” and “accredited” fees a new category of “less compliant fee” be introduced to make less compliant landlords pay the highest fee, reflecting the additional work/compliance activity associated with such licences. Fees for accredited landlords will remain lower than the standard fee reflecting both the lower level of work associated with such applications and acting as an incentive for applicants to become accredited. The proposed fee structure is detailed in sections 4.2 to 4.5. The increase in fee reflects the fact the fee has remained the same since introduction of the existing scheme but costs have risen. It also covers in full those operating costs that are recoverable through the fee.

The fee has been based on the issue of 1,500 licences; for increased certainty in financial forecasting this figure equates to existing licenced properties minus properties predicted to migrate to mandatory or selective schemes.

2.8.5 Applications

It is proposed that all licensing applications will become online only, the presumption being that a licence will be issued unless a valid reason for refusal is known at the time of the application. Inspections will be carried out on a risk based assessment with landlords that attract the “less compliant” fee having their properties inspected either before a licence is granted, or during the term of it.

2.8.6 Conditions

The conditions have been reviewed and updated in line with the introduction of Selective Licensing in Nottingham (August 2018). Updated conditions can be found at Appendix Two (numbers 21, 34, 39, 40, 42 and 46-48)

3 OTHER OPTIONS CONSIDERED IN MAKING RECOMMENDATIONS

- 3.1** To not propose a further scheme of Additional Licensing: rejected because there is evidence that there is a need for a further scheme. Five years has not been a sufficient period of time to fully deal with the problems that are being seen in HMOs. Furthermore, to not continue with Additional Licensing would undermine the Council's efforts to improve property and management conditions in the Private Rented Sector, thus enabling all citizens to access a good quality home.

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

- 4.1** The estimated value of this scheme over the 5-year period is £2.9m
- 4.2** The standard fee for a licence will cost £1,370 per property.
- 4.3** The higher fee for less compliant landlords will cost £1,720 per property
- 4.4** There is a reduced fee for those properties in an accredited scheme. This fee is set at £1,000
- 4.5** Based on research and evidence gathering, it is estimated that there are c. 1,500 private rented properties that potentially fall within the Additional Licensing criteria
- 4.6** This is a self-funded scheme. There will be no gain or loss in association with this scheme. It must remain cost neutral; therefore, there will be no negative impact to the MTFP
- 4.7** The fee has 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. Based on running the scheme alongside the Mandatory licensing scheme, the fee was based on costs for 4,000 licences (Mandatory is estimated to receive 2,500 applications) the teams will work together and be costed proportionally across the two schemes. For the sake of this report, the costs for running the Additional scheme have been calculated based on the processing of 1,500 licences.
- 4.8** The assumed costs included are:
- a.** 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.
 - b.** Processing costs of each licence, application, checking etc. – this has been calculated using percentages for time taken.
 - c.** Enforcement costs (as per recent change to legislation).
 - d.** Management fees
 - e.** Exit costs.
 - f.** Overhead costs to include accommodation, IT, HR, Finance & Legal support.
 - g.** The most recent inflation factors
- 4.9** Table 1 below is a breakdown of costs. The costs are a guide and need to be flexible throughout the 5 year period based on demand and the risks highlighted in point 4.10 of this report

Table 1: Estimated Operating Costs of scheme		£'000
Personnel Costs		2,178
Operating Costs		
	Premises	162
	Transport	10
	Supplies & Services	63
	IT Support	94
	Other overheads inc EHO, Legal, Finance, HR , Bus Analyst support functions	234
Operating Costs		563
Publicity and exit fees		97
Non-recoverable costs - see Table 2 **		62
Total Costs		2,900

** These costs are not part of the fee

In the event that the amount of licences received varies from the estimated 1,500 properties, the income will invariably change. Costs would remain in line to reflect this. In the event that the licence numbers exceed the 1,500 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.

4.10 Risks

- a. There are risks to this scheme, which could have an impact on the financial business model.
- b. An example of some of the risks that could impact on the schemes financial viability and would require a resources review to mitigate are:
 - i. Level of applications vary.
 - ii. Landlords may gain accreditation in order to secure a lower fee. Accredited landlords could receive a reduction of £370. Significant changes to accreditation numbers will affect costs and income.
 - iii. 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.
 - iv. If there is any legislative, guidance changes and/or case law rulings
 - v. 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
 - vi. Two part fee and new fee structure
- c. 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:
 - i. Robust performance monitoring frameworks for both operational and financial targets.
 - ii. Staffing flexibility set up to be able to align to activity levels.

- iii. The business model includes full staffing exit costs (as referred to above).

4.11 The scheme is set for a five-year period. Each 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 five years of the scheme. This will apply to some costs also, in particular with staffing. As with previous similar schemes, it is likely that a larger proportion of income will come in in the early years. Therefore, there will be no impact on borrowing from the authority. Because 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 at £62,000. These are set out in **Table 2** below and are reflected in table 1:

Table 2: Estimated Non-recoverable costs	
Costs	£'000
Housing rating Inspection	33
Prosecutions of licence conditions through the courts	20
Tribunal costs including Legal	9
TOTAL	62

The Non Recoverable costs of £0.062m are covered through the budgets already held within other departments of the council, therefore already within the MTFP, so are not included within the fee.

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

5.1 In order for the Board to ultimately approve a scheme of Additional Licensing Councillors must be satisfied of the matters outlined in paragraph 2.13 of the report. In particular section 56(2) of the Housing Act 2004 states:

“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.”

5.2 The making of the initial Designation was unsuccessfully challenged by way of Judicial Review. Whilst this Designation would also be open to challenge a similar but slightly modified approach has been taken to assessing the

evidence and considering the relevant guidance and tests as before to try and ensure that any new Designation would also withstand any challenge. Given that this report is at an early stage of the process and seeks authority to consult on the proposals the risk of such a challenge at this stage is low.

- 5.3 Councillors should satisfy themselves that the tests outlined in paragraph 2.13 of the report are met and that they are satisfied with the evidential basis of the Corporate Directors' recommendations before proceeding to consultation. Were any changes to be proposed to the area to be designated they would need to be evidence based in order to withstand any potential challenges

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

- 6.1 This report raises no particular issues or concerns from a Strategic Asset and Property perspective.

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 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 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.
- 8.2 The City's Health and Wellbeing Strategy has "Healthy Environment" as one of its four main priorities. Within this there is the priority action "Housing will maximise the benefit and minimise the risk to health of Nottingham's citizens". The proposal for Additional Licensing fits very clearly with this action

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 Three, 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

11.1 None.

Appendix One:

Nottingham City Council

Designation of an Area for Additional Licensing of Houses in Multiple Occupation 2018

Nottingham City Council in exercise of their powers under section 56 of the Housing Act 2004 (“the Act”) hereby designates for additional licensing of Houses in Multiple Occupation (“HMOs”) the area described in paragraph 4.

CITATION, COMMENCEMENT AND DURATION

1. This designation may be cited as the Nottingham City Council Designation for an Area for Additional Licensing of Houses in Multiple Occupation 2018.
2. This designation is made on [date] 2018 and shall come into force on 1 January 2019
3. This designation shall cease to have effect on 31 December 2023 or earlier if the Council revokes the scheme under section 60 of the Act.

AREA TO WHICH THE DESIGNATION APPLIES

4. This designation shall apply to the areas delineated and shaded red on the map at Annex A.

APPLICATION OF THE DESIGNATION

5. This designation applies to all HMOs within the area described in paragraph 4 unless -
 - (a) the building is of a description specified in Annex B (Buildings that are not HMOs for the purpose of the Act - other than Part 1)
 - (b) the HMO is subject to an Interim or Final Management Order under Part 4 of the Act
 - (c) the HMO is subject to a temporary exemption under section 62 of the Act;
 - (d) the HMO is required to be licensed under section 55 (2) (a) of the Act (mandatory licensing) , or
 - (e) the HMO is of a type which complies with an Approved Code of Practice under the The Housing (Codes of Management Practice) (Student Accommodation) (England) Order 2010 (or any Order subsequently amending or replacing the same) and which are administered by ANUK
 - (f) HMOs as defined by Section 257 of the Act (certain converted blocks of flats)

EFFECT OF THE DESIGNATION

6. Subject to sub paragraphs 5(a) to (e) every HMO of the description specified in that paragraph in the area specified in paragraph 4 shall be required to be licensed under section 61 of the Act.
7. Nottingham City Council will comply with the notification requirements contained in section 59 of the Act and shall maintain a register of all houses registered under this designation, as required under section 232 of the Act.

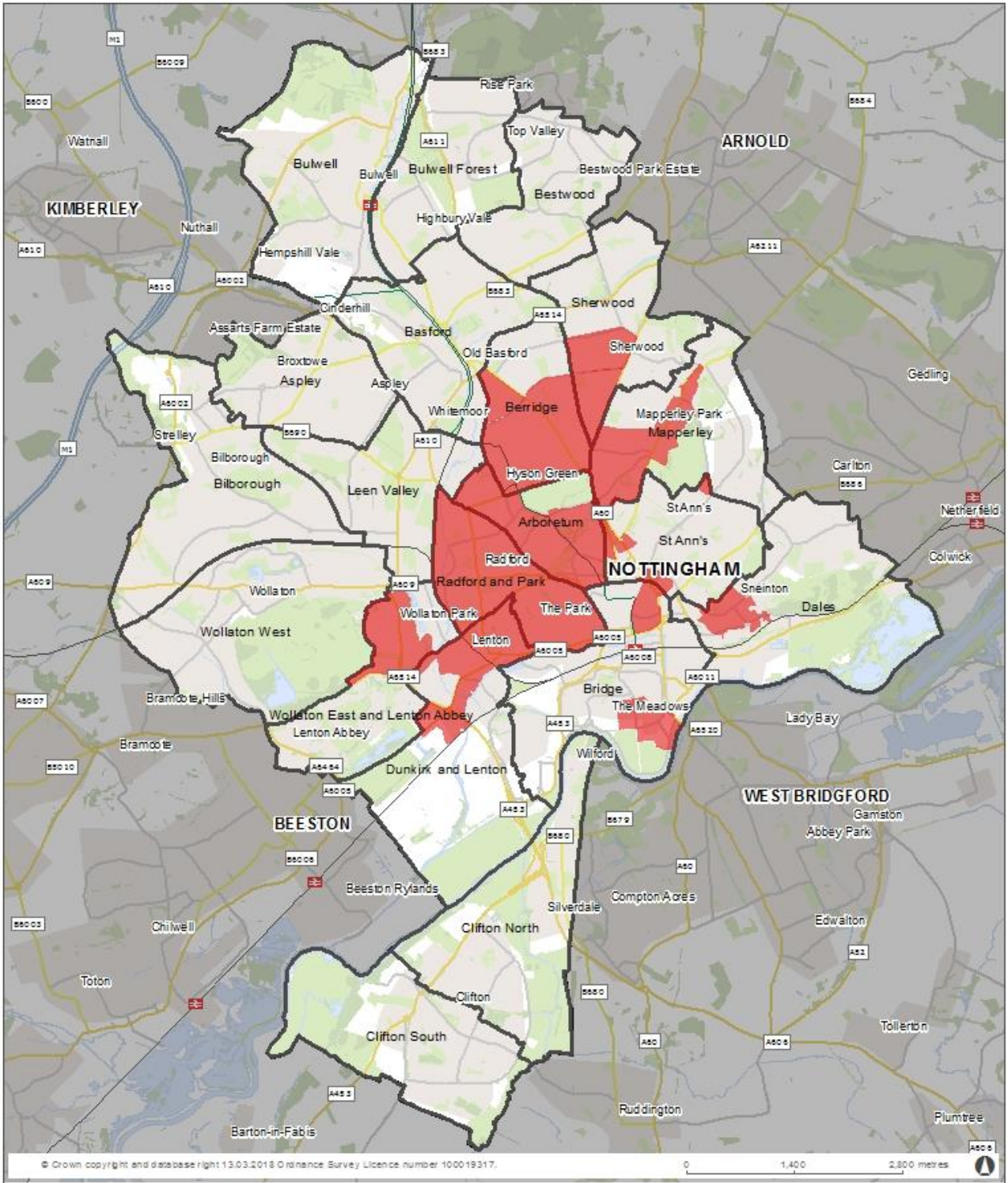
This Deed is given under the }
Common Seal of NOTTINGHAM
CITY COUNCIL:

Authorised Signatory

Date:

Appendix 1 Annex A – Map of Designated Area

Proposed Designation for Additional HMO Licensing 2019-2023



Key

- 2019-23 Proposed Designation
- Wards
- City Boundary

Appendix Two:

Proposed Licensing Conditions for Houses in Multiple Occupation

A. Gas, Electrical and Fire Safety

Gas Safety

1. Where gas is supplied to the property the licence holder shall ensure that all gas installations and appliances are in a safe condition at all times and that an annual gas safety check is carried out by a Gas Safe registered engineer on each gas appliance/flue in the house. The licence holder shall provide a copy of the gas safety certificate to all tenants/occupiers at the beginning of their tenancy and keep a written record that it has been provided.
2. The licence holder shall produce the gas safety certificate issued in respect of the house within the previous 12 months for inspection by the Council within 7 days of any demand given by the Council to do so. Details of Gas Safe engineers can be found at www.gassaferegister.co.uk

Safety of Electrical Appliances

3. The licence holder shall ensure that all electrical appliances made available in the house by them are kept in a safe condition and proper working order at all times.
4. The licence holder shall ensure that all electrical appliances made available in the house by them are inspected in accordance with current edition of INDG236 or HSG107 as appropriate, published by The Health and Safety Executive.
5. The licence holder shall ensure that as soon as any electrical appliance is identified as being unsafe, it is removed from the house immediately and properly disposed of.
6. The licence holder shall ensure that a record of visual inspections and tests is maintained. The licence holder shall submit to the Council on demand the records of visual inspections and tests within 7 days of the Council's demand.
7. Within 7 days of the Council's demand the licence holder shall supply a declaration as to the safety of electrical appliances made available by them at the property together with a copy of the inspections record carried out within the previous 6 months.

Safety of Electrical Installations

8. The licence holder shall ensure that the electrical installation in the house is kept safe and in proper working order at all times. The licence holder shall ensure that a **satisfactory** Electrical Installation Condition Report (EICR) or Electrical Installation Certificate (EIC) is produced at intervals of no more than 5 years or more frequently if indicated on the previous report. The licence holder shall on the demand of the Council supply the most recent fixed wire inspection and test certificate in the format recommended in Appendix 6 of BS 7671(or any British Standards which subsequently replaces this), within 7 days of the Council's demand. "This report must be issued by a registered competent person **see Appendix Two A for general guidance.**

Furniture and Furnishings (Fire Safety)

9. The licence holder shall ensure that the furniture made available by them at the house is safe and is kept in a safe condition at all times. Any furniture, which is made available by the licence holder, that is not in a safe condition should be removed from the property and properly disposed of.
10. The licence holder shall on the demand of the Council supply a declaration as to the safety of the furniture made available by him at the house within 7 days of the Council's demand.

Smoke Alarms / Fire Detection Systems

11. The licence holder shall ensure that at all times a suitable fire detection system, designed in accordance with the current BS 5839 (or any British Standards which subsequently replaces this), is installed in the property. For the purposes of this paragraph, a suitable fire detection system includes the following grades: D, C, B or A, as described in the current BS 5839 (or any British Standards which subsequently replaces this).

The number and position of the detectors and alarms must comply with the recommendations of the current BS 5839 (or any British Standards which subsequently replaces this) but as a minimum there must be a smoke alarm installed on each storey of the house on which there is a room used wholly or partly as living accommodation. For the purposes of this paragraph, a bathroom or lavatory is to be treated as a room used as living accommodation. Smoke alarms shall be cleaned periodically in accordance with supplier's instructions.

12. The licence holder shall supply a declaration as to the condition and position of any smoke alarms/detectors in the property within 7 days of the Council's demand.
13. The licence holder shall ensure that the fire alarm system in the house is maintained in proper working order and is tested, inspected and serviced in accordance with the current BS 5839-1: (for Grade A systems) or the current BS 5839-6 (for all other grades of system), or any British Standards which subsequently replace these.

Grade A System

14. The system shall be inspected and serviced at periods not exceeding six months in accordance with the recommendations of BS 5839 (or any British Standards which subsequently replaces this). Throughout the period of the licence and where relevant, inspection and servicing certificates in the format recommended by the current BS 5839 (Annex G 6) shall be submitted to the Council within 7 days of its demand. This report must be issued by a registered competent person **see appendix 1 for general guidance.**

Emergency Escape Lighting

15. The licence holder shall ensure that any emergency escape lighting in the house is well maintained in proper working order and inspected, tested and serviced in accordance with BS 5266. Throughout the period of the licence, periodic and test certificates in the format recommended by BS 5266-1:2011 (or any British Standard which subsequently replaces this) shall be submitted

to the Council within 7 days of the demand.” This report must be issued by a registered competent person **see Appendix Two A for general guidance.**

Carbon Monoxide Alarms

16. The licence holder shall ensure that if there are any natural gas or liquid petroleum gas (LPG) appliances or solid fuel burning combustion appliances, carbon monoxide alarms are installed in the property. Any carbon monoxide alarms must be manufactured in accordance with EN 50291 or have the British Standard kitemark. Any such alarm must be kept in proper working order.
17. Alarms must be located in each room in the house which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance. For the purposes of this paragraph, a bathroom, lavatory, hall or landing are all treated as being a room used as living accommodation.
18. The licence holder shall on the demand of the Council supply a declaration as to the condition and position of any carbon monoxide alarms in the property within 7 days of the Council's demand.

B. Property Management

19. The licence holder must ensure all reasonable and practical steps are taken to respond to repair and maintenance issues at their property and that any works to deal with repairs are undertaken within a reasonable period of time after they are notified, and within the timescales notified to occupiers under condition 26.
20. The licence holder must ensure that:
 - The property is kept in a good state of repair and free from significant hazards that could affect the health and safety of tenants, occupiers and visitors to the property (part 1 of the Housing Act 2004)
 - The exterior of the property is maintained in a reasonable decorative order, and in a good state of repair.
 - The exterior of the property and boundary walls, fences and gates etc. are kept free from graffiti.
 - Gardens, yards and other external areas within the boundary of the property are kept in a clean and tidy condition and free from rodent infestations.
21. The licence holder shall make sure adequate security arrangements are in place and take reasonable steps to achieve property security by complying with the requirements of paragraphs below:
 - So far as reasonably possible, any emergency works necessary to protect the security of the property are undertaken within 24 hours of notification e.g. damage to windows/entrance points to the property.
 - The security provisions for the access to the property (locks, latches, thumb turns, deadbolts and entry systems etc.) are maintained in good working order at all times.

- Where window locks are fitted, window keys are provided to the occupant(s) of the property.
- Where a burglar alarm is fitted to the house, which the occupant(s) is (are) made aware of the code, how the alarm is operated and the circumstances under which the code for the alarm can be changed.
- Where previous occupiers have not surrendered keys, arranging for a lock change to be undertaken, prior to new occupiers moving in.
- Where alley gates are installed to the side or rear of the licensed property, taking responsibility for holding a key and making satisfactory arrangements for the occupiers' access and egress .
- The main escape route (usually the front door) must be fitted with a thumb turn mortice lock, or equivalent, to five-lever security level. The lock must comply with fire safety requirements in that it shall be openable from the inside without the use of a key.
- Where it has been identified by the Police or Council, that additional security is necessary that those works are carried out within a reasonable time.

Property inspections

22. The licence holder must ensure that the tenant's right to quiet enjoyment of the property is respected. The licence holder must ensure that the tenant receives at least 24 hours written notice of intention to enter the property specifying the reason entry is required. The only exception is when it would not be reasonable to give such notice and access is urgent, e.g. in an emergency.
23. The licence holder shall ensure that inspections of the property are carried out at least every six (6) months to identify any problems relating to the condition and management of the property. The records of such inspections shall be kept for the duration of this licence. As a minimum requirement the records must contain a log of who carried out the inspection, the date and the time of inspection and any issues found and action(s) taken. Copies of these must be provided within 7 days of the Council's demand.

Dealing with rubbish

24. The licence holder shall display in a conspicuous position within the HMO, written information indicating:
- which day refuse collections will take place;
 - what type of bins to use for household and recycling waste;
 - details of the Council's bulky waste collection service;
 - details of the Council's missed bin collection service;
 - the occupiers responsibility to put bins out no earlier than 4pm on the day before collection and to return bins within the boundary of the property by 8am the day after the collection.
25. Extra rubbish that cannot fit in the bins will be collected and disposed of within a period of 7 days by arrangement by the licence holder; and that such

rubbish, where possible, is to be stored at the rear of the property and within the boundary of the property until collection/disposal.

26. Where waste is not placed out for collection, and the collection has been missed, the waste will be collected and disposed of within a period of 7 days by arrangement by the licence holder.
27. The licence holder shall ensure there is a continued provision of an adequate, sufficient and suitable bins, having regard to the size and number of households at the property, and in accordance with the Council's local waste disposal arrangements.
28. The licence holder shall ensure that all bins are in good working order with closable lids.
29. Where bins are not moved back within the boundary of the property by 8am the day after collection, it shall be the licence holders responsibility to do so.
30. The licence holder shall ensure that suitable and adequate provision for refuse storage and collection is provided at the house. This shall include a closable bin(s) of suitable capacity as specified by the Council.

C. Tenancy management

31. At the beginning of a new tenancy, the licence holder must provide the occupier(s) with written information, including contact details, explaining how they can make a complaint about the property and the arrangements in place to deal with emergency and other repairs. The contact and telephone number details should be applicable for contact between 9am – 5pm Monday to Friday, and should also include an out of hours contact number for use in emergencies. Any change in contact and/or telephone number details should be provided to occupiers within 24 hours of the changes being made. Copies of the written information provided to tenants must be provided within 7 days of the Council's demand.
32. Where an occupier makes a complaint the licence holder shall indicate to the occupier(s) how they intend to respond to the complaint including a timescales for the steps they intend to take.
33. The licence holder shall respond to any complaint within a reasonable timescale. Copies of all correspondence relating to complaints shall be retained during the term of this licence and shall be provided to the Council within 7 days of the Council's demand.
34. The licence holder must provide the tenant with an information pack containing the following details:
 - A true copy of the licence to which these conditions apply.
 - A notice with the name, address, day time and emergency contact number of the licence holder or managing agent.
 - Where appropriate, true copies of the current gas, electrical safety and energy performance certificates.
 - The information required by conditions 24, 26 and 30.

35. The licence holder shall supply to the occupiers of the house a written statement of the terms on which they occupy it (e.g. a tenancy agreement or licence). This statement shall be provided within 7 days of the occupancy beginning and the licence holder shall supply a copy of the written statement within 7 days of the Council's demand. * The written statement shall be clear about tenants responsibility for not causing anti-social behaviour and that breach of the requirement may lead to eviction.
36. The agreements are not to unfairly discharge the responsibility for anything that should reasonably be considered to be the responsibility of the Landlord/ Licence holder or manager under the Management of Houses in Multiple Occupation Regulations.
37. The licence holder shall comply with all relevant landlord and tenant law and shall ensure that all legal processes are followed when requiring occupiers to leave.
38. The licence holder shall demand references for new occupiers before entering into any occupancy agreement with them or allowing them to occupy the premises. Copies of these references shall be kept for the duration of this licence and made available to the Council within 7 days of the Council's demand.*
39. The licence holder shall ensure there is suitable and sufficient buildings insurance in place for the duration of this licence. This should cover the costs of re-housing occupiers in the event of the need arising.
40. Before a new tenancy is issued the licence holder / agent should carry out an inventory and document it with photographs (where appropriate). Both the licence holder and the tenant shall date and sign the inventory and each retain a copy.
41. Where a deposit is taken the licence holder must provide the tenant with the relevant information about the deposit scheme to which it relates and any other information required under section 213 of the Housing Act 2004. This information must be provided to the Council within 7 days of the Council's demand.

D. Tackling Anti-Social Behaviour

42. The licence holder shall ensure that all reasonable and practical steps are taken to prevent or reduce anti-social behaviour by the occupants and visitors to the house. In particular:-
 - The licence holder shall put in place written procedures indicating how complaints made to the licence holder will be dealt with, a copy of which shall be provided to the occupiers upon commencement of their occupation and to the Council within 7 days of the Council's demand.
 - Where complaints of ASB or criminality are made to the licence holder the licence holder shall investigate them and take action to resolve them. Copies of the complaint shall be kept together with notes arising during the course of the investigation and how

the matter was resolved and keep them for the duration of this licence. Where the licence holder has reason to believe that criminal activity is taking place at the property the licence holder must ensure that the appropriate authorities are informed.

- There may be instances where anti-social behaviour occurs more than once, but not continuously and possibly several months apart. In such circumstances the licence holder shall take all reasonable and practical steps to ensure it is effectively dealt with, up to and including eviction.

An ASB guide with good practice to be completed by a licence holder can be found on the Council's website at www.nottinghamcity.gov.uk/

E. Change of Details or Circumstances

Fit and Proper Person

43. The licence holder must inform the Council in writing if, since becoming the licence holder any of the events described within **Appendix Two B** have occurred in respect of either the licence holder and/or the manager of the house or any persons associated with them. Notification shall be made to the Council within 21 days of such occurrence.

Documents to be Displayed

44. The licence holder shall display in a conspicuous position in the common parts of the HMO, a copy of this licence to which these conditions apply; the name, address and phone number of the manager of the HMO and any notices related to the varying of this licence.

Notification

45. The licence holder must inform the Council within 21 days of any material change in circumstances including:

- change of their residential address or contact details; including when they no longer reside at the address on the licence, or where the licence holder is a business, if their business address has changed.
- If the manager is an agent, or employee of the licence holder, and this person or company ceases to be the manager or is no longer employed by the licence holder, and apply to vary the licence where a new manager is proposed, before the new manager begins managing the HMO.
- If the licence holder is a manager of the HMO, they shall inform the Council if they are no longer a manager of the property
- change of manager, management arrangements or ownership;
- any proposed changes to the structure, layout or amenity provision of the property that would affect the licence or licence conditions.

Any material change of details or circumstances may require a variation or revocation of this licence. **See Appendix Two A for general guidance.**

46. Licence holders who are accredited by a body approved by the Council shall ensure that accreditation status and/or membership of that body is maintained for the duration of this licence. If for any reason accreditation status/membership ceases the licence holder shall inform the Council in writing within 21 days and shall pay to the Council a sum representing the difference between the standard and accreditation fees for licences applicable at that time.

F. Licence Holder Training

47. Where the licence holder has not attended relevant training in the previous 3 years, they must as a minimum attend suitable training on the law and legal requirements relating to managing privately rented housing within 12 months of the date the licence is granted.

This requirement can be satisfied in one of the following ways:

- by attending a one-day training course arranged and delivered by the Council or our accreditation partner DASH Services and submitting a certificate to the Council following this training. Visit www.dashservices.org.uk or call 01332 641111 to arrange this;
- by completion of the accreditation training of the National Landlords Association (NLA), Residential Landlords Association (RLA), National Approved Letting Scheme (NALS) or East Midlands Property Owners (EMPO) and submitting the pass certificates to the Council for confirmation;
- by completion of other suitable training on the law and legal requirements relating to managing privately rented properties subject to approval by the Council in advance and subject to submitting a pass certificate or similar document to the Council for confirmation

G. Interpretation

48. Where reports, certificates, declarations or other documents are required to be produced or supplied to the Council, this shall mean sending by submitting them via the online portal.
49. Any reference to tenant or tenancy can also be interpreted to include occupancy by licence or other form of written agreement for the purposes of these conditions.

<p>Failure to comply with any licence conditions may result in legal proceedings including, civil penalty or prosecution through the courts and loss of the licence.</p>

Appendix Two A - Guidance information

These do not form part of the licence conditions, but you may still be under an obligation to comply with this legislation

Gas Safety

If gas is supplied to the house the licence holder shall ensure the Gas Safety (Installation and Use) Regulations 1998 (or any Regulations which subsequently replace these) are complied with.

Electrical Safety

The licence holder shall ensure that the Electrical Equipment (Safety) Regulations 1994 (or any Regulations which subsequently replace these) are complied with. Electrical checks shall be carried out by a competent person.

Smoke Alarms/Fire Detection Systems

Depending on the size, layout and occupancy of the property the licence holder may need to go over and above the legal minimum required in legislation to adequately protect the tenants from fire. When doing this the licence holder should have regard to the current Building Regulations; another useful guide is the LACORS Fire Safety Guide. The LACORS Fire Safety guidance is available at www.nottinghamCity.gov.uk/environmental-health-and-safer-housing/private-sector-housing/

Emergency Escape Lighting

The licence holder should have regard to the current Building Regulations covering emergency escape lighting. Another useful guide is the LACORS Fire Safety Guidance. This guidance is available at www.nottinghamCity.gov.uk/environmental-health-and-safer-housing/private-sector-housing/

Competent Person

A competent person is someone who has sufficient training and experience or knowledge and other qualities that allow them to assist you properly. The level of competence required will depend on the complexity of the situation and the particular help you need.

Where electrical works / certificates are required by competent persons the work shall be carried out by a suitably qualified electrical contractor who should be registered / member of an approved scheme such as NICEIC, ECA, NAPIT etc. or registered to undertake electrical works in accordance with Part P of the Building Regulations (unless exempt works). Electrical contractors that are on a relevant competent person scheme can be found at www.competentperson.co.uk

Details of competent Gas Safe engineers can be found at www.gassaferegister.co.uk

Furniture Safety

The licence holder shall ensure that the Furniture and Furnishings (Fire Safety) Regulations 1988 (or any Regulations which subsequently replace these) in respect of any upholstered furniture supplied by them, including chairs, sofas, beds, upholstered head boards, mattresses, cushions, seat pads, pillows and upholstered garden furniture etc. are complied with.

Safety and Security of Property

It is recommended that licence holders work towards improving the safety and security of their property by as a minimum complying with the Security and Standards of HMO and Rented Properties guide issued jointly by Nottinghamshire Police and Nottingham City Council, available at www.nottinghamCity.gov.uk/HMO.

Property Management

More information on dealing with waste can be found at www.nottinghamcity.gov.uk/bin-and-rubbish-collections/. Licence holders may find it useful to include this link in the documentation provided to occupiers under condition 24

Training

The training requirement in conditions 42 is a minimum requirement and depending on the level of responsibility and complexity of properties involved the licence holder should consider undertaking further relevant training in line with the extent of their liabilities.

Deposits

The licence holder shall ensure that any deposit taken as security for a tenancy is protected as appropriate by placing it in an approved tenancy deposit scheme. The tenant must be given the prescribed information about the scheme being used within 30 days of giving the deposit.

Variations to licence

Where the licence holder or a relevant person applies to vary a licence they should do so at the earliest opportunity. The original licence shall stay in force until the point that the variation is determined, as they can be granted or refused. See condition 40

Right to rent

Only people with permission or a right to be in the UK have a right to rent property. As a landlord, you have a responsibility to restrict illegal immigrants accessing the private rented sector. If you are found letting to someone who does not have the right to be in the UK, and you cannot show that you have made right to rent checks, then you could face a penalty of £3000. For more information visit www.gov.uk/check-tenant-right-to-rent-documents

Energy Performance Certificates (EPCs)

Licence holders shall ensure they comply with relevant legislation, ensuring tenants have sight of a current EPC for the property at the appropriate time. From 1st April 2018 domestic properties in England and Wales must have an EPC certificate with a minimum E rating for energy efficiency.

Redress scheme

Where the licence holder is also a letting agent or property manager they shall be a member of a relevant property redress scheme. More information is available at www.gov.uk/government/publications/lettings-agents-and-property-managers-redress-schemes

Changing Use and converting family housing to HMOs

Licence holders proposing to convert properties from single occupancy into HMOs should be aware that planning permission is required. More information is available at www.nottinghamCity.gov.uk/planning-and-building-control/planning-applications/do-i-need-planning-permission/

To Let boards

In Nottingham there are controls on to let boards in certain parts of the City. More information is available at www.nottinghamCity.gov.uk/planning-and-building-control/planning-applications/do-i-need-planning-permission/controls-on-to-let-ad-boards/

Electoral Registration

If you live in Nottingham City, access to certain services may be affected if you are not on the electoral register. It is a legal requirement to be on the electoral register. For more information please visit www.nottinghamcity.gov.uk/about-the-council/voting-elections/register-to-vote/

Appendix Two B (see condition 43)

Acted in contravention of any of the following:

- Commission of an offence involving: fraud, dishonesty, violence, drugs and sexual offences.
- Practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in connection with a business.
- Contravened any provision of housing or landlord and tenant law. By way of example this may include but is not limited to: proceedings being taken by a local authority a local authority has carrying out works in default premises being made subject to a management order under the Housing Act 2004 refusal of a HMO licence or breach conditions of a licence.
- Acted in contravention of any Approved Code of Practice
- or any Banning Order offences as listed below;

<i>Protection from Eviction Act 1977</i> (4)	<i>Section 1(2), (3) and (3A)</i>	<i>Unlawful eviction and harassment of occupier</i>
<i>Criminal Law Act 1977</i> (5)	<i>Section 6(1)</i>	<i>Violence for securing entry</i>
<i>Housing Act 2004</i> (6)	<i>Section 30(1)</i>	<i>Failing to comply with an improvement notice</i>
	<i>Section 32(1)</i>	<i>Failing to comply with a prohibition order</i>
	<i>Section 72(1), (2) and (3)</i>	<i>Offences in relation to licensing of Houses in Multiple Occupation</i>
	<i>Section 95(1) and (2)</i>	<i>Offences in relation to licensing of houses under Part 3</i>
	<i>Section 139(7)</i>	<i>Contravention of an overcrowding notice</i>
	<i>Section 234(3)</i>	<i>Failure to comply with management regulations in respect of Houses in Multiple Occupation</i>
	<i>Section 238(1)</i>	<i>False or misleading information</i>
<i>Regulatory Reform (Fire Safety) Order 2005</i> (7)	<i>Article 32(1) and (2)</i>	<i>Fire safety offences</i>
<i>Health and Safety at Work etc. Act 1974</i> (8)	<i>Section 33(1)(c) where a person contravenes any requirement specified in regulation 36 of the Gas Safety (Installation and Use) Regulations 1998</i> (9)	<i>Gas safety offences - duties on landlords</i>
<i>Immigration Act 2014</i> (10)	<i>Section 33A(1) and (10)</i>	<i>Residential tenancies – landlord offences</i>
	<i>Section 33B(2) and (4)</i>	<i>Residential tenancies – agent offences</i>
<i>Fraud Act 2006</i> (11)	<i>Section 1(1)</i>	<i>Fraud</i>
	<i>Section 6(1)</i>	<i>Possession etc. of articles for use in frauds</i>
	<i>Section 7(1)</i>	<i>Making or supplying articles for use in frauds</i>
	<i>Section 9(1)</i>	<i>Participating in fraudulent business carried on by sole trader etc.</i>

	Section 11(1)	Obtaining services dishonestly
	Section 12(2)	Liability of company officers for offences by company
<i>Criminal Justice Act 2003</i> (12)	Schedule 15	Specified violent and sexual offences
<i>Misuse of Drugs Act 1971</i> (13)	Section 8	Occupiers etc. of premises to be punishable for permitting certain activities to take place there
	Section 9	Prohibition of certain activities relating to opium
	Section 9A(1) and (3)	Prohibition of supply etc. of articles for administering or preparing controlled drugs
	Section 18(1), (2), (3) and (4)	Miscellaneous offences
	Section 19	Attempts etc. to commit offences
	Section 20	Assisting in or inducing commission outside United Kingdom of offence punishable under a corresponding law
	Section 21	Offences by corporations
<i>Proceeds of Crime Act 2002</i> (14)	Section 327	Concealing etc. criminal property
	Section 328	Arrangements
	Section 329	Acquisition, use and possession
<i>Protection from Harassment Act 1997</i> (15)	Section 2	Offence of harassment
	Section 2A	Offence of stalking
<i>Anti-social Behaviour, Crime and Policing Act 2014</i> (16)	Section 30	Breach of criminal behaviour order
	Section 48	Failure to comply with a community protection notice
<i>Criminal Damage Act 1971</i> (17)	Section 1(1)	Destroying or damaging property
	Section 2	Threats to destroy or damage property
	Section 3	Possessing anything with intent to destroy or damage property
<i>Theft Act 1968</i> (18)	Section 7	Theft
	Section 9	Burglary
	Section 21	Blackmail
	Section 22	Handling stolen goods

Appendix Three: Equality Impact Assessment Form

GREEN

Title of EIA/ DDM: Additional Licensing Consultation

Name of Author: Ceri Davies

Department: Development & Growth/Commercial & Operations **Director:** David Bishop and Andy Vaughan

Service Area: Housing Strategy/Environmental Health Safer Housing **Strategic Budget EIA** N

Author (assigned to Covalent):

Brief description of proposal / policy / service being assessed:

Additional licensing of houses in multiple occupation (HMOs) is a power available to local housing authorities within the provisions of the Housing Act 2004. Section 56 of the Act allows local housing authorities to designate areas, or the whole area, within their districts subject to additional licensing in respect of some or all the HMOs in it areas that are not already subject to Mandatory Licensing.

Under the proposed scheme, all HMOs in the designation, that are not subject to Mandatory Licensing or not s.257 HMOs will require a licence; and applications will need to be made to the Council by landlords. There is a fee for the licence, that is based on the costs of administration and operation of the scheme and licences can be refused or revoked if properties do not meet the management or condition standards required.

The Council is proposing to implement a scheme of additional licensing scheme in a designated area – see appendix 1.

Continued use of the Additional Licensing powers will provide the following benefits:

- An opportunity to continue to influence higher standards of HMO accommodation and to ensure effective management through more extensive control; and
- Lead to higher levels of citizen satisfaction with private rented sector accommodation within the City.

Nottingham has had a scheme of additional licensing in place since January 2014. The scheme has been a success, improving the condition of HMO properties and reducing associated Anti-Social Behaviour (ASB), however it is believed that 5 years is insufficient to bring about and sustain the long term improvements required. Therefore, an evidence gathering and analysis exercise was been undertaken to see if ad and where a new scheme is required and what the designation for the scheme should be.

It is possible that the consultation process itself (which will subsequent to the approval of this decision) will raise other issues in relation to equality and will be considered in a second EIA that will accompany the Executive Board report regarding the scheme's adoption/implementation.

References

1. Housing Act (2004) Section 56 - <https://www.legislation.gov.uk/ukpga/2004/34/part/2/crossheading/designation-of-additional-licensing>

Information used to analyse the effects on equality:

- Ethnicity monitoring via additional licensing applications.
- Building Research Establishment (BRE) - Integrated Dwelling Level Housing Stock Modelling and Database for Nottingham City Council
- Census 2011 and Household Projections
- Issues and indications arising from full consultation on the previous scheme of additional licensing (2013-18).

	Could particularly benefit X	May adversely impact X	How different groups could be affected (Summary of impacts)	Details of actions to reduce negative or increase positive impact (or why action isn't possible)
			<p>The most significant difference in impact will be between the two groups that Additional Licensing directly affects most – Tenants and Landlords; to a lesser though still significant extent it will also impact members of the broader communities that have a high number of HMOs and are covered by the designation.</p> <p>As groups, HMO tenants and HMO Landlords are diverse and consideration must be given to whether any potential benefit or adverse impact of the scheme relates to the Tenant/Landlord/Community Cohort or to a particular equality strand represented within them.</p> <p>The positive impact of the scheme - improved property conditions, safety, tenancy management, community relations and reduced ASB - can be continually improved via the monitoring and enforcement action against non-compliant landlords</p> <p>It is felt that overall the benefits of additional licensing outweigh the potential disadvantages; it is believed will have a positive impact on disadvantaged groups who are over-represented in HMO accommodation and wider communities that are covered in the designation</p> <p>Action: The consultation process will engage directly with groups representing landlords, tenants and therein their component communities and a range of communications and marketing works will be undertaken to ensure engagement with a broad range of stakeholders. Issues of communication and understanding in respect of learning from the existing scheme and for any new scheme will be factored into</p>	

			<p>the final scheme proposals. The consultation will take place from May 2018 for 11 weeks, with the report recommending the final scheme going to executive Board in September 2018.</p>
<p>People from different ethnic groups</p>		<p style="text-align: center;">X</p>	<p>The population of those living in the City's Private Rented Sector (PRS) comprises people from a range of different BME communities and mapping shows there are citizens from BME communities with higher levels of private rented sector property and HMOs. The tenant profile of HMOs is likely to be less diverse than that of the PRS overall, however we know that in certain areas of the City HMOs accommodated significant proportion of certain BME groups, particularly single, economic migrants such as those from Eastern European countries. Overcrowding can an issue in some areas and illegal conversions of properties particularly affect new and emerging communities, as does poor or improper tenancy management.</p> <p>Potential benefit: Additional Licensing would bring improved quality and safety of accommodation for BME tenants living in HMOs and assist in the identification and removal of landlords who cause negative impact to vulnerable BME or new communities via</p> <p>Action:</p> <ul style="list-style-type: none"> • Continue to collect ethnicity data from landlords applying to the scheme, with analysis every 2 years of any change in dynamic or BME communities entering or exiting this market. • Annually continue to monitor HMO rent and compare to other areas with and without licensing schemes. • Continue to make information and good practice on licensing available in accessible and easy read formats.

substandard or illegal accommodation.

Potential adverse impact:

(a) Landlords

During consultation on the previous scheme of additional licensing it was put forward that the scheme would disproportionately and adversely impact the South Asian community. Many HMO landlords are of South Asian (Indian and Pakistani heritage) and residential property investment is a key strand of the named communities' financial interests, therefore any adverse financial impact of the scheme on landlords would be disproportionately felt.

There is limited data available on landlord ethnicity, however that collected (105 volunteered responses via the licensing application process), 40% were White British/Irish, 47% were Asian and 13% were Black or Other Ethnicity. Of the Asian landlords, 62% were Asian Pakistani, meaning this particular ethnicity makes up 35% of the total respondents.

It is acknowledged that this is a complex issue and that support will be required to ensure that different

communities understand what licensing means for them, what is expected of landlords and that they are able to comply with the requirements.

(b)Tenants

Concern has been raised that licensing will inevitably cause an increase in rents as a result of the increased landlord expenditure on the licence and the costs of complying with licensing conditions. Though the proposed designation covers areas of the city with higher proportions of BME households, there is no evidence to suggest that the overall HMO stock is disproportionately occupied by BME households. Based on the main groups-known to use HMO accommodation, it is likely that overall the concentration of BME households is less than in the PRS as a whole.

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It is understood however, that the type of HMOs subject to additional licensing, do accommodate large proportions of some newer BME communities, namely EU citizens of Eastern European and African descent as well as single refugees and asylum seekers. Such households could be negatively impacted or displaced by an increase in rents, especially as they many not be

eligible. Similarly, landlords could limit themselves to “safer” options in terms of rental security reducing the availability of accommodation to these groups.

Overall, the additional cost to landlords is considered to be small as a proportion of rental income, especially across the term of the licence it should not equate to more than a few pounds per week. Although it is acknowledged that those with larger portfolios will need to pay for multiple licences. Further, a reduction in the fee is proposed for those landlords who are accredited under the Nottingham Standard or contributing schemes.

There is a risk however that the costs to landlords associated with Additional Licensing will be passed on to tenants, however there is no evidence to suggest that increases in HMO rents to date are driven exclusively by the introduction of the scheme . Increases in HMO rents were observed after the introduction of licensing however, they were also seen in cities – notably with similar student populations – that did not have a licensing scheme in place.

The risk of rent increases is therefore

			<p>one that council is aware of, but one which is based on speculation.</p> <p>The Council does not believe that standards of accommodation should be compromised in the interest of greater affordability or preservation of margins and believe that the standards required by licensing are ones that landlords should already be meeting.</p>	
Disabled People or carers		X	<p>It is acknowledged that this sector maybe home to a number of people with learning disabilities or mental health issues, particularly as it is known to cater to younger and/or single household in receipt of local housing allowance.</p> <p>Tenants with health issues are also much more likely to be affected by problems with damp and housing disrepair issues and may face problems with communication and getting repairs done quickly.</p> <p>Potential benefit: improvement in the property standards and tenancy management will have a positive impact on the health and security of tenants, something of particular benefit to those who may be vulnerable due to mental</p>	

			<p>health or learning needs.</p> <p>Potential adverse impact: Tenants in this equality strand could be affected by rent rises and other adjustments to the sector that might result from licensing changes</p>	
<p>People of different faiths/ beliefs and those with none.</p>		<p>X</p>	<p>Issues or links between particular BME groups and the impacts of additional licensing could also apply to this equality strand.</p> <p>Having identified that many landlords are from South Asian, or more specifically Pakistani, backgrounds, it should be noted that the Muslim community may not receive, for religious reasons, 'interest' from investments and therefore property is a preferred investment for many, hence this makes this community sensitive to any matters that could affect property prices or yields.</p> <p>As previously stated, the Council does not believe that standards of accommodation should be compromised in the interest of greater affordability or preservation of margins and believe that the standards required by licensing are ones that landlords</p>	

			should already be meeting.	
Younger		X	<p>It is recognised that the age profile of HMO tenants tends to be younger than the housing market or PRS as a whole, predominantly because two of the main groups using this type of accommodation are students and young people who are in receipt of Local Housing Allowance. LHA (housing benefit for PRS tenants) is capped at a “room rate” for single people under 35, meaning the amount they receive is intended to cover the rent in shared rather than single occupancy housing.</p> <p>Potential benefit: Improving the standard of accommodation therefore would benefit younger people and provide better value for money to the public purse.</p> <p>Potential adverse impact: Any rent increase because of licensing could have a particular impact on young people in receipt of local housing allowance. Their allowance is specifically based on shared accommodation or room rate however, their allowance could fall short of an increased rent, making them more vulnerable to eviction and homelessness</p>	<p>Action: Monitor homelessness presentations made by those existing shared accommodation in the additional licensing area, as well as rent levels as per the above.</p>

Outcome(s) of equality impact assessment:

- No major change needed X
- Adjust the policy/proposal
- Adverse impact but continue
- Stop and remove the policy/proposal

Arrangements for future monitoring of equality impact of this proposal / policy / service:

If the proposal proceeds to a final decision by the Council to implement, a further review of this EIA will take place. It may be possible to use referral data to agencies such as Housing Aid, Notts Housing Advice etc to see what specific impacts the scheme is having if it is implemented.

Approved by (manager signature):

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