

Cheltenham Borough Council
Cabinet– 14 June 2016
Private Rented Sector HMO Survey

Accountable member	Cabinet Member Housing, Councillor Peter Jeffries,
Accountable officer	Enforcement Manager, Mark Nelson,
Ward(s) affected	St Paul's and All Saints
Key/Significant Decision	Yes
Executive summary	<p>On 17th March 2015, Cabinet approved a report which proposed that a house condition and management survey of the private rented stock be carried out by consultant surveyors. This was to be a first stage to identify ward areas which could benefit from the introduction of a discretionary licensing scheme under Housing Act Legislation and/or an Article 4 Direction under Planning Act legislation.</p> <p>The survey work was tendered, but the tenders received were not of the quality or price to allow officers to recommend acceptance. The Government has since introduced proposals to extend mandatory House in Multiple Occupation (HMO) licensing.</p> <p>Any extension to mandatory HMO licensing will require the identification of licensable HMO's. Depending on the scope of any extension, the introduction of a discretionary HMO licensing scheme (Additional Licensing) may be appropriate to further control standards and the management of HMO's within targeted wards.</p> <p>It is therefore proposed to recruit to a new permanent post which will be initially responsible for the surveying of HMO's within the St Paul's and All Saints wards. The post will also be responsible for any follow-on HMO survey work and for supporting officers in their HMO licensing duties. This new post will initially be funded from the Housing Survey Reserve (18 months) and then by HMO licensing fees, following an extension to mandatory licensing, or the introduction of a discretionary HMO licensing scheme.</p> <p>As HMO survey work carried out by the new post will require the support of existing enforcement staff, there will be a need to re-prioritise areas of work carried out by the enforcement team. It is therefore proposed that if the creation of the new post is approved, the availability of Health and Safety loans will be suspended, at least until the survey work is completed.</p>
Recommendation	<p>That Cabinet approves:</p> <ul style="list-style-type: none"> • re- prioritisation of areas of private sector housing work as highlighted in paragraphs 1.7 and 1.8, to enable the recruitment of a permanent member of staff to carry out HMO survey work and support enforcement officers in carrying out HMO Licensing duties following completion of the survey.

<p>Financial implications</p>	<p>There is a budget balance of £83,991 as at 31/03/2016 in the Housing Survey Reserve and £5,000 is currently added to this reserve each year.</p> <p>Initial (18 months) funding for a new post (maximum cost of £62,250) can be made available from the Housing Survey Reserve by means of a transfer from earmarked reserve authorised by the S151 officer under delegated powers. Once survey work is complete, the post is intended to be funded from additional HMO licensing fee income – on the basis changes to the HMO licensing legislation have been implemented.</p> <p>Should the legislation extension be insufficient to support the funding of the post, a restructuring exercise will need to be undertaken to re-prioritise service provision to ensure the base budget is not exceeded.</p> <p>Taking into account the cost of funding the new post for 18 months whilst the survey work is undertaken and the continued setting aside of £5,000 each year, it is anticipated that there will be sufficient funds available in the Reserve to enable a borough wide house condition survey, which is usually carried out every five years and last carried out in 2011, to be carried out in 2019/20.</p> <p>If the proposed HMO survey identifies the need for discretionary licensing and / or the introduction of an Article 4 Direction, there will be resource implications for the required public consultation necessary to determine whether the introduction of any such scheme is appropriate. The cost of this consultation could be met from the current Housing Survey Reserve, but this would further push back the date for the next borough-wide stock condition survey. This would result in a further postponement until 2021/22, unless an alternative funding source can be identified.</p> <p>The date of the borough wide house condition survey will be brought forward if, after consideration, the Housing Survey Reserve can be topped up with HMO licence income following any extension to mandatory licensing or by utilising commuted sum receipts, provided through planning agreements, to raise standards in the private rented sector.</p> <p>Contact officer: Nina Philippidis nina.philippidis@cheltenham.gov.uk, 01242 264121</p>
<p>Legal implications</p>	<p>The Council is governed by the Housing Act 2004 in relation to its management of HMO's within its area.</p> <p>The action proposed within the report is within the powers of the Council. A full risk assessment has been undertaken and is attached with the report.</p> <p>Contact officer: Vikki.fennell@teWKesbury.gov.uk, 01684 272015</p>
<p>HR implications (including learning and organisational development)</p>	<p>Finance have identified that funding is available for this new post. If Cabinet approves the recruitment of a permanent member of staff, then the post will need to be described and graded in order to commence the recruitment process.</p> <p>Contact officer: Carmel Togher, HR Business Partner carmel.togher@cheltenham.gov.uk, 01242 775215</p>
<p>Key risks</p>	<p>See Appendix 1</p>

Corporate and community plan Implications	<p>The recommended outcomes of this report positively contribute to the following Corporate and Community Plan objectives:-</p> <ul style="list-style-type: none"> • Cheltenham's environmental quality and heritage is protected, maintained and enhanced. • People live in strong, safe and healthy communities
Property/Asset Implications	None

1. Background

1.1 The Cabinet report of 17 March 2015 recommended going out to tender to understand the survey cost implications of each of the following survey options that would be undertaken:

- i. The costs involved in surveying all types of private rented housing in one or more of the following wards:
 - St Paul's;
 - Lansdown;
 - All Saints;
 - College;
 - Pittville; and
 - St Peters
- ii. The costs involved in surveying only HMO's in one or more of the wards, as detailed above.

1.2 The report also recommended that a further report be brought back to Cabinet to approve the tender price and selection along with a recommendation as to which of the survey options should be undertaken.

1.3 Following the tender process two tenders were received. One tender required that the council provide information that could not be provided for data protection reasons, which meant that the tender was unacceptable and not fit for purpose. The second tender was unacceptable as the data to be collected was considered insufficient for the aims of the survey, especially with regard to HMO management and anti-social behaviour issues. This tender also gave insufficient information to establish the methodology behind the identification of HMO stock.

1.4 The tender comparison cost for the second tender was:

Option 1 (Identification and inspection of private rented stock)	£147,474
Option 2 (Identification and inspection of HMO stock)	£100,189

1.5 The tenders were not of the quality or price to allow officers to recommend acceptance.

1.6 This report proposes an alternative option to the procurement of the housing survey which was to be carried out by external consultants.

1.7 The alternative option is recruitment to a newly created permanent post, paid for initially utilising the Housing Survey Reserve whilst survey work is being undertaken (18 months) and longer term by HMO licence fee income. This would require a review of services once the scope of any extension to mandatory licensing is known. This option would also require the re-prioritisation of areas of the enforcement team's existing work whilst the survey work allocated to this post is being supported.

- 1.8** Currently, the Council provides discretionary Health and Safety loans and emergency grants to owner occupiers as outlined in Appendix 2. As part of the re-prioritisation of work, in order to support the HMO survey in St Paul's and All Saints, it is proposed that the provision of Health and Safety loans is withdrawn at least until the survey is complete. Health and Safety emergency grants will still be available where the eligibility criteria are met, but those owner occupiers who wish to access a Council loan would need to make alternative loan or equity release arrangements.
- 1.9** The government grant which funded Health and Safety loans and grants ceased in 2011 and these will only be available while the remaining funds last. Current commitments mean that irrespective of any policy decision contained in this report, remaining funds would need to be prioritised in the near future to help the most vulnerable by reserving remaining funds for eligible grant applicants and not issuing further loan approvals.
- 1.10** Article 4 Directions (a planning measure which can be used to restrict the creation of new HMO's) require a clear case for their introduction and must be justified with evidence – this requires area survey work to be carried out.
- 1.11** Any method to control new HMO accommodation, including Article 4 Directions, needs to be evaluated as part of the Council's overall planning strategy. The proposed appointment to a post to survey the St Paul's and All Saints wards, together with support from the enforcement team, would be used to help inform Planning Strategy. The decision to use any such control in a specific area cannot be made in isolation of the overall planning strategy of the Council.
- 1.12** The emerging Cheltenham Plan provides an opportunity to frame new planning policies and strategies that could help improve the quality of HMOs. Opportunities to work with Gloucestershire University and its growing student population will be important for the Council's overall HMO strategy.
- 1.13** In November 2015, the Department of Communities and Local Government (DCLG) introduced a technical discussion document entitled "Extending Mandatory Licensing of HMO's and related reforms". Provisions in the recent Planning and Housing Bill also contain powers which will allow better identification of HMO stock. The identification process was a main aim of the tendered survey and the new post, with the support of the enforcement team, will allow the identification of stock that is and will be subject to Mandatory licensing.
- 1.14** DCLG plans to introduce an extension to mandatory HMO licensing this year (2016) to include, subject to consultation, HMO's with 5 or more persons in two or more storey accommodation. Currently, mandatory licensing is restricted to HMO's containing 5 or more persons of three or more storeys in height. This would increase HMO's subject to mandatory licensing from 279 currently to an estimated 1,000 across the Borough. Whether licensing is extended to all HMO's with 5 or more persons is being debated, as is the threshold for the number of occupants. If the number is reduced from 5 or more persons, this could substantially increase the number of HMO's subject to mandatory licensing. The identification of stock is a key part of the licensing process.
- 1.15** An extension to mandatory licensing may replace the need to look at 'Additional licensing' within the All Saints and St Pauls wards. The introduction of an Additional licensing scheme in these ward areas will require evidence gathering by the proposed survey work and additionally a consultation exercise with local residents before designation.
- 1.16** The need for and budgetary implications for any Additional Licensing scheme will be evaluated following the completed survey work. In addition to collecting evidence to show any need for Additional Licensing or an Article 4 Direction, the proposed survey work will also identify stock subject to any extension to mandatory licensing and will help inform the Council as to whether any extension to mandatory licensing will be sufficient to address problems highlighted by the survey work.

2. Reasons for recommendations

- 2.1 To gather the required evidence to inform the Council on the use of its statutory powers in relation to the control of the numbers, safety and management of HMO's.

3. Alternative options considered

- 3.1 Tendered House Condition Survey as described in the report, but this did not identify a suitable contractor capable of undertaking the work.
- 3.2 The recruitment to a fixed term post for 18 months to carry out the survey work. This option was rejected based on the uncertainty of recruitment other than through recruitment agencies, associated cost grounds (this would be a more expensive option) and the need to develop the service long term, in preparation for any extension to HMO licensing.

4. Consultation and feedback

- 4.1 Tender submissions, local residents and the representations of Council Members.

5. Performance management –monitoring and review

- 5.1 The results of the survey work will be used to inform the future use of Council powers.

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Appendices	1. Risk Assessment 2. Health and Safety Loans and Grants Outline
Background information	

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	Any risks associated with equality impact										
	If loans are no longer available, there is a risk that some vulnerable householders may not be able to address health and safety issues within their properties.	Mike Redman		3	1	3	Accept	<p>Only been two health and safety loans have been taken up over the past two years and the impact of their suspension is considered low.</p> <p>Health and Safety grants will still be available to eligible owner occupiers to address circumstances where there is an imminent risk to health and safety.</p>		Mark Nelson	
	General risks										
	If the survey is not completed within the target timeframe, the introduction of extended licensing arrangements may be delayed, exposing tenants to unsatisfactory housing conditions for longer than would otherwise be the case.	Mike Redman		3	2	6	Reduce	Re-prioritise work within the enforcement team to accelerate survey completion.		Mark Nelson	
	If serious hazards	Mike		5	2	10	Reduce	Where officers consider		Mark	

	are identified during the survey work, the Council has a duty to take action, which could slow down progress with the survey.	Redman						there is an imminent risk associated with the hazard identified, or where there is likelihood of injury within a short period of time, action will be taken as a matter of priority. This may result in survey work and other lower priority enforcement work being delayed.		Nelson	
	If the Council is unable to recruit to the proposed new post, or there is a delay in recruitment while a suitable candidate is found, the completion of the survey may be delayed.	Mike Redman		3	4	12	Accept	The use of existing enforcement staff will accelerate the start of the survey work, but completion may be delayed if the planned boost to resourcing is unsuccessful.		Mark Nelson	
	If the Housing Reserve Fund being used to finance the new post is not topped up from anticipated income, implementation of the private sector condition survey may be delayed.	Mike Redman		1	2	2	Accept	Carry out a borough wide survey when available staffing resourcing permits. A private stock condition survey has typically been carried out every five years. Potentially there could be a challenge that the condition of all of the housing stock had not been reviewed, but the survey does review the stock as part of a staged approach and there is no set time		Mark Nelson	

								period over which reviews should take place.			
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Explanatory notes

Impact – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

Likelihood – how likely is it that the risk will occur on a scale of 1-6
(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

Control - Either: Reduce / Accept / Transfer to 3rd party / Close