

Report for:

ACTION

Item Number:

Contains Confidential or Exempt Information	No
Title	Private Rented Sector – Selective Licensing Scheme (Designation 2)
Responsible Officer(s)	Mark Wiltshire (Director of Community Development)
Author(s)	Allison Forde (Assistant Director Property Enforcement and Environmental Protection) Rachel Fell (Property Regulation Lead Practitioner)
Portfolio(s)	Councillor Shital Manro (Portfolio Leader for Good Growth)
For Consideration By	Cabinet
Date to be Considered	15 June 2022
Implementation Date if Not Called In	28 June 2022
Affected Wards	Acton Central, Dormers Wells, Greenford Broadway, Greenford Green, Hanger Hill, Hobbayne, Lady Margaret, North Greenford, Northolt Mandeville, Northolt West End, Perivale and South Acton (Pre-May 2022 ward boundaries)
Keywords/Index	Private Rented Sector, Licensing Schemes, Additional Licensing, Selective Licencing, HMOs, DLUHC, Secretary of State, General Approval.

Purpose of Report:

Agree to designate a new selective licensing area, to be known as Selective Licensing Designation 2 in the 12 wards of Acton Central, Dormers Wells, Greenford Broadway, Greenford Green, Hanger Hill, Hobbayne, Lady Margaret, North Greenford, Northolt Mandeville, Northolt West End, Perivale and South Acton (pre-May 2022 boundaries) for a five-year period, subject to confirmation by the Under Secretary of State for Homelessness and Housing at the Department of Levelling Up, Housing and Communities (DLUHC).

1. Recommendations for DECISION

It is recommended that Cabinet:

- 1.1 Agrees to designate a new selective licensing area (to be known as Selective Licensing Designation 2) in the 12 wards of Acton Central, Dormers Wells, Greenford Broadway, Greenford Green, Hanger Hill, Hobbayne, Lady Margaret, North Greenford, Northolt Mandeville, Northolt West End, Perivale and South Acton (pre-May 2022 boundaries) as delineated and edged red on the map in the draft designation in **Appendix 1** for a five-year period, subject to confirmation by the Department of Levelling Up, Housing and Communities (DLUHC).
- 1.2 Agrees that this Selective Licensing Designation 2 will have the same terms and conditions as Selective Licensing Designation 1 that was agreed by Cabinet on 8 December 2021. Those terms and conditions are set out in paragraphs 1.4 and 1.6 – 1.10 of the 8 December 2021 Cabinet report *Private Rented Sector Licensing Schemes Renewal*.
- 1.3 Authorises the Director of Community Development, following consultation with the Portfolio Holder, to agree the final document requesting confirmation of the selective licensing designation from DLUHC.
- 1.4 Note the content of the Property Regulation teams HR/People Strategy in **Appendix 3**.

2. Reason for Decision and Options Considered

Background

- 2.1 In order to bring private rented properties in Ealing with the worst property conditions under a selective licensing regime the council has adopted a phased strategic approach.
- 2.2 The first phase of this approach has been the implementation of a small selective licensing designation in the three wards of East Acton, Southall Broadway and Southall Green (pre-May 2022 boundaries) which came into force on 1 April 2022. This ensured that there was a continuation of licensing (following the expiry of its initial PRS licensing schemes on 31 December 2021) in the three wards which have some of the worst property conditions, the most PRS complaints and some of the highest levels of category 1 hazards in the borough. This is known as Selective Licensing Designation 1.
- 2.3 Prior to the agreement of this designation, the council had undertaken a statutory consultation on its licensing proposals between 10 May and 16 August 2021. The findings of that consultation, the council's response to the representations made and the final proposals for the designation were presented to Cabinet in the 08 December 2021 report *Private Rented Sector Licensing Schemes Renewal*.
- 2.4 The consultation also included proposals to introduce a second selective licensing scheme, known as Selective Licensing Designation 2 in the wards of

Acton Central, Dormers Wells, Greenford Broadway, Greenford Green, Hanger Hill, Hobbayne, Lady Margaret, North Greenford, Northolt Mandeville, Northolt West End, Perivale and South Acton (Pre-May 2022 boundaries). The streets in this designation are listed in **Appendix 2**.

- 2.5 This second phase is vitally important to ensure that improvements in the safety of properties can continue to be made across all wards where there is evidence of poor property conditions and serious housing hazards.
- 2.6 Having two phases to the scheme is strategically significant as it allows the Property Regulation team to gradually scale up resource to administer and enforce a larger designation. The team was reduced in line with the end of the initial schemes (December 2021) and recruitment is underway to ensure a fully operational team is in place to service designation 1.
- 2.7 However, it was noted in the 8 December 2021 cabinet report that scaling up for designation 2 was an even greater challenge. In response, a fully researched and realistic HR/People Strategy has been devised that will provide a practical road map to how this larger selective licensing designation will be resourced. The strategy sets out the Property Regulation team's approach to the recruitment, development, and retention of people to the team to ensure the substantially enlarged licensing schemes are efficiently and effectively administered, scheme objectives met and statutory obligations are fulfilled. Refer to **Appendix 3**.

Approvals for selective licensing designations

- 2.8 Confirmation from DLUHC is required for any selective licensing scheme which would cover more than 20% of the geographical area or would affect more than 20% of privately rented homes in the local authority area.
- 2.9 Designation 2 equates to 56.89% of the geographical area of the borough and 41.35% of the total affected (i.e. affected by the designation) private rented sector in Ealing. This figure is of the predicted PRS without s254 HMOs, which would be covered by additional or mandatory HMO licensing and not selective licensing. Together with designation 1, this will equate to 70.37% of the geographical area of the borough and 59.72% of the total affected private rented sector in Ealing. The figure for the total PRS inclusive of s254 HMOs in designation 2 is 45.23% and when combined with designation 1, is 65.06%.
- 2.10 This designation therefore requires confirmation from DLUHC.

Strategic importance of selective licensing for Ealing

- 2.11 The government published its White Paper 'Levelling Up the United Kingdom' on 2 February 2022. Levelling up is the government's moral, social and economic programme and sets out how it will spread opportunity more equally across the UK.
- 2.12 The paper includes commitments to improve the PRS. These measures include:

- the publication of a further White Paper containing proposals to introduce a legally binding “Decent Homes” standard in the PRS.
- explore a National Landlord Register.
- bring forward other measures to reset the relationship between landlords and tenants, including through ending section 21 “no fault evictions”.
- A 50% reduction in non-decent homes by 2030.

2.13 Selective licensing compliments the measures proposed within the Levelling Up White paper. Licence conditions improve property conditions by requiring landlords to proactively manage their properties to a consistent standard. All eligible licensable PRS properties will have to be licenced with the council and recorded on a public register. Better managed properties/tenancies result in improved landlord-tenant relations and longer, more sustained tenancies and less evictions.

2.14 As well as supporting national policy objectives, property licensing supports the council in meeting a number of its own local strategic priorities, and these are set out in the paragraphs below.

Ealing Labour Manifesto

2.15 The 2022 Ealing Labour manifesto sets out the following key pledges/priorities for the council:

- Decent living incomes
- Genuinely affordable homes
- Good growth
- Climate action
- Thriving communities
- Inclusive economy
- Tackling crime and inequality
- A fairer start
- Healthy lives

2.16 In relation to *genuinely affordable homes* the manifesto recognises there is a housing crisis in London and that too many people cannot access affordable, safe and decent homes. A number of pledges have been made to help deliver genuinely affordable homes including the following:

- a) *Establishing a Private Renters Association, led by renters, to provide mutual support and advocacy for the 15,000 families that are renting privately within the borough.* One of the objectives of the property licensing schemes is to increase awareness in tenants of the minimum standards to be expected in rented accommodation. Property licensing will therefore support the council in meeting this pledge.
- b) *Continuing the fight with government to give us the powers we need to extend our landlord licencing scheme across 100% of the borough, to ensure that we put an end to rogue slum landlords taking advantage of tenants.* The

proposed designation 2 will increase selective licensing to 15 wards as opposed to the 3 wards currently covered by designation 1. One of the objectives of the property licensing schemes is to eliminate rogue landlords. Implementing the enlarged designation 2 is a significant step towards meeting this pledge.

2.17 Presently eight wards have not been included in selective licensing designations 1 or 2. These being Cleveland, Ealing Broadway, Ealing Common, Elthorne, Northfield, Norwood Green, Southfield and Walpole (pre-May 2022 boundaries). Although these wards contain high levels of PRS the evidence does not show the higher proportion of housing hazards that we see in other parts of the borough. We shall however continue to monitor the wards not included in the schemes and should the evidence change then consideration will be given to develop proposals for a third designation.

Ealing Race Equality Commission

2.18 In January 2021, the Independent Ealing Race Equality Commission was created in the wake of George Floyd's murder and the Black Lives Matter movement. It was chaired by activist and life peer, Lord Simon Woolley, alongside 11 independent commissioners, all of whom live or work in the borough. It released its final report in January 2022 and identified a number of priorities crucial to bringing about positive change.

2.19 Health (*use what we've learnt from the Covid-19 pandemic to eliminate health inequalities. If we don't act now these inequalities are going to grow*) is one of the priorities identified in the report, considering the wider effect of non-medical social determinants of health such as the issue of poor housing conditions. It is stated that, based on Ealing data, wards with higher proportion of residents identifying as Black, Asian or Minority Ethnic (BAME), had higher total infection rates. Asian and Asian British groups being disproportionately affected by COVID hospital admissions.

2.20 53.4% of Ealing's population is BAME, the third highest level in London. It is known that this group is more likely to live in overcrowded accommodation and it is estimated that at least 14% of Ealing's PRS is overcrowded. All wards in the borough are worse than the national average for barriers to housing and services, one of the domains considered as part of the Indices of Multiple Deprivation. Over-crowding, homelessness and housing affordability are some of the factors making up this domain.

2.21 Housing (*respect and empowerment*) was also identified as a priority. It states that BAME households are four times more likely to be overcrowded and that private renters are six times more likely to be overcrowded. In relation to addressing inequality in housing, it makes the following demands:

- *The Council should empower tenant groups and place them at the heart of both new and existing developments. We were concerned about the high numbers of households in social and private rented accommodation*

that do not have structures that allow their collective voices and experiences to be heard in policy and neighbourhood regeneration.

- *The Council should run a campaign with tenants in the private sector to promote a greater awareness of their rights, where to go for support and advice, and how to hold bad landlords to account. With more and more people in the private rented sector than ever before, and with poor housing being recognised as a significant detriment to health, it is imperative that individuals are empowered to take action with the support and back up of statutory agencies as appropriate.*

2.22 A key objective of the property licensing schemes is to increase awareness in tenants of the minimum standards to be expected in rented accommodation. Property licences also come with conditions which include maximum numbers of occupiers to reduce overcrowding. The property licensing schemes including Selective Licensing Designation 2 will therefore support the council in implementing the recommendations of this report.

Ealing climate and ecological emergency strategy 2021-2030

2.23 Ealing Council declared a climate emergency in April 2019, committing to treat the climate and ecological emergency as a crisis requiring immediate and vital action. The council's aim is to become carbon neutral, as a borough and an organisation by 2030.

2.24 The Ealing climate and ecological emergency strategy 2021-2030 sets out a plan to reduce the council's produced emissions and outlines a commitment to use our influence to reduce emissions emitted across the borough. The intended outcome of these actions is to mitigate climate change and to reduce the loss of plants and wildlife on which human life depends.

2.25 As 38.1% of Ealing's homes are now estimated to be in the PRS, property licensing is vital in assisting the council in improving energy efficiency in this sector, either by promotion of programmes available to make property improvements, or by targeting enforcement action towards the least energy efficient properties. This is crucial in light of the current cost of living crisis and recent substantial increases in energy prices which will lead to more persons being unable to heat their homes adequately.

2.26 Property licensing fees have been structured to recognise the importance of energy efficient homes by offering a discount of £50 on licence fees for homes with an EPC rating of C or above.

2.27 The objectives of the property licensing schemes (improving property conditions, improving the working relationship with landlords) will support the council towards achieving its aims and commitments.

3. Key Implications

Selective licensing designation 2

3.1 In order to designate a selective licensing scheme, the following criteria must be met:

- a) That the authority considers that the statutory conditions to make a selective licensing designation are satisfied.
- b) Reasonable steps have been taken to consult with persons who are likely to be affected by the designation; and representations made in accordance with the consultation and not withdrawn have been considered.
- c) The making of the designation is consistent with the authority's overall housing strategy.
- d) The authority is seeking to adopt a co-ordinated approach in dealing with homelessness, empty properties and anti-social behaviour, both as regards to combining licensing with other courses of action available to them, and combining such licensing with measures taken by other persons.
- e) The authority has considered whether other available courses of action might provide an effective method of achieving the objective(s) that the selective licensing designation is intended to achieve and that making the designation would significantly assist in achieving the objective(s), whether or not any other course of action is taken as well.
- f) The authority has considered any potential negative economic impact that licensing may have on the area.
- g) That the authority can demonstrate how licensing will work in conjunction with existing initiatives (such as landlord accreditation) and partnerships.

3.2 How the council have met these criteria is set out in the paragraphs below.

Statutory conditions have been satisfied

3.3 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. These general conditions are:

- That the area is, or is likely to become, an area of low housing demand
- That the area is experiencing a significant and persistent problem caused by antisocial behaviour
- The area has poor property conditions*
- The area has high levels of migration*

- The area has high levels of deprivation*
- The area has high levels of crime*

* for these criteria to be applicable, there must be a high proportion of PRS properties occupied as either assured shorthold tenancies (ASTs) or licences to occupy.

- 3.4 The private rented sector in Ealing plays a crucial role in providing accommodation for residents. A housing review, the findings of which were initially presented to Cabinet in the report *Private Rented Sector Licensing Schemes Renewal* on 20 April 2021, found that Ealing's PRS is now calculated to be 38.1% (54,776 homes) of all housing stock. This high prevalence of PRS is found throughout the borough and is significantly higher than the national average of 19%.
- 3.5 Ealing is consistent with London in that it has an increasing population, 346,908 in 2018, projected by the GLA to be 398,309 by 2031. However, a shortage of affordable housing and shrinking prevalence of owner-occupation will mean that more and more residents, especially those who are vulnerable and on low incomes, will be reliant on Ealing's PRS as their only option for a home.
- 3.6 Black, Asian and Minority Ethnic (BAME) groups are disproportionately likely to suffer from poor housing, which will not only have an impact on their health but can also have a detrimental impact on safety, education and life chances.
- 3.7 We recognise the vital role that landlords play in providing good quality private rented accommodation. Nevertheless, housing conditions in the PRS are, on average, often worse than in other tenures. Nationally, 12% of PRS homes are estimated to have a serious category 1 hazard. Overall, 9% of English housing stock had a category 1 hazard with 10% of owner occupied and 5% of the social rented sector having a category 1 hazard.
- 3.8 The housing review found that poor housing conditions were prevalent in Ealing's PRS. 12,063 PRS properties were predicted to have at least one serious category 1 hazard. This represents 22% of all PRS stock, significantly higher than the national average of 12% (English Housing Survey 2020-21).
- 3.9 As well as having a mixture of high and low deprivation wards, Ealing has high rents, above London average private rented property possession claims, fuel poverty and homelessness. All wards are rated higher than the national average for barriers to housing and services.
- 3.10 Furthermore, 2.2% of PRS dwellings had an EPC rating of F and G, which is below the statutory minimum requirement. Nationally, the energy efficiency of the English housing stock has continued to improve. In 2020, the average SAP rating of English dwellings was 66 points, up from 65 points in 2019. This was evident in all tenures apart from private rented dwellings where there was no significant increase.

3.11 The prevalence of the PRS in designation 2 is considered to be high, ranging from 46.2% of properties in Hanger Hill to 26% in Hobbayne – higher than the national average of 19%. The percentage of PRS by ward includes s254 HMOs, as the national benchmarking for PRS (19%) is for the total PRS which includes these HMOs. Similarly, the percentage of PRS properties with at least one category 1 hazard includes s254 HMOs as the national benchmarking (12%) also includes these HMOs.

3.12 Furthermore, the wards included in this designation are predicted to experience a high proportion of poor housing conditions, ranging from 33.73% of properties in Acton Central to 17.25% in Hanger Hill predicted to have at least one category 1 hazard. The national average is 12%. Over the past five years, the council received a total of 4,615 housing complaints across the wards in designation 2 and served a total number of 232 housing and public health statutory notices.

3.13 Table 1 below provides a summary overview of designation 2 PRS by ward.

Table 1. Designation 2 - PRS summary overview

Ward	Percent PRS (%)	% of dwellings with serious hazards (Cat 1)	No. of dwellings with serious hazards (Cat 1)	No. of disrepair complaints received	No. of housing & public health Statutory Notices served	No. of ASB incidents
National Average	19%	12%				
Acton Central	45.2	33.73	1,099	1042	37	365
Dormers Wells	26.3	27.37	341	268	12	167
Greenford Broadway	36.5	18.75	481	329	24	318
Greenford Green	30.6	23.57	408	265	22	274
Hanger Hill	46.2	17.25	530	335	24	330
Hobbayne	26.0	19.89	292	172	8	223
Lady Margaret	31.6	30.14	403	332	21	160
North Greenford	29.4	26.18	417	299	15	261
Northolt Mandeville	26.3	19.73	310	186	8	224
Northolt West End	27.6	20.21	331	181	7	247
Perivale	36.7	23.74	516	374	24	289
South Acton	38.9	26.89	839	832	30	273

(Source: Ti 2021)

3.14 Designation 2, like designation 1, is therefore being proposed on the basis it meets the criterium of poor housing conditions as per paragraph 4 of the Selective Licensing of Houses (Additional Conditions) (England) Order 2015. As such, the terms and conditions of designation 2 will be the same as those agreed by Cabinet on 21 December 2021 in the 08 December 2021 report *Private Rented Sector Licensing Schemes Renewal*. These terms were finalised having taken into consideration the response to the consultation:

- The objectives of designation 2 will be those agreed by Cabinet on 21 December 2021.
- The selective licence conditions applicable to licences granted under designation 2 will be those agreed by Cabinet on 21 December 2021.
- The selective licence fees for designation 2 will be in line with those set out in the fee schedule agreed by Cabinet on 21 December 2021 for designation 1. In summary, the fee for a selective licence will be £750, and discounts will apply for early applicants, accredited landlords/agents, and properties with an EPC rating of C or above.
- The same policy regarding the length (duration) of licences granted under the new licensing scheme and the variation of licences granted for less than five years under the previous selective licensing schemes, as agreed by Cabinet on 21 December 2021, will apply.
- The same delegated authority, as agreed by Cabinet on 21 December 2021, to the Director of Community Development to issue the required statutory notifications in relation to the designations and, in consultation with the Portfolio Holder, to amend the licensing fee and make such other changes to the schemes as is necessary for the effective administration of the schemes.
- The same agreement, as agreed by Cabinet on 21 December 2021, to the Director of Community Development to consult with the Chief Financial Officer in regard to the carrying forward of any surplus/deficits, and approvals of updated financial plans.

Consultation

3.15 The council consulted on its new property licensing proposals, including designation 2, between 10 May and 16 August 2021. During the consultation exercise, the council proposed a new selective licensing scheme that would cover two distinct designations that would be introduced in a phased approach. The scheme would apply to all private rented sector properties in the designated areas that are not included in the mandatory or additional HMO licensing schemes.

3.16 In order to ensure independence, the council commissioned Housing Quality Network (HQN), an independent housing consultancy, to undertake the consultation exercise on its proposals. The consultation included an online survey (1,677 useable responses), live online public meetings (112 attendees), and interviews with (10) key stakeholders. The exercise sought views from residents, private tenants, private landlords, lettings/managing agents, businesses and other stakeholders about the council's proposals. Additional effort ensured that landlords resident outside the borough were also advised of the consultation exercise. As the consultation was held towards the end of COVID-19 restrictions, the consultation communication channels and activities

were adjusted to mitigate any issues and to ensure all stakeholders could be reached despite the challenges.

3.17 The full findings of the consultation and the council's response to representations made was presented to Cabinet in the 08 December report *Private Rented Sector Licensing Schemes Renewal*. The main findings of the consultation are summarised here:

- There was considerably greater support for selective licensing amongst tenants and residents, who agreed that there were issues with poor property conditions in the PRS . Landlords and managing agents were less favourable, with their answers being the opposite to the actual lived experience of the tenants themselves.
- Concerns were expressed about the cost of licensing being passed on to tenants, and the need for effective enforcement of the selective licensing schemes was emphasised.
- Feedback on the proposed selective licence conditions was considered, resulting in the council removing five conditions and amending eight.
- Feedback on the proposed selective licence fee structure was considered, and changes made to support responsible landlords who had previously licensed their properties and/or were improving their professionalism in managing private rented properties through a broader range of landlord accreditation organisations.

Housing and homelessness strategy

3.18 Ealing's overarching Housing Strategy is currently being updated; however its key aims will remain consistent with its 2014/19 [Private Sector Housing Strategy](#) which sets the following four strategic priorities:

- Increase the supply of private housing
- Support residents to access affordable, well managed private rented homes
- Improve the condition of private housing through regulation through our licencing schemes
- Develop strong partnerships to support the private housing sector

3.19 It is proposed that the updated Housing and Homelessness Strategy 2022 will have six headline priorities underpinned by a number of sub-commitments. Property licensing will support five of these priorities, in particular priority 6, which are listed below:

- Priority 1: Increase the supply of homes across all tenures in Ealing
- Priority 2: Support sustainable homes & neighbourhoods
- Priority 3: Seek to prevent and address homelessness and rough sleeping

- Priority 4: Ensure intermediate and low cost rented homes are genuinely affordable and well managed (N/A)
- Priority 5: Address housing inequality in the borough
- Priority 6: Safer, better managed private rented homes

3.20 A consultation was undertaken from 7 February to 8 April 2022 seeking views from residents and interested organisations about the housing issues faced in the borough. This information will be used to help inform the new five-year housing and homelessness strategy. There will be further consultation on the draft strategy itself and the delivery plan later this year.

3.21 The response to the consultation, is currently being considered and reviewed. However initial findings suggest there is strong support for the above listed priorities, and relating to priority 6, strong support for its sub-commitments to improve the quality of the PRS, respond to concerns about PRS and eliminate rogue landlord activity in the borough. Property licensing will play a significant role in achieving these commitments.

3.22 The first phase of non-statutory engagement on the new Local Plan for Ealing was launched on 10 November 2021 as a suite of activity under the “Shaping Ealing” umbrella. It consisted of an online survey on the GiveMyView digital platform and a series of community engagement events held in various parts of the borough. The engagement activity ran until 6 May. One of the key themes that emerged was residents’ feeling there was a lack of affordable housing in the borough.

Homelessness

3.23 Property licensing will ensure the quality and standard of housing in Ealing is better, with less overcrowding, and longer tenancies thus helping to prevent homelessness by persons feeling they cannot remain in their existing accommodation. Furthermore, licensing will improve the professionalism of landlords in the management of their properties so potential problems with tenancies are dealt with quickly and effectively before things become unresolvable, thus decreasing the likelihood of tenants being evicted.

Empty properties

3.24 The council’s Property Licensing and Empty Properties functions are teams working within the Property Regulation team and regularly share intelligence in regard to the location, ownership etc of both empty and licensed properties. Empty Properties attract nuisance and ASB, so work done to bring empty properties up to standard and back into use as liveable homes is complimentary to the objectives of Property Licensing and other council strategies such as homelessness and ASB reduction. The enforcement approach to empty properties is set out in the council’s Empty Property Strategy 2017-2022.

Antisocial behaviour (ASB)

3.25 The council's Safer Communities Team oversees the council's response to ASB in the borough and undertakes enforcement and partnership work with the Police and other key partners. We will continue to work closely with the Safer Communities Team to share information and intelligence on the ownership and management of rented properties in order to resolve ASB in privately rented properties. There are a number of licence conditions that deal with tenancy management and ASB, clearly stating the landlords' responsibilities when dealing with ASB. The property licensing designations are vital in supporting the council's multi-agency approach to tackling and reducing ASB by obliging landlords and property managers to be proactive in dealing with any ASB arising in their properties.

Other courses of action have been considered

3.26 A local authority must not make a property licensing designation unless consideration has been given to other courses of action available to them that would achieve the objectives they would want the designations to achieve.

3.27 These objectives and alternative options were also set out in the council's consultation evidence documents which were initially presented to Cabinet in the 8 December 2021 report *Private Rented Sector Licensing Schemes Renewal*.

3.28 The most common theme about alternatives to licensing that emerged from the consultation was that the council should focus on using its existing powers rather than designate further discretionary licensing schemes. The council's full response to these representations is in the 8 December 2021 Cabinet report *Private Rented Sector Licensing Schemes Renewal*.

3.29 Property licensing places the responsibility on the landlord to inform the council that their property is licensable and encourage them, with the council's support, to ensure that they meet the required standards and comply with licence conditions. The council is not solely reliant on reacting to notifications from PRS tenants who are willing and/or able to make complaints about property conditions. The most vulnerable occupiers of the PRS are often the least able or likely to be able to submit complaints about property conditions. The council can prioritise its resources effectively to dealing with the properties of most concern and target enforcement actions to those landlords who fail to licence their properties and/or breach licence conditions.

3.30 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 its property licensing schemes.

Potential negative economic impact

3.31 There is no evidence to suggest that the introduction of the council's discretionary licensing schemes in 2017 had a negative impact on the areas in which they operated. A recent independent review of the Use and Effectiveness of Selective Licensing commissioned by MHCLG (now DLUHC) determined that there was

no substantive evidence of rent rises being passed onto tenants due to the introduction of selective licensing schemes. If selective licensing is extended to other wards in the borough, no negative economic impacts are anticipated. It is considered that selective licensing, when combined with other measures taken in the designated areas will have a positive economic impact rather than negative by contributing to improved housing conditions.

Licensing working in conjunction with existing initiatives and partnerships

3.32 We will continue to build on the good working relationship with our internal and external partners. We have engaged in several joint working initiatives and partnerships with agencies such as the Police, Fire Service, HMRC, Immigration Enforcement, Social Services, Park Guard, Community Safety, Envirocrime and Planning Enforcement. We will also continue to actively promote the London Landlord Accreditation Scheme (LLAS) and provide discounts to accredited landlords.

4. Financial Implications

4.1 There are no fees associated with submitting an application to DLUHC for consideration/confirmation of designation 2.

4.2 The proposed fees for selective licences granted under designation 2 will be the same as for those agreed for selective licencing designation 1. Those fees are as follows:

- Selective licence fee: £750
- Early application discount: 25%
- Accredited landlord discount: £75
- EPC (rating C or above) discount: £50
- Block/multiple application: £675 per flat

4.3 A financial model was created for designation 1 as approved by Cabinet on 08 December 2021 with the same applicability to designation 2 to set out how the schemes are designed to be cost neutral over the course of a 10-year period. The model assumes that although the scheme is for 5-year licences there is an ongoing licence enforcement and management requirement over the life of the licence, even though the new selective schemes will cease and no new licences issued from year 6 onwards.

4.4 The costs of resourcing the schemes in years 6 -10 will reduce in line with the number of licences that need to be managed and enforced during this period. This is detailed in the HR/People Strategy, **Appendix 3**

4.5 The projected expenditure and income for designations 1 and 2 was presented in detail in the 08 December 2021 Cabinet report *Private Rented Sector Licensing Schemes Renewal*, which included the detailed breakdown of staffing and non staffing costs. In summary the estimated net position over a 10 year period is detailed below for income and expenditure.

Revenue (£m)	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	TOTAL
Expenditure	7.06	3.80	3.21	2.25	2.00	1.45	1.39	1.36	1.31	1.29	25.12
Income	(8.49)	(5.51)	(4.51)	(2.42)	(2.07)	(0.81)	(0.63)	(0.46)	(0.25)	(0.21)	(25.36)
Total	(1.43)	(1.70)	(1.30)	(0.17)	(0.07)	0.64	0.76	0.90	1.05	1.08	(0.24)

Overall Financial Operation of the Scheme

- 4.6 Given the nature of the scheme is intended to break even over several years of its operation with no material subsidy from the council, it will operate as a ring fenced trading account within the General Fund, carrying over surpluses and deficits as appropriate. The Director of Community Development will need to manage and operate the trading account in accordance with the financial regulations and appropriate finance guidance notes/advice. The operation of the ringfenced trading account will be subject to an annual review and decisions with regards to any carry over of surplus and/or deficit balances between years will be subject to formal approval by the Chief Finance Officer as the council's Section 151 Officer. In doing so regard will be given to the financial performance of the scheme with regard to the objective of break-even over the life of the scheme, including corrective actions recommended by the Director of Community Development which may include relevant adjustments to expenditure and income and charges levied and the continued operation of the scheme therein.

5. Legal

- 5.1 The power to make a selective licensing designation is set out in sections 80 – 84 of the Housing Act 2004. The council must take reasonable steps to consult persons who are likely to be affected by the designations and consider any representations made in accordance with the consultation. A consultation must run for a minimum of 10 weeks.
- 5.2 Under the Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015, designations that either cover more than 20% of their geographical area or would affect more than 20% of privately rented homes in the local authority area require confirmation from DLUHC.
- 5.3 The statutory criteria and considerations that the council must be satisfied are met when considering designating a selective licensing area are set out in key implications above. In addition, section 81 Housing Act 2004 requires the council to ensure that any proposal is consistent with its housing strategy which has been described above.

- 5.4 Certain types of tenancies/licences are exempt from selective licensing, and these are set out in section 79 of the Housing Act 2004 and the Selective Licensing of Houses (Specified Exemptions) (England) Order 2006.
- 5.5 Once a selective licensing designation is confirmed, it cannot come into force until three months after it is made. A designation may be made for up to five years.
- 5.6 In the case of *Iyawa v Newham LBC LON/00BB/HMV/2016/0004* the First Tier Tribunal held that a local housing authority may grant a licence for up to five years even if, by doing so, the licence expires after the scheme designation has ceased to have effect.
- 5.7 Section 83 of the Act requires local housing authorities to publish a notice of the designation once it has been confirmed. A local housing authority must:
- publish a notice within the designated area within seven days of the designation being confirmed
 - notify all those consulted on the proposed designation within two weeks of the designation being confirmed
- 5.8 For selective licensing designations the council must be satisfied that:
- the proposed designations are consistent with the overall housing strategy,
 - a co-ordinated approach is adopted in dealing with homelessness, empty properties and ASB,
 - alternative courses of action have been considered, and,
 - the proposed designations will significantly assist in achieving its objectives
- 5.9 In addition to the above criteria, when making a selective licensing designation the council must:
- have considered any potential negative economic impact that licensing may have on the area, and
 - can demonstrate how licensing will work in conjunction with existing initiatives (such as landlord accreditation) and partnerships.

Costs, Penalties and Sanctions

- 5.10 Article 13(2) of the EU Services Directive (2006/123/EC) requires that the licence fee paid by the applicant must be reasonable and proportionate to the cost of the authorisation (licensing) procedure.
- 5.11 It is a criminal offence for a landlord to operate a property without a licence in a designated area or to fail to comply with any licence conditions. This may result in prosecution proceedings or a financial penalty of up to £30,000. On conviction, the Court may impose an unlimited fine.

- 5.12 Other consequences of operating a licensable property without a licence include Banning Orders, Rent Repayment Orders, and not being able to issue so called “no-fault” eviction notices.

6. Value for money

- 6.1 Once the scheme is set up it is designed to be self-financing through the levy of fees. The schemes also have potential to produce value for money in other areas, as set out below.
- 6.2 Health benefits - It is estimated that poor housing costs the NHS in the UK at least £2.5bn per year. By addressing poor housing conditions this will help to improve health and wellbeing, reduce health inequalities, and prevent and reduce demand for primary health care and social care interventions, including admission to long-term care settings. This will produce a quantifiable cost saving to health and social care budgets. (<https://www.bre.co.uk/filelibrary/pdf/87741-Cost-of-Poor-Housing-Briefing-Paper-v3.pdf>)
- 6.3 The Covid-19 pandemic has also shown correlations between susceptibility to the virus and poor-quality housing. Therefore, good quality housing can do much to help combat the spread of Covid-19, as well as other illnesses such as cancer, respiratory and cardiovascular diseases.
- 6.4 Educational attainment - It is also well understood that poor housing conditions and overcrowding have a negative impact on educational attainment. This in turn impacts on an individual’s ability to reach their full potential. It is expected that licensing will assist the council and partners in achieving objectives in improving educational attainment and residents achieving their full potential.
- 6.5 Fraud detection - Other licensing schemes have identified housing benefit, council tax benefit and leasehold/tenancy fraud through their schemes, recouping money for the public purse as a result.

7. Sustainability Impact Appraisal

- 7.1 The introduction of the additional and selective licensing schemes will have a positive impact on property conditions. A good quality private rented sector will encourage residents to stay in Ealing, in turn creating sustainable communities.

8. Risk Management

- 8.1 The following risks have been identified in respect of agreeing Selective Licensing Designation 2.

Risks	Mitigation
Confirmation of designation 2 is not agreed by the DLUHC.	<p>Our application is thorough and robust. We have ensured the application sets out the following:</p> <ul style="list-style-type: none"> • That we have strong evidence to support the making of this designation • That all the legal criteria to make the designation, as per the Housing Act 2004, are achieved • How property licensing is essential in supporting the council in meeting its own strategic priorities and objectives
<p>The designations may be challenged by judicial review, as has been the experience of other local housing authorities. There is the potential for additional and unfunded legal work to meet any such challenges or cases brought against the local authority</p> <p>Judicial review proceedings may be successful where local authorities have failed to follow the correct processes or have been unable to justify part of their scheme, proposals or evidence base.</p>	<p>Independent research has been undertaken to develop the evidence base. The evidence is considered to be reliable and supports justification for scheme proposals.</p> <p>Independent consultants experienced in the legal process required for proposed licensing schemes have been commissioned to conduct the statutory consultation process.</p> <p>It is considered that the above actions mitigate the potential risk of judicial review.</p> <p>If the designation is approved by DLUHC, the risk of judicial review is considered low.</p>
Failure to receive estimated number of applications and fees creating significant budget shortfall.	<p>Landlords will be incentivised to apply for a licence through the fee structure.</p> <p>Prior to commencement of the schemes a major publicity campaign will be undertaken.</p> <p>Sufficient staffing resources have been allocated to identifying unlicensed properties.</p>
Landlords exit the Private Rented Sector causing a reduction in private rented dwellings.	Evidence from previous additional and selective licensing schemes and other authorities who have introduced similar schemes suggests that this will not happen. However, we will carefully monitor the impact on homelessness in the PRS.

Risks	Mitigation
	Due to Ealing's desirability as a location, very high demand with good links to central London, and cross rail development it will still be viewed as an area in which to invest. Therefore, new landlords will enter the PRS balancing out those who exit.
Cost of licence fee passed on to tenants	<p>Evidence from previous additional and selective licensing scheme shows that landlords absorb the cost of the licence fee over the 5-year period. Should landlords raise rents the overall impact on rent affordability to tenants would be minimal and outweighed by the additional benefits tenants would receive from the scheme.</p> <p><i>An Independent review of the Use and Effectiveness of Selective Licensing</i> commissioned by MHCLG (now DLUHC) determined that there was no substantive evidence of rent rises being passed onto tenants due to the introduction of selective licensing schemes.</p>
Displacement of good landlords to other boroughs.	This risk is considered unlikely as many of Ealing's neighbouring boroughs have or are in the process of introducing similar licensing schemes.
Scheme does not improve property conditions	<p>Robust enforcement action will accompany the licensing regime. Inspections will be undertaken to ensure that landlords comply with licensing conditions and maintain well managed properties. Enforcement action will be taken where appropriate.</p> <p>Tenants will also be aware of the standards that should be in place and will be encouraged to report landlords who do not comply with licensing conditions.</p>

9. Community Safety

9.1 This report has direct links to making Ealing one of the safest places in London and impacts on residents' perception of how we deal with crime and antisocial behaviour. Property licences come with conditions that include conditions that

require licence holders to take proactive action in relation to any ASB occurring on their properties.

10. Links to the 3 key priorities for the borough

10.1 The council's administration has three key priorities for Ealing. They are:

- fighting inequality
- tackling the climate crisis
- creating good jobs

Property licensing, by improving the standard of residents' homes in the borough, helps support all three priorities.

11. Equalities, human rights and community cohesion

11.1 An Equalities Analysis Assessment (EAA) has been completed for the introduction of the licensing schemes and is attached to the 8 December 2021 report *Private Rented Sector Licensing Schemes Renewal*. This assessment is continually kept under review.

12. Staffing/workforce and accommodation implications:

12.1 The HR/People Strategy (**Appendix 3**) details how this larger selective licensing designation will be resourced.

12.2 Workforce accommodation will be required for the new personnel identified for the delivery of the schemes. Any new enlarged team will need to be accommodated in accordance with the council's accommodation strategy.

13. Property and assets

13.1 There are no property implications.

14. Any other implications

14.1 None applicable

15. Consultation

15.1 A statutory consultation on the proposed property licensing schemes has been carried out with the relevant stakeholders with the findings presented in the Cabinet report dated 08 December 2021 *Private Rented Sector Licensing Schemes Renewal*.

16. Timetable for implementation

Date	Action
28 June 2022	Implementation date if not called in.
01 July 2022	Application submitted to DLUHC.
October 2022 to January 2023	Informed of DLUHC decision. Minimum 3 months but can be up to 6/8 months.
April 2023	Designation 2 comes into force three months after date confirmed by DLUHC.

17. Appendices

No.	Title
Appendix 1	Draft designation
Appendix 2	List of streets in designation 2
Appendix 3	HR/people strategy

18. Background information

- The Housing Act 2004
- The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006
- The Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015.
- MHCLG: [Selective licensing in the private rented sector, a guide for local authorities](#), 27 March 2015
- [Cabinet report Private Rented Sector Schemes Renewal, 20 April 2021](#)
- [Cabinet report Private Rented Sector Schemes Renewal, 8 December 2021](#)
- DLUHC: Levelling Up the United Kingdom, 02 February 2022
- DLUHC: English Housing Survey 2020-2021
- Ealing Labour: Manifesto 2022
- Ealing Race Equality Commission full report, 27 January 2022
- [Ealing Housing and Homelessness Strategy 2014-19](#)
- [Ealing Private Sector Housing Strategy 2014-19](#)
- [Past Consultations - Housing in Ealing](#)
- Ealing climate and ecological emergency strategy 2021-2030

Consultation

Name of consultee	Post held	Date sent to consultee	Date response received	Comments appear in paragraph:
Internal				
Cllr Shital Manro	Portfolio Holder for Good Growth	12.05.22		
Mark Wiltshire	Director of Community Development	05.05.22		
Justin Morley	Head of Legal Services (Litigation)	05.05.22	12.05.22	throughout
Russell Dyer	Assistant Director, Accountancy	05.05.22	11.05.22	section 4
Manher Ubhi	HR Business Partner	05.05.22	06.05.22	

Report History

Decision type:	Urgency item?
Key decision	Yes
Report no:	Allison Forde, Assistant Director Property Enforcement and Environmental Protection Email: fordea@ealing.gov.uk Tel: 020 8825 7741
	Rachel Fell, Property Regulation Lead Practitioner Email: fellr@ealing.gov.uk Tel: 020 8825 8513