



Doncaster Council

FURTHER REGULATION OF HOUSES IN MULTIPLE OCCUPATION IN THE FORM OF ADDITIONAL LICENSING AND AN ARTICLE 4 DIRECTION

Date: 5 June 2018

To the Chair and Members of the CABINET

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Councillor Glynn Jones Deputy Mayor Cabinet Portfolio Holder for Housing and Equalities	Town Ward Hexthorpe and Balby North Wheatley Hills and Intake	Yes
Councillor Chris McGuinness Cabinet Portfolio Holder for Communities, the Voluntary Sector and Environment		
Councillor Bill Mordue Cabinet Portfolio Holder for Business, Skills and Economic Development		

EXECUTIVE SUMMARY

1. This report provides details of the outcome from a consultation on a proposed Additional Licensing Scheme as well as proposed introduction of an Article 4 Direction for Houses in Multiple Occupation (HMOs) in parts of central Doncaster. These are 2 separate regimes that can operate independently but the Council is seeking to utilise these powers together to address housing issues as identified from the consultation.

The consultation has generated a response from Doncaster's residents, businesses, landlords and key stakeholder that is overall strongly in favour of the proposed additional regulation of HMOs in this area. The consultation responses make it clear that whilst HMOs are an important part of the local housing market, there is a growing perception that many of these properties contribute to problems with anti-social behaviour, have a detrimental impact on the amenities of the area and that the large concentration of these properties in some area change the character of traditional urban residential communities.

An Article 4 Decision is a local determination to restrict permitted development rights, under the Town and Country Planning Act. It does not in itself prohibit any action but means that a landowner is required to seek planning consent for what would otherwise have been permitted development. In this case, it would be that permission is needed to establish a small HMO (3-6 persons) whereas without the Direction this would be unnecessary. More detail about an Article 4 direction is set out in paras 13-14.

Additional Licensing gives the Council the power to require all landlords of HMOs (included in the scheme) to apply for a licence and provide details of the management arrangements and the property. This will enable officers to know where these properties are and place conditions on the licence holder to ensure minimum standards of safety, welfare and management are maintained. More detail about Additional Licensing is set out in paras 8-12.

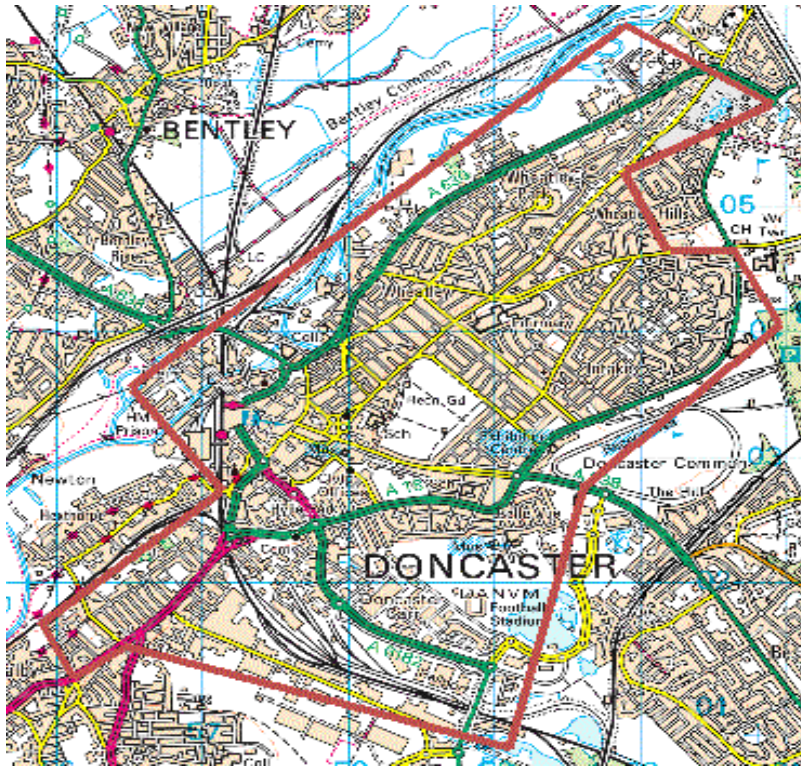
The report recommends that the Cabinet approves the implementation of an Additional Licensing Scheme and also approve the making of an Article 4 direction together with approving the fees for the scheme.

EXEMPT REPORT

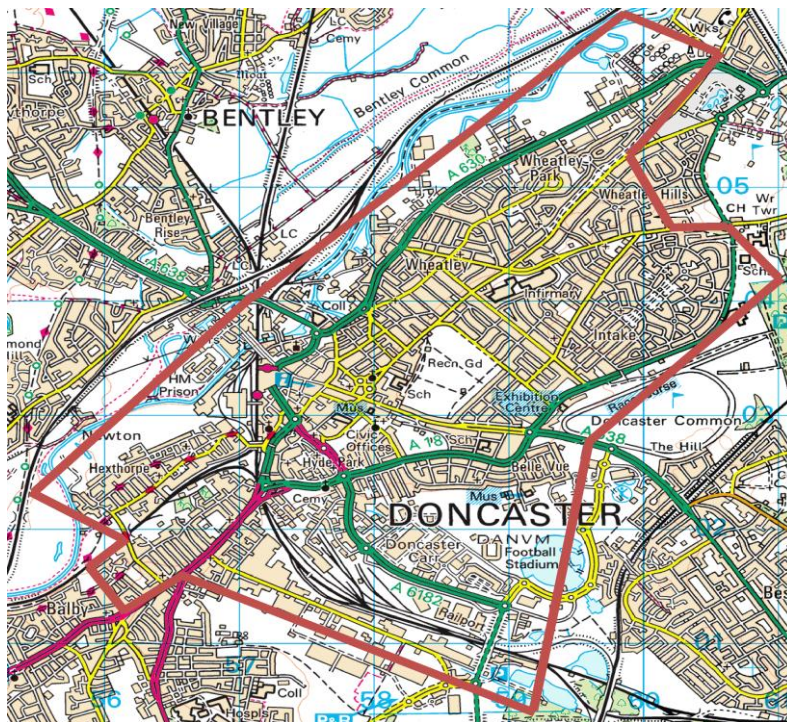
2. This is not an exempt report.

RECOMMENDATIONS

3. That Cabinet:
 - a) Approves the implementation of an Additional Licensing Scheme for the area shown edged red on Map 1 below; for the period of 5 years; for properties meeting the definition of a HMO in accordance with the Housing Act 2004; and where each property has 4 or more occupiers. The scheme would be operated as a co-regulation scheme together with an approved partner.
 - b) Approves the making of an Article 4 direction for the area shown edged red on Map 2 below; to be formally consulted upon and to delegate the Director of Regeneration, in consultation with the Cabinet Portfolio Holder for Communities, the Voluntary Sector and Environment and the Cabinet Portfolio Holder for Business Skills and Economic Development, the authority to confirm the Article 4 direction subject to there being no objections which cannot be satisfactorily addressed by the Council.
 - c) To approve the fees as described in Appendix 6 to commence from the introduction of the scheme.



Map 1- Additional Licensing Area



Map 2- Article 4 direction area

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

4. The Additional Licensing Schemes are intended to bring smaller HMOs up to an acceptable standard, improving conditions for tenants, safer living arrangements reduce impact of these properties on surrounding residents, improving the overall amenities of the area
5. There is a large concentration of smaller HMOs in the Town, Balby North and Hexthorpe and Wheatley Hills and Intake Wards, with smaller pockets in village locations. An Article 4 Direction (A4D) would safeguard the character of these urban communities and dwellings from over saturation and poor conversion impacting on the amenities of the area.

BACKGROUND

6. The Central wards of Doncaster has a large proportion of HMOs, many of these generate problems with anti-social behaviour. The change in migration patterns, changes to housing benefits and a large influx of non-local property investors attracted by the low house prices in Doncaster have all contributed to a large increase in the number of small HMOs in Doncaster, removing much needed larger family housing units in these areas.
7. Typically, HMOs are older dwellings (pre1919) compared to the overall private sector stock and are often prone to structural problems and poor energy efficiency, as well as overcrowding and cramped housing conditions leading to anti-social behaviour. As a result, the Enforcement Team find that a large proportion of small HMOs have a number of issues (e.g. too small, insufficient facilities, overcrowded, inadequate fire precautions and health and safety hazards). Planning permission is not required to convert domestic dwellings into small HMOs (3-6 persons) and as a result their conversion to HMOs goes un-detected. The Council are aware of around 1000 HMOs but in real terms there is likely to be substantially more.

ADDITIONAL LICENSING

8. Under the Housing Act 2004, Part 3, Local Authorities can introduce an Additional Scheme for HMOs as long as they are satisfied that a significant proportion of the HMOs meeting a set category description, within a designated area, are being mismanaged to such an extent as to give rise, or be likely to give rise, to one or more particular problems, either for those occupying the HMOs, or for members of the public, e.g. anti-social behaviour and a negative impact on the amenities of the area. Anti-social behaviour is in this case defined as conduct on the part of occupiers of, or visitor to residential premises which causes or is likely to cause a nuisance or annoyance to persons residing, visiting or otherwise engaged in lawful activities in the vicinity of such premises. It also includes conduct which involves or is likely to involve the use of such premises for illegal purposes. The consultation report in Appendix 1 provides clear evidence that whilst HMOs are a very small part of the housing stock in Doncaster they contribute to a large proportion of complaints received in relation to ASB including environmental conditions which would constitute a nuisance. 57% of HMOs borough wide has generated complaints in the last 5 years. The comparative figure for single let properties is 9.4%. In some areas the impact is even

greater with 85% of HMOs in Balby North attracting complaints. Further data for the different wards can be seen in table 1 below.

Area	Total No of known HMOs	No of unlicensed HMOs	No of Currently Licenced HMOs (percentage licenced)	No of HMOs addresses attracting Complaints (in last 5 year 2012-2017)	Percentage of known HMOs attracting complaints in this area	Total No of complaints re HMOs (in last 5 year 2012-2017)
Borough wide	987	805	182 (18%)	559	57%	2196
Balby North (excluding Hexthorpe)	236	194	42 (18%)	201	85%	768
Hexthorpe	47	45	2 (4%)	46	98%	261
Town	163	64	99 (61%)	88	54%	229
Wheatley Hills and Intake	316	296	20 (6%)	163	52%	538
Total for other wards in Doncaster	171	159	12 (7%)	37	22%	308
Balby South*	54	47	7 (13%)	24	44%	92

Table 1; The table shows the area profile of complaints received in respect to HMOs by the Enforcement Team in the period 2012 - 2017.

**Balby South is not included in the proposed scheme but the data is presented for reference as consultation took place with residents in this area.*

9. Under current legislation, any HMO being three storeys or above and occupied by at least 5 individuals requires a mandatory HMO licence. Licenced HMOs generate substantially less complaints to the Enforcement Team than the small, currently unlicensed properties. In November 2015, the Department for Communities and Local Government published a technical discussion paper titled Extending Mandatory Licensing of Houses in Multiple Occupation. The paper supports the view that failure to effectively manage HMOs properly can adversely affect the health and safety of tenants within the building and can have a wider impact on the local community in which the HMO is located. Following on from these proposals legislation has been passed to extend the scope of mandatory licensing of HMOs in October 2018 by removing the current licensing threshold of at least 3 storey dwelling. This does not remove the right of Local Authorities to introduce Additional Licensing Schemes where evidence supports this.

10. The Central three wards of Doncaster have a large concentration of small Victorian terraces with a traditional “two up two down” layout, which has over time had small rear extensions added to house a modern bathroom and kitchen. When these properties are converted into small HMOs the natural layout would be 4 bedsitting rooms with a shared kitchen and bathroom. Based on complaints received by the Enforcement Team, it is the conversion of these very small terraces into HMOs that is currently causing the greatest concerns to residents of Doncaster and regularly attracts complaints regarding ASB including noise, waste and overcrowding. These properties are still too small to fall under the new Mandatory Licensing threshold from October 2018 as they would only house up to 4 individuals, making

Additional Licensing the only effective tool available to deal with the problems surrounding these properties.

11. Multiples previous initiatives to address issues from these properties have had limited success. Whilst there is some legislation available to a Local Authority and the Police in respect to anti-social behaviour and housing condition in small HMOs, the Council and Police have in the past found many of these powers either too bureaucratic, too time-consuming or the burden of proof is too excessive for the legislation to be effective to provide a long term solution for properties where occupancy frequently change. Additional Licensing is very similar to the Selective Licensing scheme recently introduced in Hexthorpe, apart from the fact that Additional Licensing only apply to HMOs, whilst Selective Licensing apply to all privately rented premises in a designated area. Selective Licensing has been effective in delivering a reduction of ASB in Hexthorpe and it is expected that Additional Licensing can achieve a similar success. It is proposed that the Additional Licensing scheme will be delivered in partnership with the Home Safe Scheme, our approved co-regulation partner, in a similar way to the Hexthorpe Selective Licensing Scheme. As all HMOs in Hexthorpe already are required to be licensed under the Selective Licensing Scheme, there is no need for Hexthorpe to also form part of the Additional Licensing Area. However, to prevent Hexthorpe being a target for future HMO conversions, it is proposed that the area still will be included in the Article 4 Direction.
12. Additional Licensing would require all private rented sector landlords, letting a HMO with 4 or more occupiers in the designated area, to apply for a licence for each property they rent out but certain exemptions apply. This ensures that the Council is aware of where HMOs are located in the area and have contact details of a nominated person who is responsible for resolving any problems with the management of the property that may arise during the licensing period. Each licence issued will have set condition regarding how many people can safely occupy the property, the amenity standards the property need to comply with and the minimum level of fire protection required. Further conditions will require the landlord to investigate and take prompt action on any report of anti-social behaviour emanating from the property. The Council's Enforcement Team or the co-regulation partner will ensure compliance against the conditions of the licence through a programme of inspections. Prosecution for breaching a condition is punishable with an unlimited fine or a Civil Penalty. Landlords not applying for a licence for their property within 3 month of the start of the scheme face prosecution with an unlimited fine or a Civil Penalty Notice. Landlords may also be required to re-pay all the rent monies received whilst the property is un-licensed. Further details of the requirement, operation and benefit of Additional Licensing can be found in the consultation report for the scheme in Appendix 1 and the proposed licensing conditions in Appendix 4.

ARTICLE 4 DIRECTION

13. An Article 4 Direction is a local determination to restrict permitted development rights, under the Town and Country Planning Act. It means that a landowner is required to seek planning consent for what would otherwise have been permitted development. In this case, it would be that permission is needed to establish a small HMO (3-6 persons) whereas without the Direction this would not be necessary. By making it a requirement

to apply for Planning Permission, the Local Authority could reject applications if unsuitable or impose conditions to reduce the impact upon neighbouring properties, such as adequate sound insulation, sufficient storage for waste etc. A policy in forthcoming Local Plan will set out criteria for acceptable HMO applications and where these criteria are not met applications could be refused.

14. An Article 4 Direction should only be used in circumstances where there is an exceptional need and Para 200 of National Planning Policy Framework PPF state that the use of Article 4 directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area

CONSULTATION PROCESS

15. A consultation process on the proposals started on the 23rd October 2017 and finished at midnight on the 22nd January 2018. A minimum consultation time of 10 weeks is required under the Housing Act 2004 in respect to Additional Licensing. The Article 4 Direction consultation was in the form of a public pre-consultation. As this is beyond the legal requirements of consultation under the Town and Country Planning Act 1990, no minimum time scale applied to the informal consultation.
16. The aim was for the consultation to go beyond the minimum legal requirements to ensure engagement takes place with residents, landlords and other stakeholders who have an interest in HMOs or the Private Sector Housing market in general. The range of consultees included:
 - Residents of the affected areas
 - Residents in areas immediately adjoining the proposed area, such as Wheatley Hills and Balby South.
 - Landlord of the affected areas and areas immediately adjoining the proposed area
 - Businesses in the affected areas
 - Letting Agents in Doncaster
 - Faith groups
 - Community and voluntary organisations
 - Partner organisations

In addition there was an open invitation to all residents in Doncaster to have their say, responding to a notice placed on the Council website and promoted in the press and on social media.

17. In addition to written responses, 4 resident consultation events were held in community venues in Wheatley Hills, Wheatley, Hyde Park and Balby. Officers also attended PACT meetings in these areas as well as Hexthorpe to provide more information on the proposals. Two further events targeted to landlords were also held in the Civic Office, which were very well attended. The purpose of these events was to ensure residents; landlords and other interested parties had access to all relevant information and to give them opportunity to ask questions. All attendees were encouraged to complete the digital survey or offered the option of completing a paper copy of the survey.

18. Should Cabinet approve the making of an Article 4 direction then this will be subject to a formal statutory consultation process during which representations to the making of the order can be made.

OUTCOME OF CONSULTATION PROCESS

19. Over the consultation period a total of 210 responses were recorded in an electronic online survey. Some of these responses were received in paper form and were input into the survey (originals retained for inspection). A few further written responses were received, which has been logged separately (Appendix 3). As a result the online survey gives a good representation of the responses received.
20. The distribution of responses across broad types of respondents was as follows:
- Owner occupiers: 48%
 - Private tenants: 27%
 - Landlords: 13%
 - Housing Association tenants: 5%
 - Managing Agents: 0.5%
 - Others: 6.5%
21. Most respondents reported concerns about their local area and the majority felt that Refuse/Fly tipping/litter, parking, neglected properties and people not treating others with respect was a major issue in their neighbourhood. More details about what issues people felt was a problem in their area can be seen in table 2 below:

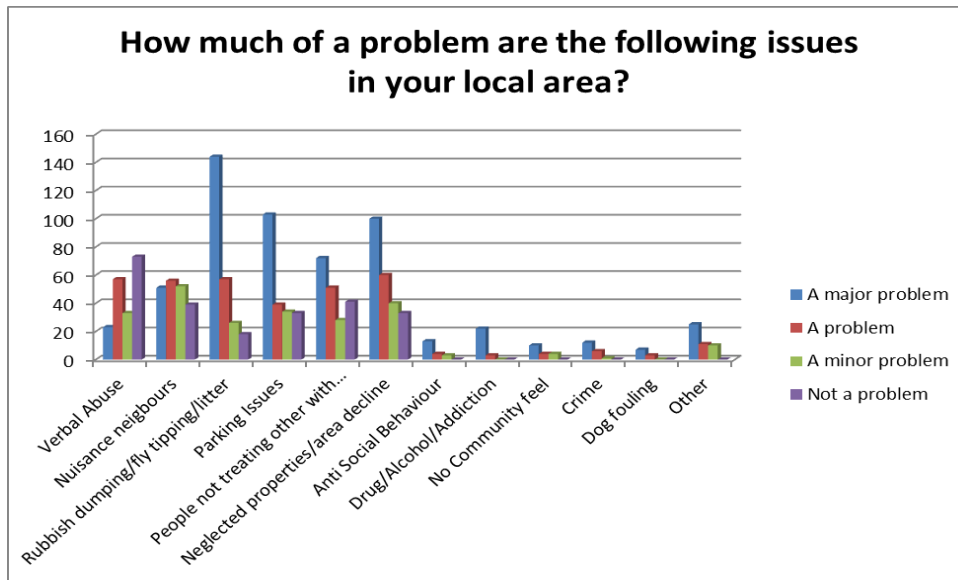


Table 2; Issues reported by respondents in response to the questions 10 & 11- "Thinking about your local area, how much of a problem are the following?"

22. 77% of the respondents felt that HMOs were causing a problem in their area and 51% stated they were aware of owner occupiers moving out of the area as a result of problems with HMOs. The issues respondents felt HMOs contributed to can be seen in Table 3 below:

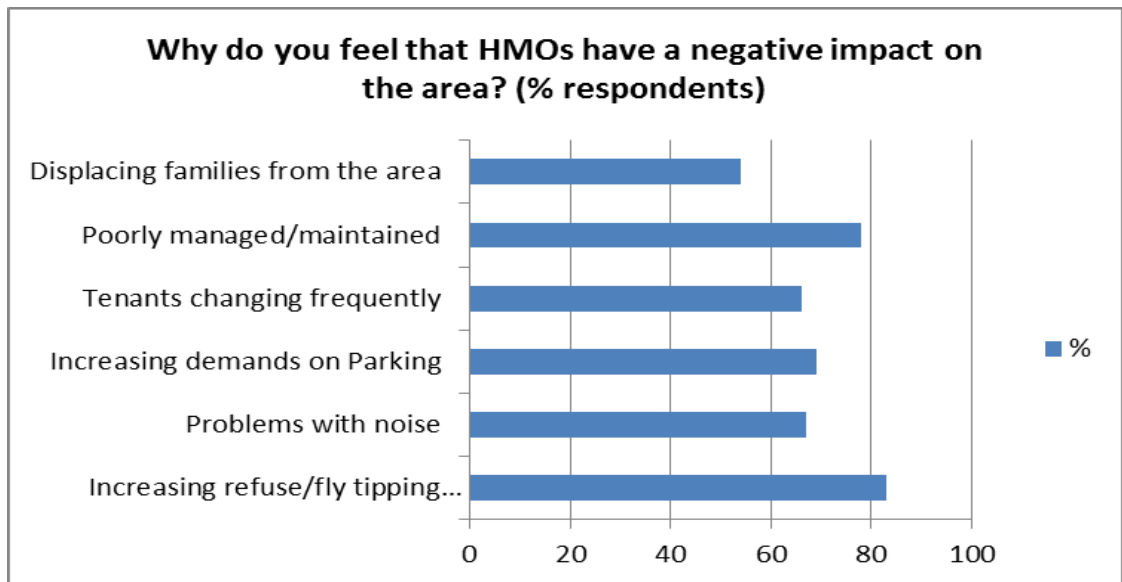


Table 3; Responses received to the question 8- "Why do you feel that HMO's have a negative impact on the area"

23. Overall the consultation results demonstrated a very strong level of support for increased regulation of HMOs in the proposed area. 86% of the respondents responded "Yes" to the question "Do you agree with the Council's proposal to introduce Additional Licensing as detailed in the consultation document, only 7% answered "No" to this question and the remaining respondent answered "Don't know". The support for introduction of an Article 4 Direction was equally high even if less people appeared to have fully understood this part of the proposals. 78% of the respondents responded "Yes" to the question "Do you agree with the Council's proposal to introduce an Article 4 Direction as detailed in the consultation document, only 7% answered "No" to this question and the remaining respondent answered "Don't know".
24. The majority of the respondents, 60%, agreed with the proposed Licensing conditions, whilst 12% felt amendments would be beneficial. The most common amendment suggested was to restrict the number of HMOs (9 responses), extend the proposed area (2), restrict tenant parking (2), less onerous on landlords (3), require larger bins for HMOs(2) and improve standards of HMOs (2).
25. Further comments were provided by several respondents to support the introduction of an Article 4 Direction to protect the character of the areas for example:
- "Overall we are in support of these proposals. Of particular concern to us have been the environmental quality issues: damaging changes affecting the character of streets ; loss of boundary walls; loss of soft landscape ; additional signs and vehicles; quantity and location of bins which should be off-street. The loss of historic fabric is disheartening."*
- "Why is the Town Centre Conservation area so poorly defended? Appears to be little will to preserve areas of historical and architectural significance. People have no idea they live in a Conservation Area."*
26. Some respondents also expressed strong views that the Council needed to go further and introduce clear policies that would allow refusal of planning

permission for some future conversions to protect areas in the future from over concentration of HMOs, for example:

“We consider that the Council needs to develop and approve policies on standards and enforcement if the initiative is to succeed. It is far from clear how proliferation will be controlled, especially as the extent of the problem is not officially known.”

27. Some respondents also expressed the view that the Council also needed to tackle the large number of to let signs caused by the frequent turnaround of tenancies in many HMOs, for example:

“There is nothing in the proposals on the awful, permanently-erected signs disfiguring the whole area and advertising the on-going slumification. “

“We would like to see an extension of its power by limiting the number of ‘Rooms to Let’ signs, some of which are put up in excessive numbers per property and often left up permanently.”

OPTIONS CONSIDERED

28. Statistics have shown there is a problem with ASB associated with privately rented HMOs in the three central wards in Doncaster. This has been acknowledged by landlords and residents as well as elected members. There is also evidence of support for the view that too large concentration of HMOs in one area contribute to area decline and irreversible changes to the character of the area. Taking comments from the consultation into consideration, there are three main options to be considered. The recommended option is in paragraph 32.
29. Do Nothing –To continue partnership working in the area using existing legal powers available to the Council and South Yorkshire Police. Extensive enforcement using existing legal powers have been carried out in relation to ASB from HMOs. This is not recommended.
30. Only introduce Additional Licensing. This is not recommended.
31. Only introducing an Article 4 direction. This is not recommended.
32. To approve implementation of the Additional Licensing scheme as consulted on and designate the area shown edged red on Map 1 in paragraph 3 of this report, as an Additional Licensing area. The scheme would be operated as a co-regulation scheme together with an approved partner. To also approve the making of an Article 4 direction in the area shown edged red on Map 2 in paragraph 3 of this report, to be consulted on and confirmed subject to the outcome of the consultation. This is the recommended option. Additional Licensing is subject to a 3 months public notice period once a decision is made and any scheme agreed would be likely to become active before 1st October 2018. An Article 4 Direction would be subject to a 12-month public notice period and if such scheme is agreed it is likely to become active around 1st July 2019.

REASONS FOR RECOMMENDED OPTION

33. The recommended option will provide a comprehensive approach and increased regulation required to ensure a balance is reached between the need for HMO housing and the need to preserve existing communities close to the Town Centre. It would also ensure all existing HMOs are well managed to reduce impact. Article 4 and Additional licensing have been successfully implemented by other Local Authorities as a means to tackle some of the issues outlined in this report. We are hoping by introducing Additional licensing it will be part of a coordinated approach for dealing with homelessness, empty homes and anti-social behaviour such as reducing complaints of noise, rubbish, housing disrepair and other anti-social behaviour related to HMOs
34. Whilst previous partnership work has delivered some success this has been limited and not sustained and the consultation has shown there is support for action to tackle impact of poorly managed HMOs that are recognised to be affecting the area. Even if national legislation is changing in October 2018 to include more HMOs into the mandatory scheme, evidence exists to show this would not adequately tackle the smaller HMOs where problems are prevalent in Doncaster. Doncaster Council would only consider introduction of Additional Licensing or an Article 4 Direction as an appropriate tool when other action and legislative tools have been tried extensively, but failed to deliver a sufficient and sustained improvement of an area.
35. Only introducing Additional Licensing without an Article 4 Direction would still ensure all smaller HMOs reached a certain safety standard and that landlords took steps to reduce ASB from tenants. But Licensing on its own could not stop or restrict conversions of smaller HMOs in the first instance. As a result we would not address the oversupply of HMOs or prevent conversions of completely unsuitable properties from happening in the first place. Additional Licensing is also unable to introduce property improvements which are solely designed to reduce the impact of any conversion on surrounding properties, such as sound insulation.
36. To only introduce an Article 4 Direction, without Additional Licensing would ensure that Planning Permission is required for any new HMO conversions, which would result in proposals being appropriately scrutinised and conditions imposed to limit impact of such conversions on surrounding properties. This should reduce problems with HMOs going forward as properties would be appropriately designed and converted for their new intended use. However, this could not be applied retrospectively to the large amount of problematic HMOs already in our communities. To only introduce Article 4 we would fail to address bad landlords and poor management as they can still operate outside of the law. As with any other household, those in shared housing are required to behave in a socially acceptable way – planning law does not address this issue.
37. Introduction of a combined scheme would ensure we both tackle the problems with current HMO conversions, as well as taking a more pro-active approach to these developments going forward to ensure they will be designed and constructed in a manner that prevents impact on surrounding properties and local communities.

38. Under the Housing Act 2004, a House in Multiple Occupation is defined as a property which is occupied by persons who do not form a single household as their only or main residence when they are sharing one or more basic amenities. Section 257 of the Housing Act 2004 widens this definition to also include converted blocks of flats, even when individual flats are occupied by a single house hold, in cases where the conversion did not comply with the appropriate building standards and still does not comply with them and where also less than two-thirds of the self-contained flats are owner-occupied. The reason for this is to ensure extra safeguards are in place for tenants living in these circumstances as fire resistance between different parts of the building is unlikely to have been upgraded sufficiently during the conversion. It is recommended that if implemented, the Additional Licensing requirements are applied to all types of HMOs with at least 4 occupiers, including any flat falling under the definition of an HMO according to s.257 of Housing Act 2004.
39. It is further recommended that if an Additional Licensing scheme is approved, it is implemented in a similar way to the Selective Licensing Scheme in Hexthorpe and Edlington, based on co-regulation principles using one or more locally approved accredited partners. Additional benefits delivered through co-regulation are expected to be:
- Make selective licensing more landlord friendly by making it fit with the reality of today's buy to let market and allow monthly membership payments rather than a large upfront fee.
 - Create a scheme which addresses irresponsible tenants as well as landlords, by sharing adverse tenancy outcomes in a regulated manner to reduce the ability of tenants who have been proven to cause ASB from moving between properties.
 - Give landlords in the area a voice and allow them to be a recognised stakeholder with whom the Council communicates regarding matters that concern the area or landlords in general.
 - Give smaller and more inexperienced landlords a local support organisation who they can trust and who can provide them with the information, guidance and support they need to run a profitable business in a responsible manner.
 - Engage and educate landlords to be competent to manage their properties well, including regular effective self-assessment of compliance.
 - Reduce the amount of visits the local authority makes to private rented properties in the area by giving landlords the option to resolve complaints regarding their properties themselves with support, assistance and closely audited by the landlord scheme.
40. To adequately fund the scheme, it is further recommended that the cost of an Additional licence for a property with up to 5 bedrooms should be £800 for Council applicants and £270 for co-regulation applications. This is in line with the current fee for Mandatory HMO Licences. The fee for Council applicants would cover time to process application, fit and proper person check, propose conditions, issue license, full verification check prior to licence, annual checks of certificates and licensing compliance visits during the

licensing period as well as investigation of any complaints. The fee for Co-regulation applicants can be substantially reduced based on the co-regulator undertaking all verification checks, licence compliance visits and act as first contact for complaints. It should also be noted that consultation pre-adoption will have resource and funding issues which could be also claimed back by setting a higher licensing fee. To encourage early application and ensure compliant landlords do not have to cover the cost of the Authority having to take action against less compliant applicant it is further recommended that any applications that are prompted, i.e. comes in later than 3 months after the introduction of the scheme, will have an additional £50.00 added to the fee to cover searches to determine ownership and contact. The cost to apply for planning application for a change of use from a house to an HMO will be £462 and this fee is set nationally rather than by Doncaster Council. Further details and break down of how the fee income would be used can be seen in Appendix 6.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

41.

	Outcomes	Implications
	<p>Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment 	<p>Ready access to good quality housing is vital for local businesses to attract and retain a productive workforce. HMOs serve an important part in the rental market and any scheme aimed at improving tenancy management should be attractive to prospective employers. This proposal would safeguard delivery of an effective regulation of smaller HMOs without placing the financial burden of funding such service on the Authority.</p>
	<p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage 	<p>Poor quality HMO conversion and Housing disrepair has a negative impact on the build environment. The proposal would safeguard communities around Town Centre from irreversible changes to the character of the area, ensure new and existing developments are completed to a high standard and improve community cohesion. Environmental crime such as Fly tipping and refuse has negative impact on the quality of life and environment for our</p>

		<p>residents. Removal and disposal of fly-tipping alone costs the council nearly £500,000 per year. With appropriate licence conditions and sanctions the intention is to reduce ASB and improve housing standards, which will improve the area to contribute this priority outcome.</p>
	<p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work 	<p>The reduction of ASB and improved tenancy management will contribute to this priority by creating safer and healthier conditions in the PRS, promoting community cohesion and a better family and learning environment for children living in this tenancy sector.</p>
	<p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes 	<p>The reduction of ASB and improved tenancy management will contribute to this priority by creating safer and healthier conditions in the PRS for all groups of tenants including children, older people and vulnerable individual.</p>
	<p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance 	<p>This proposal will be delivered by the Council's Licensing and Enforcement teams and be funded from the licence fee.</p> <p>The scheme will be implemented with a delivery partner. The approach is a modern, value for money and an example of partnership working between all stakeholders.</p>

RISKS AND ASSUMPTIONS

42. Under the Housing Act 2004, Part 3, Local Authorities can introduce an Additional Licensing scheme as long as certain conditions apply and can be evidenced. Similarly the council has the power to introduce an Article 4 Direction under the Town and Country Planning Act 1990. The key risks and assumptions associated with the recommendations in this report are:
43. Prior to any decision of implementation of additional licensing, the Council has to conduct a thorough consultation on their proposals. If a decision is taken to introduce these powers without sufficient evidence or consultation, landlords or resident could legally challenge the decision which would both delay any potential implementation and be costly to the local authority.
44. Prospective landlords are entitled to compensation (in accordance with a formula) unless notice of the intention to apply an Article 4 direction is given of 12 months. Not giving the appropriate notice exposes the council to huge financial risk. To mitigate this, the Article 4 Direction would need to be implemented later than any additional licensing scheme. The Secretary of State have the power to cancel or modify any Article 4 Order made at any time, but it is highly unlikely that such steps would be taken in respect to a correctly made order when clear evidence of the need of an order exists.
45. Due to the long notice period required for an Article 4 Directions there is a risk that there would be an increase in HMO conversions before implementation, to avoid the new requirement. Introduction of an Additional Licensing Scheme would ensure such properties still have to meet high standards and is likely to reduce any sudden influx.
46. To ensure the success of the scheme it is essential that sufficient resources are allocated for its operation. The law allowing selective licensing does not permit such schemes to make a profit, nor should they make a loss or use the income for any other reason than to run the scheme. The licence fee should cover the processing and issuing of the licence and a reasonable level of compliance monitoring thereafter.
47. To fund the scheme, the recoverable cost of a licence for a property with up to 5 bedrooms is estimated to be £800 for Council applicants and £270 for co-regulation applications. The fee for Council applicants would cover time to process application, fit and proper person check, propose conditions, issue license, full verification check prior to licence, annual checks of certificates and licensing compliance visits during the licensing period as well as investigation of any complaints. Post adoption any scheme would also have enforcement costs which cannot be covered by the Licensing fees. The cost of Enforcement Action for licensing breaches can however be claimed back in court costs where cases go forward, but this is dependent on court discretion and it is not possible to guarantee full cost recovery this way.
48. The additional cost of applying for a licence or arranging planning permission could result in increased rent being charged. However, the licensing cost is substantially lower compared to average rents of HMOs than previous DMBC selective licensing scheme, which should reduce this risk. It is also believed that the Doncaster HMO market probably has a ceiling on rent, around local housing allowance and housing benefit. A planning application for a change

of use from a house to an HMO will cost £462.

49. The success of the scheme will be in the ability to manage the same with appropriate staffing which will be affected by the size of area of the scheme. The financial cost need to be met from the licence fee income otherwise other funding will be required.
50. As the proposal is for the scheme not to be borough wide there is a possibility that this will displace the problem into unregulated areas. However, most residents in HMOs are reliant on good transport routes and easy access to Doncaster Town Centre, reducing the risk of dispersal to outlying villages.

LEGAL IMPLICATIONS [Officer Initials KDW Date 30.04.18

51. Both proposed Schemes are bound by statutory frameworks which set out obligations in relation to consultation and notification. Care must be taken to ensure the statutory obligations are met and there is no duplication with existing or proposed legislation.
52. The Housing Act 2004 sections 55-78, which are detailed in Appendix 1, set out the requirements that entitle a Local Authority to designate an area for Additional licensing which includes a requirement for a local authority to take reasonable steps to consult persons who are likely to be affected by the designation and consider any representations that are made. Such consultation must be for not less than 10 weeks. Details of the consultation undertaken are set out at Appendix 1.
53. The Housing Act 2004 also requires that an Additional licensing scheme cannot come into force unless it is confirmed by government or a general approval has been issued. In 2015, the government issued a general approval giving all local housing authorities in England approval to designate an area as being subject to Additional Licensing.
54. The Act further provides that the proposed Additional Licensing scheme needs to be consistent with the Council's housing strategy and requires a local authority to consider other courses of action available to them that might provide effective methods of achieving the scheme's objectives.
55. An Article 4 Direction once in force means that planning permission is required to convert a dwelling to a small HMO and is no longer automatically permitted. Applications would need to be assessed in the usual way against national planning policy and policies in the Local Development Plan. As noted within the report, the use of Article 4 Directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area
56. For the reasons set out in the report, a minimum period of 12 months of prior notice of the withdrawal of permitted development rights is to be given. There is a statutory framework to follow on the making of an Article 4 Direction. These requirements include formal advertisement of the making of the Article, site notices and obligations to ensure notification to those affected by the Direction though in the latter case the requirement for individual service can be waived where it is considered impracticable due to

the number of owner or occupiers within the area. A formal consultation period of 21 days is required, following which any representations received during consultation must be taken into account by the Local Planning Authority in determining whether to confirm the Direction.

FINANCIAL IMPLICATIONS [Officer Initials: RT Date: 25/04/18]

57. The total forecast income to be generated by the scheme is as follows:-

License Type	Quantity Forecast	Unit Charge	Total Income
Standard	100	£800	£80,000
Home Safe	300	£270	£81,000
Total Income			£161,000

58. This income is to cover the costs of administering the scheme for the next five years so the income would be split £32k per year.

59. As a result of the additional workload the team have indicated that an additional grade 8 post is required costing £32k per annum (at SCP 29 and including on-costs).

60. The Council's Financial Procedure Rules state that:-

"B.19 At the annual budget meeting Council will approve all discretionary fees & charges for the forthcoming financial year as proposed by Cabinet.. The proposals will be based on advice from the CFO taking into consideration inflation, market forces and the Council's overall financial position.

B.20 Any new fees and charges proposed within the financial year will be approved by Cabinet."

The decision to introduce these new fees therefore needs to be taken by Cabinet.

HUMAN RESOURCES IMPLICATIONS [Officer Initials; DK Date: 23/04/18]

61. There are no direct HR implications to the introduction of additional licensing for HMO's. However, due to the expected increase in licences being issued any additional staffing requirements will need to be recruited to via the Council's recruitment process. The relevant Job Description has already been evaluated under the Job evaluation scheme.

TECHNOLOGY IMPLICATIONS [Officer Initials: PW Date: 23/04/18]

62. There are no direct ICT implications from implementing the recommendations in this report as processing of licenses will be carried out using the same software as the existing service at no additional cost.

HEALTH IMPLICATIONS [Officer Initials: CT Date: 27/04/18]

63. Public Health supports the recommendations to approve the proposed Additional Licensing Scheme and the making of an Article 4 Direction in

- relation to the areas laid out in the report. These areas fall within the 10% most deprived communities in Doncaster which experience poorer health outcomes than the more affluent areas across the borough.
64. The English Housing Survey identifies a higher prevalence of poor housing in the private rented sector compared to other tenures. Poor quality housing can lead to poor health and exacerbate existing health conditions. The proposals will enable the housing to be brought up to an acceptable standard ensuring tenants benefit from the improved physical conditions; making sure people feel safe, are warm and free from damp and have good facilities for the preparation and consumption of food.
 65. The Licensing requirement will also safeguard against the loss of large family homes to ensure adequate sized homes are available to meet the needs of larger families.
 66. Integration and cohesion are crucial in making the community a place where everyone feels safe and involved; community welfare and mental wellbeing can be negatively affected in areas where integration is poor and can lead to social isolation and detachment from the community. The addition to effectively manage the number of smaller HMOs is integral in ensuring the vitality of our communities thus creating an environment that is beneficial for all.
 67. When considering the applications to convert properties to HMOs it is also important to consider their location in relation to the access of other health improving opportunities; for example access to: employment, social networks, essential services, public transport and amenities such as green space.

EQUALITY IMPLICATIONS [Officer Initials: CB Date: 24/04/18]

68. The decision maker must be aware of their obligations under the public sector equality duty (PSED) in s149 of the Equality Act 2010. It requires public authorities when exercising their functions to have due regard to the need to eliminate discrimination, harassment and victimization; advance equality of opportunity; and foster good relations between people who share relevant protected characteristics and those who do not.
69. The relevant protected characteristics under the Equality Act are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnerships, but only in respect of eliminating unlawful discrimination.
70. The decision maker must ensure that they have seen the due regard statement which is included at Appendix 7. The duty must be exercised in substance, with rigour, and with an open mind and is not a question of ticking boxes. It is for the decision-maker to decide how much weight should be given to the various factors informing the decision, including how much weight should be given to the PSED itself.
71. In this instance the due regard statement indicates that 'the selective licensing scheme is aimed at all private sector landlords irrespective of their personal, including any protected, characteristics'. The consultation did offer translation services so there was no potential barrier to responses by means

of language and no additional issues were raised within the consultation in relation to the PSED and the proposed licensing scheme.

72. The only identified possible discrimination with the proposal to consult could be on grounds of race and particularly the inability to understand the consultation document. The following statement was therefore approved by the manager of the Interpretation and Translation Unit and included in the consultation literature:
73. We may be able to provide this consultation in Slovak, Polish or Czech. Please email AdditionalLicensing@doncaster.gov.uk with your name, address, language required and phone number to request this by Monday 22nd January 2018. A decision will be taken, in line with DMBC policies, if this is possible and if so the most cost effective way to provide this to you. Please try to seek assistance from other members of the community in the first instance as it may not be possible to provide a translation service.
74. No person responded to this request asking for a translation service.
75. If the scheme is introduced a condition in the licence states that the licence holder must ensure that all information and documents, such as tenancy agreements, are provided to tenants in a language/form they can understand.

CONSULTATION

76. The consultation process involved has been described earlier in this report. This has complied with legal requirements and gone further to ensure opportunity to express a view and perspective has been widely offered. Details of the consultation undertaken are detailed at Appendix 1.
77. Consultation has also taken place with Portfolio Holders Cllr Chris McGuinness, Glyn Jones and Mayor's Political Assistant, Chris Stephenson.
78. On 1st May the Planning Committee considered a report about making an Article 4 Direction. It resolved that the Committee noted the report and supported the making of the Direction.

APPENDICES

Appendix 1- Consultation Report Additional Licensing and Article 4

Appendix 2- Summary of consultation results charts

Appendix 3- Summary written consultation responses

Appendix 4- Proposed licensing conditions- recommended for approval

Appendix 5- Draft Article 4 Direction Notice

Appendix 6- Licence Fee Breakdown

Appendix 7- Due Regard Statement

BACKGROUND PAPERS

Officer Decision Record- RE17 0145, approving commencement of consultation.

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