

Report for: Cabinet – 12th September 2023

Title: Proposed Statutory Consultation for the designation of a new Additional HMO Licensing Scheme

Report authorised by: Barry Francis, Director of Environment, and Resident Experience.

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Ward(s) affected: All

Report for Key/

Non-Key Decision: Key Decision

1. Describe the issue under consideration.

1.1. The Housing Act 2004 introduced licensing for the Private Rented Sector (PRS). Mandatory Licensing for Houses in Multiple Occupation (HMO) exists for all HMOs occupied by five or more tenants. The Act also gave powers to Councils to introduce discretionary licensing schemes within their local authority.

- i. Additional Licensing for smaller Houses in Multiple Occupation and
- ii. Selective Licensing for all privately rented property.

1.2. In February 2019 Cabinet approved an Additional HMO Licensing scheme designation for the whole borough. This scheme is due to end on 26th May 2024. In order to continue to be able to use these licensing powers to deliver and maintain improved housing, a new scheme will need to commence.

1.3. Prior to making a designation the Housing Act 2004 (The Act) requires the Council to:

- take reasonable steps to consult persons who are likely to be affected by a designation,
- consider any representations made in accordance with the consultation.
- run the consultation for a minimum of 10 weeks.

1.4. This report seeks to recommend the approval to undertake consultation for the purposes of introducing a new additional HMO licensing scheme designation within Haringey borough.

1.5. A final report detailing the findings will be presented back to Cabinet for consideration in early 2024 for a decision.

2. Cabinet Member Introduction

2.1. The Council is committed to ensuring that Haringey residents have access to a safe, sustainable, stable, and affordable home.

- 2.2. Forty percent of Haringey's residents live in Private Rented Sector homes, and Houses in Multiple Occupation (HMO) are a much-needed affordable type of accommodation. Both improving the quality of the PRS and reducing the number of households presented as homeless are key pledges for this Council.
- 2.3. Additional HMO licensing is designed to improve the quality, safety, and management of smaller HMO's not covered by Mandatory Licensing. It provides the regulatory framework to support the many good landlords in Haringey, whilst also providing the powers for officers to act against those landlords who rent property that is below the standards we expect.
- 2.4. It is vital that these properties continue to be effectively regulated to ensure they are safe, professionally managed and comply with regulations and any unlicensed HMO accommodation within our borough needs to be identified and made to licence and comply.
- 2.5. It's reassuring for private renters in Haringey to know that landlords cannot evict tenants from their rented property to avoid the Licencing scheme. Tenants are protected from no-fault eviction in unlicensed premises because their landlord cannot issue a valid Section 21 Notice. Additionally, tenants can claim back rent from landlords (Rent Repayment Orders) who have been found to be operating HMO property without a licence through the courts.

3. Recommendations

- 3.1. Cabinet is asked to agree that officers consult on the following.
 - I. designation of the whole of the area of the London Borough of Haringey to be subject to Additional HMO licensing for the period from 27 May 2024 up to no later than 26 May 2029.
 - II. licensing fees and charges detailed at Appendix 2.
 - III. licensing conditions detailed at Appendix 3.

4. Reasons for decision

- 4.1. The Government sees the private rented sector as having an important and long-term role in meeting the housing needs of the nation. One of the key powers available to local authorities to improve property standards and management practices in this sector is through the utilisation of discretionary licensing powers bestowed on local authorities through the Housing Act 2004.
- 4.2. A third of Haringey's population live in homes rented from a private landlord. More than one home in every four rented from a private landlord in Haringey is in such poor condition that it presents a risk of harm¹ to the health or safety of its tenants¹. The Council's vision through the current Corporate Delivery Plan 2023-24 is for a borough where everyone has a safe, sustainable, stable, and affordable home. One of the fundamental principles of property licensing is to ensure that residents who live in the private rented sector have access to this. Although HMO

accommodation makes up only a small percentage of the overall private rented sector, it is a part of the sector that poses the greatest risk to tenants. Through the HMO Licensing scheme, we will be able to contribute towards addressing these issues and achieving this vision.

[¹ Haringey Corporate delivery Plan 2023-2024]

- 4.3. The Corporate Delivery Plan highlights the correlation that improving housing has with our ability as a council to respond to:
- our climate emergency,
 - supporting residents during the cost-of-living crisis,
 - addressing inequality and
 - building strong communities.

- 4.4. The existing additional HMO licensing scheme has contributed towards achieving these commitments and specifically towards achieving the Council's pledge to.

'Deliver homes for the future;' by improving the quality of the private rented sector and supporting the reduction in households presenting as homeless.'

It is anticipated that a further scheme of this type will continue to contribute towards this pledge.

- 4.5. We will also through the scheme, work with and educate landlords, encouraging them to improve the quality of their housing stock voluntarily including enhancing the energy efficiency of their properties.

- 4.6. The Council's existing Housing Strategy 2017-2022 and proposed Housing Strategy 2022-2027 (which was recently consulted upon from September to December 2022 and is due to be adopted by about November 2023) both endorse the use of additional HMO Licensing. Officers consider that using these measures, combined with the council's existing enforcement powers under Part 1 of the Housing Act 2004, will contribute to its strategic objectives, which are to improve Haringey's property condition and management.

- 4.7. The intelligence held relating to licenced HMO premises such as their location, who the licence holder is, and the number of occupants it should have has shown to facilitate the work of a wide range of council officers when undertaking their own investigations or enforcement action. This level of available detail often expedites investigations, creating greater partnership working and achieving more successful outcomes.

- 4.8. The existing 2019 HMO Licensing scheme designation has allowed us to see the benefits of having borough wide HMO licensing in Haringey. Not having the further powers provided by this type of additional property licensing, would mean us having only limited options available to protect private tenants and ensure landlords behave responsibly. Because the scheme is financed by licence fee income it can deliver those interventions economically.

- 4.9. A key benefit of the licensing scheme is that it enables the Council to take a proactive approach to enforcement against poor property conditions, in particular

identifying at-risk properties and undertaking inspections, rather than waiting until a resident has notified the Council of an issue, which may be weeks or months after it arises, or even may not be resolved at all.

- 4.10. This is particularly important given that residents in the PRS are likely to be more vulnerable, transient and may have less regular contact with the Council that would otherwise enable issues to be picked up. For instance, they may be representative of the marginalised communities that live in Haringey such as being recent arrivals, or where English may be a second language. Moreover, they may be vulnerable to exploitation because of discrimination they face because of their minority ethnic profile, and/or lower socio-economic status. This is set out in the Equalities Impact Assessment at Appendix 3.
- 4.11. Although progress and good outcomes have been achieved through the existing HMO Licensing scheme in Haringey, we are acutely aware that further work is required if we are to improve the sector overall. The current HMO licensing scheme has.
- Allowed us to identify where HMO are in the borough, information available publicly on the council's property licensing register. There are currently 3375 Licensed HMO listed on this register.
 - Given us a database of license holders, a named person who is responsible and accountable for the property at all times.
 - Identified some of the deficiencies within this sector through both the application process and through compliance inspections.
 - Given many tenants protection from illegal eviction.
- 4.12. Improving conditions within the PRS, maintaining the quality and management of this type of housing, changing the perception that tenants and residents have of this sector and the way the Council deal with non-compliant landlords, as well as creating a positive relationship with our letting agents and landlords, is a cultural change that was always going to take longer than 5 years to achieve. The impact of the covid pandemic on the delivery of our current HMO Licensing scheme can also not be understated.
- 4.13. We believe that we are at the infancy of this journey and remain excited about the future prospects that having Additional HMO Licensing can bring to our borough. Ensuring compliance is assessed and that interventions are put in place to address non-compliance is a key objective of the scheme and one that has been impacted on by the pandemic. Providing better support for renters who are experiencing landlord harassment, illegal eviction or wish to take civil prosecutions against their landlords continues to be an aspiration of our licensing schemes and one we wish to improve.

5. Alternative options considered.

- 5.1. **The council could decide to do nothing.** Doing nothing is not a viable option due to the significant scale of poor housing conditions and the poor management of HMO in the borough as outlined in paragraphs 6.2-6.6 of the report. To do nothing would mean relying on a reactive property inspection programme, which depends heavily upon complaints being made by tenants as the means of identifying poor HMO standards. Without HMO licensing our human resources to

do this as well as powers to achieve compliance would be limited. Doing nothing would also mean an inability to continue to work in the way that has been established through having the existing HMO Licensing regime and would reduce the amount of operational partnership working that we are in the infancy of developing.

- 5.2. **Use of Part 1.** The council could continue to rely on Part 1 Housing Act 2004 enforcement powers alone. Those powers include issuing Improvement Notices, Hazard Awareness Notices or Prohibition Orders to improve living conditions or remove hazards, among other things. This formal action however is slow with appeal provisions against most types of notices served, which can significantly delay the time period for compliance. In addition, the council's powers under Part 1 do not enable it to regulate the management of property as licensing schemes do. The Part 1 provisions are currently available to the council but despite our best efforts to exercise these powers they have not provided the necessary large-scale improvements in the sector. All the above options are time consuming, resource intensive and not feasible on a large scale.
- 5.3. **Voluntary Regulation.** The council could rely on voluntary accreditation schemes or landlord membership organisations, such as the National Landlord Association or the Residential Landlords Association. These can help to support and improve a professional approach by landlords, and we have encouraged this by promoting voluntary regulation through voluntary accreditation schemes, but this does not give the council any additional powers to take enforcement action against non-compliance.
- 5.4. **Opting for a smaller designation within the Borough.** The data analysis and evidence gathering has highlighted that HMO exists across all wards in Haringey. There is no evidence that any one particular ward has HMO of a better quality than another and there is no evidence to suggest that any one ward has property owned by landlords who are more compliant than another. It is therefore proposed that HMO Licensing continues to be required borough wide.

6. Background information

6.1. Legal Requirements.

A condition of making an additional HMO licensing designation for a particular type of HMO, or for a particular area, is that the local authority considers:

- That a significant proportion of the HMOs (that will be subject to the proposed designation) in the area are being managed sufficiently ineffectively as to give rise, or likely to give rise, to problems either for those occupying the HMOs or for members of the public.
- Whether there are any other courses of action available to them that might provide an effective method of dealing with the problem or problems in question.
- That the making of the designation will significantly assist them to deal with the problem or problems.

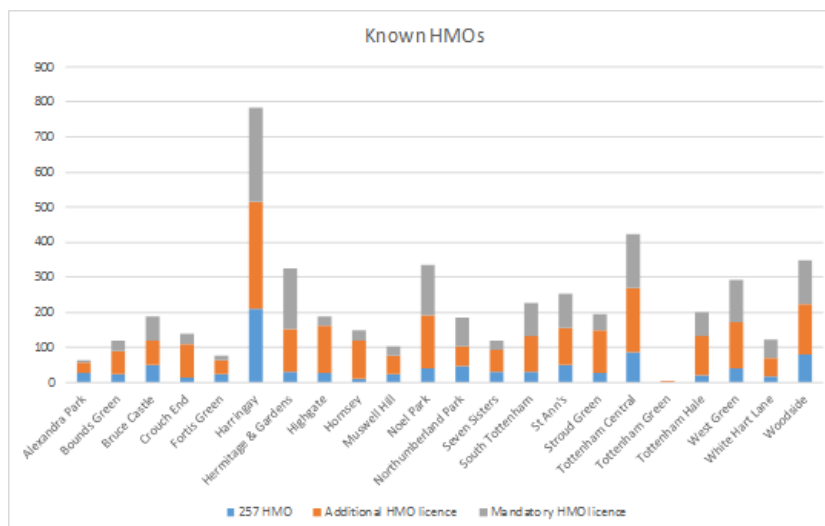
The Housing Act 2004 also requires the local authority to demonstrate the following outcomes as part of its process of delivering additional HMO licensing.

- Ensure that the exercise of the power is consistent with their overall Housing Strategy.
- Adopt a coordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector as regards combining licensing with other action taken by them or others.
- Consider whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of achieving the objectives that the designation would be intended to achieve.
- Consider that the making of the designation when combined with other measures taken by the authority alone or with other persons will significantly assist them to resolve the problem identified (whether or not they take any other course of action as well).
- Take reasonable steps to consult persons who are likely to be affected by the designations and consider any representations made.

6.2. Evidence & Outcomes from existing Additional HMO Licensing Scheme.

Data taken from the current HMO Licensing Scheme has allowed us to identify where the known HMO properties are within our borough. The current known data on the number of HMO in our borough stands at 4830². This figure includes both Sec 254 and Sec 257 HMO as defined by the Housing Act 2004. The graph below shows the type of HMO and number within each of the wards in Haringey. The graph indicates that all wards in Haringey have a significant number of known HMO within them. This evidences the need for any new scheme to remain borough wide. [2Metastreet Data as of April 2023]

Fig 1. Bar graph showing number and type of HMO by ward.



6.3. The table below shows the number of complaints received between April 2018 and March 31st, 2023. The complaints relate to waste and noise from those known HMO in our borough. This data shows that we are still receiving elevated levels of complaints from certain licenced premises, evidencing the need for landlords to remain accountable for the management of those properties. The data obtained through this analysis will allow us to target those properties in the future to better understand the reason for repeat offences and to provide better solutions to ensure compliance is maintained long term.

Fig 2. Table showing number and type of complaints against known HMO.

Wards	Known HMO	Waste complaints (April 2018 – March 2023)	Waste FPNs (April 2018 – March 2023)	Noise complaint (April 2018 – March 2023)
Alexandra Park	63	24	1	17
Bounds Green	119	40	2	53
Bruce Castle	187	92	12	46
Crouch End	138	19	1	37
Fortis Green	76	5	0	21
Harringay	785	199	38	421
Hermitage & Gardens	325	40	14	228
Highgate	188	20	0	50
Hornsey	148	17	2	35
Muswell Hill	103	9	0	34
Noel Park	336	70	18	249
Northumberland Park	184	55	6	49
Seven Sisters	119	28	6	37
South Tottenham	227	61	10	127
St Ann's	254	80	6	248
Stroud Green	195	18	0	58
Tottenham Central	422	134	14	243
Tottenham Green	1	0	0	0
Tottenham Hale	200	83	16	101
West Green	292	106	12	168
White Hart Lane	121	59	10	35
Woodside	347	162	13	217
Total	4830	1321	181	2474

6.4. Due to the nature of HMO accommodation fire safety is one of the most important safety standard requirements within HMO accommodation. Data taken from the existing scheme identified that on application.

- 15% of HMO property did not have fire detection systems in place.
- 23% did not have fire doors present.
- 17% had no fire blanket provision.

This data has been used to target those addresses for priority compliance inspections and any fire safety failings or other non-compliance being forcibly addressed by the licence holder.

6.5. A mandatory element of the licensing programme is to inspect property to ensure compliance. Of the compliance inspections currently undertaken the following outcomes have been recorded.

- 12% were deemed unsatisfactory.
- 45% were deemed as satisfactory but required some minor works to the property before it can be rated as satisfactory. These properties will have to be re-inspected when works have been completed.
- 41% were deemed to be satisfactory at the time of the inspection.

6.6. For context, it is important to note that not all inspections result in a formal action or prosecution, as there are compliant landlords in the borough. As shown above just under half of all cases that have had an inspection to date were found to be satisfactory, with just over 40 percent requiring some form of further action against the landlord or owner etc. Only 12 % were deemed unsatisfactory and are likely to require some form of formal enforcement action to ensure compliance is met.

6.7. Haringey has used its powers under the Housing and Planning Bill which allows for the use of Civil Penalty notices as an alternative means of prosecution for landlords who fail to comply. These powers have been used in the main against landlords who have failed to licence their HMO property with the Council. 37 Civil penalty notices have been issued against those responsible for failing to licence those premises despite being given opportunity to do so incurring a total fine value of £193k.

6.8. **Community Engagement.**

Haringey Deal is the Council's commitment to how we can work better with our residents and make them feel part of the decision making in shaping the future of our borough. On-going engagement with stakeholders as part of Haringey Deal has been taking place to get feedback on the current scheme and how it is working. This engagement has been fluid and has taken place as part of our ongoing stakeholder engagement through various forms.

- Landlord Forum: presenting, networking, listening, and advising.
- Conversation with tenants when undertaking inspections.
- Engagement with residents on Stronger, Safer Weeks of Action.
- Presentations and collaboration with VSO, service partners, health professional.
- Communication with our licence holders.

- Engaging at forums, resident meetings, responding to social media.

6.9. **Proposed Consultation.**

- This will follow Haringey's consultation charter.
- An external consultation specialist will be contracted to facilitate the delivery and analysis of the consultation project.
- The consultation will run for a minimum statutory period of ten weeks.
- It will involve an online survey which will be monitored to ensure that the survey is reaching a cross section of residents and stakeholder. Mitigations will be put in place to address any issues with response rates and respondent status.
- The consultation will aim to be fully accessible.
- Workshops will be held in person and online.
- Social media, digital media and printed publicity will take place.
- Consultation analysis will be a key to final proposals and designation terms.
- Consultation results will be published and any stakeholders wishing to be informed personally of the results of the consultation will be contacted.

7. **Contribution to the Corporate Delivery Plan 2023-2024**

8.1. **Corporate Delivery Plan** – The Council's vision is for a borough where everyone has a safe, sustainable, stable, and affordable home. Improving housing has broader implications on the Council's ability to respond to climate emergency, support residents during the cost-of-living crisis, address inequality and build strong communities. As stated in paragraph 3.3, a third of Haringey's population live in homes rented from a private landlord and more than one home in every four rented from a private landlord in Haringey is in such poor condition that it presents a risk of harm to the health or safety of its tenants. Through the HMO licensing scheme, we will be able to contribute towards addressing these issues and achieving this vision by improving the quality of the private rented sector. Through this scheme, we will also work with and educate landlords, encouraging them to improve the quality of their housing stock including enhancing the energy efficiency of their properties.

8.2. **Housing Strategy** – Both the existing Housing Strategy 2017-2022 and the proposed Council's, Draft Housing Strategy 2022-27 (which has been consulted on and is proposed to be adopted by about November 2023) outlines the Council's aspirations for to have a safe, stable, and genuinely affordable homes. The use of discretionary enforcement powers provided by schemes such as HMO licensing assist the Council in achieving its aspirations. The strategy includes a specific objective on how we aim to improve the quality of the Private Rented Sector through delivery against three sub-objectives:

- Setting clear standards for the private rented sector and supporting landlords to meet those standards,
- Enforcing those standards and taking decisive action against landlords who will not provide their tenants with a home that is decent, safe, and secure,
- Empowering and supporting private renters to hold their landlords to these standards.

Also, within this strategy a clear objective for preventing homelessness sets the tone of the Council's strategic direction on homelessness prevention and service delivery. With specific reference to the private housing sector the Homelessness objective identifies that the loss of a tenancy in the private sector is the biggest cause of homelessness, identifying that the Council will use landlord licensing to increase its engagement not only with private landlords but also with their tenants.

8.3. **Affordable Warmth Strategy** - The Affordable Energy Strategy 2022-2025, sets a 5-year plan to reduce fuel poverty in the borough. The strategy identifies risks, mitigation measures and priority actions to help the residents of the borough who are affected by fuel poverty. The use of property licensing has been identified within this strategy's objectives as a tool to help reduce fuel poverty within the PRS. Educating, providing support and guidance, and working with landlords as part of the wider licensing project objectives, the Council aims to increase the thermal efficiency of property within the borough. The aim is to achieve this through a range of measures, which are:

- Checking compliance with Energy Performance Certification (EPC) when landlords apply for their licence.
- Acting where these properties remain non-complaint. The council wants to use the project to encourage landlords to go beyond the minimum energy requirements for privately rented homes and will signpost landlords to any relevant funding. The council will help landlords to identify additional measures that they can do within those properties to increase the energy efficiency and reduce fuel poverty for those living in this sector.
- Education and guidance on improving energy performance within this sector and sign posting to grant initiatives and funding where applicable.

8.4. **Haringey Climate Change Action Plan** – A route map for a net zero carbon Haringey sets out how together we will deliver homes that are healthy, comfortable, and affordable places to heat and power.

9. **Statutory Officers comments (Director of Finance (procurement), Head of Legal and Governance, Equalities)**

9.1. **Finance**

9.1.1 A third of the Haringey population live in homes rented from private landlords. As previously stated, one in four of these homes is in a poor state. Issuing HMO licences are in line with the Authority's Housing strategy to have a safe, stable, and affordable Housing.

9.1.2 The expenditure related with the provision of HMO licencing is financed from the Authority's Private Sector Housing revenue budget which is presently projecting to break even as at the first quarter of the financial year 2023/24.

9.1.3 The consultation cost related to the additional licence which is the subject of this report can be accommodated within the existing revenue budgets.

9.1.4 The service continues to maintain a healthy revenue reserve Ringfenced to cover the running cost of the existing scheme.

9.2. Procurement

9.2.1. Strategic Procurement note the contents of this report and confirm there are no procurement related matters preventing Cabinet from agreeing the Recommendations in Paragraph 3 of this report.

9.3. Head of Legal & Governance

9.3.1 The Head of Legal and Governance has been consulted in the drafting of this report and comments as follows.

9.3.2 The conditions for designation of an area for additional licensing are set out above "Legal Requirements."

9.3.3 Unless the scheme meets the requirements set by the Secretary of State for a general approval, his confirmation is required before a designation of an area subject to additional licensing can come into force.

9.3.4 The licensing scheme proposed in this report is intended to meet the requirements of the general approval (The Housing Act 2004: Licensing of houses in multiple occupation and selective licensing of other residential accommodation (England) General Approval 2015) which is (in summary), that the local housing authority making the designation has consulted persons likely to be affected by it for a period of not less than 10 weeks.

9.3.5 In formulating its consultation plan, the Council must bear in mind that not all those affected live or work within the borough and take steps to ensure that those affected within immediately neighbouring boroughs are properly consulted.

9.3.6 The consultation must comply with what have become known as the Sedley criteria, namely that the consultation:

9.3.6.1 Must take place when the proposals are still at a formative stage.

9.3.6.2 Must give sufficient reasons for the proposal to permit intelligent consideration and response.

9.3.6.3 Must allow adequate time for consideration and response.

9.3.7 The product of the consultation must be conscientiously taken into account in finalising the proposal.

9.3.8 The consultation plan described above and attached has been developed to meet the criteria set out above.

9.3.9 Other legal comments are contained in the body of the report.

9.3.10 There is no legal reason why Cabinet should not accept the recommendations in this report.

9.4. **Equality**

9.4.1. The council has a Public Sector Equality Duty (PSED) under the Equality Act (2010) to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act.
- Advance equality of opportunity between people who share protected characteristics and people who do not.
- Foster good relations between people who share those characteristics and people who do not.

9.4.2. The three parts of the duty apply to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex, and sexual orientation. Marriage and civil partnership status applies to the first part of the duty.

9.4.3. Although it is not enforced in legislation as a protected characteristic, Haringey Council treats socioeconomic status as a local protected characteristic.

9.4.4. The decision is regarding approving a consultation on a new HMO licensing scheme for the council, as the old scheme is ending.

9.4.5. Women, disabled people, BAME people, young people and low-income people are overrepresented in the private rented sector, and some groups who share protected characteristics experience discrimination when looking for rented accommodation. Any actions taken to improve the quality of the private rented sector and increase the accountability of landlords should have a positive effect on those who share protected characteristics.

9.4.6. By involving those who share protected characteristics in the consultation process, the council will be able to explore the equalities implications of the scheme more effectively, and outputs from the consultation will influence the scheme. The consultation process will therefore likely have a positive equality impact on the nature of the scheme.

9.4.7. An EQIA has been conducted to assess the equalities implications of the scheme initially and to ensure the consultation process encourages the involvement of those who share protected characteristics. It should be noted that the EQIA has currently identified only minor possible adverse outcomes that can be easily mitigated.

10. **Use of Appendices**

Appendix 1 – Proposed Area of Designation

Appendix 2 - Proposed Fee structure

Appendix 3 – Proposed Licence Conditions

Appendix 4 – Equalities Impact Assessment.

11. **Background Documents**

Haringey Housing Strategy 2017-2022
Draft Housing Strategy 2022-2027
Cabinet approval of Haringey Additional HMO Licensing scheme 2019.