

Report for: Cabinet 14th November 2017

Item number: 11

Title: Property Licensing – Additional and Selective.

Report authorised by: Stephen McDonnell Interim Director of Commercial and Operations.



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Ward(s) affected: All

**Report for Key/
Non Key Decision: Key Decision**

1. Describe the issue under consideration

- 1.2 This report seeks a decision from Cabinet to carry out a public consultation exercise in respect of the roll out of a borough wide additional licensing scheme and introduce a part borough selective licensing scheme. The consultation will be carried out over a 12-week period starting in December 2017. A final report detailing the analysis of the consultation feedback and a recommendation on the way forward will be presented to Cabinet in June 2018.
- 1.3. As part of the consultation exercise, the local authority must present evidence to support the proposal to roll out a borough wide additional licensing scheme and introduce a part borough selective licensing scheme. The evidence base to support this report is set out as Appendix 1 and will form part of the consultation exercise.

2. Cabinet Member Introduction

- 2.1. Demand for housing is at an all-time high and Haringey needs a wide range of homes, in terms size, type and tenure to meet the diversity of current and future needs. Rather than compromise the housing standards and conditions of both new and existing housing to meet the ever increasing demand, we want to ensure that all who live in our borough have access to decent, secure housing.
- 2.2. We need more homes, but those homes need to be of a high quality. We believe that a safe, warm and well maintained home should be available to all and not influenced by the person's level of income or background. We want

the private sector, which makes up a third of Haringey's housing, to thrive and be part of that offer.

- 2.3. Equally we need to improve people's surroundings and their local environment by reducing crime and anti-social behaviour. This includes fly-tipping, rubbish left on the highway and untidy front gardens. All these forms of ASB blight communities and become a barrier to creating homes and communities where people choose to live. This type of anti-social behaviour contributes to a perception of an area being unsafe which can subsequently encourage further disorder and crime.
- 2.4 Evidence gathering work has been carried out to establish if there are grounds for extending our additional licensing scheme borough wide and introducing a part borough selective licensing scheme. Extensive analysis of the evidence against each of the criteria as identified in paragraphs 7. to 7.12. was undertaken. The evidence that has been gathered supports a designation for both schemes based on the following grounds:
- A significant proportion of the HMOs 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.

The area:

- Has a significant and persistent problem caused by anti-social behaviour.
 - Is experiencing poor property conditions.
 - Is suffering high levels of crime.
- 2.5. We consider that extending our additional licensing scheme and introducing a selective licensing scheme are the best tools available to tackle problems of poor housing management practices and conditions. Licensing will become part of a wider strategic approach to drive up living standards for all and improve the local environment by tackling property related crime and ASB. Based on the findings, it is appropriate to undertake a public consultation exercise.

3. Recommendations

3.1. The Cabinet is recommended to: -

- a) Authorise the Interim Director for Commercial and Operations, in consultation with the Cabinet Member for Environment, to finalise and commence a statutory consultation, as outlined in section 13, on the proposal to roll out a borough wide additional licensing scheme and introduce a selective licensing scheme to 29 Lower Super Output Areas based on the evidence attached as Appendix 1.

- b) Approve the proposed licensing fees and charges detailed at Appendix 2
- c) Approve the proposed set of licensing conditions for both the additional and selective licensing scheme, attached as Appendix 3a and 3b.

4. Reasons for decision

- 4.1. It is necessary for the Cabinet to agree to the public being consulted on the licensing scheme proposals, including the licensing fees and conditions.

5. Alternative options considered

- 5.1. **Do nothing and continue with existing legal powers** - Existing powers available to the council are largely reactive with officers responding to tenants' complaints. Many tenants are reluctant to complain through fear of retaliatory eviction. Although current enforcement activity has been successful in remedying problems in individual dwellings, it is not felt to have raised the standard of private sector dwellings generally.
- 5.2. **Voluntary Accreditation** - Although the voluntary accreditation scheme is helpful in driving up standards, it relies on the willingness of landlords to sign up to it. It is likely therefore that conscientious landlords will continue to support the scheme, but that rogue landlords will remain difficult to identify and will avoid joining the scheme, preferring instead to operate with the minimum regulation.

6. Background information

- 6.1. Under the Housing Act 2004, there are three forms of licensing relating to private sector housing available to local authorities:

- a) Mandatory Licensing of certain HMOs

All local authorities are obliged to run a licensing scheme covering Houses in Multiple Occupation (HMOs) that have three or more storeys and are occupied by five or more people who are not living together as a single household.

- b) Additional Licensing – HMO

Local authorities can introduce a discretionary additional scheme for other types of HMOs not subject to mandatory licensing in part or whole of the area within its district.

- c) Selective Licensing

A discretionary selective licensing scheme covers all other private sector dwellings and can be introduced in part or whole of the borough.

All licensing schemes are intended to address the impact of poor quality housing, rogue landlords and anti-social tenants. In an area subject to licensing, all private landlords must obtain a licence and if they fail to do so, or fail to achieve acceptable management standards, the authority can take enforcement action. Schemes run for a maximum period of five years and a fee is payable for each license.

7. Statutory conditions and evidence

7.1. Additional HMO Licensing

7.2. Before making an additional HMO licensing designation for a particular type of HMO, or for a particular area, the local authority must:

- Consider 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.
- Consider 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.
- Consider that the making of the designation will significantly assist them to deal with the problem or problems.

7.3. Selective Licensing

7.4 Changes in the general approval in April 2015 mean that local authorities are now required to obtain approval from the Secretary of State for any selective licensing scheme which would cover more than 20% of their geographical area or would affect more than 20% of private rented houses in the local authority area.

7.5. In order for selective licensing to be considered one or more of the following 6 statutory grounds have to be met:

- i. Is an area of low housing demand (or is likely to become such an area)
- ii. Is experiencing a significant and persistent problem caused by anti-social behaviour and that some or all of the private landlords letting premises in the area are failing to take appropriate action to combat that problem.
- iii. Is experiencing poor property conditions in the privately rented sector.

- iv. Is experiencing or has recently experienced an influx of migration and the migrants occupy a significant number of properties in the privately rented sector.
 - v. Is suffering high levels of deprivation affecting those in the privately rented sector.
 - vi. Is suffering high levels of crime affecting those in the privately rented sector.
- 7.6. For the purposes of criterion ii, the definition of “anti-social behaviour” is restricted to conduct on the part of occupiers or visitors to residential premises which EITHER causes or is likely to cause a nuisance to persons residing, visiting or otherwise engaged in lawful activities in the vicinity of the premises OR which involves or is likely to involve the use of such premises for illegal purposes.
- 7.7. Criteria iii – vi can only be applied where the area contains a high proportion of private sector dwellings. The national average is currently 19%.
- 7.8. Conditions for both Additional and Selective Licensing.
- 7.9. For both additional and selective licensing, there is also a requirement on the local authority to:
- 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.
- 7.10. Department of Communities and Local Government - Guidance
- 7.11. In May 2017, officers met with colleagues from the Department for Communities and Local Government (DCLG) to discuss our initial proposals for licensing and to seek further guidance on how best to present an evidence base. DCLG reiterated their guidance above and further confirmed:

- Where possible, analysis of evidence to support a selective licensing scheme should be by road/street level, rather than ward based level – their preference is to see a scheme that addresses problems in *selective* areas, for example, one or two roads in multiple wards.
- That the local authority should first identify the problems it is trying to address and how the introduction of a selective licensing scheme will deliver the desired outcomes.

7.12. The Council has considered the above and believes that it has met all of the required tests. More details can be found in our evidence base (Appendix 1) and a summary of findings from our data analysis is discussed more fully under section 11.

8. The Benefits of Licensing

8.1. Existing Additional Licensing schemes in Haringey.

8.2. Since the introduction of the Housing Act 2004, two additional licensing schemes have been introduced within the borough – Haringay ward (now expired) and the Tottenham scheme. The schemes include smaller HMO's and self-contained flats which have been unlawfully converted without planning and building regulation approval. This type of accommodation is problematic within Haringey and generally tend to be overcrowded, poorly constructed and often unsafe. Through the operation of the Haringay scheme 527 properties were licensed. Where poor property conditions were identified, these were remedied through a combination of working alongside the landlord offering guidance and enforcing the licensing conditions. Issues identified included:

- **Fire/Mean of Escape** - 483 (92%) lacked adequate means of escape and fire safety measures.
- **Security** - 289 (55%) lacked adequate security measures to front/rear doors and windows and the actual room doors of the individual rooms.
- **Heating** - 141(27%) lacked adequate heating within the property and individual rooms. This ranged from no heating at all, expensive systems, no heating controls and key meter issues.
- **Management** - 373 (71%) lacked adequate management. Such as fire alarm not working, fire equipment damaged, heating and hot water broken down, dirty conditions to common parts, poor waste arrangements, failing to deal with anti-social issues and general lack of dealing with basic repairs.
- **Kitchen Provision** - 82 (16%) lacked adequate kitchen facilities e.g. inadequate numbers of cookers, sinks, work surfaces and kitchen cupboards/refrigerators.
- **Bathroom provision** - 22 (4%) lacked adequate bathroom facilities such as insufficient bathrooms for the number of occupants, lack of wash hand basins or additional separate toilets required.

- 8.3. The Harringay Licensing scheme has enabled us to gain access into properties and tackle severe health and safety breeches and poor management practices. It has made it easier for us to identify portfolio landlords who own multiple substandard housing units across the borough. The scheme has also led to the development of a cross-service approach to the licensing process. Following receipt of a licensing application, services are now contacted and consulted on issues relating to that particular property. This has greatly improved cross-service working and problem solving.
- 8.4. Landlords and managing agents often feedback that they feel disadvantaged because they believe that unscrupulous landlords appear to go undetected. The outcomes of the Harringay scheme, demonstrated to compliant landlords and managing agents that poor quality properties and unlawful management practices will be addressed.
- 8.5. Experience of licensing schemes in other boroughs.
- 8.6. Similar to Haringey, the majority of London boroughs have experienced a significant increase in the number of private sector dwellings. Many boroughs have used licensing to address the growing problems associated with the sector. The London Borough of Newham was the first authority in England to take the step to introduce licensing in an attempt to control and better regulate their private sector. Newham initially estimated that there were 5000 landlords operating in their borough and approximately 28,000 private sector properties. By the end of the 5-year scheme both numbers had grown significantly; Newham have licenced 36,000 properties and now estimate that over 24,000 landlords operate in the borough. Key outputs from Newham's scheme include:
- 779 prosecutions against landlords – largely for failing to licence and poor housing conditions.
 - 338 Cautions issued for technical offences.
 - 28 landlords refused licences as they have been found not to be “fit and proper”
 - 326 multi-agency operations with the police and other enforces.
 - 14,000 warning letters sent to landlords,
 - 2800 licence audit checks.
 - 125 rent repayment order cases for Housing Benefit repayment.
 - £1.1M additional council tax collected through targeting HMOs.
- 8.7. Newham report that ASB and poor property management connected to the private rented sector has significantly reduced. They evidence a 61% reduction in the number of ASB notices served on licensed properties, improved housing conditions and rogue landlords addressed by preventing them from operating in the borough.
- 8.8. Licensing imposes a set of standards/conditions, makes it easier for officers to gain access into a property and can allow the tenant to make a complaint

without being identified. Licensing conditions offer a landlord clear guidance on appropriate levels of property and tenancy management. For landlords who chose to ignore their responsibilities, there is no excuse and for those who lack the appropriate knowledge and experience it raises much needed awareness. Compliant landlords who voluntarily licence will receive a 5-year licence. If they apply during the first 3 months of the scheme being introduced, they will receive an early bird discount of 50%. Landlords who fail to licence or fail to operate within the terms of the conditions will be granted a license for a shorter period at the full cost.

- 8.9. A licensing scheme can also play a much needed role in supporting good landlords. Support and guidance to landlords; low level mediation between tenants and landlords and adopting a risk based approach to compliance and enforcement, ensuring that good landlords experience a light touch approach, are all necessary as part of a scheme that offers a carrot and stick approach. Licensing conditions introduce a universal set of standards that all landlords have to adhere to. This offers a level playing field and makes it harder for unscrupulous landlords to undercut good landlords by cutting corners to reduce operating costs.
- 8.10. Also, the introduction of selective and additional licensing will enable a significant change in the way that ASB and poor management associated with the private sector is tackled. Through licensing we will know who is responsible for the management of properties that are rented out and who in the first instance is responsible for dealing with problems associated with the dwelling. It also allows local authorities to easily check that landlords have the necessary documentation in respect of tenancy conditions; tenancy deposits and gas safety certificates. Licensing has the potential to make significant improvements to housing standards and the local environment generally.
- 8.11. In summary officers believe that licensing offers the following benefits:

8.12. The benefits for a private landlord

- Good landlords will be rewarded for their responsible letting practices by paying a reduced fee for the service and receiving a light touch inspection and compliance approach.
- Creation of a level trading environment for private sector landlords.
- Their reputation will be enhanced by holding a licence, while those bad landlords who have given private renting a poor status, will either be made to bring their properties up to the standard of the others or risk losing the right to let their properties.
- Landlords can promote their licensed status and find it easier to attract tenants who know that a licensed property is well managed and safe.
- Better management and tenancy agreements will enable the landlord to have better control over the property and will be supported in dealing with tenants who commit anti-social behaviour.

- Advice and guidance will be available on all aspects of private renting especially to those landlords who are inexperienced, from a dedicated discretionary licensing team of officers.

8.13. The benefits for private tenants

- Enhanced protection for vulnerable tenants living in HMO accommodation, by ensuring, for example, that the accommodation has adequate amenities, space standards and fire safety.
- Protection from possible retaliatory eviction as licensing enables the proactive checking of properties and management practices, rather than relying on the tenant to report poor conditions.
- The standards imposed will ensure that the landlord is not permitted to have more tenants than recommended for the size of the property and the facilities provided, so tenants can be assured that they are not living in cramped overcrowded accommodation.
- Advice and guidance will be available to tenants so that they can understand their rights to a decent home.
- Added protection for tenants as a result of better landlord management practices and greater protection from unlawful eviction.

8.14. The benefits for the community

- There is no cost to the tax payer as the scheme is self-funding.
- Reduction in the number of overcrowded properties, these can lead to anti-social behaviour especially relating to noise and rubbish.
- The register of landlords / managing agents will be made public and can be accessed by neighbours who wish to report anti-social behaviour and by the Police when they are dealing with these individuals.

9. Consideration of Risks

- 9.1. The Council has carefully considered the potential negative impact that licensing may have. As stated above, it is intended that the least compliant landlords will pay more for a license and the most compliant landlords will receive a discount if they apply within the first 3 months and be awarded with a 5-year license. Good landlords will also receive a lighter touch approach in terms of inspection and compliance checking.
- 9.2. Consideration has also been given to the potential impact of the cost of licensing being passed on to tenants through rent increases. It is proposed that the cost of an additional license will be £208 per unit of accommodation and a selective licence will cost £500. Assuming that the costs were passed on to tenants this would amount to 80p per week for tenants living within a

HMO and £1.92 per week for tenants living in a single family dwelling. Where licensing has been introduced in other boroughs, feedback suggests that increases in rent have been in line with market conditions and that licensing has had a minimal impact.

- 9.3. Another consideration is that landlords may chose to leave Haringey in favour of operating in a neighbouring borough. We consider this to be a very minimal risk. The majority of our neighbouring boroughs have either already introduced licensing or are considering introducing a scheme. Also, market conditions within Haringey mean that the private sector is buoyant and landlords who invest in the borough can enjoy high returns.

10. Strategic Context

- 10.1 Before deciding whether a licensing scheme is appropriate, the local authority must consider whether the approach is consistent with its Housing Strategy and how it will support dealing with homelessness, empty properties and anti-social behaviour.

10.2. Housing Strategy 2017 to 2022

- 10.3. Haringey's Housing Strategy sets out the strategic direction for housing activity in the borough, including housing need, supply and approach to quality and management of existing and new stock. Our 2017 to 2022 Housing Strategy recognises that the housing landscape has changed significantly and that radical change is necessary to meet the demand for quality housing.

- 10.4. Haringey's housing strategy has four key strategic objectives:

- Achieve a step change in the number of new homes being built.
- Improve support and help to prevent homelessness
- Drive up quality of housing for all residents
- Ensure that housing delivers wider community benefits.

- 10.5. In terms of driving up the quality of housing in the borough, our priority is to improve the quality and reliability of homes in the private rented sector. To meet this priority, we have committed to continue encouraging private rented sector landlords and lettings agents to sign up with the London Landlord Accreditation Scheme. For the landlords who are unwilling to make changes voluntarily we see licensing as an important statutory power to drive up quality.

- 10.6. Haringey's Housing Strategy recognises that housing is interlinked with a number of other issues. Some of these are particularly relevant to the private rented sector and the effect well-maintained, good quality housing has on the borough as a whole. Our priorities include promoting independence, health and wellbeing, and providing stable, safe well-managed homes in decent

environments. We have committed to improving health by tackling poor quality homes in the private sector, where the highest levels of serious repairs and hazards often occur.

10.7. The priorities for the private rented sector articulated in the Council's Housing Strategy go hand in hand with licensing. Interventions such as licensing can bring about an uplift in the quality of the sector through eliminating poor management practices and property conditions and reducing ASB that can adversely affect a neighbourhood. It offers private sector tenants added protection and supports a thriving, much needed, private rented sector through working with landlords to address concerns, raising awareness of good practice and driving out rogue landlords.

10.8. Homelessness

10.9. Within London, Haringey has the second highest number of households living in temporary accommodation because they are homeless. The main reason for homelessness in Haringey is loss of a private rented sector tenancy. Often because households experience financial difficulties that lead to rent arrears or because a landlord's wish to charge increased rents that are not affordable for the current tenant.

10.10. Our focus is on sustaining current housing where practical and preventing housing problems escalating to crisis point. This usually means sustaining licences or existing tenancies in the private rented sector. Where appropriate we work closely with each person or family in housing crisis to assist with benefits, gaining employment or financial management advice to prevent homelessness through rent arrears.

10.11. In addition, we build relationships with local landlords and offer a range of packages and incentives to enable households to move into or remain in the private rented sector.

10.12. Licensing, by raising standards of management and property conditions will further help to increase the supply of good quality homes in the private rented sector. At the same time, it can address instances of poor management that may lead to households losing their homes and presenting as homeless. Licensing also helps the Council to build a relationship with local landlords and identify those who may be willing to work alongside the council's homelessness team to enable easier access to temporary accommodation.

10.13. More importantly, licensing offers additional protection for assured short-hold tenants. Licensing precludes a landlord from serving a notice under section 21 of the Housing Act 1988 (notice requiring possession) if the landlord has failed to licence the property.

10.14. Empty Homes

- 10.15. Whilst the Council is not pursuing a licensing scheme on the grounds of low housing demand there is a clear relationship between our approach to empty homes management and improving the private rented sector. The Council takes a proactive approach to empty homes, using a combination of encouragement and enforcement in order to bring empty homes back into use.
- 10.16. Better quality and managed private sector dwellings will be delivered via a licensing scheme, which will be less likely to become vacant for long periods.
- 10.17. Anti-Social Behaviour
- 10.18. Last year the Council brought together a number of enforcement activities under one management umbrella and increased front line resources in this area. Promoting partnership working, the unit now operates under an area based structure that geographically mirrors the three Metropolitan Police Cluster Areas. Three newly created Enforcement Manager posts play a pivotal role in coordinating services, using intelligent led data and information to tackle hot spot areas.
- 10.19. We know through our evidence gathering that there is a significant and persistent problem with ASB directly linked to private sector properties. Licensing will support existing anti-social behaviour initiatives by requiring landlords to take action against their tenants, by ensuring that household waste is correctly disposed of and that front gardens are maintained and free from rubbish.

11. Evidence – Summary of findings

- 11.1. In order to establish a true picture of how all the statutory grounds (as outlined in section 7 above) impact on Haringey, various data sets were brought together and analysed at both a ward level and a Lower Super Output Area (LSOA).
- 11.2. **Ward level analysis – Stage 1**
- 11.3. Haringey is made up of 19 Wards. Wards offer a recognisable geographical area and are typically used by local authorities to analyses and compare data within the borough boundary.
- 11.4. **The size of the private sector housing** - Census data was used as a basis for assessing both the total number and growth of the private sector. The 2011 census identified just over 32,000 private sector dwellings across the borough.
- 11.5. **Supporting data** - Data to establish the extent of ASB, (as defined for the purposes of the Act) crime, immigration, deprivation and housing conditions within the private rented sector in Haringey was sourced from the following:

- Council held records – Environmental reports – fly tipping, litter, flyposting and Graffiti and reports of problems with pest (mice, rats, bed bugs etc.)
- ASB and noise reported to both the Council and the local Police.
- Crime reports - Haringey crime recorded by the Metropolitan Police Service.
- Housing Conditions - Complaints about private sector properties, including the condition, safety and management problems together with category 1 and 2 reports.
- London Fire Brigade incidents.
- IMD 2015 - The index of multiple deprivation report for 2015 was used to establish the level of deprivation in the borough.
- National Insurance Registrations (NINOs) were used to establish levels of overseas migration.

11.6. Data from April 2014 to March 2017 was then analysed as follows:

- Duplicates were removed and an equal weighting applied to each indicator.
- A ward index score was generated for each indicator to identify high scoring wards relative to the borough average.
- The average index score across all indicators was then calculated to identify the top scoring wards.
- The priority of each ward was based on the number of incidents – the more incidents of crime, ASB, complaints etc. the higher the priority.

11.7. The table attached as Appendix 4 sets out the findings as summarised below:

- The scores entered under each indicator by ward represent the ranking.
- An index score of 100 indicates that the ward has an average rate when compared with the borough average.
- Any score above 100 indicates that there is a higher than average rate – this suggests that the area suffers from a higher number of incidents.
- A score below 100 indicates a lower than borough average – fewer incidents.

11.8. Ward Findings

11.9. The analysis of the data at a ward level confirmed that:

- There has been a 45.6% increase in private rental households in Haringey between 2001 and 2011
- All wards have experienced an increase in private sector dwellings between 2001 and 2011.
- 33% of households in Haringey are privately rented. This is 14% more private rental properties than the national average of 19%.

- Of the 19 wards, 11 wards have 30% or more private sector dwellings with only 1 ward – White Hart Lane -scoring below the national average of 19%.
- Northumberland Park and Tottenham Green score highest, at 3 times the average, for category 1 and 2 complaints (high risk hazards)
- Noel Park has the highest ranking for crime (over twice the London average) and ASB and environmental crime.
- The top 4 priority wards overall are: Northumberland Park, Tottenham Green, Noel Park and Bruce Grove.
- Of the 10 wards with an overall score of 100 or below, 8 attract an above average ranking for at least one of the indices, with two wards scoring above average for 6 of the 10 indices.
- Significant and persistent problems of crime, ASB, environmental crime and housing conditions are evident borough wide.

11.10. Ward level data conclusion

11.11. Analysis of data at a ward level was useful and confirmed that the growth in the private sector was borough wide. It also suggested that at various levels, crime, ASB, poor housing conditions, deprivation and migration were having a significant impact in nearly all of the wards. This was helpful in supporting a borough wide additional licensing scheme for HMOs.

11.12. However, equally weighting the data and analysing it at a ward level has limitations when establishing whether there is sufficient evidence to support a selective licensing scheme for single family dwellings. The above findings would suggest that 4 wards should make up a selective licensing programme. Yet we know from our analysis and local intelligence that whole wards are not necessarily classed as hot spot areas for crime ASB and problems associated with private sector dwellings. Instead, Haringey has pockets of problems across the borough with both good and badly managed single family dwellings existing across the 19 wards.

11.13. In addition, the Housing Act requires us to ensure that any selective licensing scheme complements the Council's Housing Strategy and any other initiatives and plans to improve the local area.

11.14. For this reason, we decided to further refine our data and apply a weighting and analyse the data at a smaller geographical area to identify the areas in greatest need. The next section explains our approach in more detail.

11.15. **Lower Super Output Areas – Stage 2 analysis.**

11.16. Our analysis for stage 2 included:

- Establishing an up to date figure for the size of the private sector in Haringey.
- Identifying the location of private sector dwellings and the split between HMOs and single family dwellings.

- Identifying the objectives for a selective licensing scheme and how it dovetails with the Council's other strategies and plans.
- Establishing the areas of need for a selective licensing scheme.

11.17. Growth of the private rented sector

11.18. Evidence suggests that the private sector has continued to grow in Haringey since the 2011 Census. In order to establish an up to date figure for the size of the private sector in Haringey, data was extracted from the following source:

- Haringey Council Tax records
- Housing benefit records
- Known licensed houses in multiple occupation (HMO)
- Council properties sold under the right to buy where the leaseholder obtained permission from the council to rent out their home.
- Planning applications involving HMOs
- Complaints made to the Housing Improvement team
- Noise complaints relating to residential properties.

11.19. Location of private sector dwellings and the split between HMO and single family dwellings.

11.20. The exact location of private sector properties was established by using a Unique Property Reference Number (UPRN) – this is a unique 12-digit number assigned to every property in the borough.

11.21. Where no UPRN was available, we used a predictive model that has been tested extensively by other boroughs. The methodology uses a range of property indicators to assign a probability that a property is private rented or not. For example, claiming housing benefit, occupant turnover, changes of ownership and entitlement to Council Tax Benefit (now called Council Tax Reduction Scheme). The risk factors are considered appropriate as Housing Benefit is associated with renting and low income; occupant turnover and changes of ownership are associated with transient populations and multiple people with different surnames are usually associated with multiple households.

11.22. Through this exercise, we identified approximately 35,500 private sector dwellings – a noticeable increase since the 2011 Census of 32,000.

11.23. Growth of HMOs and the case for additional licensing

11.24. The map attached as appendix 5 details the spread of HMOs across the borough. A red dot indicates that the private sector property is highly likely to be a HMO, a green dot indicates that the property is a licensed HMO and a blue dot indicates that it is a known HMO. Traditionally the distribution of HMOs, particularly smaller HMOs not subject to mandatory licensing have been concentrated in the East of the borough. However, the map shows that there is now a concentration of HMOs in the West of the borough. The West

of the borough typically has larger houses that lend themselves to conversion to HMO properties. Officers estimate that the number of HMOs in the borough could be as high as 50% of the overall total of private sector dwellings.

11.25. Many HMOs operate under the radar and consist of some of the poorest housing conditions in the borough. Traditionally HMOs present a higher level of risk to the occupants, due to the size, layout of the building and more intensive use of electrical and cooking appliances; increasing the risk of fire. Our current licensing scheme has uncovered poorly managed buildings, absent landlords and appalling housing conditions. They are often occupied by some of our most deprived and vulnerable residents. A borough wide additional licensing scheme would increase our powers and go some way to improving the lives of the residents.

11.26. The case for selective licensing - priority and weighting

11.27. In order to satisfy the legislative criteria and feedback from DCLG, officers identified the following priority outcomes for the selective licensing scheme:

- Improved housing conditions
- A reduction in significant persistent problems caused by anti-social behaviour, including environmental crimes such as fly tipping.
- Reduced levels of property related crime.

11.28. Targeting areas of need

11.29. In order to achieve the targeting of areas in greatest need, we analysed the data at a Lower Super Output Area (LSOA) level. LSOAs are recognised geographical areas which average approximately 700 households – Haringey has 145 LSOAs. The Office of National Statistics (ONS) collects and analyses economic and demographic data at an LSOA level across the country to compare differences across boroughs and other regions. LSOAs are most noticeably used for conducting the census.

11.30. Having identified the 145 LSOAs in Haringey we applied the weighted data. We then identified the priority areas based on:

- LSOAs with equal to or higher than the London average for private sector dwellings – this is currently 26%, significantly higher than the national average of 19%.
- LSOAs scoring the highest for poor housing conditions, ASB and crime.

11.31. The exercise identified that 29 LSOA areas would benefit from the introduction of a selective licensing scheme. The map attached as appendix 6 illustrates the coverage of a combined borough wide additional licensing scheme and a 20% selected scheme.

11.32. The advantages and disadvantages of using LSOA areas over a ward level based scheme (in Haringey's case this would be 4 wards) are discussed below:

11.33. Advantages – LSOAs

- Partial scheme across the majority of wards – 29 LSOAs included.
- Supports the roll out of further selective licensing schemes.
- Robust methodology that strengthens our evidence base.
- Avoids a blanket approach covering only 4 wards when pockets of problems exist.

11.34. Disadvantages

- Operationally more difficult to manage.
- Will split roads – two private sector properties side by side treated differently.
- Consultation and the public's ongoing understanding of the scheme will be challenging.

11.35. Although an LSOA based scheme offers some challenges, we already have a mandatory licensing scheme and an additional licensing scheme that only regulates certain types of HMOs – Two HMOs in the same street can therefore be treated differently. The introduction of a borough wide additional licensing scheme will capture all HMOs – the dwellings that present the greatest risk. The pepper potted coverage of a selective licensing scheme will target single dwelling properties flagged problematic in each ward and complement the additional scheme. If evidence gathered during the roll out suggests that other areas present a need, further selective licensing schemes can be introduced in a phased approach, subject to the agreement of the Secretary of State (DCLG).

12 The Proposal

12.1. **Proposed designation** – Based on the analysis and findings, officers believe that a borough wide additional licensing scheme and a selective licensing scheme at an LSOA level covering no more than 20% of the geographical area of Haringey is appropriate.

12.2. For the purpose of this scheme, HMOs will include the category of HMO which is often referred to as a section 257 HMO. Section 257 HMOs are where the building was converted into self-contained flats before the 1991 Building Regulations came into force on 1st June 1992 and have not been subsequently improved to at least the 1991 standards. It could also include conversions done without Building Regulation consent in the first place; in this case the 1991 deadline does not apply. The purpose of bringing this group of properties into the HMO category is to give local authorities extra powers to

ensure good management and standards of safety. It is recognised that a significant proportion of conversions were constructed well before modern Building Regulations required proper fire safety measures, including smoke detection.

- 12.3. **The Proposed Fee** – Financial modelling has been carried out to establish the operating cost of the scheme over a 5-year period. The fee for an additional licence will be £208 per unit of accommodation and the fee for selective licensing will be £500 per property. An early bird discount of 50% will be offered for a period of 3 months before the designation comes into force. This is intended to recognise those landlords who take their responsibilities seriously and apply for a licence at the earliest opportunity.
- 12.4. A higher fee of £500 per year for selective licensing and £208 per year per unit of accommodation for additional licensing will be charged to landlords who fail to licence their property and have sought to evade the licensing process or have come to the notice of the Council for failing to manage their property effectively.
- 12.5. A copy of the proposed schedule of fees and associated charges is contained in Appendix 2 and will form part of the public consultation exercise.
- 12.6. **Proposed Licence Conditions** – The Housing Act 2004 requires that every licence must include certain mandatory management conditions. Councils also have the power to include other discretionary conditions which they consider appropriately for tackling the problems associated with private sector dwellings.
- 12.7. The proposed licensing conditions are attached as Appendix 3a and 3b
- 12.8. **Support for Landlords** – The proposed operating model and fee structure includes the support of Outreach officers who will work with landlords and private tenants to provide advice and assistance.
- 12.9. **Penalties for Non-compliance**
- 12.10. It is a criminal offence to let out a property in a designated licensing area without a license, or for failure to comply with any condition of the licence. Failure to apply for or obtain a licence could lead to prosecution and an unlimited fine or, as an alternative to prosecution, the issue of a fixed penalty notice with a financial penalty of up to £30,000.
- 12.11. The level of any financial penalty issued will be based on factors including:
- Severity of the offence,
 - Culpability and track record of the offender,
 - Harm caused, or the potential for harm to be caused, to the tenant(s),
 - An appropriate and proportionate punishment of the offender,
 - A suitable deterrent to committing the offence,

- Removal of any financial benefit the offender may have obtained as a result of committing the offence.

12.12. In addition, the Council or the tenants of the property could apply to the First Tier Tribunal (Property Chamber) for a Rent Repayment Order, requiring the landlord to repay an amount equivalent to up to twelve months of any rent received in respect of a property.

12.13. If a license applicant or property manager has been convicted of a specified criminal offence or issued with a financial penalty, s/he may be considered as not '*fit and proper*' to hold a licence and may be refused a licence. Similarly, in such cases, an existing licensee may have their licence revoked. In cases where the person applying for the licence is not considered fit and proper and the property is to continue to be rented, an alternative, unrelated person will have to apply to be the licence holder. If a suitable licence holder cannot be found then the council may have to take over management of the property itself by, for example, making an interim management order under Part 4 of the Housing Act 2004.

12.14. Licensing – Outcomes

12.15. Our main driver for introducing a selective licensing scheme and extending our additional licensing scheme is to improve housing conditions and the quality of life for residents by tackling ASB and environmental crime associated with poorly managed private sector properties. Our aim is that over the 5-year period the licensing schemes will offer the following outcomes:

- Improved housing conditions
- A reduction in significant persistent problems caused by anti-social behaviour, including environmental crimes such as fly tipping.
- Reduced levels of property related crime.
- An increase in good landlords and an elimination of rogue landlords.

12.16. If, following consultation the Council decides to introduce selective licensing and extend our additional licensing scheme, we will work up a suite of performance indicators to measure the success of the schemes over a 5-year period. The data contained in our evidence base will provide base line data from which we can measure the outcomes.

13. **Consultation**

13.1. The Council is required to conduct a full consultation exercise, including consultation with local residents, tenants, landlords, managing agents and other members of the community who live in or operate businesses within the proposed designation. It should also include local residents and those who operate businesses or provide services in the area outside of the proposed designation who may be affected. The consultation must be widely published using various channels of communication.

- 13.2. During the consultation, the Council is required to give a detailed explanation of the proposed designation, explaining the reasons for the designation, how it will tackle specific problems, the potential benefits, etc. In relation to anti-social behaviour, the Council must demonstrate the evidence showing how the area is suffering from ASB, how those factors are currently being tackled and how the selective licensing will improve matters. The proposed licensing fee and licencing conditions must form part of the consultation.
- 13.3. The results from the consultation must be published and made available to the local community.
- 13.4. The Council will use an on-line questionnaire which will be available for 12 weeks from December 2017 to February 2018. Every effort will be made to make direct contact with landlords, letting and managing agents and private tenants. Our approach will include direct mail outs to landlords and private tenants and focus groups. Printed information will be made available in the form of posters and flyers to be distributed in public places. The Council will publish the project via social media, adverts in both local and trade papers. It will also work with neighbouring authorities and landlord representative bodies to publish the proposed scheme and target landlords living outside of the borough.
- 13.5. For a large part, the Council intends to use in house resources for the consultation exercise. However, external support, by way of M.E.L. Research will be provided for elements of the exercise. MEL Research is one of the UK's leading Social Research and Behaviour Change consultancies and have experience in conducting property licensing consultation exercises for a number of local authorities. M.E.L Research will provide support in the following areas: quality assurance of the consultation material; hosting the questionnaire; chairing public meetings and analysing the results of the consultation responses.
- 13.6. Following the consultation exercise, a report detailing the analysis of the consultation feedback and a recommendation on the way forward will be presented to Cabinet in June 2018. A summary of the consultation results will be available on-line and shared with the Council's partners, Haringey's Landlord Forum and landlord representative bodies.

14. Contribution to strategic outcomes

- 14.1. Extending our Additional Licensing scheme to cover the remaining HMOs in the Borough and introducing Selective licensing to part of the borough will compliment and work alongside the Council's other strategies and priorities. Licensing will support the following Corporate Plan objectives:
- Priority 3 - A clean and safe borough where people are proud to live.
 - Priority 4 - Sustainable Housing, Growth and Employment.
 - Priority 5 - Create homes and communities where people choose to live and are able to thrive

- 14.2. Haringey's wide ranging plans not only seek to improve the physical environment but aim to build resilience and offer residents and businesses the personal, social and economic tools to overcome challenges. From the aims within our Housing Strategy to Planning Policy and our regeneration plans we are striving to improve the quality of housing in the borough. Licensing will complement this aim.
- 14.3. Through our work with Housing Associations and through the management of our own housing stock we can promote good housing management and ensure that tenants have protected rights and enjoy a safe, warm and decent environment to live. We believe that licensing will go some way to ensuring that private tenants are afforded the same.
- 14.4. We will no longer tolerate fly-tipping and we will be proactive in reducing ASB and crime through working closely with our partners. Licensing conditions will enable us to set clear standards of behaviours for both landlords and tenants.
- 14.5. We want to see health in-equalities reduced and more people accessing decent accommodation when unfortunate enough to find themselves homeless. We know that some of the borough's most vulnerable tenants live in privately rented accommodation, we believe that licensing will add an additional layer of protection and go some way to improving their lives.

15. Statutory Officers comments (Chief Finance Officer (including procurement), Assistant Director of Corporate Governance, Equalities)

15.1. Finance - Funmi Olagbaiye, Finance Business Partner.

- 15.2. An initial budget for the external support in the consultation process will be £20,000 and this will be met from existing budget in the Housing Improvement Team.
- 15.3. There are no direct capital consequences to the Council arising from this report except for a one-off IT infrastructure cost of £39,000. The supporting technology was recently procured for the Mandatory Licensing Scheme.
- 15.4. The full financial implications of Licensing scheme will be determined by the extent of the designation if approved, and the adoption of the proposed fee structure set out in Appendix 2.
- 15.5. The fee has been calculated to ensure the ability of the Council to levy a reasonable charge for a licence that would ensure that the full costs including administration in relation to any final proposal will be financially neutral for the authority and tax payer.

16.2. Procurement - Barry Phelps – Interim Head of Strategic Procurement.

- 16.1. Strategic Procurement notes the contents of this report; however, there is no procurement input required.

17. **Legal - Robin Levett – Senior Litigation Lawyer.**

- 17.1. Corporate Governance has been consulted in the preparation of this report and comments as follows.
- 17.2. The 3 types of licensing provided for under the Housing Act 2004 are set out in the **Background** above (paragraph 6.1), and the conditions for designation of an area for additional or selective licensing are set out in **Statutory conditions and evidence**.
- 17.3. 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 either to additional (s58(1)) or selective (s82(1)) licensing can come into force.
- 17.4. The licensing schemes proposed in this report are 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 are (in summary):
- 17.5. Both additional and selective licensing:
- 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
- 17.6. Selective licensing only:
- That the designation (alone, or in combination with other selective licensing designations by that local housing authority) **neither** covers more than 20% of the authority's geographical area **nor** would affect more than 20% of privately rented homes (based on census data) in the authority's area.
- 17.7. 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.
- 17.8. The consultation must comply with what have become known as the Sedley criteria, namely that the consultation:
- Must take place when the proposals are still at a formative stage
 - Must give sufficient reasons for the proposal to permit intelligent consideration and response
 - Must allow adequate time for consideration and response
 - Product must be conscientiously taken into account in finalising the proposal

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

18. Equality

- 18.1 All groups who own, manage or live in privately rented accommodation are likely to be affected. People of ethnic minority origin, single parents, young children and certain vulnerable people are key tenant groups and are therefore likely to be affected as they are over-represented in private rented sector and notably in properties which are in poorer condition. In terms of the impact on private sector tenants generally, we expect the proposal to be positive as they will be afforded greater protection. Equally landlords will benefit from operating in a “level playing field” with all landlords expected to comply to the same regulations. Overtime, the number of rogue landlords should reduce and market conditions will improve for the remaining landlords.
- 18.2. The Communications Strategy has been influenced by the findings of the Equalities Impact Assessment to ensure that the consultation exercise is accessible to all sections of the community and local businesses. The Equalities Impact Assessment is attached as Appendix 7.

19. Use of Appendices

- Appendix 1 Evidence Base
- Appendix 2 Schedule of fees and charges
- Appendix 3a Additional Licensing Conditions
- Appendix 3b Selective Licensing Conditions
- Appendix 4 Ward Based Analysis – all data
- Appendix 5 Location of HMOs Borough wide
- Appendix 6 Proposed Additional and Selective Licensing Scheme.
- Appendix 7 Equalities Impact Assessment.

20. Local Government (Access to Information) Act 1985

- Housing Act 2004.
- http://england.shelter.org.uk/_data/assets/pdf_file/0008/57779/Selective_licensing_for_local_authorities.pdf
- The Selective Licensing of Houses (Additional Conditions) (England) Order 2015.
- https://www.legislation.gov.uk/ukdsi/2015/9780111131435/pdfs/ukdsi_9780111131435_en.pdf
- Department for Communities and Local Government - Selective licensing in the private rented sector - A Guide for local authorities.

- <https://www.gov.uk/government/publications/selective-licensing-in-the-private-rented-sector-a-guide-for-local-authorities>
- UK Migrants and the private sector (John Perry) – Joseph Rowntree Foundation 2012.
- <https://www.jrf.org.uk/report/uk-migrants-and-private-rented-sector>
- Shelter – Selective Licensing for Local Authorities – A good practice guide
- http://england.shelter.org.uk/_data/assets/pdf_file/0008/57779/Selective_licensing_for_local_authorities.pdf
- London Borough of Haringey – Additional and Selective Licensing, Evidence Base. October 2017 (Appendix 1)

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