



Licensing Committee

16:40 to 18:10

03 March 2022

Present: Councillors Stutely (chair), Ackroyd, Button, Giles, Huntley, Maxwell, Sands (S), Schmierer, Thomas (Vi) and Youssef

Apologies: Councillors Fulton-McAlister (E) (vice-chair), Brociek-Coulton and Price

1. Declarations of interest

There were no declarations of interest.

2. Public Questions/Petitions

There were no public questions or petitions.

3. Minutes

RESOLVED to approve the accuracy of the minutes of the meetings held on 26 November 2020, 28 January 2021 and 8 July 2021

4. HMO Licensing policy

The head of planning and regulatory services presented the report.

She highlighted the changes that had been made due to responses to the consultation and further officer amendments, including the introduction of tiered licences. As officer changes had been made subsequent to the consultation the draft policy was again being consulted on, with a closing date of 28 March 2022.

The policy was not a statutory document but instead reflected best practice. The aim of the policy was to drive up the standards of privately rented accommodation in the city. The draft policy would only apply to those HMOs that required a mandatory licence to operate. As part of that process the property would be inspected before a licence was issued rather than during the period of the licence. Depending on a variety of factors including how well-run the property was and the landlord's history of managing properties, either a 1-year, 3-year or 5-year licence would be issued. This would mean that the landlords that delivered a high-quality accommodation for residents would be issued a 5-year licence. The cost of licences would reflect the amount of office time required to administer the licence and inspect and visit the

property. A landlord who did not provide high-quality accommodation would be penalised with shorter licence terms, more inspections and higher associated costs.

In response to a member's question the head of planning and regulatory services replied that the terms of the licence would be subject to a variety of factors, including the inspection and any historic information or issues in the area and the prior knowledge of the landlord. She highlighted that if issues were reported to councillors that they should report these to the council so appropriate investigation could be undertaken, including enforcement action where appropriate. The chair highlighted the need for members of the public to report any issues to the council as this would help to inform where enforcement action may need to be taken.

The head of planning and regulatory services clarified that all mandatory licensable properties in the city were currently being issued a one-year licence, and once the policy was adopted, these properties would be inspected before licences were renewed. Through the budget setting process, funds had been secured to update evidence last gathered in 2016 about HMOs across the entire city, which would build the evidence basis for consideration of licensing all HMOs in future. There were a number of sources that would be used including both information from planning and reports from the private sector housing service on the demographics and housing need in the city. A member asked whether there was a dedicated officer to deal with inspections of HMOs. In response the head of planning and regulatory services highlighted paragraph seven of the report that detailed that due to the increased fees that were to be charged an officer could be recruited to facilitate this.

A member asked whether the list in the 'fit and proper' assessment was sufficient, especially with regard to it listing 'certain types of sexual offences' and asked which sexual offences would be disregarded in making a fit and proper person determination. The head of planning and regulatory services stated that in drafting the policy the council had followed best practice. After discussion the committee agreed to amend this paragraph to include all sexual offences.

In response to a question from a member the head of planning and regulatory services agreed that the wording at paragraph 9.6 around the 'reasonable proximity' was not clear and this wording could be reviewed for clarity. The chair asked the head of planning and regulatory services to include definitions of what made a competent representation in the policy.

The head of planning and regulatory services stated in response to a member's question on the list of consultees in paragraph 4.2 of the policy, that examples of this would include estate agencies, landlords' association, or a landlord's forum. She said that there was a desire to establish such a forum in Norwich to help drive up standards. A member suggested that the University of East Anglia be added to the list of consultees for this policy, as a number of students lived in HMOs within the city. The head of planning and regulatory services replied that a number of conversations were ongoing with the university around student housing across the city. The chair highlighted that if members had other organisations, they felt should be consulted to let the environmental health and public protection manager know.

A member commented that there had been issues in their ward with HMOs and wanted to clarify whether the policy could require the distance from the property to be specified and whether the landlord has 24/7 access, in response the head of

planning and regulatory services stated that paragraph 9.6 would be reviewed and if possible amended.

The head of planning and regulatory services clarified that the policy could be reviewed at any time and that the reference to “no policy amendment necessary” in appendix 2 of the report should be read that ‘no policy amendment is necessary at the present time’.

The chair asked whether the number of HMOs were subject to planning policy and in response the head of planning and regulatory services said that change of use from residential to an HMO could be subject to an Article 4 direction (removing permitted development rights) which, if granted approval by the Secretary of State, would require that a planning application must be submitted for each HMO. However, planning decisions on HMOs would be subject to development management policies being in place. Currently there are none hence why the update to the evidence base is required.

A member asked the head of planning and regulatory services whether she was aware if there were any ‘super landlords’ as a recent Freedom of Information request in Edinburgh highlighted and whether it was possible to stop a landlord from owning multiple HMOs. In response she stated that she did not have that information to hand and would provide information outside of the meeting. She would also provide clarity on whether the city council had any powers to stop someone from operating multiple HMOs.

In response to a member query the head of planning and regulatory services clarified that a number of the listed transgressions in paragraph 9.15 would be known to the service when processing applications, such as any refusals or enforcement action undertaken against the applicant. By way of a supplementary question a member asked whether Disclosure and Barring Service (DBS) checks would be routinely asked for and in response the head of planning and regulatory services stated that these were not a requirement for an application, but the police were consulted on the applications. If concerns were raised by the police, then a DBS could be required. The head of planning and regulatory services would confirm to members on whether this could be a requirement.

In response to a member question the head of planning and regulatory services clarified that the amenity standards were omitted from the report, but these were mandatory for HMO operators to comply with. The chair clarified that the amenity standards had previously been brought to committee when the HMO Licensing Policy had previously been discussed, but these were not subject to the committee’s amendments.

Members discussed fire safety and whether a fire assessment certificate should be a required document as part of the application process. The head of planning and regulatory services would confirm if this could be the case.

A member raised concerns about 3-year licences and stated that in their view some of the criteria for a 3-year licence should be cause for great concern. The policy should instead only look to have a 1-year licence or a 5-year licence. The head of planning and regulatory services stated that having only a 1-year and 5-year licence would increase the burden on officers to administer, and the 3-year licences should be used as an opportunity for an HMO operator to demonstrate that they are working

on improving on any issues that may have arisen in the property. By way of a follow up question, a member asked whether there was a matrix for officers to determine whether a matter is serious or significant enough for a 1-year licence and the head of planning and regulatory services confirmed that the decision would be made by qualified officers. A review of the three tiers may be appropriate when the policy has been in place and properly embedded.

In response for a member's request for clarification the head of planning and regulatory services stated that the inspection process for a 5-year licence would consist of an inspection before a licence or a renewal was granted and then relatively minimal officer contact unless issues are identified. A 3-year licence would have an inspection before a licence was granted and another inspection halfway through the term of the licence. The 1-year licences may have multiple inspections, the initial inspection before the licence is granted, and then inspections throughout the year. Offering multiple licence terms would allow officers to concentrate on the 1-year licences.

In a response to a member's question the head of planning and regulatory services stated that there was no limit on how often an operator could be issued a 1-year licence but the higher cost of 1-year licence could deter a landlord from not improving their standards.

A member asked for clarity whether a landlord could move directly from a 1-year licence to a 5-year licence. In response the head of planning and regulatory services stated that there would need to be significant changes for a landlord to receive a 5-year licence after having a 1-year licence, the likelihood would be that a landlord instead would graduate through the tiers.

In response to a member's query the head of planning and regulatory services said that timescales for fixing issues were set in legislation based on enforcement action, but they must be given reasonable timescales for this.

Members discussed their concerns about some of the criteria within the 3-year licence as they felt some of these, (for example "the presence of hazards") were serious enough for a 1-year licence. The head of planning and regulatory services assured members that officers would be making decisions based on the severity of any issues within the property or with the management. Members agreed that the following criteria should be moved to the 1-year licence: "*No provision of written tenancy or licence agreements*". Members also felt that non-compliance of Building Regulations should also be included within the 1-year licence criteria. The head of planning and regulatory services stated that she needed to clarify whether it would be appropriate to move non-compliance to Building Regulations to the 1-year licence before amending the policy.

Councillor Schmierer proposed, and Councillor Maxwell seconded the following amendment to the HMO Licensing Policy: to remove the 3-year licence and instead roll the criteria into the 1-year licence. With four members voting for and six members voting against this amendment was lost.

The chair stated that having a full review of the HMO Licensing Policy within two years of the policy being implemented would be beneficial and asked that a report was brought to the licensing committee within one year of implementation.

A member asked whether in the case of a sale of a HMO whether the new landlord would have to apply for a new licence, in response the head of planning and regulatory services stated that the licence goes with the landlord.

The cabinet member for safer, stronger neighbourhoods clarified that the cost of the inspection was covered by the application fee, but the cost of enforcement action must be sought from elsewhere in the budget. The cost of enforcement could not be included in the licence fee due to legislation. She highlighted that the tiered approach would allow the council to focus on the landlords that were not providing good quality housing.

The committee requested a further report once the current consultation closed before recommending the policy to cabinet for approval. The report should include members outstanding queries as well as a summary of the final consultation responses.

RESOLVED to:

- (1) Note the consultation responses and amendments to the policy;
- (2) Make the following amendments:
 - (a) Change any reference to gendered personal pronouns to gender-neutral personal pronouns
 - (b) Amend the wording of paragraph 8.1 to read "*The Council has discretion to offer a 1 year, 3 year or 5-year licence*"
 - (c) Remove the following text from paragraph 9.12 "*certain types of*"
 - (d) Clarify that a competent representative can be an individual and does not need to be a part of a letting or estate agency
 - (e) Add a list of definitions as to what makes a competent representative
 - (f) At paragraph 4.2 list of consultees to include examples of "persons who appear to the authority to represent the interests of persons operating House in Multiple Occupations", for example: local estate agents or University of East Anglia Homerun
 - (g) Reviewing the language on distance in paragraph 9.6;
 - (h) Amend the wording of paragraph 9.12 second bullet point (amended wording) "*practised unlawful discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and motherhood, race (which can be in reference to race, colour, nationality or ethnic or national origins) religion and belief, sex or sexual orientation, in connection with the carrying out of business*"

- (i) Consider adding clarity and advice on what a layout plan must show in paragraph 8.1; and
 - (j) Move the following criteria to the list for a 1-year licence in paragraph 14.2: "*No provision of written tenancy or licence agreements*".
- (3) defer recommending the HMO Licensing policy to cabinet following the close of the latest consultation and a report on those comments and the following outstanding queries:
- (a) Consider adding the following criteria to the list for a 1-year licence in paragraph 14.2 "serious failure to Building Regulations"
 - (b) Consider adding that someone cannot move from a 1-year licence issued under this policy to a 5-year licence if improvements have been made; and
 - (c) Consider adding definitions to what entails a "serious hazard" within the criteria for 1-year licences in paragraph 14.2.

5. Regulatory subcommittee minutes

RESOLVED to receive the minutes of the regulatory subcommittee meetings

CHAIR