PLACE AND SUSTAINABILITY COMMITTEE
12 JULY 2012
HOUSES IN MULTIPLE OCCUPATION ADDITIONAL LICENSING SCHEME
REPORT BY THE DIRECTOR OF PLACE

SUMMARY
This report sets out the Council’s proposal to introduce an Additional House in Multiple Occupation (HMO) Licensing Scheme. The purpose of this report is to obtain Members approval for the proposal which has both financial and legal implications for the Council.

The Council currently operates a Mandatory HMO Licensing Scheme under Part 2 of the Housing Act 2004. This places an obligation on landlords who have properties that are three or more storeys in height, and occupied by five or more people who share facilities to apply for a licence. However, the majority of housing stock within RBK is two storeys in height and therefore many HMOs are unregulated. With the high student population in the Borough and the recent changes to Local Housing Allowance rates for single people aged up to 35 years, the number of HMOs is expected to increase. In the 2011-15 Housing Strategy the Council commits to improving property standards in the borough, and the introduction of an Additional HMO Licensing Scheme will help in achieving this priority.

Action proposed by the Executive Member for Better Homes

It is proposed that
1. The Committee notes the outcome of the consultation, summarised in paragraphs 24 to 39 of the report and detailed in Appendix 4 to this report.

2. The Committee approves the designation of an Additional HMO Licensing Scheme, which would cover all HMOs occupied by at least five people who do not form a single household, regardless of storey height, and all HMOs that are three or more storeys in height and occupied by three or more unrelated individuals, as set out in this report.

3. The Committee approves the designation of the whole of the Royal Borough of Kingston upon Thames as being subject to the Additional HMO Licensing Scheme in accordance with the criteria set out in 2. above.

Reason for action proposed
The Committee is asked to approve the proposal to designate a borough-wide Additional HMO Licensing Scheme, which would apply to all HMOs that are three or more storeys in height and occupied by three or more unrelated individuals OR occupied by five or more people who do not form a single household (regardless of storey height), is because a significant proportion of the HMOs in the borough are being managed ineffectively and give rise to problems for the occupiers and the local neighbourhood. The aforementioned criteria will address two key issues; overcrowding and fire safety. In the 2011-15 Housing Strategy the Council commits to improving property standards in the borough, and the introduction of an Additional HMO Licensing Scheme will help in achieving this priority.
BACKGROUND

1. Houses in Multiple Occupation (HMO) are of considerable concern to residents in many parts of Kingston because of the unacceptable standards that can exist, and the issues surrounding anti-social behaviour that are often associated with poorly managed and overcrowded HMOs (refer to Appendix 4, Consultation Summary). Although HMOs which are three or more storey in height and occupied by at least five people living as two or more households have had to be licensed with the local authority since July 2006, the majority of housing stock in Kingston is two storeys in height, so many HMO landlords are able to operate outside the mandatory HMO licensing requirements.

2. The Council values its private rented sector and the many good Landlords who operate within it. Unfortunately low income households and students, often living in their first property away from the family home, represent the more vulnerable tenants in society where choice is limited and demand is high. Although many Landlords operate professionally, other Landlords have no difficulty letting less desirable shared accommodation which fails to meet satisfactory levels of tenancy and property management.

3. From January 2012, Local Housing Allowance for a single room has been applied to benefit claimants up to 35 years of age rather than the previous 25 years of age. Over time, this is likely to increase the demand for shared housing and there are additional concerns regarding standards in properties that will be used to provide this type of accommodation.

4. As of 7 June 2012 there were 195 HMO properties licensed by the Council via the current Mandatory HMO Licensing Scheme. Each property has been inspected by the Property Inspection Team and subsequently brought up to a safe standard by the property owner. The majority of these owners made applications for a licence following publicity that preceded the commencement of the scheme, with the highest number of applications received within the first year of the scheme being in operation.

5. The current licensing process has a number of stages as follows:
   - Landlord of licensable property submits application
   - Case officer carries out a detailed inspection of all parts of the property.
   - Case officer produces a schedule of works and carries out checks to ensure the Landlord is a ‘fit and proper person’ and that the property is well managed.
   - Case officer consults with the fire service regarding means of escape and early warning in the event of fire.
   - Licences are issued with specified conditions which outline works required and setting the maximum number of permitted occupants.
   - The property is monitored and subject to enforcement action by RBK if conditions are not complied with.

   It is through this process that Landlords are required to approach the Council, notify the Council of their property and then work in partnership with RBK to bring the property up to an acceptable standard, suitable for multiple occupation. In 2009 the Council prosecuted a landlord for failing to licence a HMO under the Mandatory HMO Scheme and the landlord was fined £1000.00. The property is now licensed with the Council and is of an acceptable standard.
6. Section 3 of the Housing Act 2004 states a local housing authority must keep the housing conditions in its area under review, including licensing of HMOs. Whilst the Council has introduced an effective licensing scheme for HMOs that meet the mandatory requirements, there are a large number of two storey HMOs which fall outside the current licensing scheme and are poorly managed. Relevant baseline data is contained in Appendix 1 to this report. If the Council is satisfied that a significant proportion of the HMOs which fall outside the mandatory scheme are being managed sufficiently ineffectively, it has powers under section 56 of the Housing Act 2004 to introduce an Additional HMO Licensing Scheme. Consultation on any proposals for a further scheme must take place, and the scheme must be consistent with the authority's overall housing strategy.

7. Whilst the Council has existing powers available to deal with smaller sub-standard HMOs which fall outside the mandatory licensing scheme, (under the Housing Health and Safety Rating Scheme under Part 1 Housing Act 2004, and the Management of Houses in Multiple Occupation Regulations 2006), these powers can only be used when the Council is made aware of a problem. The introduction of an Additional HMO Licensing Scheme will increase the number of landlords who are required to approach the Council and obtain a licence.

8. The proposed scheme would be a local scheme to address local issues regarding HMOs. The Council has worked together with local residents and tenants as well as landlords and stakeholders to devise a scheme that will address local concerns and needs. The decision as to whether to proceed with the Scheme will be a local one which is consistent with the approach set out in the Localism Act.

9. With regards to the Council’s overall strategies, the direct links between poor housing and poor physical and mental health are well documented. The Council’s vision for 2020 as set out in the Kingston Plan is for “Kingston to be a place where people are happy, healthy and enjoy a good quality of life, in a clean, safe and tolerant environment, where business is prosperous, and where everyone in our community can contribute to our success and reach their own full potential”. This work clearly links with the Council’s overarching vision for the borough.

10. Existing knowledge of the borough and the results of the consultation show that the condition of some private sector homes is unsatisfactory and many are not energy-efficient. Some of Kingston’s residents live in overcrowded or insecure circumstances and need somewhere better to live. Kingston Council has a duty to ensure the HMOs are of a good standard and reference to this is made in the Council’s Housing Strategy for 2011-15.

11. Kingston is a relatively affluent borough where the cost of housing is high compared to other outer London boroughs, so people on low or modest incomes are less able to afford to house themselves in a single family dwelling, which has contributed to a higher number of HMOs. With the aforementioned change in the housing benefit allowance for a single room taking affect, there is a greater demand for shared accommodation in the borough than ever before.

12. A number of other Local Authorities have introduced Additional HMO Licensing Schemes to address standards in smaller HMOs, including the London Borough of Croydon (within the South West London Housing Partnership) and Hillingdon, Hounslow, Ealing and Haringey, all of which have high numbers of HMOs but a low level of properties with three or more storeys, the same as Kingston.
13. To ensure all landlords who operate HMOs in the borough are providing safe, healthy and well managed accommodation, the Council is seeking to use its powers to implement a borough wide Additional HMO Licensing Scheme.

14. The Council proposes that any HMO subject to the criteria set out below within the Royal Borough of Kingston would be ‘licensable’:

a) All HMOs occupied by five or more people living as two or more households, regardless of storey height;
b) All HMOs that are three or more storeys in height (occupied by three or more unrelated individuals).

A number of case studies are set out in Appendix 2, and practical examples of properties that would be in and out of scope under the Council’s proposal are provided in Appendix 3.

15. The main reasons that the Council has set out the criteria as outlined above is:

a) There is concern that overcrowding of properties often starts when three bedroom dwellings are occupied by five or more people.
b) The fire risk associated with three plus storey HMOs is far greater and therefore all these HMOs should be safety checked, regardless of the number of occupiers.

16. The Council proposes to reduce overcrowding by specifying permitted occupancy levels for each licensable property. The Council also proposes to include conditions on property and tenancy management in order to control anti-social behaviour and ensure that local landlords provide safe accommodation that is of a decent standard (see Appendix 3). Failure to comply with the conditions attached to a licence could result in prosecution and a fine of up to £5,000 for each offence.

17. The Council is able to cover its costs of operating an Additional HMO Licensing Scheme by charging fees. The Council values its private rented sector and does not want to overburden local landlords or tenants financially. It is therefore suggesting a fee structure which reflects the amount of work required by the Council to operate a scheme, but at the same time rewards accredited landlords and / or those landlords who submit their applications early. The proposed fee structure is set out below:

<table>
<thead>
<tr>
<th>Property type</th>
<th>Fee</th>
<th>Discounts</th>
</tr>
</thead>
<tbody>
<tr>
<td>One and two storey properties</td>
<td>£135 per room available for letting</td>
<td>£100 for an early application*</td>
</tr>
<tr>
<td></td>
<td></td>
<td>£100 for accredited landlords**</td>
</tr>
<tr>
<td>Three or more storey properties</td>
<td>£200 per room available for letting</td>
<td>£100 for an early application*</td>
</tr>
<tr>
<td></td>
<td></td>
<td>£100 for accredited landlords**</td>
</tr>
</tbody>
</table>

* An early application is one that is submitted in full, ie. complete and with all supporting documentation and payment within 28 days of the licence pack being sent out.
** An accredited landlord is one who is a current member of an approved accreditation scheme, for example UK Landlord Accreditation Partnership (UKLAP).

NOTE: The maximum discount is set at £200 per property.

18. In certain instances, HMOs are occupied by students through Kingston University’s Headed Tenancy Scheme. The principle of this scheme is that the University leases
properties directly from landlords and then places students in them, setting up a tenancy agreement directly between the University and students. As these HMOs have already been inspected by the Council and meet relevant HMO standards, the Council is proposing that existing HMOs under the University’s headed tenancy scheme are ‘passported’ through the licensing process. To cover the Council’s costs in doing this, they will be subject to a nominal admin fee of £150. No discounts will be applied (see Appendix 4).

19. An Additional HMO Licensing Scheme would improve the standard and management of shared housing in the private rented sector by ensuring:

• Improvement in housing standards in HMOs throughout the borough by a consistent approach across all multi-occupied housing;
• Tenants in HMOs have contact details for their Landlord and are provided with written terms of tenancy for the accommodation they occupy;
• Properties are not statutorily overcrowded;
• It will allow the Council to target known “rogue” landlords who try and avoid licensing and ensure they comply with safety regulations and effectively manage their properties;
• Landlords who own HMOs which fall within the designated scheme will need to approach the Council for a licence and demonstrate they are a ‘fit and proper person’.

It would be an offence for a landlord not to be licensed if their property falls within the criteria for the Scheme, with a maximum fine of up to £20,000 if found guilty of an offence. This acts as a significant deterrent to Landlords and reduces the time taken to identify HMOs.

BACKGROUND DATA

20. More detailed and specific data relevant to the proposal is set out in Appendix 1, however, some figures have been given in items 21 to 23 below for ease of reference.

21. There are 8,847 properties rented from private landlords representing 14.4% of the total housing stock in the borough. Although there are multiple sources of data relating to HMO numbers, data from the 2001 Census states that ‘Other Households’ i.e. shared accommodation, account for 9.5% of the household population at 5,810.

22. The Council has operated a Mandatory HMO Licensing Scheme since July 2006 when the Housing Act 2004 came into force. Prior to this, between the years of 1997 and 2006 the Council operated a HMO Registration Scheme which applied to all HMOs occupied by at least 4 sharers, regardless of their location. A large number of HMOs were improved through this scheme, however, this scheme ceased with the introduction of Mandatory HMO Licensing. As of 21st October 2011 there were 1,304 HMOs logged on the Property Inspection Team’s database that do not fall within the Mandatory HMO Licensing scheme criteria.

23. Of the 18,000 students studying at Kingston University, approximately 7,000 live in private sector accommodation. There were 1,176 properties claiming a student exemption for council tax purposes as of August 2011.
CONSULTATION PROCESS

24. For additional information relating to the consultation process see Appendix 4.

25. The consultation process officially started on 10th November 2011 when a report was presented at the Private Sector Housing and Consultative Committee (PSHCC), although a report concerning a potential Additional HMO Licensing Scheme had been considered at the PSHCC in May 2011.

26. There have been two parts to the consultation. The first phase of the consultation ended on 4th March 2012 and the second phase recently ended on 20th May 2012. Some of the key findings are set out below in paragraphs 27 to 39 below, with more detailed information in Appendix 4.

27. During the initial phase of the consultation three questionnaires were devised and circulated to three separate groups; Stakeholders, local Tenants and local Landlords. All three questionnaires were uploaded on to the Council's website both in a downloadable version and available for electronic submission, as well as being widely circulated via the postal system. A summary of the responses from the key aspects of the questionnaires is provided below:

<table>
<thead>
<tr>
<th>Questionnaire type</th>
<th>Numbers received</th>
</tr>
</thead>
<tbody>
<tr>
<td>Landlord</td>
<td>115</td>
</tr>
<tr>
<td>Tenant</td>
<td>63</td>
</tr>
<tr>
<td>Stakeholder</td>
<td>27</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>205</strong></td>
</tr>
</tbody>
</table>

Breakdown of Landlords responses for and against the proposed scheme:

<table>
<thead>
<tr>
<th>Landlord category</th>
<th>Yes</th>
<th>No</th>
<th>Didn’t answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Landlord with Mandatory HMOs</td>
<td>2</td>
<td>4</td>
<td>-</td>
</tr>
<tr>
<td>Landlord with smaller HMOs, subject to Additional Licensing</td>
<td>4</td>
<td>55</td>
<td>-</td>
</tr>
<tr>
<td>Landlords with both mandatory and additional licensable HMOs</td>
<td>6</td>
<td>11</td>
<td>1</td>
</tr>
<tr>
<td>Landlords with no HMOs</td>
<td>11</td>
<td>20</td>
<td>1</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>23</strong></td>
<td><strong>90</strong></td>
<td><strong>2</strong></td>
</tr>
</tbody>
</table>

Summary of responses from tenants who reported problems with their accommodation:

<table>
<thead>
<tr>
<th>Type of problem</th>
<th>Numbers reported</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poor condition</td>
<td>14</td>
</tr>
<tr>
<td>Heating issues</td>
<td>10</td>
</tr>
<tr>
<td>Hot water issues</td>
<td>6</td>
</tr>
<tr>
<td>Condensation and or damp</td>
<td>25</td>
</tr>
<tr>
<td>Anti-social behaviour</td>
<td>3</td>
</tr>
<tr>
<td>Storage &amp; disposal of refuse</td>
<td>7</td>
</tr>
<tr>
<td>Level of rent charged</td>
<td>15</td>
</tr>
<tr>
<td>Standard of decoration</td>
<td>10</td>
</tr>
<tr>
<td>Security</td>
<td>9</td>
</tr>
<tr>
<td>Cost of utility bills</td>
<td>21</td>
</tr>
<tr>
<td><strong>Other</strong></td>
<td><strong>2</strong></td>
</tr>
<tr>
<td><strong>No response</strong></td>
<td><strong>15</strong></td>
</tr>
</tbody>
</table>
Are you in favour of an Additional HMO Licensing Scheme?

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
<th>No</th>
<th>Didn’t answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Landlord</td>
<td>28%</td>
<td>66%</td>
<td>6%</td>
</tr>
<tr>
<td>Tenant</td>
<td>54%</td>
<td>41%</td>
<td>5%</td>
</tr>
<tr>
<td>Stakeholder</td>
<td>100%</td>
<td>0%</td>
<td>-</td>
</tr>
</tbody>
</table>

28. Based on the results from the questionnaires collated during the first round of consultation, 28% of landlords, 54% of tenants and 100% of stakeholders were in favour of the introduction of an Additional HMO Licensing Scheme.

29. Of the tenants who responded, 71% confirmed they live in HMOs that are either one or two storeys in height, and are therefore not covered by the existing Mandatory Scheme.

30. One of the questions asked of tenants was in respect to property management. The responses indicated that 43% of tenants who responded had been given copies of gas safety certificates by their landlords; 21% had been given Energy Performance Certificates and 46% had confirmation that their tenancy deposit had been protected.

31. In addition to the questionnaire, several stakeholder organisations provided formal written responses to the consultation. These were Kingston University, Kingston Student Union, the National Landlords Association and the London Fire Brigade. Of these, the first three were against the proposed scheme, and the Fire Brigade was in favour.

32. During the initial phase of consultation, the Council held five forums. These presented an opportunity for mixed groups of tenants, landlords and stakeholders to discuss their opinions regarding HMOs and Licensing in general. Participants were able to raise their concerns about HMOs in general, and to debate the best way forward.

33. Through these consultation forums the details of the proposal for the extension of the scheme was formulated, much of which was proposed by a landlord, and a recommendation that there should be further consultation. Therefore, a key outcome of the first phase of the consultation was the current proposal for the criteria which would apply to the scheme, plus an extended 10 week consultation period, ending on 20th May 2012 to allow time for the criteria to be considered by landlords, tenants and stakeholders.

34. As part of the extended period of consultation, a single questionnaire was created, relevant to tenants, stakeholder and landlords and available online. However, whilst it was appropriate to carry out the extra consultation, participation was less, and six questionnaires were returned. Of the respondents, three were in favour of the proposed criteria for the Additional HMO Licensing Scheme, two were against and one ‘didn’t know’.

35. In addition to the questionnaire, the Council held a further three forums. These were, in general, less well attended. However, the attendees were broadly supportive of the proposed criteria.
36. Several press releases were issued between February and May 2012 to raise the profile of the consultation, and the information on the Council’s website was updated regularly.

37. Throughout the whole consultation period, the Council worked with the Citizens Advice Bureau, Kingston University and the National Landlords Association, and these organisations sought the views of their own clients.

38. The London Fire Brigade strongly support the proposal for an extension of HMO licensing in the Royal Borough of Kingston. They confirm that they ‘have identified that HMOs are in the highest life risk group of premises and this proposal will lead to improved fire safety arrangements and reduced risk for the residents of Kingston’.

39. These proposals have been regularly reported to the PSHCC, most recently at the Committee meeting on the 14th June 2012. An issue was raised with regards to the consultation, and to address this the Committee resolved that all landlords present at the meeting and who were willing to provide their contact details, be consulted on the proposed Additional HMO Licensing Scheme within a two week period to allow their views to be taken into account and reported to the Place and Sustainability Committee on 12 July 2012. Therefore, a further 10 landlords were contacted, of which two submitted responses and these have been analysed and reported (see Appendix 4).

TIMESCALE

40. Should an Additional HMO Licensing Scheme be agreed, section 58 Housing Act 2004 legislation states that the designated scheme must not come into force any earlier than three months following the designation of the Scheme.

41. With regard to item 40, the target date for commencement of an Additional HMO Licensing Scheme would be 1st December 2012.

FINANCIAL IMPLICATIONS

42. An Additional HMO Licensing Scheme would generate some additional income (the proposed fee structure and examples of how it could be applied in practice are detailed in Appendix 3). The proposed fee structure is largely based upon the existing fee structure of the Mandatory HMO Licensing Scheme, with broadly pro-rate charges for the smaller properties which would be included in the proposed scheme. The charges reflect the estimated amount of staff time required to administer and enforce the scheme.

43. The increased income derived through an Additional HMO Licensing Scheme would help resource any extra enforcement costs that may arise through non compliance with the scheme, and general enforcement work under the Housing Act 2004.

44. There will be a financial impact on a greater proportion of private landlords operating in the borough if the Scheme goes ahead, as each landlord who operates a relevant HMO will have to pay a licence fee. The Council’s current fee structure is contained within Appendix 3 to this report. However the actual cost per room per annum is relatively small, and will vary from approximately £13 to £35, depending on the size of the property and the level of discount given.
LEGAL IMPLICATIONS

45. In respect of the proposal for an Additional HMO Licensing Scheme, the authority must comply with specific requirements set out in Sections 56 and 57 of the Housing Act 2004 or the scheme could be subject to judicial review. These requirements include being satisfied that a significant proportion of the HMOs are being managed sufficiently ineffectively, and that the scheme is consistent with the authority's overall housing strategy. With the number of complaints received by the Council annually in respect to HMOs, knowledge of the housing stock in the borough and the responses from tenants and stakeholder during the consultation period, the Council is satisfied that a significant proportion of the HMOs in the borough are being managed sufficiently ineffectively to warrant a scheme.

46. It is a legal requirement to carry out a consultation exercise before designating an area for additional licensing. Housing Act 2004, sections 56(3) states: “Before making a designation the authority must—
(a) take reasonable steps to consult persons who are likely to be affected by the designation; and
(b) consider any representations made in accordance with the consultation and not withdrawn.” The Council is confident it has complied with its statutory duty to consult and has acted in accordance with guidance issued by Communities and Local Government in 2010.

47. In accordance with Schedule 14 to the Housing Act 2004, certain types of accommodation would be exempt from the proposed scheme. These include buildings controlled by public sector bodies, for examples hostels run by the Local Authority or Housing Associations; Student Halls of Residence (where the educational establishment has signed up to an Approved Code of Practice) and Hotels (assuming that the occupiers are not using the accommodation as their only or main residence).

48. Section 60 of the Housing Act 2004 states that any Additional HMO Licensing Scheme should be reviewed from time to time, and should last for no longer than five years from the date the designation came into force.

RISK ASSESSMENT

49. If the Council does introduce an Additional HMO Licensing Scheme there is a risk it could be seen as over regulatory in a sector that is already highly regulated eg. Energy Performance Certificates, Tenancy Deposit Protection, annual Gas Safe checks. In turn, this could drive landlords out of the sector. However, the actual cost of a typical licence for a five room HMO is relatively low, and the cost can be offset against profit. The licence fee is not seen as a significant cost, especially in relation to increasing rents.

50. There is a risk to the Council in not introducing a Scheme that it does not comply with its general duties under the Housing Act 2004 to keeps its housing conditions under review and to take action in respect to Category 1 hazards (under the Housing Health and Safety Rating System).
EQUALITY IMPACT ASSESSMENT IMPLICATIONS

51. An EQIA will be undertaken if an Additional HMO Licensing Scheme is agreed by Committee on 12 July 2012.

ENVIRONMENTAL IMPLICATIONS

52. There are no negative environmental implications associated with the recommendations outlined in this report. Should the scheme go ahead then a greater number of private sector properties will be made decent which in turn will improve energy efficiency and in all likelihood have a positive impact on the visual amenity of the neighbourhoods where the properties are located.

Background papers: held by Rebecca Murphy – 020 8547 5556, e-mail: Rebecca.murphy@rbk.kingston.gov.uk

- a. RBK Borough profile 2010/11;
- b. Housing Act 2004;
- c. LACORS guidance on Additional and Selective Licensing;
- d. Copies of press releases, and consultation questionnaires and background information;
- e. Hard copies of the responses received from the public during the consultation;
- f. Full notes from the forum meetings.

Authors of report
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Sarah Lawton, Private Sector and Prevention Manager

Place & Sustainability Committee – Additional HMO Licensing Report

Appendix 1 – Baseline data

Note 1. The source of the data contained within Appendix 1 is the Borough Profile (2010/11) and records held by the Property Inspection Team and the Council Tax Section.

The Royal Borough of Kingston is situated in the South West of London and is bordered by Richmond to the west; Wandsworth to the north; Merton to the north-east, Sutton to the south-east and Surrey to the South. Kingston comprises 16 wards which are combined to form 4 Neighbourhoods; Kingston Town, Surbiton, Maldens and Coombe and South of the Borough.

Between 2005-2010 there was an increase in the total population of the Borough by 7.2%. This was a significantly higher rate of increase than Outer London (4.5%), Greater London (4.5%) and England (3.5%). There is a particularly high number of 20-39 year olds in the borough which is amplified due to the fact that Kingston University is situated within Kingston Town Centre. Kingston University has a population of approximately 18,000 and in the region of 7,000 students live within the Royal Borough of Kingston in private rented accommodation.

St James, Coombe Hill and Coombe Vale wards had the highest ethnic minority populations in the Borough with rates in excess of 20%. The largest minority ethnic groups
in the borough are Tamils and Koreans, with the Korean population in New Malden estimated to be the largest in Europe. The housing stock in these areas is predominantly two storey in height and therefore not covered by mandatory HMO licensing.

The 2001 Census data shows the majority of the borough’s housing stock is comprised of houses (64%), with a smaller proportion of flats (36%). A significant proportion of the private sector stock (67%) was built before 1944. It is estimated by the Building Research Establishment that 42% of private housing in the borough does not meet the Decent Homes Standard.

There have been eight fires in HMOs in the borough in the last three years, and in all likelihood, based on the postcodes of the properties, they were not three storey properties and therefore not known to the Council prior to the fire. There were 108 fires between 2006 and 2008 in properties where the occupancy was not known, however the Fire Brigade have confirmed a large proportion of these properties would have been HMOs.

In 2011/12 the Council’s Property Inspection Team dealt with 263 enquiries about HMOs.

As of January 2012 there were 329 properties that would have been licensed under the Council’s former HMO Registration Scheme which are not covered by the Mandatory HMO Licensing Scheme.

In August 2011 there were 1,176 properties claiming a student exemption for Council Tax purposes.

**Place & Sustainability Committee – Additional HMO Licensing Report**

**APPENDIX 2 – Case studies**

Below are three case studies which show the very poor conditions that have been found recently in two storey HMOs that fall outside of the Mandatory HMO Licensing Scheme. In each case the Council is taking appropriate action to bring these properties up to a decent standard:

- **Coombe Rd**
  This is a two storey property which came to the Council’s attention via a complaint concerning the unregulated development of the site into an HMO (outbuildings, attached extensions and integral garage), as well as anti social behaviour from teenage children who lived there. Following an inspection, it was found that the property was occupied by 12 people in six households and significant hazards were present including inadequate fire safety measures, excess cold, insufficient amenities, substandard electrical installation, overcrowding, poor management and the outbuildings were seriously substandard and unsuitable for occupation as habitable parts. A multi disciplinary and multi agency response has evolved involving internal partners such as Planning Enforcement, Fraud Team and Waste Management and external agencies including the Police, London Fire Brigade and the UK Borders Agency. The application of an Additional HMO Licensing Scheme would increase the likelihood of this type of property being identified at an earlier stage.
• **Cambridge Road**

This property is two storey mid-terrace, with a first floor self-contained flat above a commercial restaurant. The property is occupied by a group of unrelated individuals who are not likely to be entitled to any housing or any other state support so are particularly vulnerable. The accommodation is accessed via a rear wrought iron staircase which was in a very poor condition. At the point the case officer first visited, there was no defined kitchen, just a cooker in the hallway. There was no independent electrical supply to the property and conditions were severely overcrowded. If an Additional HMO Licensing Scheme were in operation, the landlord of this property would have been legally required to notify the Council of its existence. The penalty for failure to do so would be up to £20,000.

• **Knollmead**

A two storey, three bedroom property occupied by up to seven single men sharing a kitchen and bathroom. The property was not being effectively managed by the landlord who appeared to be absent and failed to respond to any communication from the Council over a period of nine months. Disrepair in the property resulted in waste water penetrating a neighbouring property. Had there been an Additional HMO Licensing Scheme in place the landlord would have been under a legal obligation to apply to the Council for a licence and, in doing so, provide full contact details.

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**APPENDIX 3 – Proposed Scheme Criteria; Practical examples**

Various examples have been provided below to help understand how the proposed scheme criteria would be applied. The following examples **would** require a licence under the proposed Additional HMO Licensing Scheme:

- a two storey property occupied by five sharers;
- a single storey flat occupied by five sharers;
- a three storey property occupied by three sharers;
- a two storey house occupied by a couple who are the resident landlord and three lodgers;
- a four bedroom flat which consists of two storeys above commercial premises at ground floor;
- a three storey property occupied by a single resident landlord and three lodgers;
- a three bedroom flat occupied by two couples and a single person;
- a three storey property occupied by two unrelated couples.

The following examples would **NOT** require a licence under the proposed Additional HMO Licensing Scheme:

- a single storey flat on any floor of a purpose built block and occupied by four sharers;
- a two storey property occupied by a single resident landlord and three lodgers;
- a two storey property occupied by four sharers;
- a three story property occupied by a resident landlord and two lodgers;
- a first floor flat above commercial premises occupied by four sharers.
**Licence Fees:**

<table>
<thead>
<tr>
<th>Property type</th>
<th>Fee</th>
<th>Discounts</th>
</tr>
</thead>
<tbody>
<tr>
<td>One and two storey properties</td>
<td>£135 per room available for letting</td>
<td>£100 for an early application*</td>
</tr>
<tr>
<td></td>
<td></td>
<td>£100 for accredited landlords**</td>
</tr>
<tr>
<td>Three or more storey properties</td>
<td>£200 per room available for letting</td>
<td>£100 for an early application*</td>
</tr>
<tr>
<td></td>
<td></td>
<td>£100 for accredited landlords**</td>
</tr>
</tbody>
</table>

* An early application is one that is submitted in full, i.e. complete and with all supporting documentation and payment within 28 days of the licence pack being sent out.

** An accredited landlord is one who is a current member of an approved accreditation scheme, for example UKLAP.

**Examples:**

- An accredited landlord with a five bedroom single storey flat let to five sharers, who applies for a licence within 28 days of the licence pack being sent out would have to pay a five year licence fee of £475 (£675 less £200 discount). This would be a cost of £19 per room per year.

- A non accredited landlord who does not submit an early application, and who has a two storey property with five letting rooms would have a licence fee of £675, which equates to £27 per room per year (if accredited and submitted early the fee would be reduced by £200).

- A non accredited landlord with a three storey property with four letting rooms, and who submits an early application would pay a licence fee of £700 (£800 less £100 discount). This equates to £35 per room per year (if accredited the fee would be reduced by a further £100, which is £30 per room per year).

- An accredited landlord who submits an early application for a three bedroom single storey flat (occupied by two couples and a single person) would pay a licence fee of £205 (£405 less £200 discount), which equates to £13.67 per room per year.

**Licence conditions:**

The Council proposes to reduce overcrowding by specifying permitted occupancy levels for each licensable property. The Council also proposes to include conditions on property and tenancy management in order to control anti-social behaviour and ensure that local landlords provide safe accommodation that is of a decent standard. Failure to comply with the conditions attached to a licence could result in prosecution and a fine of up to £5,000 for each offence.

The Housing Act requires certain conditions to be attached to any licence issued under the Act. These mandatory conditions are summarised below and any licence holder under the proposed scheme would have to comply:

- Requirement for the licence holder to supply the occupiers with a written statement of the terms of their occupation of the property.

- Where the property has a gas supply, there will be a requirement for the licence holder, on an annual basis to provide the Council (upon request) with a copy of a gas safety certificate which has been issued within the last 12 months.
The licence holder must ensure that smoke alarms are installed in the property and keep them in proper working order. The licence holder must supply the Local Authority, upon request, with a declaration as to the positioning and condition of the alarms.

The licence holder must keep any electrical appliances and furniture supplied by him in the HMO in a safe condition.

To ensure that the number of occupants does not exceed the permitted number on the licence for the property.

In addition to the mandatory conditions, the Council will apply the following conditions to any licence issued under the Additional HMO Licensing Scheme:

- Requirement for the licence holder to provide the tenants with a contact telephone number, email address and business address.
- To protect any deposit taken under an assured short hold tenancy in accordance with tenancy deposit regulations, and to provide tenants with confirmation of how it has been protected.
- To ensure that at the start of each tenancy each property is provided with one dustbin for general refuse and a second for recycling.
- To visit the property at least once a year to inspect its condition.

Place & Sustainability Committee – Additional HMO Licensing Report

APPENDIX 4 – Consultation results

Consultation phase 1 – Questionnaire analysis:

Number of responses received:

<table>
<thead>
<tr>
<th>Type</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Landlord</td>
<td>115</td>
</tr>
<tr>
<td>Tenant</td>
<td>63</td>
</tr>
<tr>
<td>Stakeholder</td>
<td>27</td>
</tr>
</tbody>
</table>

In addition to the questionnaire responses, a further 11 submissions were received in letter form. There were six from landlords and five from stakeholders, including Kingston University, Kingston Students Union and the National Landlords Association.

All six landlords who wrote to the Council were against the proposed scheme. Of the stakeholder responses, two were in favour of the scheme, but Kingston University, Kingston Students Union and the National Landlords Association were not. Their primary concerns were that costs would increase for landlords which could either be passed directly on to tenants or could drive landlords out of the private rented sector, in turn reducing the supply of housing available for renting. All three suggested ‘accreditation’ as an alternative to Additional HMO Licensing.
Category of respondents

Each respondent was asked to confirm the capacity in which they were answering the questionnaire, and the results are shown in the table below:

<table>
<thead>
<tr>
<th>LANDLORDS</th>
<th>TENANTS</th>
<th>STAKEHOLDERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Landlord</td>
<td>102</td>
<td>Student</td>
</tr>
<tr>
<td>Resident landlord</td>
<td>0</td>
<td>Employed</td>
</tr>
<tr>
<td>Agent</td>
<td>9</td>
<td>Self-employed</td>
</tr>
<tr>
<td>Other</td>
<td>4</td>
<td>Unemployed</td>
</tr>
<tr>
<td>Retired</td>
<td>2</td>
<td>Other</td>
</tr>
<tr>
<td>Other</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>

The tables below show the responses provided by tenants when asked how many people they live with, and how many storeys there are in their property:

<table>
<thead>
<tr>
<th>How many people live at the property?</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7+</th>
<th>No response</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>10</td>
<td>9</td>
<td>19</td>
<td>12</td>
<td>6</td>
<td>2</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>How many storeys are there in the property?</th>
<th>1</th>
<th>2</th>
<th>3</th>
<th>4</th>
<th>5</th>
<th>6</th>
<th>7+</th>
<th>No response</th>
</tr>
</thead>
<tbody>
<tr>
<td>16</td>
<td>29</td>
<td>11</td>
<td>7</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>
The chart below shows the responses provided by tenants when asked what paperwork / certification their landlord had provided them with in respect to their tenancy: *

These numbers translate in to the following percentages:

- Electrical safety report: 19%
- Energy Performance Certificate: 21%
- Portable Appliance Testing certificate: 11%
- Gas safety certificate: 43%
- Inventory: 44%
- Written terms of tenancy: 90%
- Confirmation of Tenancy deposit protection: 46%

* Each tenant was able to tick up to seven boxes as necessary in response to this question, therefore each category above shows the number and percentage who confirmed ‘yes’ against the total number of respondents.
Consultation phase 1 – Notes from Forum sessions:

The Council held four forums all of which were attended by a mix of landlords, residents and other stakeholders. The same questions were asked at each forum to steer the debate. These were:
1. What is a House in Multiple Occupation (HMO)?
2. If an additional HMO Licensing Scheme were to go ahead, what criteria should be applied?
3. What criteria / conditions should be applied in respect to HMOs?
4. Do you think Additional HMO Licensing could resolve the problems with HMOs in the borough?

A summary of the key points from the four forums are set out below:
- Some confusion over HMO definition and current licence fee.
- Kingston University suggested landlord accreditation and tenant education rather than additional HMO licensing.
- Kingston Student Union is not in favour – residents at the meeting expressed dismay at this.
- Kingston University does not know where all their students live – residents expressed dismay again.
- Concern from landlords regarding cost of licence fee and ability to cover costs.
- There was general concern over how the scheme would be resourced and what income would be generated.
- Varying suggestions were made in response to the question “If an additional HMO Licensing Scheme were to go ahead, what criteria should be applied?”. These ranged from any HMO with more than six sharers (in line with planning requirements) to all HMOs. During one session a landlord suggested that all 5 person or 3 storey HMOs be included, which addresses fire safety risks associated with three plus storey properties, and also the overcrowding issues when five or more people and is a small deviation from the current Mandatory HMO Licensing Scheme.
- A popular proposal made by one resident was that maximum numbers permitted to occupy a HMO should be linked to a minimum floor area per person.
- There was a general concern regarding whether any new scheme would catch the bad/rogue landlords?
- It was acknowledged that people will ‘slip under the radar’, but residents felt this shouldn’t be a reason for the Council to ‘not bother’.
- Participants were encouraged to engage with their local Councillors in respect to the proposed scheme.

Consultation phase 1 – Feedback session

The feedback session held on 7th March 2012 was attended by local councillors, residents and landlords. The Council provided a summary of:
1. How it consulted with the public;
2. The responses to phase 1 of the consultation and majority views that emerged;
3. How an Additional HMO Licensing Scheme would tackle problematic HMOs;
4. The criteria upon which an Additional HMO Licensing Scheme would be based, ie. all HMOs with 5 or more people or 3 or more storeys.

Following this the people present were provided with an opportunity to comment. This included a discussion in regards to the option of accrediting landlords on a voluntary basis
rather than introducing a borough wide scheme. The matter of Kingston University’s ‘headed tenancies’ was raised, and why a scheme would have to apply to them when they have already been safety checked. The National Landlords Association queried whether the Council had followed due process during the consultation.

Consultation phase 2 - Questionnaire analysis*

<table>
<thead>
<tr>
<th>Question</th>
<th>Response options</th>
<th>Numbers</th>
</tr>
</thead>
<tbody>
<tr>
<td>In what capacity are you answering this questionnaire?</td>
<td>Landlord - Tenant - Resident - Other</td>
<td>3</td>
</tr>
<tr>
<td>Do you agree with the Council’s proposal to introduce an Additional HMO Licensing Scheme?</td>
<td>Yes, strongly agree Yes, mostly agree Neither agree nor disagree No, mostly disagree No, strongly disagree Don’t know</td>
<td>1 2 0 0 2 1</td>
</tr>
<tr>
<td>Do you agree with the fee structure proposed by the Council?</td>
<td>Yes, strongly agree Yes, mostly agree Neither agree nor disagree No, mostly disagree No, strongly disagree Don’t know</td>
<td>1 1 1 0 2 1</td>
</tr>
<tr>
<td>Do you agree with the proposed minimum licence conditions?</td>
<td>Yes, strongly agree Yes, mostly agree Neither agree nor disagree No, mostly disagree No, strongly disagree Don’t know</td>
<td>1 3 0 0 1 1</td>
</tr>
<tr>
<td>If the Council introduced the scheme, do you think conditions &amp; management standards in HMOs in the borough would improve?</td>
<td>Yes, strongly agree Yes, mostly agree Neither agree nor disagree No, mostly disagree No, strongly disagree Don’t know</td>
<td>0 1 1 0 1 3</td>
</tr>
</tbody>
</table>

*This analysis includes the responses provided by landlords after the Private Sector Housing Consultative Committee (PSHCC) meeting on 14th June 2012.

Consultation phase 2 – Meetings with key Stakeholders

To address concerns raised by key stakeholders during the first phase of the consultation, the Council held meetings with representatives from Kingston University, Kingston Student Union and the National Landlords Association during the second phase of the consultation. These meetings presented an opportunity for the Council to discuss feedback from phase 1, to set out the specific proposals, to listen to any outstanding concerns these key stakeholders had regarding the proposed scheme and to respond accordingly. Kingston University had an issue in respect to both its ‘headed tenancies’ and purpose built student accommodation, specifically how the proposed scheme would apply to them. The Council responded to this by firstly confirming that purpose built student accommodation would be exempt from the scheme as long as it is managed in accordance with relevant Government Approved Codes of Practice. Secondly, the Council
confirmed that part of the proposal would include the ‘passporting’ of existing Kingston University ‘headed tenancies’ into the scheme, for a nominal fee, to reflect that these properties have been checked, are of a generally safe standard and are effectively managed.

Both Kingston University and The National Landlords Association had suggested accreditation of landlords as an alternative to the proposed scheme. Whilst the Council has actively supported landlord accreditation for some years, the Council responded that voluntary landlord accreditation schemes have not and would not adequately address the various problems that exist with some HMOs in the borough.

In these discussions, all three organisations had received clarification of the Council’s reasons for proposing the Additional HMO Licensing Scheme and what the criteria would be. No written submissions were received from these organisations during phase 2, and Kingston Student Union has confirmed verbally that it is broadly supportive of the proposal.

**Consultation phase 2 – Notes from Forum sessions**

The feedback session held on 11th June 2012 was attended by local Councillors, residents and landlords. The Council provided a progress update, including an overview of the Council’s proposal and reasons for it, a summary of responses to both phases 1 and 2 of the consultation, information on the next stage of the process and likely timescales. Following this everyone present had the opportunity to comment. A representative from Kingston University wanted clarification on the passporting criteria for their ‘headed tenancies’, and it was confirmed that the passporting arrangement would apply to existing ‘headed tenancies’ only. A question was raised in regard to how the scheme would be administered. In response, the Council confirmed that it is able to charge fees for licences, and that the scheme should be ‘self-financing’ ie. the Council would cover its costs in running the scheme and in taking any enforcement action. If additional resources are needed, the fee income would be used to cover these costs. Following on from this a councillor wanted to know how many properties would be covered by the proposed scheme. The Council was not able to provide a specific number however it did confirm that the Property Inspection Team holds information on in the region of 1000 HMOs, and that there are a similar number of properties which are exempt from Council Tax as they are occupied by students (however not all these will necessarily meet the proposed licensing criteria). No significant objections were raised regarding the Council’s proposal.