

NORTH DEVON COUNCIL

REPORT TO: STRATEGY AND RESOURCES COMMITTEE

DATE: 12th APRIL 2021

TOPIC: HOUSES IN MULTIPLE OCCUPATION: AMENITY STANDARDS, MINIMUM ROOM SIZING AND LICENCE CONDITIONS

REPORT BY: PUBLIC PROTECTION MANAGER AND GRADUATE ENVIRONMENTAL HEALTH OFFICER

1. INTRODUCTION

- 1.1. North Devon Council is responsible for the licensing of Houses in Multiple Occupation (HMOs) in the district. This includes all homes with five or more occupants from two or more households, who share amenities and facilities. There are an estimated 1,100 HMOs in North Devon, of which approximately 290 fall under the Part 2 mandatory licensing scheme¹.
- 1.2. HMOs are an important part of the housing stock in North Devon as they offer an affordable form of accommodation to a wide range of occupants. They are deemed higher risk accommodation as they often home vulnerable people, and are not always fit for purpose, as many properties were not originally built to be subdivided and housed by multiple occupants. They can also be poorly managed and maintained by a small number of rogue landlords.
- 1.3. To combat the issues raised above, the legislation surrounding HMOs allows the Council to impose licence conditions and locally adopted standards on amenities within properties. The current conditions and amenity standards adopted are from a Devon Wide document published in 2011.
- 1.4. The purpose of this report is to recommend the approval of a set of updated licence conditions, amenity standards and room sizes under the new HMO licensing regime.

2. RECOMMENDATIONS

- 2.1. That the Strategy and Resources Committee:

¹ BRE Dwelling Level Housing Stock Modelling and Database for North Devon Council Report, May 2019

2.1.1. Consider the draft Amenity Standards and Minimum Room Sizing requirements in **Appendix D**.

2.1.2. Consider the proposed Licence Conditions in **Appendix B**.

2.1.3. Instruct the Graduate Environmental Health Officer to undertake a six week period of consultation on the above documents, and provide feedback on the results of the consultation exercise.

2.1.4. Consider the period of licence for HMOs.

3. REASONS FOR RECOMMENDATIONS

3.1. To consider the new documents set out under the new HMO licensing regime, and to provide a comparison against older standards and conditions.

3.2. To implement a new set of amenity standards and minimum room sizes specific to the housing market within North Devon.

3.3. To ensure the protection of safety and wellbeing of residents and vulnerable persons who reside in HMOs.

3.4. The current standards are not up to date and in line with the most current legislation.

3.5. Recommendations pertaining to radon gas, lead in drinking water and sustainability/energy efficiency have been included in the amenity standards document, these are areas that were not included before.

3.6. The new licensing regime aims to incorporate additional sustainability measures in line with the Government's targets to reduce all greenhouse gas emissions to net zero by 2050, and also the Council's Carbon Reduction Plans.

3.7. The addition of energy efficiency recommendations will also help to address fuel poverty in North Devon by making homes more fuel efficient, and in turn reducing fuel bills.

4. REPORT

- 4.1. The Housing Act 2004 introduced the mandatory licensing of HMOs and a system of assessing housing conditions based on risk, known as the Housing Health and Safety Rating System (HHSRS). The licensing of HMOs ensures that the Council can mitigate risk and regulate high risk accommodation.
- 4.2. The Council currently has 43 licensed HMOs across the district. These are mainly properties which were licensed before the three-storey rule came into effect. The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 removed the original three-storey rule for HMOs set out under the Housing Act 2004. Both nationally and locally, this has resulted in an increase in the number of properties which now fall under the mandatory licensing scope for Part 2 HMO licences. It is estimated that there are around 250 additional HMOs in North Devon which now fall under the new licensing regime¹. These are all properties which are yet to be licensed by the Council and would be impacted by the proposed new HMO licensing regime.
- 4.3. Schedule 4 of the Housing Act outlines the conditions local authorities must impose on licence holders as part of this process. Whilst Section 67 of the Act allows local housing authorities to impose additional conditions on properties which fall under the scope of mandatory licensing. The current licence conditions used by the Council were last updated in 2011, and solely relate to those conditions imposed under Schedule 4 of the Act, see **Appendix A**. They do not take into account conditions which could be set under S67, for example those relating to mitigating anti-social behaviour. Such conditions would be beneficial in a number of licensed properties in the district, especially those with high numbers of anti-social behaviour related complaints associated with them. A summary of the proposed conditions are contained in **Appendix B**.
- 4.4. Mandatory licensable properties have a set of prescriptive standards Council's must apply when setting the number of occupants permitted in a property. These are national minimum standards relating to personal washing facilities and sanitary conveniences etc. Section 65 (2) of the Housing Act 2004 gives the local housing authority power to set higher standards over and above the prescribed standards set by legislation. These standards can be set to reflect local housing conditions providing they do not fall below national standards.

- 4.5. The Council has previously adopted higher standards from the Devon Wide Amenity Standards document in 2011, see **Appendix C**. However, this document has not been updated or revised since its original distribution. North Devon Council is one of the few Council's remaining who utilise the guidance, as other local authorities in Devon have since published their own standards. This document does not take into consideration the mandatory conditions set out under The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) England Regulations 2018, or the removal of the three-storey rule as mentioned above. Thus, it is proposed to implement a new set of amenity standards and minimum room sizes specific to North Devon, to reflect the changes in legislation and the local housing market within the last decade. A summary of the proposed standards are contained in a document in **Appendix D**.
- 4.6. The standards local authorities can implement are 'locally set', meaning that they are not prescribed in statute. When setting the locally adopted standards, the Council should have regard to the impacts on licence holders and managers. The implementation of both the new licence conditions and the locally set standards must be practicable and reflect the licensable population, and must not unreasonably disadvantage landlords. Additionally, they must be directly related to the needs of the HMO occupants, and should be readily enforceable by the Council. The new conditions and standards would use those currently set out in the 2011 documents as a foundation, but also include updated provisions to ensure the standards represent the current housing market in North Devon. The document also takes into consideration the standards set by other local authorities, see **Appendix E**.
- 4.7. At present the Council uses the prescribed minimum room size standards under The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) England Regulations 2018; and previously awarded landlords 18 months from 1st October 2018 to comply with these standards. There were proposals to consult stakeholders on the implementation of higher minimum room size standards in 2019/20. This has also been included as part of the licensing review process, see **Appendix D**. New recommended minimum room sizes have been drafted based on the national space standards relating to affordable accommodation.
- 4.8. Following the adoption of the proposed licence conditions, amenity standards and minimum room sizing, all new licences issued will be subject to the updated conditions and standards. A licence holder's failure to comply with the new conditions and standards will result in a breach of licence conditions.

- 4.9. The licensing review process aims to improve housing standards, and reduce the high number of Category 1 and 2 hazards in the licensable community, as alluded to in the BRE Report. Refining the standards in HMOs would also improve public health and wellbeing; two areas which have been of particular significance throughout the pandemic. For example, the draft plan outlines areas which are of a particular public health concern in North Devon. This includes advice pertaining to radon gas and lead in drinking water, and gives recommendations to licence holders on how to mitigate the impacts of these hazards in their property.
- 4.10. Moreover, the new licensing regime aims to incorporate additional sustainability measures in line with the Government's targets to reduce all greenhouse gas emissions to net zero by 2050, and also the Council's Carbon Reduction Plans. This has been outlined in the draft 'Amenity, Minimum Room Sizing and Management Standards Document' by recommending licence holders and managers implement more sustainable measures in their homes. It also outlines the benefits of improving energy efficiency for both landlords and tenants. It is estimated 12.7% private rented dwellings in North Devon are estimated to have an EPC rating below band E¹ and up to 12% of properties in the district are classified as fuel poor². Thus, this also helps to address fuel poverty in North Devon by making homes more fuel efficient, and in turn reducing fuel bills.
- 4.11. On the 4th September 2018 the Executive approved the adoption of a 2 year licencing regime. North Devon Council's current HMO licences last for 5 years. HMO licences can, however, be awarded for a period of 1, 2, 3, 4 or 5 years. From the 1st October, 2018, it was proposed that all HMO licences will be for 2 years. However, due to the significant volume of applications and the resource implications of renewals every 2 years, it has been determined the licence period of renewal remains 5 years at this time.

Consultation

- 4.12. A consultation will be undertaken with key stakeholders including estate agents, management companies and landlords with large property portfolios. A list of potential stakeholders has been obtained from the Housing Options Team, so this will be used alongside any other stakeholders identified throughout the review process.
- 4.13. A period of six weeks has been elected for consultation in line with the Cabinet Office guidance.

² Sub-regional Fuel Poverty in England, 2020 (2018 data)

4.14. Emails will be sent out where possible, but letters will be distributed in other instances depending on the availability of contact information.

4.15. Feedback to committee is expected six weeks following this meeting.

5. RESOURCE IMPLICATIONS

5.1. Resource requirements for the processing of the consultation and amendments to documentation etc., will be covered within existing staffing resources.

6. EQUALITIES ASSESSMENT

6.1. There are two positive implications (relating to the age and disability characteristics) as a result of this report. The remaining characteristics are anticipated to be neutrally impacted. Please see the corresponding Equality Impact Assessment for further details.

7. CONSTITUTIONAL CONTEXT

Article or Appendix and paragraph	Referred or delegated power?
Part 3, Annex 1(1)(h)	Delegated

8. STATEMENT OF CONFIDENTIALITY

8.1. This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

9. BACKGROUND PAPERS

9.1. The following background papers were used in the preparation of this report:

- BRE, May 2019, BRE Dwelling Level Housing Stock Modelling and Database for North Devon Council Report
- Department for Business, Energy & Industrial Strategy, April 2020, Sub-regional Fuel Poverty in England, 2020 (2018 data)
- Cabinet Office, July 2012, Consultation Principles: Guidance
- Housing Act 2004
- The Licensing of Houses in Multiple Occupation (Mandatory Conditions of Licences) England Regulations 2018
- The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018
- The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006
- The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (Amendment) (England) Regulations 2012

10. STATEMENT OF INTERNAL ADVICE

- 10.1. The author (below) confirms that advice has been taken from all appropriate Councillors and Officers.

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Date: 08 March 2021