

MUNICIPAL YEAR 2006/2007 REPORT NO. 183

MEETING TITLE AND DATE:

Cabinet: 14.12.2006

REPORT OF:

Director Health and Adult Social Services

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Agenda – Part: 1	Item: 9
Subject: Compulsory Licensing of higher risk Houses in Multiple Occupation (HMOs)	
Cabinet Member consulted Cllr Matthew Laban	

1. EXECUTIVE SUMMARY

This report deals with the compulsory licensing of higher risk Houses in Multiple Occupation (HMO).

It requests Cabinet to set a level of fees for licensing.

It requests Cabinet to agree to an additional post of HMO licensing Officer whose costs are to be recovered from HMO licence fees.

2. RECOMMENDATIONS

That Cabinet agree to :

1. accept the recommendations of officers concerning licensing (paras 3.3,3.4 refer);
2. set the HMO licence fee at £120 per letting in the case of licensable HMO for a licence period of five years (para 3.5 refers);
3. the employment of a HMO licensing officer at scale SO2 (paras 3.6 – 3.8 refer).

3. BACKGROUND

3.1 Houses in multiple occupation provide useful accommodation in the private rented sector in Enfield. However, in some cases they also give rise to some of the worst and unsafe housing conditions to be seen in the borough. The Housing Act 2004 introduces compulsory licensing of certain Houses in Multiple Occupation (HMO's). This is the first time licensing has been introduced for the private rented sector. It aims to target the houses that are likely to pose the greatest health and safety risk to the occupants and generally raise the standards within these properties.

HMOs that require to be licenced are those;

- at least three storeys in height, and
- occupied by at least five persons, in at least two households

3.2 The Council ran a registration scheme (with Control provisions) from 2000 to 2005 in seven (old) wards in the SW corner of the borough. The requirements were similar to the licensing scheme. A fundamental difference is that licensing applies across the borough.

3.3 Licences will be granted where a house is reasonably suitable for occupation as an HMO, the management arrangements are satisfactory and the licence and/or manager are fit and proper persons. The period of a licence will be 5 years (unless there are wholly exceptional circumstances for which the period may be reduced to one year). There are set mandatory conditions, which the Council must apply to licences. Officers do not consider that additional, discretionary conditions are appropriate at this time but will review this after one year of operation.

3.4 Officers have considered the additional licensing scheme (which can be applied - on application to the Secretary of State) to a much wider range of rented property. Such a scheme will only receive confirmation if the local housing market is failing and/or there are exceptional problems with anti social behaviour in the area. Conditions in Enfield do not fulfil these criteria at present.

3.5 It is open to local Housing Authorities to charge a fee for compulsory licensing of relevant HMOs. It is a Government requirement that such fees should only relate to actual costs to the authority of licensing and not any enforcement costs. Enforcement is considered a separate matter. Officers recommend that a fee of £120 per letting per 5-year period is reasonable. This will produce an average fee of £600 per property. The proposed fees have been compared with those charged in 17 other London Boroughs. The average fee per property in these Boroughs is £591 for a five-year licence (for 5 lettings). Individual borough fees are higher in central London; Enfield's proposed fees are compatible with outer London boroughs. The fee chargeable is to be subject to annual review of inflationary cost pressures.

- 3.6 Officers estimate that the total number of licensable HMOs in the borough is likely to exceed 350 in any five-year period. This will produce an income in any 5-year period of £210,000 (at current values). Officers have identified some 160 premises so far that are likely to require licensing (these include some properties that were included in the local registration scheme).
- 3.7 Compulsory HMO licensing commenced in April 2006. Although a number of premises have been identified, it has not been possible to embark on a licensing programme because of staff shortage. It should be noted that there is a duty upon the Council to decide upon an application within 6 weeks of being made. This is new work that applies across the borough and without additional staff it will not be possible to instigate this compulsory programme.
- 3.8 Officers recommend that an additional member of staff be employed to seek out and progress the licensing of such HMOs at a cost of £33,079 per annum (2006/07 values). Existing members of the Private Sector Housing Team will deal with enforcement issues that will arise. This recommendation is within the context of proposed budget reductions through increased charges, efficiency savings and staff reduction (totalling 6 posts) within Community Housing Services.

4. ALTERNATIVE OPTIONS CONSIDERED

This licensing scheme applies nationally and is mandatory.

5. REASONS FOR RECOMMENDATIONS

The Council is required to operate a compulsory licensing scheme and the payment of fees by applicants is seen as meeting the cost of licensing.

6. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE RESOURCES AND OTHER DEPARTMENTS

6.1 Financial Implications

The cost of appointing an additional member of staff will be £33k p.a. It is estimated that the income from HMO licenses will be on average at least £42k p.a. The expected income will cover the cost of appointing an additional member of staff and it will also cover the cost of management and administration of the scheme by existing staff.

It should be noted that the income from HMO licenses can only be used for the purposes of granting those licenses and not for enforcement or income generation. The licensing fee will be payable with the application so there should be no debts arising from this scheme. The average cost will be £600 per property (based on 5 lettings per property @ £120 per letting) this compares with an average of known London fees of £591 per property.

6.2 Legal Implications

- 6.2.1 The Housing Act 2004 (HA) introduces a duty for all Local Authorities to license certain types of HMO. The requirements are set out in paragraph 3.1 above and have a maximum life of 5 years.
- 6.2.2 Section 63(3) of Part II of the HA provided that a Local Authorities may require an application for a HMO license to be accompanied by a fee, This fee is at the discretion of the authority but should, according to section 63(7), reflect the following:-
- a) all cost incurred by the local authority in carrying out their function under this part of the Act, and;
 - b) all costs incurred by them in carrying out their functions under Chapter 1 Part 4 o the Act, in relation to HMOs (in so far as they are not recoverable under, or by virtue, of any provision of that chapter).
- 6.2.3 Further, section 112 of the local Government Act 1972 empowers the Council to appoint such officers as it thinks fit for the proper discharge of its functions.

6.3 Property Implications

There are none

7. PERFORMANCE MANAGEMENT IMPLICATIONS

The application of HMO licensing is mandatory and failure to carry this out, with the subsequent mandatory inspections and enforcement work, will have an adverse effect on the Council's Private Sector Housing and CPA performance.

8. PUTTING ENFIELD FIRST

'Economically successful and socially inclusive'

HMO licensing is an important contribution to improving housing conditions in the private rented sector.

Background Papers

Housing Act 2004 (part 2)

The licensing of houses in multiple occupation (prescribed descriptions) (England) order 2006