

Subject:	Private Sector Housing (PSH) Discretionary Licensing Update		
Date of Meeting:	13 January 2016		
Report of:	Executive Director Environment, Development & Housing		
Contact Officer:	Name:	Martin Reid	Tel: 29-3321
	Email:	martin.reid@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 A key Housing Strategy theme has been the significant growth in private rented housing in Brighton & Hove. While many landlords operate responsibly, a significant number do not and as a result issues continue to be raised in relation to the management, standards and quality of homes in this expanding sector.
- 1.2 Evidence from mandatory licensing and additional licensing of houses in multiple occupation in Brighton & Hove has highlighted that in 94% of cases (2,726 of 2,904 licensed properties as of 3 December 2015), the properties require additional conditions to be applied to licences to ensure they are fit and safe for occupation.
- 1.3 There are concerns that this pattern is replicated across the wider private rented sector which is supported by an analysis of the Census 2011 and Index of Multiple Deprivation 2015 which shows a correlation between concentrations of private rented housing and poorer housing quality.
- 1.4 The consultation for the Housing Strategy 2015 identified that a large majority of respondents wanted us to introduce a register of all private sector landlords to help support efforts to maintain and improve standards. In response to this one of the actions in the Strategy is to support a register of landlords in the city.
- 1.5 In the Council response to the Private Sector Housing Scrutiny Panel recommendations reported to Housing & New Homes Committee on 11 November 2015 it was proposed that research will be undertaken to explore options for the introduction of further discretionary licensing of private sector homes in the city. This report seeks approval to explore the necessity or otherwise of the introduction of further discretionary licensing in all or part of the local authority area.

2. RECOMMENDATIONS

- 2.1 That the Housing & New Homes Committee delegates authority to the Acting Executive Director for Environment, Development & Housing to explore the

necessity or otherwise of the introduction of further discretionary licensing in all or part of the local authority area.

- 2.2 That the Housing & New Homes Committee requests a report back to this Committee outlining the findings and any resulting recommendations.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 A key overarching theme arising from the city-wide Housing Strategy has been the significant growth in private rented housing in Brighton & Hove. The Private Rented Sector stands at 34,081 homes (private renting from a landlord or letting agency) or 28% of all housing stock in the City (2011 Census). The City has the ninth largest private rented sector in England & Wales and sixth highest proportion of converted dwellings or shared houses (houses in multiple occupation and bedsits) in England & Wales. The sector increased by 45.7%, an extra 10,691 homes, between the 2001 and 2011 Census. 15 of our 21 wards exceed the regional and national average of 15% of households living in private rented homes. Three wards have 50% or more households in homes rented through private landlords or lettings agents. The Census figure is likely to be a minimum for the rented sector as it now stands as a proportion of all homes in the city. This growth brings the benefits of a flexible housing market response to meet accommodation needs in the city. However, while many landlords operate responsibly, issues continue to be raised in relation to the management, standards and quality of homes in the expanding private rented sector.

- 3.2 Consultation on the Housing Strategy 2015 highlighted that residents have concerns with the quality and management of private rented housing across the city. Previous research has indicated a correlation between areas with high concentrations of private rented homes, in particular areas with high concentrations of Houses in Multiple Occupation (HMO) not covered by mandatory licensing, and a range of issues including higher levels of Private Sector Housing service requests, noise complaints, anti-social behaviour, poor fire safety and health inequalities.

Current discretionary licensing activity in Brighton & Hove.

- 3.3 In response to issues arising the designation of an additional licensing scheme in the five Lewes Road wards (applying to smaller HMOs of two or more storeys and three or more occupiers) commenced on 5 November 2012, lasting for 5 years. Housing Committee approved the designation on the basis of extensive consultation and robust evidence that a significant proportion of the smaller HMOs in the wards affected were being managed sufficiently ineffectively as to give rise to one or more particular problems either for those occupying the HMOs or for members of the public. As of 16 December 2015 the Council has received 2242 valid additional licence applications (though a few of these are now new owners re-applying on the same property) and checked and issued 2156 draft licences, of which 1950 have been followed up with full licences (issued on condition that any work required is carried out within an agreed period). The tables below show current activity on this scheme. Updated mapping of HMOs licensed (or where applications have been received) under the national mandatory and additional licensing schemes in the five Lewes Road wards (reflecting a snapshot of data as of 18 December 2015) is attached in Appendix 1

Applications received to 16/12/2015

Ward Name	Applications Received
Hanover And Elm Grove	578
Hollingdean And Stanmer	258
Moulsecoomb And Bevendean	854
Queen's Park	117
St. Peter's And North Laine	435
Total	2242

Draft Licence issued to 16/12/2015

Ward Name	Draft Licences Issued
Hanover And Elm Grove	556
Hollingdean And Stanmer	245
Moulsecoomb And Bevendean	833
Queen's Park	110
St. Peter's And North Laine	412
Total	2156

Full Licences issued to 16/12/2015

Ward Name	Full Licences Issued
Hanover And Elm Grove	504
Hollingdean And Stanmer	220
Moulsecoomb And Bevendean	762
Queen's Park	93
St. Peter's And North Laine	371
Total	1950

- 3.4 On 17 June 2015 Housing & New Homes Committee noted the results of the consultation and evidence gathering exercise undertaken in relation to a further proposed additional HMO licensing scheme and designated the wards of Brunswick & Adelaide, Central Hove, East Brighton, Goldsmid, Preston Park, Regency and Westbourne as subject to additional licensing under S56(1) of the Housing Act 2004 in relation to smaller Houses in Multiple Occupation of two or more storeys and three or more occupiers. This designation took effect on 2 November 2015, lasting for 5 years. The table below shows initial activity on this scheme. Updated mapping of HMOs licensed (or where applications have been received) under the national mandatory and additional licensing schemes in these seven wards (reflecting a snapshot of data as of 18 December 2015) is attached in Appendix 2.

Applications received to 16/12/2015

Ward Name	Applications Received
Preston Park	17
Goldsmid	15
Regency	14
East Brighton	13
Brunswick And Adelaide	7
Central Hove	5
Westbourne	5
Total	76

- 3.5 In addition to current discretionary licensing schemes, as of 16 December 2015 we also license 1074 larger HMOs in the City (those over three storeys and five people) under the current national mandatory licensing scheme. Details are in the table below. The Government has recently consulted on proposals to extend mandatory HMO licensing and the outcome is currently awaited.

Mandatory Licensing (All Wards) - All Applications, Draft & Full Licences at 16/12/2015

Ward Name	No.of Cases	Percentage
St. Peter's And North Laine	255	23.74%
Hanover And Elm Grove	232	21.60%
Queen's Park	113	10.52%
Moulsecomb And Bevendean	102	9.50%
Hollingdean And Stanmer	80	7.45%
Preston Park	69	6.42%
Regency	54	5.03%
Goldsmid	38	3.54%
Brunswick And Adelaide	34	3.17%
Central Hove	28	2.61%
East Brighton	22	2.05%
Westbourne	16	1.49%
South Portslade	7	0.65%
Rottingdean Coastal	6	0.56%
Wish	6	0.56%
Withdean	6	0.56%
Hove Park	4	0.37%
Hangleton And Knoll	1	0.09%
	1	0.09%
Total	1074	100.00%

- 3.6 Evidence from the existing mandatory licensing and additional licensing schemes for houses in multiple occupation in Brighton & Hove has highlighted that in 94% of cases (2,726 of 2,904 licensed properties), the properties require additional conditions applied to licences to ensure they are fit and safe for occupation.
- 3.7 There are concerns that this pattern is replicated across the wider private rented sector, which were echoed in concerns raised in the Scrutiny Panel Report on Private Sector Housing 2015. This is also supported by an analysis of the Census 2011 and Index of Multiple Deprivation 2015 which shows a correlation between concentrations of private rented housing and poorer housing quality:

Private Rented Sector

Areas with more than England & Wales average of 15.5% of stock in the PRS (Census 2011)



Poorer Housing Quality

39% of Brighton & Hove Lower Super Output Areas are in the lowest 20% nationally on the Indoor Living Environment sub domain (Index of Multiple Deprivation 2015)



- 3.8 The consultation for the Housing Strategy 2015 identified that a large majority of respondents wanted us to introduce a register of all private sector landlords to help support efforts to maintain and improve standards. In response to this, one of the strategic actions in the strategy is to support a register of landlords in the city. In the council response to the Private Sector Housing Scrutiny Panel recommendations reported to Housing & New Homes Committee on 11 November it was proposed that research will be undertaken to explore options for the introduction of further discretionary licensing of private sector homes in the city.

- 3.9 There are 3 main potential options:
- **Selective Licensing:** Designate the whole or any part or parts of the city as an area subject to selective licensing. Selective licensing applies to all privately rented property in the designated area, not only HMOs.
 - **Additional Licensing:** License all smaller Houses in Multiple Occupation (HMOs) with three or more households) across the whole or further part(s) of the city.
 - **Voluntary Accreditation:** Accreditation schemes recognise and reward landlords who manage their properties to a good standard. They can include a set of standards (or codes) that apply to scheme members, relating to, for example, the management or physical condition of privately rented accommodation.
- 3.10 As outlined in detail in previous Housing Committee and Housing & New Homes Committee reports, the Housing Act provides a power to license HMOs not covered by mandatory licensing through the creation of an Additional Licensing Scheme. Under Additional Licensing, local authorities can designate an area for a five year period if satisfied that a significant proportion of the HMOs are being managed sufficiently ineffectively so as to give rise to one or more particular problem, either for those occupying the HMO or for members of the public.
- 3.11 Selective Licensing under Part 3 of the Housing Act 2004 goes beyond HMO licensing and may be applied to all privately rented property in a local authority area. A scheme could cover the whole city or specific areas of concern.
- 3.12 To comply with government guidance¹, if seeking to adopt selective licensing a local authority has to demonstrate not only that an area has larger than average private rented sector but is also experiencing one or more of the following:
- low housing demand
 - a significant and persistent problem caused by anti-social behaviour
 - poor property conditions
 - an influx of migration
 - a high level of deprivation
 - high levels of crime
- 3.13 If an authority's selective licensing scheme(s) cover 20% or more of the geographical area or private rented housing stock then confirmation by the Secretary of State is also required. It is critical that any evidence review is seen as impartial. Experience from other authorities that have implemented successful schemes recommends the use of external independent research consultants to gather this evidence.

¹ Selective licensing in the private rented sector, DCLG:
<https://www.gov.uk/government/publications/selective-licensing-in-the-private-rented-sector-a-guide-for-local-authorities>

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 For the reasons outlined above, this report seeks approval to explore the necessity or otherwise of the introduction of further discretionary licensing in all or part of the local authority area. We would need to demonstrate that we have done everything we can in any proposed discretionary licensing scheme area to tackle issues of concern and that there is no other practical alternative before considering licensing.
- 4.2 A comprehensive options appraisal would have to be carried out, to consider whether there are any other courses of action available that might provide an effective method of dealing with the problem or problems in question.
- 4.3 In exploring options and reporting back to committee we will also need to be mindful of Housing & Planning Bill proposals concerning rogue landlords and letting agents and the outcome of current Government consultation on possible extension of mandatory HMO licensing.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Consultation on the Housing Strategy 2015 and submissions to the Scrutiny Panel Report on Private Sector Housing 2015 highlight resident concerns with the quality and management of private rented housing across the city.
- 5.2 Although we do have a large private rented sector market, collation of evidence of issues arising would be required prior to any consultation on options for any further discretionary licensing.
- 5.3 In order to introduce additional licensing for Houses in Multiple Occupation local authorities are required to take reasonable steps to consult people who are likely to be affected and consultation representations made must be considered. This would include a consultation of not less than ten weeks seeking views on the proposals from local residents and community, business, landlord, managing agent and statutory agencies in the proposed and surrounding area(s).
- 5.4 Any proposed selective licensing scheme(s) that covers less than 20% of the city's area or private rented stock must be consulted on for at least 10 weeks in order to benefit from the general approval in the Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation ((England) General Approval 2015. Any larger scheme(s) must be submitted to the Secretary of State for confirmation and would also require robust consultation.

6. CONCLUSION

- 6.1 This report seeks approval to explore the necessity or otherwise of the introduction of further discretionary licensing in all or part of the local authority area.
- 6.2 Recommendations will then be brought back to Committee based on the research findings.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The costs of any independent research, needed to explore the options for the introduction of further licensing schemes, will need to be met from current budget resources. This will be managed through the Targeted Budget Monitoring (TBM) process for 15/16 and 16/17.

Finance Officer Consulted: Monica Brooks

Date: 23/12/15

Legal Implications:

- 7.2 Part 3 of the Housing Act 2004 (the Act) sets out the law relating to selective licensing of private rented properties in a local housing authority area. Under section 80 of the Act a local housing authority can designate the whole or any part or parts of its area as subject to selective licensing. Where a selective licensing designation is made it applies to privately rented property in the area concerned.
- 7.3 Subject to certain exemptions specified in the Selective Licensing of Houses (Specified Exemptions) (England) Order 2006, all properties in the private rented sector which are let or occupied under a licence, are required to be licensed by the local housing authority, unless the property is a House in Multiple Occupation and is required to be licensed under Part 2 of the Act.
- 7.4 With effect from 1 April 2015 a local housing authority now needs to apply to the Secretary of State for Communities and Local Government (Secretary of State) for confirmation of any scheme which would cover more than 20% of its geographical area or that would affect more than 20% of the privately rented homes in its area.
- 7.5 Under the new arrangements if a local housing authority makes a designation that covers 20% or less of its geographical area or privately rented properties, the scheme will not need to be submitted to the Secretary of State, provided there is sufficient evidence to support it and the authority has taken reasonable steps to consult persons who are likely to be affected by the designation for at least 10 weeks. However, if a local housing authority proposes to make one or more designations that would be in force in addition to an existing selective licensing scheme and, cumulatively, all the designations would cover more than 20% of the area or the private rented stock, those new designations would need to be submitted to the Secretary of State for confirmation.
- 7.6 Likewise if the local housing authority proposed to make two or more designations at the same time, each of which accounted for less than 20% of the area or private rented stock, but cumulatively accounted for more than 20% of either, all of the schemes would need to be submitted to the Secretary of State for confirmation.
- 7.7 Some of local housing authorities have been challenged in the High Court by way of judicial review on the introduction of selective licensing schemes. It is therefore important that there is proper evidence to support such a scheme in the city, and that the procedural requirements in Part 3 of the Act are complied with.

Equalities Implications:

- 7.8 This report seeks approval to explore the necessity or otherwise of the introduction of further discretionary licensing in all or part of the local authority area. There are no equalities implications identified at this time. A full equalities impact assessment would be undertaken in relation to any further discretionary licensing scheme recommended to Housing & New Homes Committee for approval.

Sustainability Implications:

- 7.9 This report seeks approval to explore the necessity or otherwise of the introduction of further discretionary licensing in all or part of the local authority area. There are no sustainability implications identified at this time.

SUPPORTING DOCUMENTATION

Appendices:

1. Updated mapping of HMOs licensed (or where applications have been received) under the national mandatory and additional licensing schemes in the five Lewes Road wards (reflecting a snapshot of data as of 18 December 2015).
2. Updated mapping of HMOs licensed (or where applications have been received) under the national mandatory and additional licensing schemes in the seven seafront / city centre wards (reflecting a snapshot of data as of 18 December 2015).

Documents in Members' Rooms

None

Background Documents

1. Scrutiny Panel Report on Private Sector Housing, Housing & New Homes Committee, 11 November 2015
2. Selective licensing in the private rented sector, DCLG:
<https://www.gov.uk/government/publications/selective-licensing-in-the-private-rented-sector-a-guide-for-local-authorities>

Crime & Disorder Implications:

- 1.1 This report seeks approval to explore the necessity or otherwise of the introduction of further discretionary licensing in all or part of the local authority area. There are no crime and disorder implications identified at this time.

Risk and Opportunity Management Implications:

- 1.2 Any risks associated with any proposals for future discretionary licensing will be outlined in any future report on scheme implementation that may be presented to Housing & New Homes Committee. These will be managed in compliance with the Council's risk management strategy with a full risk log.

Public Health Implications:

- 1.3 This report seeks approval to explore the necessity or otherwise of the introduction of further discretionary licensing in all or part of the local authority area. There are no Public Health implications identified at this time.

Corporate / Citywide Implications:

- 1.4 This report seeks approval to explore the necessity or otherwise of the introduction of further discretionary licensing in all or part of the local authority area. There are no Corporate / Citywide implications identified at this time.