

# Report to Cabinet

**15 December 2021**

<b>Subject:</b>	Additional Licensing (West Bromwich Area)
<b>Cabinet Member:</b>	Cabinet Member for Housing, Councillor Zahoor Ahmed
<b>Director:</b>	Director of Housing, Gillian Douglas
<b>Key Decision:</b>	Yes Decision to issue notice of Additional Licensing Scheme in West Bromwich
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## 1 Recommendations

- 1.1 That the Director of Housing be authorised to implement Additional Licensing for the defined part of West Bromwich, as per the proposal approved for consultation by Cabinet on 26 June 2019.
- 1.2 That, subject to 1.1 above, the Director of Housing be authorised to:
- publish the notice of decision within 7 days of the decision;
  - undertake a promotional campaign, including timescale for implementation, to run from February 2022;
  - introduce a 3-month grace period for additional licensing from 1 April 2022 to 30 June 2022; and



- (d) commence enforcement activity for unlicensed premises from 1 July 2022.

## 2 Reasons for Recommendations

- 2.1 The borough has experienced a major increase in private rented accommodation in some areas, including Houses in Multiple Occupation (HMO) not subject to the Mandatory Licensing Scheme.

It is recognised that some landlords and agents do not provide adequate accommodation or management of their properties. The council had implemented a range of powers and approaches to seek to address these issues, but a new approach is considered necessary to address the specific concerns relating to HMO private rented properties within the defined area of West Bromwich which has been the subject of consultation for these proposals.

## 3 How does this deliver objectives of the Corporate Plan?

	<p><b>People live well and age well</b></p> <p>Improved quality of accommodation actively contributes to improved health outcomes. Additional licensing in the specific area will reduce the impact that poor quality housing has on vulnerable individuals.</p>
	<p><b>Strong resilient communities</b></p> <p>Our communities are built on mutual respect and taking care of each other, supported by all the agencies that ensure we feel safe and protected in our homes and local neighbourhoods. Additional licensing will assist in reducing levels of anti-social behaviour.</p>
	<p><b>Quality homes in thriving neighbourhoods</b></p> <p>We now have many new homes to meet a full range of housing needs in attractive neighbourhoods and close to key transport routes. The introduction of additional licensing will improve the condition of the private rented properties in the specific areas meaning the area is a more attractive place to live.</p>



## 4 Context and Key Issues

- 4.1 The private rented sector plays an important part in providing accommodation in the borough. The sector in Sandwell has grown from 5% in 2001, to 15% in 2011 and an estimated 26% in 2018 (Building Research Management limited (BRE) report). There are numerous high-quality landlords and letting agents providing a range of property types throughout the borough to meet a broad range of housing needs.
- 4.2 The borough has faced a major increase in private rented accommodation, including HMOs, in some areas. It is recognised that some landlords and agents do not provide adequate accommodation or management of their properties. Additional licensing would enhance the council's ability to improve the quality of HMOs in the designated area and to take enforcement action where necessary.
- 4.3 The Housing Act 2004, Parts 2 and 3, provides discretionary powers, subject to carrying out consultation, for Local Housing Authorities to licence all private landlords in a designated area with the intention of ensuring that HMOs meet a minimum standard of management and that all other private rented property within a designated area is managed by the landlord to a satisfactory standard.
- 4.4 On the 26 June 2019 Cabinet considered a proposal to Introduce Selective and Additional Licensing Report (Appendix 1) and authorised officers to proceed with a public consultation on the introduction of selective and additional licensing, conditions and fees for private rented accommodation within the West Bromwich area.
- 4.5 Local councils can choose to require private landlords or their managing agents to have a licence to rent out their property. The licence conditions state that landlords must keep their property safe and well maintained as well as deal with any problems associated with the property such as dumped rubbish, untidy gardens or anti-social behaviour.
- 4.6 Before making any decision, Sandwell Council commissioned M·E·L Research to gather the views of local people, including local landlords, private tenants, agents, residents, businesses, neighbouring local authorities and organisations within and outside of West Bromwich.



- 4.7 The area in West Bromwich identified below has a potential 3,007 private rented properties/houses in multiple occupation that would require licensing under the 2 types of scheme.

### West Bromwich Proposed Area



- 4.8 The consultation commenced on 27th January 2020 and ended on 20th April 2020 (12 weeks in total). The consultation was extended and included online webinars in response to the Covid-19 pandemic.
- 4.9 In total, 598 survey responses were received; 141 from the online response and 457 postal responses. In total, 9 written responses were submitted via the online feedback form or by email, and 55 people attended public meetings about the proposals.
- 4.10 The council carried out consultation in to 2 types of licensing and explored the potential benefits of each. (Full evidence base can be found at Appendix 2). The consultation also looked at the likely impact each scheme might have on respondents, and the degree to which respondents felt the proposed fees and licensing conditions for each of the schemes was reasonable or unreasonable. The consultation results and proposals for additional licensing within West Bromwich are set out



below. Further consideration will be given to Selective Licensing at a later date.

### **Additional Licensing of Houses in Multiple Occupation**

- 4.11 Houses in multiple occupation (HMOs) are domestic properties containing three or more people forming two or more households where facilities (such as kitchens and bathrooms) are shared. Large HMOs (five or more people) require the landlord to obtain a licence from the local authority. This is called mandatory licensing.
- 4.12 The Housing Act 2004 provides a power for Local Authorities to licence HMOs which are not covered by mandatory licensing. Part 2 of the Housing Act provides for Additional Licensing of HMOs, for example in a particular area or the whole borough for those HMOs not covered by Mandatory Licensing.
- 4.14 An Additional Licence scheme will cover all Houses in Multiple Occupation, irrespective of the number of storeys, that are occupied by three or four persons and all Section 257 Houses in Multiple Occupation (buildings converted into self-contained flats) where the building is wholly occupied.

### **Consultation Response**

- 4.15 The full consultation report and appendices can be found at Appendices 3 and 4. Headline results from the report and consultation are provided below.

- Support for an Additional Licensing scheme is strong overall with over three quarters (77%) of respondents agreeing with the proposal. Around one in six disagree (17%).
- Around half of respondents (53%) feel that the impact of Additional Licensing on them would be positive if it were to be implemented. Only 12% feel it would have a negative impact on them.
- Over half of respondents (56%) agree that the proposed Additional Licence fees are reasonable. Over a quarter (28%) disagree.



- Landlords/agents in West Bromwich are least in favour of Additional Licensing, with six out of ten (61%) disagreeing with the proposal, and only one in three (34%) agreeing.
- Over six out of ten residents in West Bromwich (63%) feel it would have a positive impact on them, with only a very small proportion feeling it would be negative (4%);
- Just over half of landlords and agents in West Bromwich (51%) feel it would have a negative impact on them, and only 15% feel it would be positive.

## Fees

- 4.16 The most frequent comments were that respondents felt that proposed fees are appropriate/reasonable and will have a positive effect (131 comments). This was followed by respondents saying they were generally not in favour (58 comments) and that costs could be passed onto tenants/ rents will increase (55 comments).

## Conditions

- 4.17 The most common theme by far is that the conditions are appropriate/reasonable/will have a positive effect (179 comments). This is followed by a range of more negative comments around the scheme being a waste of money/resources (20 comments), generally disagreeing with the conditions (18 comments) and others such as legislation is already in place (16 comments).

## Consultation Conclusion

- 4.18 There seems to be a general split in opinion, with landlord and agents being generally opposed to the scheme because they feel that although intervention is needed, they do not feel that they should pay for that intervention if they personally are not in breach of the law. Tenants seems to be generally in favour of the scheme, believing that it will have a positive impact on them and the condition of housing available to them in the proposed area.
- 4.19 There is generally strong support for the scheme with high levels of agreement that the scheme would be successful in achieving the objectives. However, the way the schemes would be funded raises



criticism from landlords and agents who would be responsible for paying those fees.

## 5 Alternative Options

- 5.1 The options considered included several possible interventions for tackling substandard and 'problematic' smaller HMOs in the area as set out below:
- 5.2 **Do nothing** - This option would involve the Council doing nothing to intervene in the small HMO sector this would leave the local housing market to be the driver for landlords carrying out improvements to their properties.
- 5.3 **Do the minimum (reactive inspection programme only)** - This option would mean that the Council intervention in the small HMO sector being limited to a basic complaint response service with action by other departments and agencies on a largely ad hoc basis.
- 5.4 **Informal area action (Proactive inspection programme)** - This would be delivered through a non-statutory Action Area, considering parts of the borough where there was concentration of poorly managed or maintained properties.
- 5.5 **Voluntary Accreditation** - Accreditation schemes have a set of standards (or code) relating to the management or physical condition of different HMOs and recognise properties/landlords who achieve/exceed the requirements. This is a voluntary scheme which relies upon the co-operation of landlords and agents and as such it is unlikely to attract a large part of the sector.
- 5.6 **Targeted use of Interim Management Orders (IMOs) and Final Management Orders (FMOs)** - The Housing Act 2004 gives local authorities powers to use Management Orders for tackling comprehensive and serious management failures. These are powers are currently available for HMOs that are required to be licensed under the Mandatory HMO licensing scheme but not those HMOs that fall outside this national scheme.
- 5.7. **Article 4 Direction** - This option would rely on the use of this power to control the numbers of new HMOs and the market to drive property



improvements. It would only succeed in reducing numbers if appropriate planning policy was adopted to restrict numbers, it is not retrospective and would not resolve the quality of the PRS stock, living conditions for tenants or neighbouring properties.

## 6 Implications

<p><b>Resources:</b></p>	<p>There will be costs associated with staffing and administration to operate the licensing process.</p> <p>The additional costs will be recovered over time through the fee charge for licensable properties.</p> <p>The fee proposals are as follows:</p> <ul style="list-style-type: none"> <li>• All property types and sizes including each individual self-contained flat within a larger building operating as a HMO - £850.00 excluding any discounts</li> </ul> <p>It is difficult to estimate the potential income generation from Additional Licensing until the requirement to license comes in to effect as the council does not hold data on PRS HMO properties.</p> <p>As context modelling estimates the number of HMO's within Sandwell as 4,247 with the concentrations in the West Bromwich Central and Greets Green and Lyng wards as 657. This equates to 15% of the total estimated within Sandwell. Should this remain stable and all 657 properties be licensable every five years, this would equate to an average income of just over £0.110m per year. This will include some properties already subject to mandatory HMO licensing.</p>
<p><b>Legal and Governance:</b></p>	<p>As part of implementation of Additional Licensing in an area, councils must adhere to the guidance and regulations set out in The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018, the Licensing of Houses in Multiple Occupation (Mandatory Conditions of</p>



	<p>Licences) (England) Regulations 2018, and the Housing Act 2004.</p> <p>Additional licensing must be implemented in line with the statutory requirements under Part 2 of the Act and is subject to formal consultation and implementation within a specified timeframe from approval. The council and associated programme of implementation must ensure that we adhere to the statutory notice/ designation requirements.</p>
<b>Risk:</b>	The feedback from landlords from consultation suggests that many landlords are not happy with the proposals and feel it will not address the underlying issues. Furthermore, several landlords on the steering group have voiced their commitment to submit a legal challenge, however, initial evaluation suggests it is unlikely that a challenge around the introduction of Additional Licensing in the proposed area would be successful.
<b>Equality:</b>	The application of Additional Licensing will be applied to all landlords meeting the requirements within the proposed boundary. There would be no single party or protected characteristic disadvantaged by implementation based on intelligence available to the council.
<b>Health and Wellbeing:</b>	Improved quality of accommodation actively contributes to improved health outcomes. Additional licensing in the specific area will reduce the impact that poor quality housing has on vulnerable individuals.
<b>Social Value</b>	Additional licensing will assist in reducing levels of anti-social behaviour.

## 7. Appendices



- 8.1 Appendix 1 – Cabinet considered consultation to Introduce Selective and Additional Licensing Report
- 8.2 Appendix 2 – Consultation full evidence base
- 8.3 Appendix 3 - Consultation on licensing private rented property in West Bromwich – Final Report
- 8.4 Appendix 4 - Consultation on licensing private rented property in West Bromwich – Final Report Appendices

## 8. Background Papers

1. Housing Act 2004.  
<http://www.legislation.gov.uk/ukpga/2004/34/contents>
2. Additional and Selective Licensing in the Private Rented Sector - A Guide for Local Authorities published by the MHCLG in March 2015.  
<https://www.gov.uk/government/publications/selective-licensing-in-the-private-rented-sector-a-guide-for-local-authorities>
3. English Housing Survey Private Rented Sector Report 2014-15  
<https://www.gov.uk/government/statistics/english-housing-survey-2014-to-2015-private-rented-sector-report>
4. General Approval April 2015  
<https://www.gov.uk/government/publications/selective-licensing-in-the-private-rented-sector-a-guide-for-local-authorities>
5. House of Commons publication, Housing, Communities and Local Government Committee. Private Rented Sector 17<sup>th</sup> April 2018.  
<https://publications.parliament.uk/pa/cm201719/cmselect/cmcomloc/440/440.pdf>

