


London Borough of Waltham Forest

Report Title	Private Sector Property Licensing
Meeting / Date	Cabinet, 9 July 2024
Cabinet portfolio	Councillor Khevyn Limbajee, Portfolio Lead Member for Community Safety 
Report author/ Contact details	David Beach, Corporate Director Regulatory & Contingency Planning Services Neighbourhoods and Environment 020 8496 4949, david.beach@walthamforest.gov.uk
Wards affected	All
Public access	Open except Appendix 11 which is EXEMPT in accordance with Section 100(A-H) of the Local Government Act 1972 and Schedule 12A as amended, on the grounds that it involves the likely disclosure of exempt information as defined in Part 1, paragraph 5, in respect of which a claim to legal professional privilege could be maintained in legal proceedings and disclosure would not be in the public interest.
Appendices	Appendix 1: Consultation Report (May 2024) Appendix 1A: Written responses that were received from stakeholders Appendix 2: Summary of representations made to the Consultation and the Council's Considerations and Responses Appendix 3: Document to support public consultation (December 2023) Appendix 3A: Housing Conditions and Stressors Report (December 2023) Appendix 4: Selective Licensing Scheme designation map Appendix 5: Additional Licensing Scheme designation map Appendix 6: Licensing scheme objectives Appendix 7: Fee structure for Licence applications Appendix 8: Selective Licence scheme conditions Appendix 9: Additional Licence scheme conditions

Appendix 10: Equalities Impact Assessment

Appendix 11: Legal Advice (Exempt)

Summary

- 1.1 The existing large-scale selective licensing scheme for privately rented property came into force on 1 May 2020 and is due to expire on 30 April 2025. Separately, a borough wide additional licensing scheme for privately rented Houses in Multiple Occupation (HMOs) came into force on 1 April 2020 and is due to expire on 31 March 2025. Under these schemes, most privately rented homes are required to be licensed in order to be legally let out. Where a property licence is granted, the Licence Holder is required to comply with a set of conditions relating to the letting and management of the property.
 - 1.2 On 5 October 2023, Cabinet agreed to:
 - 1.2.1 Further work to be undertaken to identify whether the relevant legal criteria are met to support a further designation or designations.
 - 1.2.2 Delegate to the Strategic Director of Neighbourhoods and Environment, in consultation with the Director of Governance and Law, authority to identify the proposed nature and scope of any further designation, informed by the work described in 1.2.1, and to consult as necessary with landlords, tenants and other stakeholders regarding future scheme options.
 - 1.3 Data further developed in October and November 2023 supported a further selective licensing designation in 20 of 22 wards on the grounds of poor property condition and persistent Anti-social Behaviour (ASB) and a borough-wide additional (HMO) licensing scheme. Subsequently, two proposed discretionary licensing schemes were the subject of a statutory public consultation which ran for 12 weeks between Friday 15 December 2023 and Sunday 10 March 2024.
 - 1.4 This report confirms the outcomes of the completed consultation exercise and makes recommendations in relation to designation of property licensing schemes beyond the expiry of the existing additional and selective licensing schemes on 31 March 2025 and 30 April 2025 respectively.
 - 1.5 In the event that Cabinet agrees to the proposed designation of a further selective licensing Scheme this is subject to ratification from the Secretary of State.
2. Recommendations
 - 2.1 Cabinet is recommended to:
 - 2.1.1 Consider the outcome of the consultation process detailed in the Consultation Report (May 2024) [Appendix 1], in particular the representations received, written responses received from Stakeholders [Appendix 1A] and the Summary of representations

made to the Consultation and the Council's Considerations and Responses to, these representations [Appendix 2].

- 2.1.2 Note that the Document to support undertaking this public consultation (December 2023) [Appendix 3] and Housing Conditions and Stressors Report (December 2023) [Appendix 3a] which highlight the scale of problems relating to poor housing conditions and anti-social behaviour (ASB) in the private rented sector, identifies the objectives of the proposed selective licensing designation would help the Council achieve and alternatives to licensing which have been considered.
- 2.1.3 Note that the Document to support undertaking this public consultation (December 2023) [Appendix 3] and Housing Conditions and Stressors Report (December 2023) [Appendix 3a] also highlight the scale of problems relating to poorly managed HMOs in the private rented sector, identifies the objectives that an additional licensing designation would help the Council achieve and alternatives to such a designation which have been considered.
- 2.1.4 Upon consideration of the matters at 2.1.1 and 2.1.2 and using its powers under s.80 Housing Act 2004, agree to the designation of 20 wards (excluding Hatch Lane & Highams Park North and Endlebury) of Waltham Forest as a selective licensing area from 1 May 2025 as delineated and edged red on the map at Appendix 4.
- 2.1.5 Upon consideration of the matters at 2.1.1 and 2.1.3 and using its powers under s.56 Housing Act 2004, agree to the borough wide designation of Waltham Forest as an additional HMO licensing area from 1st April 2020 as delineated and edged red on the map at Appendix 5.
- 2.1.6 Agree the proposed scheme objectives as detailed in Appendix 6.
- 2.1.7 Agree to the proposed fee structure for licence applications made under the selective and additional licensing schemes at Appendix 7.
- 2.1.8 Agree the proposed licence conditions that would accompany any granted selective licence at Appendix 8.
- 2.1.9 Agree the proposed licence conditions that would accompany any granted additional licence at Appendix 9.
- 2.1.10 Consider and have regard to the result of the Equalities Impact Assessment at Appendix 10.
- 2.1.11 Subject to Cabinet agreeing 2.1.4, delegate to the Portfolio Lead Member for Community Safety and the Strategic Director of Neighbourhoods and Environment responsibility for agreeing the final document requesting confirmation of the selective licensing designation from the Department for Levelling Up, Housing and Communities (DLUHC) in consultation with the Director of Governance and Law.
- 2.1.12 Delegate to the Portfolio Lead Member for Community Safety and the Strategic Director of Neighbourhoods and Environment authority to agree changes to the proposed administration, implementation and

enforcement of the schemes where necessary and to ensure that all statutory notifications are carried out in the prescribed manner for the designations and to take all necessary steps to provide for the operational delivery of any licensing schemes agreed by Cabinet including but not limited to the Council's published documents setting out its Enforcement Policy, its policy for determining licence applications received under Part 2 and Part 3 Housing Act 2004 and its policy in relation to the payment of licence fees in respect of an application to license one or more Part 3 Houses or an HMO under Part 2 of the Housing Act 2004.

3. Proposals

Selective Licensing designation

- 3.1 Through the statutory consultation, the Council proposed a further selective licensing designation from 1st May 2025 that covered 20 of the 22 wards in the borough, with the exception of Hatch Lane & Highams Park North and Endlebury wards. The evidence base indicates that the proposed designation area has a high proportion of privately rented properties (above the national average of approximately 19%) and is experiencing:
- A significant and persistent problem caused by anti-social behaviour;
 - Poor property conditions;
- 3.2 The consultation report at Appendix 2 sets out in detail an analysis of the responses received to the questions in the consultation questionnaire. It includes a summary of consultation responses as well as narrative of responses received in response to freetext questions.
- 3.3 Overall, 59% of respondents (to both the on-line consultation questionnaire and telephone survey) agree with the council's proposal to re-introduce Selective Licensing in Waltham Forest (except Hatch Lane & Highams Park North and Endlebury wards) to regulate privately rented property conditions and management, and help tackle anti-social behaviour. 26% disagree. 71% of tenants/residents agree and 13% disagree. This compares with 21% of landlords/agents that agree and 64% that disagree with the proposal to re-introduce Selective Licensing.
- 3.4 Overall, 43% of respondents agreed there would be a negative impact on the condition and management of privately rented properties in Waltham Forest, if the current scheme stopped, and 11% said there would be a positive impact. Overall, 41% of respondents agreed there would be a negative impact on anti-social behaviour associated with privately rented properties in Waltham Forest, if the current scheme stopped, and 6% said there would be a positive impact.
- 3.5 Most of those that agree with the re-introduction of the Selective Licensing scheme either said it is appropriate to cover the 20 wards

(53%) or that more wards should be included (30%), while 2% said fewer wards should be covered.

- 3.6 It is not proposed to change the area covered by the proposed selective licensing scheme following the consultation exercise. A significant number of respondents did express the view that a selective licensing designation should include more wards. However, the Council does not consider that Endlebury and Hatch Lane & Highams Park North wards should be included in the designation as there is not the cumulative evidence of significant levels of poor property conditions and/or persistent ASB to meet the legal test for inclusion in the scheme. These wards will, however, be kept under review and a second designation could be considered should the evidence change.

Additional HMO Licensing

- 3.7 Through the statutory consultation, the Council proposed a borough wide additional licensing designation that would apply to most HMOs that did not fall within the scope of mandatory HMO licensing where one or more standard amenities are shared by more than one household. The evidence base indicated that there are poor property conditions associated with HMOs in Waltham Forest. There are also significant and persistent problems caused by anti-social behaviour specifically related to HMO properties.
- 3.8 Overall, 63% of respondents agree with the council's proposal to re-introduce additional licensing for Houses in Multiple Occupation (HMOs) in all of Waltham Forest to regulate property conditions and management in HMOs and help tackle anti-social behaviour. 21% disagree. 69% of tenants/residents agree and 17% disagree. This compares with 41% of landlords/agents that agree and 32% that disagree with the proposal to re-introduce additional licensing.
- 3.9 59% of consultation respondents overall thought it appropriate for the additional licensing scheme to cover all of Waltham Forest, while 6% said that fewer wards should be included. Most of those that agree with the introduction of an additional licensing scheme, agree with the proposal for it to cover all of Waltham Forest - 86% of those that agree with the proposal said it is appropriate to cover all of Waltham Forest and 3% said less wards should be included.
- 3.10 It is not proposed to change the area covered by the proposed additional licensing scheme following the consultation exercise.

Objectives of the proposed schemes and possible alternatives to licensing

- 3.11 When considering whether to make an additional or selective licensing designation a local housing authority must identify the objective or objectives that a designation will help it to achieve. The proposed scheme objectives formed part of the consultation and can be found in Appendix 6.
- 3.12 The Document to support public consultation (December 2023) [Appendix 3] detailed a number of other courses of action or

alternatives to selective and additional licensing that the Council had considered, but did not believe that, individually or collectively, provided an effective, or as effective a, means of tackling ASB and poor housing conditions in the borough, or of delivering the scale of improvement required in the Private Rented Sector (PRS). A summary of these alternatives is:

- Use of Part 1 Housing Act powers (Housing Health and Safety Rating System)
- Voluntary accreditation schemes for landlords
- Reliance on enforcement action using civil penalty or prosecution powers
- Use of Improvement Grants to raise standards
- Use of ASB enforcement powers

- 3.13 Overall, 51% of all respondents said the council should consider alternatives to a Selective Licensing scheme to regulate private rented property conditions and management effectively and help tackle anti-social behaviour. 48% of tenants/residents said the council should consider alternatives, compared with 58% of landlords/agents.
- 3.14 On investigation, some of the respondents (approximately half) that said there should be alternatives suggested additional elements to the scheme, rather than opposing the scheme. These included, under the remit of the scheme, stronger enforcement, more inspections, investment in services to support landlords and tenants (such as mediation, advisory and information services), and holding tenants to account as much as landlords, especially in the case of anti-social behaviour.
- 3.15 Overall, 43% of all respondents said the council should consider alternatives to an Additional Licensing scheme to regulate property conditions and management effectively in HMOs and help tackle anti-social behaviour. The points raised about alternatives to selective licensing were similar to those raised for additional licensing.
- 3.16 Details of the representations received in respect of alternatives to selective licensing and additional licensing schemes, and a response to those representations, is provided in Appendix 2.
- 3.17 It is considered that no alternatives were identified through the consultation process that would, individually or collectively, be capable of delivering the scheme objectives that the Council would deliver through the operation of large scale selective and additional licensing schemes.

Licence Fee Structure

- 3.18 Through the statutory consultation, the Council confirmed that it was intending to charge a licence fee in respect of an application to licence a property and that its proposed fees had been calculated on the basis that the schemes would be cost-neutral to the Council, with licence

fees covering the Council's costs of administering the schemes and meeting the scheme objectives.

- 3.19 The proposed fee structure included a discounted licence fee for rental properties of EPC B and above, a discount on the processing element of the licence fee for the second, third etc flat within a block under common ownership and management control and a discount for dwellings owned/controlled by certain charities.
- 3.20 With regard to the selective licence fee, overall, 29% of consultation respondents said the proposed fee of £895 was about right, 28% too high and 6% too low. 21% said the council should not be charging the fee at all. 38% of private tenants said the fee was about right, 19% too high, 8% too low, and 14% stated the fee should not be charged. This compared with 2% of landlords that said the fee was about right, 53% too high, 1% too low and 41% stating the fee should not be charged.
- 3.21 With regard to the additional licence fee, overall, 27% of consultation respondents said the proposed fee of £1,200 was about right, 26% too high and 6% too low. 18% said the council should not be charging the fee at all. 33% of private tenants said the fee was about right, 22% too high and 7% too low, with 15% stating the fee should not be charged. This compares with 9% of landlords that said the fee was about right, 38% too high, 4% too low and 30% stating the fee should not be charged.
- 3.22 There was broad support among private tenants for the discounted fees for both a selective and additional licence for properties with an energy performance certificate of B or higher. The majority of tenants thought the proposed fees were about right, whereas the majority of landlords thought the proposed fees were too high. Some landlords, as well as those that participated in the Landlord forum events and public event, said that the energy efficiency related discount should be for C rated properties (as per the current scheme) as opposed to B rated properties. They felt that a B rating was overly challenging to achieve, given the age of the housing stock in the borough.
- 3.23 In response to the consultation feedback relating to fees, the Council has decided to offer an additional discount of £95 against the cost of a full licence fee for properties that have an EPC rating of C. In making this change, the Council listened carefully to representations to the effect that applications that relate to homes which have a relatively good EPC energy rating of C should also attract a discounted application fee. In particular, the council accepted that, given the relative old age profile of its privately rented stock, it can be challenging to achieve an EPC of B or above given the nature of the original building construction and other constraints. Eligibility for all EPC-related discounts will be subject to specified eligibility criteria. This change is also consistent with the Council's net zero ambitions, supporting the upgrading of older and less energy efficient homes.
- 3.24 Appendix 2 sets out the detailed responses to open text questions where landlords express the view that the selective licensing fees will

result in landlords no longer wishing to rent and/or being able to afford to continue to do so. The proposed fees for the new licensing schemes have been calculated to be cost-neutral to the Council. This means that the licence fees are set at a level that covers the costs of setting up and administering the schemes. We have considered carefully the suggestion of exemptions or discounts for those covered by the previous scheme, however implementing such a measure could potentially disrupt the cost-neutrality of the new schemes. We have seen no evidence that landlords have moved elsewhere or that there has been an increase in difficulty in finding rental properties in the areas covered by the existing licensing schemes. This is similar to the evidence from other local authorities who have also been operating licensing schemes. The evidence suggests that the private rented sector is a growing sector, and properties continue to be in high demand, including in areas where licensing has been introduced. Whilst some landlords do make a decision to no longer rent, there is no evidence that suggests that this is connected to licencing schemes.

- 3.25 The Council does not intend to make any changes to its licence fee structure aside from the additional discount detailed in the paragraph above. The proposed fee structure was calculated on the basis that the schemes would be cost-neutral to the Council, with licence fees covering our costs of administering the schemes and meeting the stated scheme objectives. We have benchmarked our proposed fee structure against other London Boroughs that have large scale licensing schemes, and we believe that our proposed fees compare favourably with these authorities. The Council's detailed response to views expressed by respondents in relation to the fee structure is included in the document at Appendix 2. The revised fee structure, taking account of the additional discount for homes with an EPC of C is at Appendix 7.

Licence Conditions

- 3.26 Through the statutory consultation, the Council set out its proposed licence conditions to accompany a granted property licence, placing obligations on the Licence Holder in relation to the letting and management of the property.
- 3.27 Overall, 73% of respondents said the Selective Licence conditions were clear and understandable while 15% said that they were not. 79% of tenants/residents said they are clear and understandable while 11% said they were not, compared with 59% of landlords/agents who said that the conditions were clear and understandable and 27% who said they were not.
- 3.28 Overall, 66% of respondents said the Additional Licence conditions were clear and understandable while 13% said they were not. 73% of tenants/residents said they are clear and understandable while 10% said they were not, compared with 47% of landlords/agents who said that the conditions were clear and understandable and 23% who said they were not.

- 3.29 Overall, 13% of all respondents said that there were Selective Licence conditions that should not be included. 9% of tenants/residents and 21% of landlords said this. This mainly related to conditions around anti-social behaviour, while some respondents said that the licensing conditions should be in line with legislation and not go above and beyond.
- 3.30 Overall, 11% of all respondents said that there are Additional Licence conditions that should not be included. 10% of tenants/residents and 12% of landlords said this. The comments provided were similar to those for Selective Licensing.
- 3.31 Following legal advice, the Council has developed conditions that would accompany any granted property licence to support the identified scheme objectives. The conditions reflect both the restrictions on what may legally be imposed as a condition of granting a licence and conditions that must be imposed as a result of national legislation.
- 3.32 The Council has not made any changes to the conditions that would accompany a licence granted under the selective or additional licensing schemes. The Council's response to views expressed by respondents in relation to licence conditions is included in the document at Appendix 2. The proposed conditions are at Appendix 8 [Selective Licensing] and Appendix 9 [Additional Licensing].

Awareness of the current licensing schemes and future alignment with key Council priorities

- 3.33 Most landlords were aware of the current licensing schemes, while a minority of private tenants were aware. Overall, 49% of consultation respondents were aware of the current selective licensing scheme. Most landlords (97%) were aware of the current selective licensing scheme, while a minority of private tenants (32%) were aware.
- 3.34 Overall, 39% of consultation respondents were aware of the current additional licensing scheme. 78% of landlords were aware of the current additional licensing scheme, compared with 26% of private tenants. For both schemes, private tenants were less likely to be aware of the scheme than other residents in Waltham Forest.
- 3.35 There are opportunities to increase awareness of the schemes and their benefits and impacts. Relatedly, landlords (and other respondents) tended to say that if the schemes are re-introduced, the council should regularly report on progress and impact, as well as how the fees generated are spent and the Council is committed to publishing relevant performance measures.
- 3.36 Proceeding with the licensing schemes will provide the Council with a means to progressing mission four of Mission Waltham Forest - tackling the housing crisis head on. A new deal for renters – part of this mission – commits the Council to working closely with landlords for secure, quality homes for private renters. Officers from Housing and Regulatory Services have recently established a new PRS working group to progress commitments made through the Housing

Commission, recent housing strategy and Marmot accelerator programmes. The proposed new scheme, as well as service redesign work underway in Property Licensing, provides an opportune moment to realign the councils service provision for residents living in the private rental sector and develop the Council's approach to preventative action and systematic support.

- 3.37 The primary objective of this working group is establishing shared accountability for this work and an action plan for designing recommended interventions in tenancy sustainment and opportunities to support health equity through improving private rental housing. We will also be able to consider consultation responses made by residents asking for mediation, advisory and information service, and as such it will influence the redesign of the Property Licensing service should the reapplication be successful. An action plan and shared approach aims to be in place by autumn.

4. Options & Alternatives Considered
 - 4.1 The Council could decide to only designate an additional licensing scheme and not a selective licensing scheme. The alternatives to a selective licensing scheme were investigated and set out as part of the consultation. Responses to the consultation and representations made in responses (such as those set out by the National Residential Landlords Association in Appendix 1A) regarding the existing powers that the Council have been considered. The conclusion reached is that these alternative powers would not deliver the necessary outcomes that selective licensing can.
 - 4.2 The Council could decide to only put forward a 20-ward selective licensing scheme and not pursue the borough wide additional licensing scheme. This would have the effect of leaving a number of small HMOs unlicensed or regulated through less appropriate selective licensing regulations. These properties are some of the most poorly managed and make the most demands on council services.
 - 4.3 The Council could decide not to adopt either the additional HMO licensing scheme or seek Secretary of State approval for any further selective licensing scheme. Such a decision would leave only mandatory HMO licensing as the means of regulatory enforcement of housing management of properties that are HMOs.
 - 4.4 In relation to the setting of fees Cabinet could opt not to levy a fee on a cost recovery basis as proposed. Such a decision would mean that alternative funding streams for the proposed designations would need to be identified.

5. Council Strategic Priorities (and other National or Local Policies or Strategies)
 - 5.1 The Council has a number of priorities and strategies that property licensing complements and helps to deliver including its Public Service

Strategy, Mission Waltham Forest, the Council's Corporate Plan, the Housing Strategy and the ASB strategy.

- 5.2 Work has taken place to ensure that these strategies demonstrate the significant role PRS has within Waltham Forest and how licensing of the sector compliments and creates a joined-up approach.
- 5.3 Property licensing also supports/works in line with national policies and priorities, including the Homes (Fitness for Human Habitation) Act 2018, whereby every tenant has the right to live in a decent home, and the tackling of homes affected by serious damp and mould.

6. Consultation

- 6.1 The research organisation Public Perspectives carried out the consultation associated with the proposed new schemes. Public Perspectives worked closely with the Private Sector Housing & Licensing service, the Council's Insights Team and Communications to run the consultation, which ran between 15 December 2023 and 10 March 2024. The main results of the consultation exercise are contained within the main body of this report. The full consultation report is at Appendix 1 and Summary of representations made to the Consultation and the Council's Considerations and Responses is as Appendix 2.
- 6.2 The consultation used the following methods and was promoted through the council's communications channels and local and regional media:

Consultation method	Response
Open access online public consultation questionnaire	544 responses received, including from 398 landlords and 10 letting/managing agents.
Telephone survey of residents including tenants	Over 1,000 residents surveyed via a demographically representative telephone survey.
Landlord forums	Two online landlord forums were held involving 80 landlords, agents and landlord representative bodies in total.
Public meeting	A public meeting (held in person with an online option) involving 49 residents, landlords, agents and landlord representative bodies.
Private-rented tenant focus groups	Two online focus groups with a total of 16 private-rented tenants to have in-depth discussions about the proposals.

Stakeholders	Responses received from 26 stakeholders including the GLA, neighbouring London boroughs, social housing providers and voluntary organisations among others. London Boroughs that responded were Barking & Dagenham, Barnet, Enfield, Hackney, Haringey, Lewisham, Newham and Redbridge.
--------------	---

- 6.3 Over 500 stakeholders were directly contacted and invited to respond to the consultation, including local councillors and MPs, neighbouring and nearby London boroughs, public sector and community/voluntary organisations, social housing providers, local letting agents, housing developers and development partners, and tenant and landlord representative bodies. This included an initial e-mail or letter, and follow-up letters/emails/calls to key stakeholders to remind them to participate. In total, 26 stakeholders responded, including Barking and Dagenham Council, Barnet Council, Enfield Council, Hackney Council, Haringey Council, Lewisham Council, Newham Council, Redbridge Council, Waltham Forest Housing Association (WFHA), Greater London Authority, and National Residential Landlords Association, as well as local property related businesses, housing association representatives and charity/voluntary and community sector. Of the 26 stakeholders that responded, nine provided written responses as opposed to completing the online public questionnaire. These responses are at Appendix 1A.
- 6.4 There was support for the proposed licensing schemes amongst neighbouring London boroughs and the Greater London Authority. The National Residential Landlords Association was opposed to the proposals to re-introduce the schemes.
- 6.5 There were no concerns raised by respondents, including key development partners, to the effect that the re-introduction of the licensing schemes would adversely impact on the supply of new build-to-rent homes.
7. Implications
- 7.1 Finance, Value for Money and Risk
- 7.1.1 Finance officers worked closely with officers in the lead service working area prior to the launch of the consultation exercise in December 2023. The proposed licence fee structure was determined having due regard to proposed licensing scheme objectives and the availability of robust information relating to the size and location of our PRS homes, largely through the 2021 Census, that enabled appropriately cost assumptions to be made that underpin the assessment of anticipated licence fee income.
- 7.1.2 The scheme has been modelled on the receipt of a total of 26,000 licence applications during the life of the schemes with a full Selective

Licence fee of £895 and full HMO licence fee of £1,200 or £1,500 (depending on the scheme) and taking account of the relevant discounts. This is estimated to generate income of £22m over the 5-year scheme. The cost model includes all allowable expenditure which is mainly staffing cost £16.8m but which also includes other licensing operating costs, corporate overheads and Licencing system upgrading costs.

7.1.3 Assumptions take into account the number of Selective, Mandatory and Additional HMO licence applications made, and expected to be made, in respect of the current schemes. Cautious account has also been taken in respect of the potential for additional properties to be added from landlords that haven't applied under the current schemes, new build properties and student accommodation to support University of Portsmouth.

7.1.4 It is estimated that there are approximately 8250 privately rented properties with an EPC of C that would potentially benefit from the additional £95 discount against the full licence fee. It has been possible to make the change to reduce the licence fees payable by landlords of homes that have an EPC of C through some re-modelling of the licensing fee income and the costs associated with the running of the scheme without any consequent increase in licence fees payable by the majority landlords who are not eligible for this additional fee discount.

7.1.5 The financial model also includes the full-service operational cost and overheads, legal cost and corporate recharges (finance, HR and property etc).

7.1.6 Clearly, these are just estimates and if significant deficits were emerging, staffing levels could be flexed to bring the scheme back into balance. The overall budget will be managed to ensure a break-even position/every effort made to manage costs in the available budget.

7.1.7 Risk: There are two main risks

- Selective licensing not being confirmed in the timeline needed to ensure a smooth transition from the current scheme. Alternative plans will be developed post submission to mitigate this scenario, including legal advice for any licences that are varied.
- Selective licensing submission being rejected by the Secretary of State. Alternative plans will need to be developed post submission reviewing implications of an additional and mandatory scheme only and how this would be implemented.

7.2 Legal

7.2.1 The legal framework regarding selective licensing is found in Part 3 of the Housing Act 2004 which gives local authorities the discretionary power to introduce a scheme of selective licensing of privately rented properties in the whole or part of its area imposing conditions on landlords for minimum standards of management.

- 7.2.2 Section 80 of the Housing Act 2004 and the Selective Licensing of Houses (Additional Conditions) (England) Order 2015 sets out the criteria and considerations that the Council must be satisfied are met when considering designating a selective licensing area. Any scheme which would cover more than 20% of the Council's geographical area or that would affect more than 20% of privately rented homes in their area as subject to selective licensing must have the approval of the Secretary of State of that designation. If the designation is confirmed by the Secretary of State it cannot come into force until the expiry of three months from the date of confirmation.
- 7.2.3 Under the Secretary of States' General Approval 2015 any consultation undertaken must be for a minimum of 10 week with persons likely to be affected by the designation. The consultation took place over 12 weeks fulfilling the above requirements fully.
- 7.2.4 Before making any decision, Cabinet must have due regard to the responses received through the consultation undertaken and take those into account when making its' decision. Cabinet must also have due regard to the matters set out in the 'MHCLG Guidance: Selective licensing in the private rented sector – A guide for local authorities' and in particular consider whether there are any other courses of action available to it that would achieve the same objective or objectives as any proposed schemes without the need for the designations to be made.
- 7.2.5 Under Part 2 of the Housing Act 2004 the Council may designate as subject to additional licensing a description of HMOs specified in the designation, if the requirements of Section 56 of that Act are met. The authority must consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public. Before making such a designation the authority must take reasonable steps to consult persons who are likely to be affected by the designation and consider any representations made as has been set out in the report.
- 7.2.6 Under Section 56(5) Cabinet must also have regard to any information regarding the extent to which any codes of practice approved under Section 233 of the Housing Act 2004 have been complied with by persons managing HMOs in the area in question. Cabinet must have due regard to the responses received through the consultation undertaken and take those into account when making its' decision. Cabinet must also have considered whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question and consider that making the designation will significantly assist them to deal with the problem or problems (whether or not they take any other course of action as well). There is no requirement to seek Secretary of State consent before implementing additional HMO licensing.

7.2.7 Cabinet is also referred to the exempt Appendix 11 which contains further legal advice.

7.3 Equalities and Diversity

7.3.1 The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

7.3.2 Council officers are worked closely with Public Perspectives to ensure that there was a properly representative response to the public consultation, fully reflective of our diverse community. The responses have been carefully considered and an Equalities Impact Assessment completed, which is at Appendix 10.

7.3.3 The Equalities Impact Assessment did not identify any additional equality impact as a result of the proposals. The changes would enable the Council to continue to have additional oversight over the letting, management and condition of homes in the PRS. It is known that, despite improvements to many homes, the worst property conditions are still to be found in this sector. The Council will also keep under review this Equality Impact Analysis as part of its compliance with its' Public Sector Equality Duty.

7.4 Sustainability (including climate change, health, crime and disorder)

7.4.1 One of the objectives of the selective licensing scheme is to reduce housing hazards, prioritising those properties containing the most serious hazards and/or those impacted by significant damp & mould. We know that some of the least energy efficient homes are in the PRS, including homes that have the lowest EPC ratings of F or G. We would intend to prioritise the inspection and improvement of these properties, and other rented homes with poor energy efficiency characteristics, under any approved selective licensing scheme, using complimentary enforcement powers where necessary. We know that emissions from homes is the biggest single source of carbon emissions in Waltham Forest and improving the energy efficiency of some of our worst-performing homes will make a positive contribution to our net zero ambitions.

7.4.2 The licensing fees and discounts structure, which includes a £95 discount against the licence application fee (subject to eligibility criteria) for properties with an EPC of C, and a larger discount for homes that are EPC A or B, is consistent with the Council's net zero ambitions, supporting the upgrading of older and less energy efficient homes.

- 7.4.3 The objectives of the proposed scheme include improving property conditions and tackling/reducing ASB. This will be achieved through active and robust enforcement working in partnership with a range of internal and external agencies including the ASB team and the Police. An improvement in property conditions is expected to lead to a general improvement in residents living conditions and their health.
- 7.4.4 Crime and anti-social behaviour are disproportionately concentrated in private rented housing, and particularly houses in multiple occupation. This scheme will make a continued contribution to addressing crime and anti-social behaviour issues in the borough, including through specific conditions in relation to the management of ASB (but also in relation to references, inspections of the house to assess conditions etc) which have been discussed and agreed with the corporate ASB Team.
- 7.4.5 A key aspiration of Mission Waltham Forest is to create clean and green neighbourhoods where everyone can thrive. A poorly managed private rented offer detracts from the look and feel of the street, and this will put off residents of all sectors from remaining in the Borough, regardless of tenure. A good quality private rented offer will encourage residents to stay in Waltham Forest, in turn creating sustainable communities.
- 7.4.6 The Council must ensure that the selective licensing scheme is consistent with the authority's overall Housing Strategy and must seek to continue to adopt a co-ordinated approach in dealing with Homelessness, ASB and empty properties. The Council in its Housing Strategy is committed to working in partnership with the landlords and tenants of the PRS which represent the second highest tenure in the Borough.
- 7.5 Council Infrastructure
- 7.5.1 To ensure objectives of the scheme are fully met there will need to be an increase in headcount over the life of the scheme and with that associated costs. A full resource plan has been developed and a recruitment strategy will be developed to attract the appropriate quality of staff, specifically Environmental Health Officers, of which there is a regional and national shortage, to ensure a higher level of inspection of licensable properties and enforcement against non-compliant landlords.
- 7.5.2 Alongside this, we will implement a new operating model to deliver an improved structure that is scalable, controls costs, customer-centric and is aligned to transformation programmes and the preventative approaches central to Mission Waltham Forest.
- 7.5.3 A change to the current IT system across NED will be in place in the first half of 2025. New functionality for the private sector housing and licensing service will be developed as part of this transition.

Background Information (as defined by Local Government (Access to Information) Act

None