



Winchester
City Council

Additional Licensing of Houses in Multiple Occupation in the Stanmore area of Winchester

Public Consultation Document

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On 19th January 2011, a report was approved by Winchester City Council's Cabinet, for a consultation to be undertaken with internal and external stakeholders, in respect of additional licensing, as required by section 56 of the Housing Act 2004.

This consultation document seeks to inform residents and stakeholders on proposals by the council to implement an Additional Licensing Scheme, to cover Houses in Multiple Occupation (HMOs) in the Stanmore district of Winchester that have not been subject to mandatory HMO licensing.

The document explains the proposed scheme, the reasons for the scheme, how it will tackle specific problems and the potential benefits of introducing additional licensing.

The Council invites comments from all affected stakeholders including private and social housing tenants, local residents, landlords, letting and managing agents, businesses, public bodies, the emergency services and other individuals and bodies who have an interest in the Stanmore district and would like to express their views.

Respondents should be aware that an Additional Licensing Scheme will have no impact on limiting or preventing the expansion of HMO properties in the Stanmore neighbourhood. The possible continued increase in HMOs can only be controlled by planning legislation and not Housing Act legislation.

Please complete the associated questionnaire on -line at:
http://www.Surveymonkey.com/s/Stanmore_HMO

Alternatively, request a paper copy from the Council's Private Sector Housing Team on 01962 848483, via email _privatesectorhousing@winchester.gov.uk or in person by visiting:

Private Sector Housing Team
Winchester City Council,
City Offices
Colebrook Street,
Winchester,
Hampshire,
SO23 9LJ.

Introduction

Winchester City Council works in partnership with landlords to improve both the safety and quality of housing within the private rented sector.

The council's Private Sector Housing Strategy 2009-13 details that good quality housing is vital to our personal health and well being and that the private rented sector makes an essential contribution to meeting the problems of housing need, affordability and the alleviation of homelessness.

It is recognised that the private rented sector in particular is a valuable asset in helping to provide housing choice and availability and that a robust and viable private rented sector is a vital part of a balanced housing market. In the Winchester district, this accounts for approximately 14% of the private housing sector. However, it is also recognised that lower housing standards can often be found within private rented accommodation and in particular, houses in multiple occupation.

It is estimated there are in excess of 300 HMOs in the Stanmore neighbourhood, the majority of which are occupied by students, young professionals and working individuals. It is recognised that these HMOs provide a valuable housing supply for this section of the population, but it is equally acknowledged that high concentrations and poorly maintained HMO accommodation can have a detrimental impact on the communities in which they are located. This issue became evident as a result of a major consultation exercise as part of the development of a Community Plan for Stanmore, which was produced in June 2010. Since that time, officers and members have discussed the options available to them and a decision was made to undertake further consultation in regard to the introduction of an additional licensing scheme.

The aim of the additional licensing scheme will be to ensure that all HMOs in the Stanmore area achieve at least the minimum standard detailed in guidance for fire safety, that satisfactory amenity and management arrangements are in place and that properties are free from serious health and safety hazards.

What is a House in Multiple Occupation?

The Housing Act 2004 definition for a HMO is detailed and ensures that the majority of shared accommodation falls within its scope.

In general terms, a HMO can be any of the following:-

- a. A building where three or more persons share one or more amenity such as a bathroom, W.C. or cooking facilities and form two or more households;
- b. A self contained flat where three or more persons share one or more amenity such as a bathroom, W.C. or cooking facilities and form two or more households;
- c. A building that has been converted into one or more self contained flats where the conversion did not meet the Building Regulations 1991 standards and still does not comply with them.

A more detailed explanation of the definition and a list of exempt buildings can be found in Appendix 1.

What is HMO Licensing?

The Housing Act 2004 introduced a new duty on local authorities to operate a Mandatory Licensing Scheme for larger HMOs which consist of three or more storeys with five or more occupants forming two or more households.

Due to the limited remit for Mandatory Licensing, to date, only 64 HMOs have been licensed in the Winchester district. Therefore, out of the total population of HMOs only a small minority have been licensed and regulated by the Council through the mandatory licensing scheme.

However, the Act contains provisions enabling local authorities to extend licensing to other types and size of HMOs. Since 1 April 2010, local authorities have been able to approve Additional Licensing Schemes themselves under what is known as a 'general consent regime', provided that certain criteria are met.

Proposed Designation for Additional Licensing

It is the intention of the Council to introduce an Additional Licensing scheme that will run for a period of five years. The proposed scheme will include all HMOs in the Stanmore district (subject to exemptions).

For example the following premises will be licensable with the introduction of Additional Licensing:-

- 1. Houses occupied by three or more persons who form two or more households, and share one or more amenity such as a bathroom, W.C. or cooking facilities.**
- 2. Buildings converted into self contained flats where the conversion did not meet the Building Regulations 1991, or subsequent building regulation standards in force at the time of conversion and still does not comply with them (also identified as section 257 HMOs) and less than two-thirds of the self contained flats are owner-occupied.**

Exemptions

Premises subject to Mandatory Licensing requirements or listed under exemptions in Appendix 1.

Why introduce Additional Licensing?

Although a large number of HMOs in the Stanmore district are well managed and of a good standard having been accredited by the council through a voluntary scheme, problems of poor internal and external conditions, management and lack of adequate fire precautions still exist in many other HMOs in Stanmore.

This view is based on the following:-

- The 2007 Winchester City Council Private Sector House Condition Survey reported that the private rented sector contains the highest

incidence of serious health and safety hazards and those properties likely to be in greatest need of repair are HMOs.

- The majority of non accredited HMOs have no or inadequate provision for escape from fire.
- Owners of non accredited or mandatory licensed HMOs are often unaware of their legal management obligations and responsibilities.
- Non accredited or mandatory licensed HMOs frequently lack or have inadequate bathroom and kitchen amenities.
- Evidence from the Stanmore Community Plan consultation identifies specific issues of concern including poorly maintained gardens, litter, parking and antisocial behaviour.

How will the designation tackle the problems?

The problem of substandard accommodation will be tackled more effectively using licensing provisions. The present arrangements for all non accredited / mandatory licensed HMOs enable the majority of them to be operated without any prior notification or registration with the Council. It is often only once an Officer from the Private Sector Housing Team has inspected such a HMO and identified deficiencies that conditions are improved.

With licensing provisions in place, landlords or their agents will have to apply for a licence and will at that stage be made fully aware of their obligations in order to obtain a licence. It will be an offence to operate a licensable HMO if it is not licensed.

- A licence can only be granted if:-
 - The house is suitable for occupation (or that it can be made so with imposition of licence conditions) for a maximum number of persons; and
 - that the proposed licence holder is a fit and proper person and the most appropriate person to be the licence holder; or
 - that the proposed manager is a fit and proper person; and
 - the proposed management arrangements are satisfactory
- In order to ensure that a licensed HMO is suitable for occupation by a specific number of people, it will have to achieve (or be capable of achieving) satisfactory standards with regard to room sizes and the provision of bathroom and kitchen amenities etc. All properties will also have to achieve the minimum fire safety standards detailed in guidance.

Benefits of Additional Licensing

- **Improvement in property conditions** – The requirement to obtain a licence will place a duty on landlords to approach the Council. This will assist in making landlords more aware of their legal obligations with regard to property standards and will enable officers to inspect the HMO and ensure conditions are satisfactory much sooner than might

otherwise be the case. There will be a clear onus on landlords to comply with minimum standards at all times and not just to correct deficiencies following an inspection.

- **Creating a level playing field** – Many landlords are frustrated by certain landlords who intentionally flout the law or ignore minimum property standards. Failing to upgrade their properties provides the rogue landlords with a financial advantage causing unfair competition with compliant landlords. Additional Licensing will ensure that all HMOs meet minimum property and management standards, thus contributing to creating a level playing field.
- **Improvement in management standards** – All prospective licence holders and managers must be fit and proper having regard to the definition in the Housing Act 2004. Any landlord who fails to meet the fit and property criteria will not be able to hold a licence and may be required to appoint a suitable person to manage his or her properties.
- **Prevention of overcrowding** – Each licence would state the maximum number of occupants for the HMO which will assist landlords and occupants in preventing overcrowding.
- **Availability of information** – All licensed HMOs must be recorded on a public register. The introduction of an Additional Licensing scheme will provide council departments and external organisations with easy reference for all licensable HMOs in the city. The register may also be accessed by tenants looking for suitable rental properties.
- **Separating the Good from the Bad** – The public register will be promoted as the most appropriate place to find shared accommodation in the Stanmore area. This should assist tenants in avoiding substandard properties and rogue landlords and will ensure that tenants are directed towards licensed HMOs.
- **Consistent approach to Tenancy Management & Property Conditions** - Licensed properties will abide by a common set of conditions controlling property maintenance and tenancy management.
- **Targeted enforcement** – Many landlords express dismay when they voluntarily accredit their HMO and find that a great number of other landlords have not. The Council will take decisive action against any landlord found operating an unlicensed HMO in the Stanmore area. This will help maintain the integrity of the scheme and contribute to achieving its objectives.

Licence Fees

The Council is eager to recognise landlords who have been proactive with regard to improving their properties and have obtained accreditation status. Appropriate discounts to licence fees will be considered as part of the consultation process as such landlords and properties will typically generate less administration and enforcement activity.

However, the Additional Licensing scheme must be self financing and the fee covers the cost of the administration, issuing of licences, inspections, enforcement and monitoring of properties.

What happens next?

Once the consultation period has elapsed all the representations made will be considered and a report compiled for presentation to the Council's Cabinet for their consideration.

If Cabinet vote in favour of the scheme, a formal designation will be made and appropriate notification will take place to ensure landlords, agents and relevant stakeholders are made aware of the Additional Licensing scheme.

An appropriate lead in period will be available to enable all landlords and agents to ensure licence applications can be made. Anyone who owns or manages a non mandatory licensable HMO will need to apply for a Licence.

The Council must give a licence if it is satisfied that:

- The HMO is reasonably suitable for occupation by the number of people allowed under the proposed licence (or can be made suitable by the imposition of licence conditions).
- The proposed licence holder is a "fit & proper" person
- The proposed licence holder is the most appropriate person(s) to hold the licence.
- The proposed manager, if not the licence holder, is a "fit and proper" person
- The proposed management arrangements are satisfactory
- The person involved in the management of the HMO is competent
- The appropriate licensing fee is paid and all supporting documentation provided

The Council can refuse to issue a licence if the above requirements are not met.

The vast majority of the HMOs known to the Private Sector Housing Team will be suitable for occupation with or without licence conditions and therefore issuing a licence should be a reasonably straightforward process.

Landlords can appeal to the Residential Property Tribunal against decisions by the Council to refuse a licence, to attach conditions to a licence, to revoke a licence or to vary a licence.

Summary

Winchester City Council wants to introduce additional licensing in the Stanmore district in order to:

- Identify landlords whose management arrangements are inadequate or unsatisfactory and improve general standards
- Reduce the risk of fire and other hazards in HMOs and poorly converted self contained flats

- Improve the standard of kitchen and bathroom amenities within HMOs where deficient.
- Create a fairer and more equitable situation where all HMOs achieve minimum standards
- Improve the quality of housing to benefit both tenants and the wider community.
- Use powers in the 2004 Housing Act to tackle any rogue landlords operating in the Stanmore district

Appendix 1

IS MY PROPERTY A HMO? IT WILL BE AN HMO IF IT IS ONE OF THE FOLLOWING:	Housing Act 2004 (Section and schedule numbers)
A house or building lived in by people who belong to more than one family* and who share one or more facilities**	S254(2) 'the standard test'
A house in bedsits lived in by people who belong to more than one family* and who share one or more facilities**	S254 (4) 'The converted building test'
An individual flat lived in by people who belong to more than one family* and who share one or more facilities**	S254(3) 'The self contained flat test'
A building of self contained flats that do not meet 1991 Building Regulation standards and less than two-thirds of the flats are owner-occupied	S 257
<p>* <i>Family – husband, wife, co-habitee, child, stepchild, foster-child, grandchild, parent, stepparent, foster-parent, grandparent, brother, half-brother, sister, half-sister, aunt, uncle, niece, nephew, cousin.</i></p> <p>** <i>Facilities – basic amenities: wc; wash hand basin, shower, bath, cooking facilities</i></p>	
EXEMPTIONS (detailed in schedule 14 of the Act)	
<ul style="list-style-type: none"> • If it is occupied by only two people. • If it is occupied by the owner (and their family if any) and one or two lodgers. • If it is occupied by a religious community • If the owner or manager is a public body • If the owner or manager is an educational institution • Buildings regulated otherwise than under Housing Act 2004 <p><i>[Further information can be found in schedule 14 of the Act]</i></p>	Paragraph 7 Paragraph 6(c) Paragraph 5 Paragraph 2 Paragraph 4 Paragraph 3

