

Pre-Scrutiny Questions and Answers – Cabinet Agenda 9 August 2023

Report Title: Introduction of an Additional Licensing Scheme

Report Author(s): Paul Hughes

Councillor D Harrison:

1. Recommendation 1. (ii) states that “ That the whole of Warwick district be designated as subject to Additional Licensing under Section 56(1) of the HA 2004 for all flats in multiple occupation situated in purpose-built blocks of flats, irrespective of the number of occupiers in each flat”.

I am assuming the occupancy would be 2 or above, and it would not cover single occupancy for a particular flat within a block of flats. If so, could this be specifically stated for the avoidance of doubt. If it does cover 2 or above this would seem quite onerous for a landlord with only 2 tenants. Is this departure from the more general “3 or above” rule intended and could you please provide reasoning.

Response:

A house (or flat) in multiple occupation by definition requires 3 or more persons living in 2 or more households, so any unit of accommodation occupied by only 1 or 2 individuals would not be within scope for additional licensing.

Referring to ‘all flats in multiple occupation situated in purpose built blocks of flats irrespective of the number of number of occupiers’ therefore excludes flats with 1 or 2 occupiers as they will not be houses in multiple occupation by definition.

Appendix 4 (the legal designation document) references the scope of the additional licensing scheme , i.e. Paragraph 5, all HMOs as defined under Section 254 and 255 Housing Act 2004 unless otherwise exempted by reference to Paragraph 5 a, b or c.

2. Looking at the proposed Additional Licence Fees and Charges (within Appendix 6) there is no mention of the length of term of the licence . At this point, I must state a Declared Interest in that I am a Landlord for a couple of HMO’s in Coventry , where they provide licences for one , two or five year terms depending on the experience and track record of the applicant, with varying licence fees. Is this something that was considered, and are these licences fixed term only and if so what is the duration of the licence for Warwick DC? (I hope I have not missed this anywhere in the Papers!) Providing a range of durations seems logical as it offers the Council the option of providing, for example, longer term licences for landlords of known good reputation.

Response:

Paragraph 6.7 of the report references the administrative and operational arrangements for additional licensing mirroring those which already exist for the mandatory HMO licensing scheme.

Mandatory licences issued by Warwick District Council are ordinarily for a full 5 year term. Policy does enable such licences to be issued for a shorter period for landlords causing concern but it has not been necessary to do so to date and there are alternative sanctions such as civil penalty and prosecution which may be more appropriate (and have been used) depending on the particular circumstances.

Whilst we are aware that Coventry City Council seeks to award differing lengths of licence period, depending on certain circumstances, we are not convinced that this is the best approach given this could be regarded as divisive, open to interpretation and appeals and not necessarily in accordance with the spirit of equality. We therefore favour a 5 year term for all, provided of course that it is determined to issue a licence approval in the first place.

Paragraph 6.9 of the report considers the issue of what may constitute a 'good landlord' and on balance we felt that a more inclusive approach was preferable. Additionally, many of the HMOs which would fall under additional licensing have not previously had any inspections hence it is not possible to properly consider 'track record'.

It is worth pointing out that case law has ruled that licences will operate for their full term even if this runs beyond the duration of an additional licensing scheme. For example, a licensing scheme operates for 5 years from 2024-2029 after which it expires unless the Council decides to renew it. A 5 year licence issued in 2025 will expire in 2030 and conditions are enforceable so long as the licence is in force.

Councillor Russell:

1. Taking into consideration the information of how the scheme will be resourced and given the expected early interest in the 'early bird' discount rate, are we confident we will have sufficient resources to cover this initial pinch point ?
2. The 'Landlord Licensing in the Private Rented Sector: Research Report for Core Cities UK' document refers to potential confusion by applicants between schemes (Mandatory/Additional/Selective). What strategy will we have in place to ensure that this is clearly communicated?
3. The 'Landlord Licensing...' document also refers to issues around enforcement, with potential problems with not enough resources being targeted at unlicensed landlords. How will WDC approach allocating resources to ensure there is the correct balance between efficiently monitoring all landlords but focussing on those who are failing or unlicensed?

Response:

1. We will be issuing further press releases and social media communications before the scheme launch and are confident of having sufficient resources in place to cover the initial pinch point. We believe that there will be many landlords who will want to take advantage of the 'early bird' discount fee. We will be writing personally to all of the HMO landlords known to us who are likely to be affected as well as all of the local letting agents.

We intend to start the recruitment process as soon as the scheme receives approval and were encouraged by applications received recently for a Housing Standards Officer post linked to the Mandatory Licensing Scheme. In the event that there were to be any recruitment difficulties, it would be possible to call upon Officers in the team working on Mandatory Licensing to assist with the Additional Licensing scheme on a short term basis until such time as appointments can be made or deploy agency staff.

2. As indicated above, good communication is needed to ensure landlords and letting agents understand their responsibilities. Mandatory licensing has been in place for 16 years so there is a good level of understanding locally in the landlord community.

It is true that Additional and Selective Licensing can be confusing as these are both discretionary schemes hence it is essential that we do all we can to publicise the launch of Additional Licensing and make it clear that although it's a discretionary scheme, there is a mandatory duty to apply for licences.

A good deal of work has been done with the public consultation earlier in the year, but we will continue this with further media communications and engaging with the landlords directly so there are made fully aware of scheme requirements.

The scheme designation is a legal notice which has to receive a number of posts in local newspapers in advance of the scheme coming into effect and this will strengthen general awareness.

3. The initial focus will be on processing of applications and undertaking inspections of HMOs subject to those applications. Once we move beyond that, we will identify and contact those landlords who we know or suspect to have HMOs but have not applied for licences. We expect this would be the second notification for many as we expect to have already written to them before the scheme launch.

There are 3 existing posts within the Private Sector Housing team who have particular expertise in housing enforcement work and they would be called upon to commence investigations for those cases where we suspect HMOs are operating without a licence. Potentially these cases could progress to civil penalty or prosecution. We would expect the publicity generated by an early successful enforcement case to send out a clear message to landlords who are seeking to avoid licensing.

We publish addresses of licenced HMO's on our website and we know from experience that for those HMOs which are not on our radar, there are members of the community who will alert us so that investigations can be made and we would encourage them to come forward if they suspect an unlicensed HMO is operating.

Councillor Barton:

In the 2018 report page 15 table 9 it states that with regards to fire safety 115 out of 127 properties were defective. One assumes that with these properties being brought into Mandatory Licensing that these properties are now 'to standard'?

Response:

Correct, all of these properties were brought to standard to meet their licence requirements.

To bring these properties Up to standard how much officer time was involved?

Response:

It is difficult to be specific on this, but each inspection and re-inspection would likely to have taken 2-3 hours including travelling time.

There are according to page 9 table 1 ... 805 'known' non-licensable HMO ... is it known how many of these are likely to be defective? ... if it is the same percentage as in 2018 .. say 733 .. may be defective .. have we got the officer time to 'manage' these properties ?

Response:

We do not know how many of the 805 will be defective but it is reasonable to assume a significant number will contain defects or have fire safety shortcomings. We do not have specific officer time calculations.

As I say this is just the fire safety issues of these properties

I find it quite amazing .. being in the compliance trade myself ... that any properties that are defective are being let out .. the more regulation as to all HMO's being licensed must be a good move providing, we have the manpower to manage, ignorance as well as knowing and being inactive is not an excuse in a court of law.

Report Title: Resident Engagement Strategy

Report Author(s): Lisa Barker

Councillor Syson:

I very much welcome this strategy especially as it specifically includes leaseholders, some of who were of course previously tenants.

My question is "Is the overall strategy being communicated to tenants now, with them being told of the proposed action plan?"

Response:

Thank you for your support which is most appreciated.

We have not shared the overall strategy or action plan with tenants yet, with the plan to do so once it has been approved. A number of tenants were however involved in compiling the strategy and action plan.

Report Title: Quarter 1 Budget Update 2023/24

Report Author(s): Steven Leathley

Councillor D Harrison:

My question in advance of O&S relates to the adverse variance of £377k from the Waste Contract , explained in Section 1.1.5.3 of the Budget Update report.

Having read the explanation in section 1.1.5.3 I must admit I do not understand where the expected income from the sale of dry recycling has gone. It mentions it is now offset against the per ton price, and that this 'cost' has been included in the core Waste Budget. But it does not explain how the intended income became a cost. Is it because the value of sales has become more than offset by the cost of disposal? Perhaps it requires an additional sentence or two explaining for those who are new to this. I only ask as it seems to be the largest adverse variance in the 23/24 budget.

Response:

The liability has increased because of an incorrect assumption within the contract at budget setting that we would receive income from the sale of dry waste.

The total budget and costs for the current Waste contract are correct, this relates specifically to the income budget for the sales of dry waste. In the previous waste contract for individual recycling waste, we paid for the collection and disposal, and received income from the sales of all dry waste. The new contract incorporates the income from dry waste into the cost of disposal at the MRF. The income budget for dry waste will be reviewed and resolved in the next budget setting process.

Councillor Syson:

Question 1: What is the inflation rate that is being used in the MTFS forecasts?

Response:

As set out in the Budget Setting Report (February 2023), core inflation of 4% has been included. The exceptions to this are major contracts, such as the Waste Contract (subject to annual review in July)

The following unavoidable growth was included in the Budget:-

- A 4% staffing pay increase was factored in for 2023/24, subject to pay negotiations
- Increased cost of utilities due to the significant rise in wholesale prices

A Contingency budget was established as part of Budget setting to cover unexpected increases due to inflation, covering both major contracts and salaries.

Question 2

1.1.1.3 I note that the Vacancy Factor for the General Fund in 2023/24 was set at £1.132m, and that the current forecast is that £1.010m of this will be met. Given the renewed recruitment and retainment drive is that realistic?

I note that this will be reassessed in Q2 and further adjustments made to reflect any future changes in establishment. Is the Vacancy Factor for future years in the MTFS still set at 6% or reduced?

Response:

Within the Current Salary forecasts in Q1 there are many vacant posts with estimated start dates, some of these have been advertised, some have not, it is expected that some of these may slip further which will be picked up in the analysis in Q2. From July to March, history shows that job churn will happen, although it is expected to reduce, we are confident that the Vacancy Factory will be met.

In previous years we have set a lower Vacancy Factor and overachieved it by more than circa 150%. The new initiatives should reduce this, but we are still confident we will achieve 6%.

The Vacancy Factor is reviewed on an annual basis when setting the budget, based on known future and past event. The MTFS currently has the vacancy factor level set at 6% on an ongoing basis.

Question 3:

The same as Question 2 but with reference to the HRA budget in 1.2.2

Response:

As above

Within the Vacancy Factor for HRA we have Partially funded the Working for Warwick and higher inflation costs of salaries.

Question 4

1.1.3.1 Contingency budget

“At budget setting in February 2023, contingency budgets were set to mitigate the unknown rising costs of contracts linked to inflation.In Q1, the contingency budgets have been forecast to offset some of the increased expenditure reflected in this report.” This is listed as £722, 000 favourable. ”

I am a bit confused by this. Why is the contingency only used to offset some of increased costs when they were there to mitigate the unknown increases? Does the £722, 000 mean that in Q1 the Council has saved that amount of the contingency budget it expected to spend in Q1?

(Is this the contingency referred to in 1.1.5.4. where I suspect it is a typo saying referred to in 1.1.4.1)

Response:

The contingency Budget was set in February budget as at the time we did not have full information on the inflation increases for all contracts. In Q1 we have forecast contract inflation where it is budgeted, therefore showing overspends within services and decrease the contingency to zero to offset these overspends. This is not an underspend of Contingency as this amount has been absorbed with overspends within the services. The unknown increases in major contracts and services have been forecast at the where the spend will be met, within Service budgets.

Councillor R Dickson:

1. How much of the adverse variance of £377,000 on the Waste Contract is from the incorrect expectation about the income from the sale of dry recycling? It's noted that this assumption was carried forward in the MTFS into 2024/25 and subsequent years, but what is expected to be the annual impact in 2023/24?

Response:

The liability has increased because of an incorrect assumption within the contract at budget setting that we would receive income from the sale of dry waste.

The total budget and costs for the current Waste contract are correct, this relates specifically to the income budget for the sales of dry waste. In the previous waste contract for individual recycling waste, we paid for the collection and disposal, and received income from the sales of all dry waste. The new contract incorporates the income from dry waste into the cost of disposal at the MRF. The income budget for dry waste will be reviewed and resolved in the next budget setting process.

2. What percentage of total planning fee income in 2023/24 does the decrease in planning fees in Q1 of £230,000 represent?

Response:

This represents a 13% reduction compared to budget.

3. What is the justification for the forecast capital overspend of £282,000 at the Castle Farm Leisure Centre new building project?

Response:

The fit-out budgets for Castle Farm and Abbey Fields got crossed over by accident so that each budget was allocated to the other centre.

So Castle Farm was allocated £200,800 and Abbey Fields was allocated £496,600. Castle Farm requires the £496,600 in this financial year and so that shows as an overspend. Abbey Fields requires the £200,800 in 24/25 due to delays with the works, so it shows as an overspend but this will be compensated by a saving in 24/25.

Report Title: Identification and Remediation of Damp and Mould in Council Homes

Report Author(s): Steve Partner

Councillor Armstrong:

1. Item 5.2.6 in the policy states survey agents are used to identify and report any mould. Can you give detail about what routes of reporting the council typically gets? Are reports normally from tenants, or these survey agents?

Response:

In this context, the reference in 5.2.6 refers to external stock condition surveyors that are engaged, currently via Pennington Choices to carry a full stock condition survey. They are instructed to immediately report to us any cases they find of serious mould and damp so that a visit and assessment can be made as soon as possible. However, we have also provided training to housing and technical staff employed by the Council to enable them to identify and assess damp and mould found during home visits. Training can also be made available to Members to assist when advising constituents.

Generally, the most common route to reporting is through the tenant contacting the repairs team, usually by telephone and at that stage we would arrange a visit to assess and decide on any remediation measures necessary. Housing team officers and others also report incidence of damp and mould that is found during tenancy visits.

2. Connected, what is the frequency of inspections carried out by these survey agents?

Response:

As above, this principally refers to the periodic stock condition survey, which is a one off visit each time the full stock condition survey is commissioned. WDC staff would also visit, usually in response to either a tenancy inspection (housing staff) or a technical inspection if by the Assets team.

3. A minor one, item 6.3 in the policy repeats itself ('Proactively look...' comes up twice).

Response:

Well spotted! Thanks

Report Title: Review of Significant Business Risk Register

Report Author(s): Richard Barr

Councillor D Harrison:

I have 2 questions on Item 8 of the O&S Agenda, which is the Business Risk Register, and in particular Appendix 1 :

1. Item 16 on the Significant Risk Register, which is the Environmental Risk; could you please explain how the first consequence of a "Failure to meet Carbon Neutral Ambition" would be a budgetary impact. I can appreciate reputational and service change impacts, but I do not see how it could lead to an adverse impact on the budget. Just a brief explanation for both myself and the risk register would be appreciated. Thanks

2. Item 17 of the same area; I can appreciate the possible consequences of this are huge, however one possible significant consequence not included is "Escalation in Food Prices". I remember this area, including resilience and mitigation against this, was included in the CCAP (presented by Dave Barber) and suggested such things as access to local produce grown within the county, which I thought was very helpful. A mention in the Risk Register would be worthwhile, inc. impact on increasing use of FoodBanks, and local food reserves etc.

Response (Richard Barr):

Thank you for your questions/observations.

As the "owner" of this risk (or at least the "lead" on it), Dave Barber will have to assist you with your items.

I have therefore copied in Dave so he can help you. I have also copied in SLT for information purposes as it is SLT that, at officer level, consider these risks on an ongoing basis.

With regard to your second item, your suggestion seems sensible to me and so, with Dave's agreement, will include these consequences.

Response (Dave Barber – Programme Director for Climate Change):

Given this about the District's carbon emissions (55% reduction by 2030 and net zero District by 2050), the budgetary impacts are twofold:

- a) Firstly, if we miss the 2030 target we will need to accelerate the spending after 2030 with budgetary impacts
- b) Secondly the overall costs of retrofit and other carbon reduction measures may rise as the challenge get larger and closer.

I am happy that some words be added to the risk register to explain this.

With regard to your second point, I would be happy to support that suggestion.

Councillor Syson:

I think these risks were originally arranged in risk order, which is helpful to Councillors. With Performance Management Risks Part I : Risk of sustained quality reduction having reduced from red to amber , and some others moving, these are now minorly out of order.

Response from Richard Barr:

Yes, sorry, they should be in strict risk order. That's my fault, I'll try to keep on top of that in future.

As for your query, that's one for Marianne so I've copied her in so she can assist you. SLT also need to be aware of the query so I've copied in them in as well.

Question:

Emergency Response and Business Continuity Risks

15. Risk of a major incident not being responded to effectively.

Under mitigation reference is made to "Preparation for the new Protect and Prepare Duty (due later in 2022 (HoSCLE)" Has it arrived? Have we prepared?

Response from Marianne Rolfe:

The duty is now expected in Autumn 2023. Councilor training on the meaning of this duty is being prepared to provide you with a greater understanding. The council has been participating in a multi-agency strategic group for the last two years and now the legislation has been published we are able to implement the plans which have been made.

Councillor R Dickson:

1. In respect of Risk 8 it's noted that there is adjudged to be no increase in the likelihood of not obtaining potential income sources. However, it's reported elsewhere in Cabinet papers that already in 2023/24 the Council is experiencing less income than budgeted e.g. 13% less planning fees. How realistic therefore is the judgement that there is no change in the likelihood of this risk?

Response from Chris Elliott:

From the conversation that officers have had we tend not to just use the first quarter financial results as a permanent trend for the year. Quarter 2 in our experience tends to be much more reflective of the likely reality. Therefore we have not changed the risk overall at this stage.

I hope that explains the rationale.

2. Thanks Chris. Yes, it explains the rationale and obviously it's a judgement call. The worrying slowdown in major property applications is a consequence of market conditions and has implications both for the Council's income and for the Council's proximity to the five-year land supply threshold.

Response:

Potentially though the Government has now also agreed that planning fees be increased significantly for next year and be inflation linked going forward which may be a positive benefit to us.