

Public Document Pack

Housing Select Committee Supplementary Agenda

Tuesday, 25 October 2016

7.00 pm,
Civic Suite
Catford
SE6 4RU

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This meeting is an open meeting and all items on the agenda may be audio recorded and/or filmed.

Part 1

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Sustainable Development Select Committee & Housing Select Committee			
Title	Housing Zones	Item No	4
Contributors	Executive Director for Resources and Regeneration		
Class	Part 1	Date	25 th October 2016

Reason for Lateness:

Although this update report on Housing Zones was agreed to be considered by the Sustainable Development and Housing Select Committees at their 25th October 2016 meeting, an officer error in noting the deadline for submitting the report for normal dispatch meant the deadline was missed hence the report only being available for late circulation.

1. Purpose of Paper

- 1.1 To provide the Sustainable Development and Housing Select Committees a general background to the Mayor of London's Housing Zone Programme and a specific update on the two designated Housing Zones in the borough.

2. Recommendations

- 2.1 The Select Committee is asked to:
 - note the content of the report

3. Background - Housing Zones

- 3.1 In August 2014 the Department for Communities & Local Government (DCLG) and the GLA announced their plans to create twenty 'Housing Zones' across the capital. The aim of Housing Zone designation for an area is to boost the housing supply in London by unlocking and accelerating housing delivery through a range of planning and financial measures/interventions.
- 3.2 The Government and the GLA jointly committed a total of £400m of funding for the initial twenty zones. Half of the funding (£200m), was made available in the form of loan funding which is accessible to private sector organisations only. The remainder of the funding was available in flexible funding forms, including grant funding. The Housing Zone process seeks to encourage co-operation between local authorities, central government and developers.
- 3.3 New homes developed in Housing Zones are expected to be geared towards meeting a range of housing need and address the affordability challenge currently facing many Londoners. This requires a mix of open market homes that are affordable for Londoners with an obligation, where possible, to prioritise

the sale of individual homes to Londoners purchasing for owner-occupation. It also includes new long term market rent homes, as well as affordable homes for rent and low cost home ownership.

- 3.4 The GLA identified Opportunity Areas as 'ideal candidates' for Housing Zone designation. Opportunity areas are often (but not always) places with relatively low land values, sometimes with an historic industrial use, and are usually characterised by some form of market failure that requires substantial intervention. Whilst identified as challenging they can provide opportunities for the public and private sector working collaboratively to regenerate areas and create new neighbourhoods and places. It is envisaged that through Housing Zone designation some of the challenges identified could be addressed unlocking schemes and accelerating the delivery of the planned housing.
- 3.5 In addition to investment, Housing Zones are designed to offer focused, planning, place-making and intensive engagement with a wide range of delivery partners important to delivery of housing such as utility companies, Network Rail and Transport for London.
- 3.6 The initial aim was to create twenty Zones in London and build 50,000 new homes by 2025. Due to the success of the first phase in securing commitments for approximately 53,000 new homes in London (with approximately a third being affordable housing), a second phase of the programme was launched in 2015 taking the total number of Housing Zones to 31 and a target housing provision of 75,000 new homes. The programme is also designed to provide 150,000 associated jobs in the course of the 10 year delivery programme.
- 3.7 The eligibility criteria for an area to be designated a Housing Zone include but is not limited to the following:
 - A Housing Zone must (except in exceptional circumstances which must be clearly justified) include a minimum of 750 housing units.
 - A Housing Zone can consist of one or more sites.
 - The majority of the Housing Zone must be on brownfield land.
 - Must either include a bid for investment funding from one or a number of private sector partners.
 - Details of how the planning requirements for the Housing Zone will be implemented.
 - Include reference to how good design will be achieved.
 - Demonstrate an expeditious delivery of housing.
- 3.8 The full DCLG prospectus on Housing Zones; what the programme supports; types of support or funding available; the eligibility criteria; scheme prioritisation and assessment criteria are contained in the DCLG Prospectus on Housing Zones attached as appendix 1.

3.9 There are currently two Housing Zones in Lewisham: New Bermondsey (former Surrey Canal Road Triangle) and Catford Town Centre. A brief summary on both schemes is provided in sections 4 and 5 below.

4. New Bermondsey Housing Zone

4.1 The GLA raised the opportunity to bid for Housing Zone designation with the Council's Strategic Housing team following the announcement in August 2014 and identified the potential of the New Bermondsey regeneration scheme as a possible candidate for designation.

4.2 Following further consultation with the GLA, the developer (Renewal) and officers in Strategic Housing, Planning and Regeneration it was agreed that the New Bermondsey site met the criteria for Housing Zone and could benefit from designation to bring forward the delivery of housing and infrastructure on the site.

4.3 A bid was submitted to the GLA on the 30th September 2014 and in February 2015, the Mayor of London announced that the New Bermondsey Regeneration programme has been designated Housing Zone status. As one of the first Housing Zones, the site was recognised as a key development in London and as one of the few regeneration projects that has the capacity to deliver homes for Londoners faster by accelerating the development programme.

4.4 Following the Housing Zone designation, the GLA allocated in principle funding of £20 million towards delivery of key infrastructure associated with the scheme, including the new Overground Station at Surrey Canal Road.

4.5 The GLA initially proposed that the allocated sum would be advanced to Renewal as loan funding. In a revised approach, however, the GLA now proposes that a grant agreement (known as a Borough Intervention Agreement) is entered into between the Council and the GLA whereby the GLA will provide grant funding of approximately £12 million which will be passed by the Council to TfL with a requirement that TfL deliver the new Overground Station at Surrey Canal Road and open it within a set period. The balance of the £20 million allocation will remain available for Renewal to take up through a second intervention.

4.6 A clear benefit of this approach is that as the new station will now be grant funded, this enables the sum which would otherwise be paid by Renewal towards the new station to be applied to the provision of additional affordable housing within the scheme. Thus, not only will the GLA's current funding approach allow early delivery of the station and development of the first two phases of the scheme (Phases 1A and 2) to proceed ahead of schedule delivering 532 new homes, it will also secure delivery of more additional affordable homes than were originally to be provided within the scheme.

4.7 The exact quantum of additional affordable housing to be delivered as a result of this approach will form part of revised S106 for the scheme the details of which are currently being worked through.

5. Catford Town Centre Housing Zone

- 5.1 On 17th February 2016 the Mayor approved a report which recommended that the council should submit a bid to the GLA for Housing Zone support for the Catford town centre regeneration programme.
- 5.2 The bid was submitted for the GLA's consideration and set out a case for how GLA grant support could help stimulate the delivery of housing in the town centre and enhance overall deliverability.
- 5.3 In line with the funding guidelines the bid sought funding of £40 million to support three important areas; provision of affordable housing, enhancing town centre flood resilience, improvements to the train station environment and the Catford arrival experience.
- 5.4 In March 2016 the GLA announced that Catford had been awarded an indicative allocation of £30 million made up of £27.2m affordable housing grant, £1.3m for rail station arrival space and £1.5m for flood alleviation. Whilst the grant was lower than requested it is a sizeable contribution towards delivery of the regeneration programme and will have a marked effect on what can be delivered.
- 5.5 Officers have been reviewing the funding agreements provided by the GLA and have met to discuss protocols and timescales for agreeing these. The agreement is split into different sections which are entered into sequentially once sufficient information is available on the scheme. The first agreement that the Council must enter into is an Overarching Borough Agreement. This sets out the general principles upon which it has been agreed that Housing Zone funding is to be made available by the GLA and is superseded in due course by the individual Borough Intervention Agreements that are then subsequently entered into between the parties.
- 5.6 Prior to any funding drawdown the Council must enter into a Borough Intervention Agreements (BIA). Each BIA will set out the detailed terms and conditions upon which specific amounts of funding will be advanced to the Council by the GLA and the outputs which we must commit to delivering in return. The Council is not formally bound to deliver these outputs until the BIA is entered into and funding advanced.
- 5.7 Officer discussions with the GLA suggest that it is possible to identify the outputs from the quick win projects at an early stage, enabling funding to be released for their implementation in the 2017/18 and 2018/19 financial years. This means that Catford can begin to benefit from the Housing Zone investment early on, whilst the longer term plans for housing development are progressed.
- 5.8 In this regard, the GLA have agreed that quick wins, including work to enhance the Catford stations arrival experience and flood alleviation can be carried out as soon as possible and do not have to wait until there is greater clarity on housing delivery timescales. To this end, an officer within the Capital Programme Delivery team has

been assigned to begin developing the stations project and to develop a timetable for delivery with key stakeholders including Network Rail, Southeastern and TfL. The work is likely to involve improvements to station forecourts, underpasses, information boards and taxi ranks and will tie in to ambitions for improved routes between the town centre and the stations.

- 5.9 In parallel, work on the Ravensbourne flood alleviation project is already ongoing and the project will substantially reduce the risk of river flooding in Catford town centre by creating flood storage in Beckenham Place Park and improving defenses at points along the watercourse. The project is currently at the detailed design stage and is being led by the Environment Agency with the involvement of the Capital Programme Delivery Team. Implementation is planned in 2018, and Catford town centre will benefit from reduced flood risk from 2019.
- 5.10 A significant part of the Housing Zone grant for Catford is aimed as supporting the scheme deliver a greater percentage of affordable housing. However, certainty on specific housing outputs from the redevelopment of key sites in the town centre will not be known until the design is sufficiently advanced. It is likely that subsequent Borough Intervention Agreements will not be entered into until planning approval for each development phase has been achieved.
- 5.11 Discussions on the form of affordable housing to be delivered through the grant support will be continued with the GLA as plans for redevelopment are advanced and as the housing priorities of the new Mayor of London become clear. The Council will continue to seek that new affordable housing clearly meets the housing needs identified by the borough.

6.0 Other Implications:

- 6.1 There are no legal, financial and environmental implications arising directly from this report.

Appendix 1: DCLG Housing Zone Prospectus (2014)

For further information please contact: Kplom Lotsu, SGM Capital Programme Delivery Ext: 49283

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Department for
Communities and
Local Government

Housing Zones

Prospectus

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Ministerial foreword

We've got lots of the essentials in place to get more houses built. We've got plenty of talented planners, developers, builders and crucially, plenty of demand.

Local authorities need to get on with the job, which is why this prospectus for Housing Zone funding will help them.

We want Housing Zones to be areas where we can speed up and simplify the process of house building on brownfield land through locally led partnerships.

London has already made a start with their prospectus, and the Mayor of London has described it as 'turbo-charging house building.' I want to see the same response to this challenge around England, whilst protecting our valued countryside.

There is enough brownfield land to deliver up to 200,000 new homes across the country. We need to seize this opportunity.

But this will only work with cooperation - partnerships between local authorities, government and developers with everyone making a contribution. Creating a "something for something" deal will deliver much needed new housing and breathe new life into our towns and cities.

And I want to build on what has already been achieved. In the last financial year planning permission was granted for 216,000 new homes in England. Housing starts are at their highest level since 2007 and we have already delivered more than 445,000 new homes since April 2010.

But we want to go further still. That's why we are now making £200 million of Housing Zones funding available across England, on top of the £200 million we've made available in London. This prospectus sets out how local authorities outside London can apply for brownfield land to be designated as a Housing Zone, working with a private sector developer.

You may already have a site in mind, or perhaps you think this is a great opportunity to ease housing pressures in your community. Whatever the reason, I hope you will put in an application for a Housing Zone and start to think about all it can help you achieve.



**The Rt Hon Eric Pickles MP,
Secretary of State for Communities and Local Government**

Introduction

1. The government has announced plans to create 30 Housing Zones on brownfield¹ sites across the country as part of our efforts to increase housing supply. This prospectus sets out more detail of the funding and bidding process to create Housing Zones outside of London. A London [Housing Zones prospectus](#) has been published by the Mayor of London and formally invites bids from London Boroughs.
2. Brownfield land can have a vital role to play in meeting the country's housing needs where the land is in an area of sufficient demand and is attractive to developers. We know that there is suitable brownfield land to accommodate planning permissions for up to 200,000 new homes². Schemes on this land could be ready to go but are being held back by the high upfront capital that is needed. This is where the availability of investment funding can unlock development. It is only by working in partnership – local authorities, private developers and central government - that we can take up the opportunity this provides to deliver the homes that are needed.
3. The introduction of Housing Zones is a chance to break down some of the barriers that are holding back development. Housing Zones are an opportunity for local authorities to set out a vision for the transformation of large brownfield sites locally, and through the support government is offering, take the lead in realising that vision in partnership with private sector developers. We want to see “something for something” deals with the local authority making a financial and/or resource contribution.
4. The best outcomes are delivered where partnerships between the public and private sectors are strong and both sides are committed to delivering change and finding new ways of working. This prospectus asks for local authorities and developers to come forward in partnership - local authorities are invited to submit expressions of interest which will request a Housing Zone is designated and contain a bid for funding from a private developer.
5. The Housing Zones programme offers the chance to unlock brownfield land that has the potential to deliver viable housing schemes through a combination of long term investment funding, planning simplification (e.g. local development orders), local authority leadership, dedicated brokerage support from central government and ATLAS planning support. Central government is making available £200m of recoverable investment funding for Housing Zones in England outside of London. Local authorities who submit successful proposals for Housing Zones will also have access to cheaper borrowing at the Public Works Loan Board's project rate for capital infrastructure expenditure relating to the Zone in 2014-15 and 2015-16. No decisions have yet been taken on the access to cheaper borrowing in subsequent years.

¹ Reference should be made to the definition of previously developed land in the National Planning Policy Framework

² Data based on local authority returns to the Department for Communities and Local Government in 2010 (National Land Use Database).

6. Investment funding will usually be in the form of a **loan** with an appropriate interest rate applied in accordance with the State Aid matrix (see Annex A for details), and applicants for funding should familiarise themselves with the HCA's 'Know Your Customer' requirements, which are detailed at Annex D. Other forms of investment, including equity, will be considered if necessary in order to maintain flexibility and enable bespoke packages of support to be developed where needed, provided the investment is state aid compliant.
7. Local authorities putting forward proposals for Housing Zones also have the opportunity to put forward a bid for the £5m [local development order incentive fund](#) and will benefit from the preference given to bidders who are participating in wider strategic initiatives.
8. Expressions of interest in establishing a Housing Zone are encouraged which include schemes that make use of offsite construction and different forms of custom-build homes. The government wants to help more people to build their own home and has launched a [Custom Build Serviced Plots Loan Fund](#) to help custom builders secure a suitable building plot for their projects. Housing Zones provide a real opportunity to facilitate different types of custom build housing at scale where there is local demand. A scheme can receive funding from both the Housing Zones fund and from the Custom Build Serviced Plots Loan Fund but the funding applications must be for different cost elements.
9. We particularly encourage expressions of interest to create Housing Zones on brownfield land in urban areas. DCLG brokerage support can be used to help resolve any specific issues that may exist on such sites.
10. Housing Zones can include more than one site and we would encourage local authorities and developers to think creatively about what sites may be suitable.
11. Local authorities are encouraged to consider whether site(s) they intend to bring forward as potential Housing Zones and which contain Housing Revenue Account land, may be strengthened by a separate bid to the [Housing Revenue Account Borrowing Programme](#) for additional borrowing flexibility to increase the supply of new affordable rent and affordable home ownership homes. A second round of bidding to this programme has recently been announced for schemes where additional borrowing is needed in 2016/17. The deadline for bids is 30 September. Enquiries about the Housing Revenue Account Borrowing Programme should be sent to HRABorrowing@communities.gsi.gov.uk
12. Funding for the Housing Zone programme will be available over three years (2015/16, 2016/17 and 2017/18). Subject to the expressions of interest received we *may* retain some of the investment funding for allocation at a future date.
13. This prospectus sets out the arrangements for local authorities to submit expressions of interest that (a) request that an area of majority brownfield land is designated as a Housing Zone and (b) include a bid for investment finance from private sector development partners to enable housing schemes to be unlocked or accelerated. We also welcome expressions of interest for sites to be designated as a Housing Zone

where the local authority considers that the site(s) can be developed without funding to a private sector development partner from central government.

14. This prospectus sets out the support package that is on offer to successful Housing Zones. In short the designation of a Housing Zone provides the following benefits:

- ***Access to Housing Zone recoverable investment loan funding of £200m to enable delivery of the infrastructure, including, where needed, demolition and land remediation work, which is needed to get house building underway and/or other site preparation works that will support economic growth. The use of funding, for example for schools, community facilities and energy infrastructure when they are needed to directly unlock house building will be considered (for which applications are sought through this prospectus).***
- ***Priority access to ATLAS expert planning and technical support and advice to help schemes progress from conception through to planning consent. More information on the range of support which ATLAS can provide is available on the [HCA's website](#).***
- ***Increased priority for bids to the local development order incentive fund***
- ***Successful schemes will also benefit from dedicated brokerage support from central government to help remove barriers that are preventing schemes from moving forward.***
- ***Local authority access to cheaper borrowing at the Public Works Loan Board's project rate for capital infrastructure expenditure relating to the Housing Zone in 2014-15 and 2015-16.***

15. Bidders are requested to confirm the specific package of tailored support that is required in their expression of interest.

Eligibility criteria

16. Expressions of interest will in most cases consist of two elements – a request from a local authority for an area to be designated as a Housing Zone and a bid for investment funding to be paid to one or a number of private sector development partners.

17. We will accept expressions of interest from local authorities who wish only to request a site or sites are designated as a Housing Zone, but do not require investment funding. In such cases the local authority will be expected to demonstrate how the Housing Zone will lead to accelerated housing development without investment funding, and provide details of the site(s) it intends to take forward.

18. Expressions of interest will not be accepted if specific sites have not been identified.

Element one – designation as a Housing Zone

19. To be eligible for designation as a Housing Zone a bid must comply with the following terms:

- Proposals for a Housing Zone must (except in exceptional circumstances which must be clearly justified) include a minimum of 750 housing units. Generally we would expect the size of Housing Zones to be between 750 to 2,000 units but there is no firm upper limit and so schemes of over 2,000 units are eligible to bid.
- A Housing Zone can consist of one or more sites. A clear rationale for combining the sites within one Housing Zone must be provided with the need to demonstrate strategic connections.
- The majority of the Housing Zone must be on brownfield land.
- The bid for designation must either (a) include a bid for investment funding from one or a number of private sector partners or (b) confirm that the local authority only wishes to apply for Housing Zone designation and provide a development proposition that will be delivered without government investment.
- Provide details of how the planning requirements for the Housing Zone will be implemented. This should set out how the planning process will be delivered at speed to support the development. This could be through a number of routes e.g. under planning performance agreements, outline planning permissions being in place or proposals to pursue local development orders. Local authorities are asked to confirm if they are submitting a bid to the £5m [local development order incentive fund](#) which relates to a Housing Zone proposal.
- The bid should also include reference to how good design will be achieved and proposals which include preparation of a design code are encouraged.
- Housing Zones must lead to the expeditious delivery of housing. There should be an accelerated build out rate proposed on site, taking account of the assessed need for new housing locally.
- Local authorities must be able to provide evidence that a robust plan for the delivery of housing is in place or (if funding is being sought) will be in place before funding is allocated.
- Demonstrate that the local authority has the capacity (resources and skills) to deliver the Housing Zone.
- Demonstrate that there is local support for a Housing Zone (e.g. the area is allocated for housing development in a neighbourhood plan or local plan).
- Local authorities can submit expressions of interest for more than one Housing Zone.

- Joint bids from two local authorities for a cross-boundary Housing Zone will be considered. Such expressions of interest should identify the lead local authority who should submit the bid.

Element two – application for investment funding

20. To be eligible for funding as a Housing Zone a bid must comply with the following terms:

- Be submitted as part of an eligible bid from a local authority for an area to be designated as a Housing Zone and contain confirmation from each private sector development partner that the organisation is submitting a request for investment funding.
- Funding will be provided on a recoverable basis (with funds returned to the Homes and Communities Agency). An appropriate rate of interest will be applied (see Annex A for details).
- Appropriate security for the investment should be in place.
- All investments will have to be State Aid compliant.
- Funding requests must be for capital expenditure in infrastructure (which can include demolition and land remediation work which is needed to get house building underway) and/or other site preparation works that will support economic growth. The use of funding in other areas such as for schools, community facilities and energy infrastructure when they are needed to directly unlock house building will be considered.
- Private sector development partners must confirm that the project is fundamentally viable; they can support the repayment and have the consent of any existing lenders to access additional finance from this fund.
- Total public funding (including funding from other public sources) for each scheme that the infrastructure is serving must be below 50% of total project costs across the life of each scheme.
- The private sector development partner must be able to demonstrate a robust delivery plan as part of their investment proposal. This should include showing how additional funding will accelerate development beyond the normal anticipated rate of development.
- Schemes must ultimately lead to the development of housing, with the link between the works to be funded and the ultimate delivery of housing made clear through the investment proposal.
- The private sector development partner must demonstrate that they have the capacity (resources and skills) to deliver each scheme.

21. Expressions of interest must be submitted to the Homes and Communities Agency by noon 3 October 2014. Expressions of interest will be considered and prioritised by the Homes and Communities Agency in line with the criteria detailed in this prospectus.

How will eligible schemes be prioritised?

22. Schemes which satisfy the stated eligibility criteria will be prioritised as follows.

Requests for designation as a Housing Zone

23. Expressions of interest for designation as a Housing Zone will be prioritised based on the following:-

- a) The extent to which designation as a Housing Zone will accelerate housing delivery and maximise regeneration opportunities.
- b) The percentage of the Housing Zone on brownfield land.
- c) Commitment to delivering high quality housing quickly, including through offsite construction, and innovative approaches to delivery, such as through custom build and use of design codes.
- d) Alignment with local priorities for housing and economic growth.
- e) Evidence of a “something for something” deal where the local authority is also making a financial and/or in kind contribution, for example land, to the Housing Zone.

24. Where a bid for designation as a Housing Zone is submitted alongside a capital bid, decisions on both bids will be aligned. An area will not be designated as a Housing Zone if a bid for funding is submitted and is not successful, or the sites put forward are not considered viable.

Housing Zones Fund

25. Expressions of interest for funding will be assessed on a site basis and prioritised based on the following:-

- a) The clarity of the link between the requested investment in infrastructure and homes delivered.
- b) The greatest prospects of quantified early delivery.
- c) The greatest acceleration of housing delivery.
- d) The impact in terms of amount requested and number of homes delivered.
- e) The greatest prospects of investment recovery with an identified repayment mechanism in place.
- f) The capacity (resources, skills) of the provider(s) to deliver the project, and the knowledge of the provider(s) of site issues.

26. The Homes and Communities Agency will consider its overall exposure on a portfolio level during the prioritisation of requests for funding and reserves the right to manage this exposure accordingly.

Housing Zone funding – further information and the assessment process

Expression of interest stage

27. Bids for Housing Zones designation and capital loan finance must be submitted by noon 3 October 2014 using the online expression of interest form available through the Homes and Communities Agency [Partner Portal](#). Applicants must be able to demonstrate clearly that they can meet the requirements set out in this prospectus, and indicate the amount of funding they are bidding for. **Capital funding will only be made available to private sector partners.**
28. Any expression of interest for capital funding on each scheme must be submitted by a local authority on behalf of a private sector development partner as part of their request to be designated as a Housing Zone. We would expect evidence of demonstrable support for the scheme from local communities.
29. A local authority can put forward multiple bids and a private sector developer can be a partner to more than one bid (with the same or different local authorities). Each bid must individually comply with the criteria and requirements set out in this prospectus. Applicants should note that the Homes and Communities Agency will be seeking to manage exposure at a portfolio level and the Agency's decision is final.

Shortlisting stage

30. The Homes and Communities Agency will assess applications for Housing Zone status as detailed in the prospectus, with the designation of a Housing Zone determined jointly by the Agency and the Department for Communities and Local Government in line with the prioritisation criteria. Bids for funding will be assessed by the Homes and Communities Agency against the requirements set out in this prospectus, with bids prioritised in line with the above stated prioritisation criteria.

Due diligence stage

31. All shortlisted schemes which include a bid for investment funding will then undergo a technical due diligence review carried out by the Homes and Communities Agency to test value for money of the proposition and the ability of the bidder to pay back the loan. Applicants will need to satisfactorily complete the due diligence process and demonstrate that their scheme offers the best value against the investment criteria before funding is awarded. This includes an initial due diligence process that will confirm that the shortlisted bids are able to meet the programme investment parameters. Each bid will be required to go through this process before detailed due diligence commences.
32. The due diligence review will, in broad terms, consider the following:-
 - What **alternative sources of funding have been explored?**

- The **level of funding** that is appropriate – consideration will be given to the minimum amount of public funding necessary for the scheme to get under way and might be less than the funding sought. It is expected that the private sector will be funding other scheme costs and, other than in exceptional circumstances, total public funding (including funding from other public sources) will comprise a maximum 50% of project costs.
- Appraise the scheme's **financial, commercial and market position** and its ability to generate income to pay back the investment at a later date.
- The **ability of the loan recipient to re-pay the loan and interest** – it is a requirement that all loans will be repaid with interest. An assessment will be made of the ability to deliver against an agreed start on site, house sales programme and re-payment schedule to correspond with this. Clear recovery schedules will be put in place with a longstop payment date by which point the loan is expected to be paid back in full. The terms of the loan will reflect sensible commercial expectations for site build out.
- The **private sector development partner's financial standing** – bids will be expected to provide up to date accounting and other financial information and an assessment will be made of the private sector development partner's track record of paying back investments along with their overall credit rating.
- The **level of loan security** required – loans will not be given without appropriate security being in place to assure its re-payment. Examples include a legal charge, parent company guarantee, performance bond or personal guarantee.
- The **deliverability** of both the infrastructure and the wider project over the required timescales.
- The **legal due diligence** will include, as a minimum, the provision by the private sector development partner of a fully completed Certificate of Title. (This requirement will also apply to the local authority if local authority land is included within the proposed Housing Zone). This will be required for the site(s) (in its entirety) that the funding is to be provided for and any other site(s) over which the Agency is to receive security. Private sector development partners should also be prepared to provide details of any other senior lending at the beginning of the due diligence process.
- Private sector development partners should note that, if shortlisted, they will be required to provide the certificate of title and detailed information regarding any existing finance arrangements in the first instance.

'Know Your Customer' requirements:

33. The Homes and Communities Agency will require sufficient information to satisfy its 'Know Your Customer' requirements. This includes, but is not limited to, the provision of appropriate financial accounts and evidence of any funding lines available to the private sector development partner. Where the private sector development partner is a consortium the Agency will require full details of the consortium structure and accounts information for each of the consortium members. Further details on the initial information that will be required at due diligence are included at Annex D.

34. A due diligence pack will be issued to all shortlisted private sector development partners which will contain greater detail than summarised here.

Contract stage

35. Schemes that pass the due diligence stage will enter into formal negotiations to contract terms before finance is issued.

36. The interest rate on any loan will be calculated with reference to the European Commission Reference rate plus a margin calculated on the basis of an assessment of creditworthiness and collateralisation. The Homes and Communities Agency will consider the interest rate that can be offered for a loan based on individual project circumstances at the due diligence stage (see Annex A). This will take into account the credit rating of the private sector development partner and the level of security being offered for the loan.

Management and Monitoring

37. A number of reporting obligations will be included within the contract to allow the appropriate monitoring of the investments. This shall include scheme specific financial and delivery related information, typically on a monthly basis. In addition, corporate level information may be required from the contracting parties throughout the term of the investment.

Who do I submit my application to?

38. Applications are to be submitted online via the Homes and Communities Agency [Partner Portal](#).

39. All expressions of interest covering both requests for designation as a Housing Zone and bids for funding should be submitted to the Homes and Communities Agency by noon 3 October 2014 using the guidance in the annexes. The expression of interest form must be accompanied by an Outline Delivery Plan to provide detail on the overall ambitions and delivery structure for the Housing Zone. In addition, an Investment Proposal should be attached outlining the delivery plan for the sites for which funding is requested, with a Development Proposal used for sites where funding is not being requested.

40. Further information is included at annex B, and template documentation will be made available on [GOV.UK](#). These documents must be completed as appropriate and uploaded for submission via the partner portal (see application guidance for further details).

41. Guidance on the application process and completing your online submission will be made available on [GOV.UK](#).

Further information

42. For further information, please contact the Homes and Communities Agency at: Housing.Zones@hca.gsi.gov.uk or visit and search for Housing Zones at [GOV.UK](https://www.gov.uk).

Interest rates for loans

Based on European Commission guidance on calculating a “market rate” margin and the current European Commission Reference rate (0.88% at 01/04/14) as a variable base rate, loans can be offered at initial rates of interest from 1.48% to 10.88% (please see the matrix below). This is based on our assessment of the creditworthiness of the bidder and the collateral offered

Collateralisation		High	Normal	Low
Credit Worthiness	Strong	1.48	1.63	1.88
	Good	1.63	1.88	3.08
	Satisfactory	1.88	3.08	4.88
	Weak	3.08	4.88	7.38
	Financial Difficulties	4.88	7.38	10.88

These rates are illustrative and represent the minimum rates available depending on the categorisation of creditworthiness and collateralisation at the time of publication. Final offered rates may be in excess of those illustrated dependent on individual circumstances.

Creditworthiness

Where private sector development partners have a rating from a recognised credit rating agency this will be used. Where the private sector development partner does not have an external rating, its creditworthiness will be reviewed at due diligence. This involves an assessment of the private sector development partner’s financial standing and the risks associated with lending to that business - likelihood of default (encompassing both capacity and willingness to pay) is an important factor. Considerations may include:

- Financial analysis - profitability, net asset position/balance sheet strength, gearing, etc.
- Assessment of the trading history/development experience of a borrower - evidence of a “track-record” of delivery.
- The ability of the borrower to service the loan (interest and capital when required under the legal agreements) in the context of its existing commitments.
- Accounts, credit-checks, references - leading to an overall profile of a borrower.
- Benchmarking against peer companies.

Collateralisation

This considers the security offered for the loan and the amount that the lender could expect to lose in the event of default. This will involve an assessment of the amount that could be recovered from the project, the security offered and also from the private sector development partner’s balance sheet. We will require satisfactory demonstration of ability

to repay the loan from the scheme cash flow and adequate security (supporting the level of proposed borrowing) to minimise its loss in a default scenario (e.g. a legal charge, parent company guarantee, performance bond, personal guarantee).

Shortlisted bids which clearly demonstrate satisfactory ability to repay the loan along with offering appropriate security will be treated as having “Normal” collateralisation. Should the collateral offered justify a different categorisation, this will be taken into consideration in the interest rate offered.

Expression of interest - evidence required for local authority bids for Housing Zone designation

Applicant information:

- Submitting organisation contact details (if applicable)
- Applicant name and full contact details
- Confirmation that prospectus has been read and understood
- Details of other Housing Zone applications being made (if applicable)

Housing Zone information:

- Local Authority area(s)
- Number of sites
- Confirmation of rationale for combination of sites
- Confirmation that delivery will be accelerated and that evidence is provided
- Number of homes
- Support required
- Confirmation of local authority capacity to deliver
- Indication of local authority contribution
- Confirmation that the Housing Zone is supported locally and that evidence is provided
- Confirmation of position regarding planning simplification and permissions
- Confirmation of position regarding a Local Development Order (LDO)
- Indication of support requests from the LDO Incentive Fund, Custom Build Serviced Plots Loan Fund or Housing Revenue Account Borrowing Programme
- Confirmation of robust delivery plan
- Confirmation of commitment to quality, innovation and design.

Site level information:

- Site name
- Site area (ha)
- Percentage of site on brownfield land
- Number of homes
- Percentage of units that will be Custom Build
- Percentage of units that will be off-site manufacture
- Confirmation of whether Investment Finance is being requested

- For those sites where funding is not requested, confirmation that a Development Proposition is provided giving details of how accelerated housing delivery can be achieved without government investment.
- Lead developer
- Lead developer's control over land (including name of freehold owner if not lead developer)
- Postcode
- XY co-ordinates (easting and northing)
- Local Authority area
- Confirmation of site plan
- Confirmation of any Housing Revenue Account land
- Confirmation of viability
- Details of planning status
- Start on site and build out rates both with and without Housing Zone support
- Confirmation that evidence of delivery acceleration is provided

Attachments:

All applications for Housing Zone designation should be accompanied by an **Outline Delivery Plan**. This document should set out the overarching rationale and objectives of the Housing Zone, including the headline strategic link between the sites included within it. A template will be made available at [GOV.UK](https://www.gov.uk)

For each site within the Housing Zone, applicants should attach a **site plan** and either a Development Proposal (if no funding is requested) or an Investment Proposal (if funding is required).

A **Development Proposal** should provide further detail on the sites for which investment finance is not required but which are included within the Housing Zone given they can be accelerated through other elements of the support package. The Development Proposal will need to demonstrate the viability of the sites and the plans for delivery. A template will be made available at [GOV.UK](https://www.gov.uk)

Further information regarding Investment Proposals can be found in Annex C.

If you have indicated that **Public Works Loan Board Project Rate** financing will be required, please attach the completed proforma. A template will be made available at [GOV.UK](https://www.gov.uk)

Expression of interest - evidence required for Housing Zones funding

For sites where funding is requested, in addition to the information listed at Annex B, applicants will also need to provide the following:

Financial information:

- Confirmation that an Investment Proposal is provided
- Confirmation that the development is viable, can support repayment of the fund and has the consent from existing lenders to access additional finance from this fund.
- Proposed funding recipient
- Confirmation that the proposed funding recipient is a private sector body
- Details of other government funding, previous or pending
- Drawdown profile
- Repayment profile

Attachments:

For sites where funding is requested, applicants should provide a **site plan** and an **Investment Proposal**. This should provide further detail on the sites for which investment finance is being requested. It will need to demonstrate the viability of the site, the plans for delivery and further detail relating to the required investment. A template will be made available at [GOV.UK](https://www.gov.uk).

Due diligence - know your customer requirements

The following is provided for information, and indicates the information which will be required should a scheme be shortlisted and enter into due diligence.

In the cases of a single private sector development partner:

- Latest audited financial accounts for the private sector development partner (full accounts rather than abbreviated)
- Management or draft accounts where the audited accounts are more than six months old
- Latest audited financial accounts for the private sector development partner's ultimate parent company (full accounts rather than abbreviated)
- Details of any events occurring since the last audited accounts that have a material effect on the understanding of the private sector development partner's, or its wider group's, financial standing, including but not limited to change of control or ownership, corporate re-financing, significant acquisitions, disposals or closure of subsidiaries or business units and potential contingent liabilities including litigation. If none of these apply then a statement confirming that fact
- Evidence of funding lines available to the bidder, including up to date details of headroom within facilities and undrawn facilities
- Where it is proposed that funding will be introduced from related parties then similar information in relation to headroom and undrawn facilities
- Identity of proposed guarantor(s) (if applicable)
- Confirmation of the ownership of the site.

In the case of consortia bids:

- Details of the legal status of the private sector development partner (examples include joint venture company, partnership, limited liability partnership, limited partnership)
- Details of the names of consortium members, structure of the consortium and roles of each consortium member

- For existing joint venture vehicles the latest audited financial accounts for the bid vehicle (full accounts rather than abbreviated)
- Management or draft accounts where the audited accounts are more than six months old.
- In the case of newly formed joint venture vehicles details of the structure of the opening balance sheet, including details of partner's proposed equity and stakeholder loan investments
- Latest audited financial accounts for each of the consortium members (full accounts rather than abbreviated)
- In respect of the bid vehicle and each consortium member details of any events occurring since the last audited accounts that have a material effect on the understanding of the bidder's, or its wider group's, financial standing, including but not limited to change of control or ownership, corporate re-financing, significant acquisitions, disposals or closure of subsidiaries or business units and potential contingent liabilities including litigation. If none of these apply then a statement confirming that fact
- Evidence of funding lines available to the private sector development partner, including up to date details of headroom within facilities and undrawn facilities
- Similar information in relation to the funding lines available to each consortium member
- Where it is proposed that funding will be introduced from related parties then similar information in relation to headroom and undrawn facilities
- Identity of proposed guarantor(s) (if applicable)
- Confirmation of the ownership of the site.

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Housing Select Committee			
Title	Update on Approved Designation of the Additional Licensing Scheme for Housing in Multiple Occupation (HMO's)		
Key decision	Yes	Item no	7
Wards	All		
Contributors	Executive Director for Customer Services		
Class	Part 1	25 October 2016	

Reasons for lateness and urgency

This report is late due to the need to ensure Housing Select Committee receive the most up to date information regarding the Additional Licensing Scheme. It is urgent as there is no other occasion for Committee to consider the report attached in Appendix 1 prior to it being considered by Mayor and Cabinet on 9th November 2016.

1. Purpose and Summary

- 1.1 The purpose of this report is to ask the Housing Select Committee to note the report attached as Appendix 1 for Mayor & Cabinet on November 9 2016.
- 1.2 Appendix 1 seeks to clarify the designation approved by Mayor and Cabinet on 2 March 2016. The title and body of the report stipulated the requirement that the additional license scheme would include HMOs above and below commercial premises; however the recommendations agreed above only. The intention is that the additional licensing scheme covers HMOs above commercial dwellings only, which is in line with the statutory consultation.

2. Recommendations

- 2.1 The Housing Select Committee is recommended to note the recommendations of the report Appendix 1.

3. Financial implications

- 3.1 The financial implications are laid out in section 8 of Appendix 1.

4. Legal implications

- 4.1 The legal implications are laid out in section 9 of Appendix 1.

5. Crime and disorder implications

- 5.1 There are no specific Crime and Disorder implications arising from this report.

6. Equalities implications

6.1. An Equalities Analysis Assessment has been carried out.

7. Environmental implications

7.1 There are no specific environmental implications arising from this report.

8. Conclusion

8.1. Following the subsequent implementation of the original plan being put into place there have been several enquiries from Landlords, Landlord Associations, Letting Agents and other London Boroughs as to the exact meaning of the stated designation.

8.2. In light of this, officers wish to clarify the types of properties to which the designation order will apply, namely all Houses in Multiple Occupation (HMO's), above commercial premises shall be captured in this designation.

9. Background documents and originator

9.1. Appendix 1 – Mayor and Cabinet report 9 November 2016.

9.2. If you require further information about this report please contact Antoinette Stasaitis on 0208 314 9340 or Andy Grant on 0208 314 9248.

MAYOR AND CABINET			
Title	Private Rented Sector: Additional Licensing Scheme for Houses in Multiple Occupation above commercial premises		
Key decision	Yes	Item no	
Wards	All		
Contributors	Executive Director of Customer Services		
Class	Part 1	9 November 2016	

1 Purpose

- 1.1 The purpose of this report is to clarify the discrepancy between the title of the report that was presented to Mayor and Cabinet on 2 March 2016; specifically, the title and the contents of paragraph 1.1, both of which included the term “and below” commercial premises and the subsequent recommendations which were approved which only included those “above” commercial premises. This will protect the Council against potential legal challenge.

2 Background

- 2.1 The overarching aim of the scheme of additional licensing throughout the borough is to generally improve the standards in the private rented sector and extend the principles already in use through the mandatory licensing scheme so as to improve fire safety, repair and management standards in order that properties comply with legal minimum standards required in the private rented market.
- 2.2 On 2 March 2016 Mayor and Cabinet received a business case to introduce the “additional” licensing scheme which was agreed at that meeting. (Appendix 1) <http://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=139&MId=3868&Ver=4>
- 2.3 On 22 March 2016 Licensing Supplementary Committee approved the fees to be applied to the scheme. (Appendix 2) <http://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=170&MId=3826&Ver=4>
- 2.4 Following the subsequent implementation of the original plan there have been several enquiries and clarifications sought from a variety of stakeholders including some Landlords, Landlord Associations, Letting Agents and other London Boroughs on the stated designation of properties to be licensed under the scheme. Without full clarification the Council may be open to legal challenge.

- 2.5 In light of this, officers wish to clarify the types of properties to which the designation order will apply, namely, only those Houses in Multiple Occupation (HMOs) above commercial premises shall be captured in this designation.
- 2.6 This will require a further statutory publication as the original Public Notice incorrectly included HMOs below commercial premises.

3 Recommendation

- 3.1 It is recommended that the Mayor:
- 3.2 Confirms the designation of an additional licensing scheme for Houses in Multiple Occupation (HMOs) so as to include those which are above commercial premises in the whole of the Council's area using the power set out in Section 56 (1) of the Housing Act 2004.
- 3.3 Delegates to the Executive Director for Customer Services to publish the 3 month Statutory Notices for the scheme as part of the statutory implementation demands.
- 3.4 Agree that the Executive Director for Customer Services, with the relevant portfolio holder, be authorised to review the scheme, its implementation and resourcing and make amendments as necessary so as to ensure the principles of the scheme are achieved.
- 3.5 Note the change in fine levels applicable to the scheme.

4 Policy context

- 4.1 The housing landscape is rapidly changing and demand is increasing across all tenures. The private rented sector in Lewisham is growing rapidly – having doubled in size since 2001 it now consists of more than 30,000 units and makes up more than 25% of all households. This is consistent with the trend across London where the growth in private renting over the decade to 2011 constitutes a 65.5% increase, or an additional 341,000 households.
- 4.2 Despite the increasing costs of private renting, the sector is expected to grow further in Lewisham to a level comparable with or even in excess of the social rented sector which is 31% based on 2011 census data. This is due in part to the relative unaffordability of home ownership as a result of rapidly increasing house prices, the large numbers of households on the housing waiting list (9381 households as of September 2016) and relatively low levels of social rented lets, all of which when combined means that Lewisham residents are more reliant on the private rented sector than ever before. The council recognises this and

continues to act creatively by developing relationships and working in close partnership with private landlords to drive up standards and offer longer term tenancies, thereby ensuring residents have more choice. This is especially pertinent given that private renting remains the only option for many low income households and those in need.

4.3 A series of reports to Housing Select Committee and Mayor and Cabinet between December 2014 and July 2015 explained the options and evidence for licensing. The findings showed that the poorest standards, conditions, hazards and services in the private rented sector are to be found in properties over commercial properties.

4.4 Based on these findings, it was concluded that an “additional” licensing scheme for HMOs above commercial premises:

- Will help deliver the housing authority’s strategic private sector housing policies;
- Is founded on quantitative evidence of problems created by poor private sector housing management;
- Is founded on evidence that licensing will sustainably assist with addressing the problem;
- Is the best solution to address the problem;
- Must operate for no more than five years and must be kept under review; if the exercise has achieved its objectives, it should be discontinued.

5 Government changes since consultation initiated

5.1 It should be noted that recent changes in legislation now mean that the fine level for the operation of an unlicensed HMO has changed from a maximum of £20,000 to an unlimited fine.

6 Lewisham’s consultation process

6.1 The council followed the statutory requirements for consultation on its proposed additional licensing scheme and these are detailed in the report of 2 March 2016.

7 Next steps

7.1 The decision of the Mayor to approve the designation needs to be given effect by means of adherence to Statutory Timescales. This requires the republication of Public Notices to comply with the prescribed regulations.

7.2 A detailed project plan for implementation has been prepared incorporating the publication of a Statutory Notice for a required 3 months period along with the measures needed to comply with the other requirements of the Licensing and Management of Houses in Multiple Occupation and other Houses (Miscellaneous Provisions) (England) Regulations 2006.

8 Financial implications

- 8.1 The Council is required to set a licensing fee that covers the cost of the licensing element of the service.
- 8.2 To that end, the costs of additional licensing are budgeted to be fully covered by the £500 fee approved on 22 March 2016 by the Licensing Supplementary Committee, after taking into account the application of discounts and maximum fees.
- 8.3 An additional budget of £1m spread over the five years of the scheme was approved as part of the budget setting process for 2016/17 to cover the cost of enforcement activities relating to the scheme

9 Legal Implications

- 9.1 Pursuant to s. 56(1) of the Housing Act 2004 (“HA 2004”), “a local housing authority may designate either (a) the area of their district, or (b) an area in their district, as subject to additional licensing” in relation to HMOs specified in the designation.
- 9.2 The proposed designation must be consistent with the authority’s overall housing strategy. (s. 57 HA 2004.)
- 9.3 As soon as the designation is made by the local housing authority, the authority must publish it in accordance with the provisions of s. 59 HA 2004 and the authority is obliged to review the operation of the designation.
- 9.4 HMOs for the purposes of s. 56 of the HA 2004 are widely defined (in accordance with the provisions of s. 254(1) HA 2004), as a building or part of a building if it meets any one of the following conditions and described in the HA 2004 as being “ the standard test”,(defined fully within s. 254(2)HA 2004) or ‘the self-contained flat test’, (defined fully within s. 254(3) HA 2004) ‘the converted building test’, (defined fully within s. 254(4) HA 2004, or a ‘converted block of flats’(pursuant to s. 257 HA 2004).
- 9.5 The local housing authority pursuant to s. 63 of the HA 2004 has the power to impose a requirement for applicants for these licences to pay a fee. When fixing fees, the local housing authority may take into account all costs incurred by them in carrying out their related functions.
- 9.6 The European Convention on Human Rights states in Article 8 that “Everyone has the right to respect for his private and family life, his home and correspondence”. The Human Rights Act 1998 incorporates the Convention. Whilst it does not, however, necessarily mean that everyone has an immediate *right* to a home, (because Article 8 is a “qualified” right and therefore is capable in certain circumstances, of being lawfully and legitimately interfered with,) the provision by an Authority of a relevant scheme such as an HMO additional licensing scheme does assist to reinforce the Article 8 principles

- 9.7 The Equality Act 2010 (the Act) introduced a public sector equality duty (the equality duty or the duty). It covers the following protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 9.8 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 9.9 It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed at 9.8 above.
- 9.10 The weight to be attached to the duty will be dependent on the nature of the decision and the circumstances in which it is made. This is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. The Mayor must understand the impact or likely impact of the decision on those with protected characteristics who are potentially affected by the decision. The extent of the duty will necessarily vary from case to case and due regard is such regard as is appropriate in all the circumstances.
- 9.11 The Equality and Human Rights Commission has issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>
- <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-technical-guidance>
- 9.12 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- [The essential guide to the public sector equality duty](#)
- [Meeting the equality duty in policy and decision-making](#)
- [Engagement and the equality duty: A guide for public authorities](#)
- [Objectives and the equality duty. A guide for public authorities](#)
- [Equality Information and the Equality Duty: A Guide for Public Authorities](#)

9.13 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:
<https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-guidance#h1>

10 Crime and disorder implications

10.1 No specific crime and disorder implications have been identified as arising from this report

11 Equalities implications

11.1 An Equalities Analysis Assessment has been carried.

12 Environmental implications

12.1 No specific environmental implications have been identified as arising from this report.

13 Background documents and report originator

Appendix 1: Mayor and Cabinet report dated 2 March 2016: Private Rented Sector: Proposed Additional Licensing Scheme for Houses in Multiple Occupation above/below commercial premises

<http://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=139&MId=3868&Ver=4>

Appendix 2: Licensing Supplementary Committee report dated 22 March 2016 approval of fees

<http://councilmeetings.lewisham.gov.uk/ieListDocuments.aspx?CId=170&MId=3826&Ver=4>

If you require further information about this report please contact Antoinette Stasaitis on 0208 314 9340 or Andy Grant on 0208 314 9248

MAYOR AND CABINET			
Title	Private Rented Sector: Proposed Additional Licensing Scheme for Houses in Multiple Occupation above/below commercial premises		
Key decision	Yes	Item no	
Wards	All		
Contributors	Executive Director Customer Services		
Class	Part 1	2 March 2016	

1 Purpose

- 1.1 This report seeks approval to extend the principles of the mandatory licensing scheme currently operated by the London Borough of Lewisham, through the introduction of an additional licensing scheme to Houses in Multiple Occupation (“HMO”s) above or below commercial premises as defined by the Housing Act 2004. Housing Bill

2 Background

- 2.1 The overarching aim of the scheme of additional licensing throughout the Borough will be to extend the principles already in use through the mandatory licensing scheme so as to improve fire safety, repair and management standards in order that properties comply with legal minimum standards required in the private rented market.
- 2.2 On 15 July 2015 Mayor and Cabinet received a business case to introduce the “additional” licensing scheme which was accepted in principle and officers were asked to undertake statutory public consultation on the proposals as presented, in line with the current statutory requirements and to report back the findings of the consultation later in the year.
- 2.3 On the 1 December 2015 the case for introducing “additional licensing” was considered and supported by the Housing Select Committee.
- 2.4 The Housing Act 2004 provides a definition of a ‘house in multiple occupation’ to include:
- Shared houses where people live as a group but are not a family group
 - Traditional bedsit type houses where tenants have their own room or rooms but share something like a bathroom or kitchen
 - Houses occupied by the owner (residential landlord) plus two or more

lodges or house shares

- Mixtures of rooms and flats in a house – as long as there is some sharing
- Flats that are let out to some sharers, 3 or more
- Hostels, projects and other residential uses that involve adults sharing living space (but not if the property is owned or managed by a Registered Social landlord)
- Houses converted into self-contained flats where they do not meet the requirements of the 1991 Building Regulations, and at least one third of the flats are occupied under short hold tenancies.

2.5 The full definition can be found in the Housing Act 2004, sections 254 to 260 and schedule 114.

3 Recommendations

It is recommended that the Mayor:

- 3.1 Approves the designation of an additional licensing scheme for Houses in Multiple Occupation (HMOs) above commercial premises in the whole of the Council's area using the power set out in Section 56 (1) of the Housing Act 2004.
- 3.2 Note the statutory consultation undertaken on the proposed Additional Licensing scheme as required by Section 56 (3) of the Housing Act 2004.
- 3.3 Note that the proposed fee for Licenses will be put to Supplementary Licensing Committee for approval. The fee level being recommended for both the new additional licensing scheme and mandatory licences will be £500 "per let unit" over the five year term. A maximum threshold of £5000 for each property is proposed where there are 10 lettings or more per landlord, subject to discounts as set out in section 12.
- 3.4 Agree to the principle of the publication of an online register of landlords who are licensed by the Council
- 3.5 Delegate to the Executive Director for Customer Services to prepare a detailed project plan for implementation beginning May 2016 and publish the 3 month Statutory Notice for the scheme as part of the implementation
- 3.6 Agree that the Executive Director for Customer Services, with the relevant portfolio holder, be authorised to review the scheme, its implementation and resourcing and make amendments as necessary so as to ensure the principles of the scheme are achieved.

4 Policy Context

- 4.1 The housing landscape is rapidly changing and demand is increasing across all tenures. The private rented sector in Lewisham is growing rapidly – having doubled in size since 2001 it now consists of more than 30,000 units and

makes up more than 25% of all households. This is consistent with the trend across London where the growth in private renting over the decade to 2011 constitutes a 65.5% increase, or an additional 341,000 households.

- 4.2 Despite the increasing costs of private renting, the sector is expected to grow further in Lewisham to a level comparable with or even in excess of the social rented sector which is 31% based on 2011 census data. This is due in part to the relative unaffordability of home ownership as a result of rapidly increasing house prices, the large numbers of households on the housing waiting list (9,253 households as of January 2016) and relatively low levels of social rented lets, all of which when combined means that Lewisham residents are more reliant on the private rented sector than ever before. The council recognises this and continues to act creatively by developing relationships and working in close partnership with private landlords to drive up standards and offer longer term tenancies, thereby ensuring residents have more choice. This is especially pertinent given that private renting remains the only option for many low income households and those in need.
- 4.3 A series of reports to Housing Select Committee and Mayor and Cabinet between December 2014 and July 2015 explained the options and evidence for licensing. The findings showed that the poorest standards, conditions, hazards and services in the private rented sector are to be found in properties over commercial properties.
- 4.4 Based on these findings, it was concluded that an “additional” licensing scheme for HMOs above commercial premises:
- Will help deliver the housing authority’s strategic private sector housing policies;
 - Is founded on quantitative evidence of problems created by poor private sector housing management;
 - Is founded on evidence that licensing will sustainably assist with addressing the problem;
 - Is the best solution to address the problem;
 - Must operate for no more than five years and must be kept under review; if the exercise has achieved its objectives, it should be discontinued.

5 Government Changes since consultation initiated

- 5.1 There are additional measures relating to the regulation of the Private Rented Section in the Housing and Planning Bill which is currently before Parliament. It also carried out a consultation on extending mandatory licensing and is currently considering the responses.

6 Lewisham’s Consultation process

- 6.1 The council followed the statutory requirements for consultation on its proposed additional licensing scheme which included the following elements:

- Consultation document and on-line survey on Lewisham website for 12 weeks from 1st September to 24th November (10 weeks statutory min);
- Mail shot of over 4000 letters to all addresses with combination of commercial and residential, with invitation to public meeting, summary of the proposal and link to website;
- Public meeting 15th September 40 attendees;
- Emails to subscribers to Lewisham Life magazine with links to the consultation document on the council website;
- A written briefing note to Ward Assembly meetings;
- Details of the proposed scheme sent to organisations including the National Landlord Association, the Residential Landlords Association, Generation Rent, London Property Licensing.co.uk and neighbouring boroughs to publicise via their websites.
- Hard copies of the proposal and consultation available at Laurence House Customer Access Point;

6.2 Responses received are set out in detail in Appendix I. In summary there were:

- 136 on-line responses
- Four detailed responses from organisations (NLA, CAB, LB Lambeth and RLA)
- The majority of responses came from residents of the borough, the following key characteristics were;
Largest group of respondents were owner-occupiers, about 40% of whom were private landlords
- Slightly more of the respondents were private tenants than private landlords (56% vs. 44%)
- More than half the landlords let only one property, only 3% have portfolios over 10 properties

7 Views expressed

7.1 The consultation focused on 5 key areas set out below. The purpose of this type of licensing is to protect the interests of private tenants. Whilst the opinions of private landlords are very important both landlord and tenant opinion must be considered carefully. In all similar licensing consultations it is generally the case that tenants have an interest in licensing whilst private landlord opinion is likely to be at best mixed; historically landlord representative bodies have positioned themselves in opposition to greater regulation.

7.2 The headlines from the responses, analysed by landlords and tenants show a high degree of consensus on general principles, with increasing differentiation between landlords on the one hand and tenants on the other, following the predictable lines set out in paragraph 7.1 above:

7.3 “More properties for private rent should be licensed”: this question showed the strongest positive agreement and biggest consensus; this included a quarter of the private landlords. No private landlords disagreed with the statement

7.4 “Licensing improves conditions”: a large majority agreed with this statement,

including just under a third of private landlords, though 21% disagreed with the statement

- 7.5 “It is right to target flats (HMOs) above commercial premises” 60% agreed though private landlords were divided on the question with only one quarter of them agreeing. 90 % of tenants were in agreement
- 7.6 Proposed standards to be met for a license: a small majority felt standards proposed are about right, but 28% who were overwhelmingly private tenants, felt the standards were not tough enough. Just under half of landlords considered them too tough.
- 7.7 On the proposed fee of £100- £110 pa (£500 for a five year license) : opinion was most divided on this question; a small majority favoured the fee being at least the proposed sum but more than two thirds of landlords thought the fee too high

8 Qualitative feedback, suggestions and challenges posed:

- 8.1 Qualitative feedback was received from the following organisations:
- 8.2 The National Landlord’s Association branch in Greenwich and Lewisham were strongly in support of the scheme and see this as a positive opportunity to campaign for more small landlords to gain accreditation;
- 8.3 CAB – the CAB nationally strongly support extending licensing to more of the private rented sector; the local branch have a small research team who have been studying problems in the private rented sector and told us that there was no evidence of more people from over shops complaining;.
- 8.4 The following suggestions were made and will be incorporated into the scheme:
- The scheme should refer to use of Interim Management Orders
 - The Council should impose specific higher limits on size of bedsits if cooking facilities are included and stipulate minimum refrigerator size
 - The Council should require annual inspections by qualified surveyors
 - Tenant accreditation should be offered to those who can’t get a reference
 - Set out which bodies are accepted for landlord accreditation
 - HMOs below shops should also be included
- 8.5 Other suggestions received were impermissible under the Housing Act 2004.

9 Consultation Summary

- 9.1 Even allowing for the differing interests of private landlords and tenants, the overall opinion is strongly in favour of extending private sector licensing and broad agreement that HMOs over commercial premises is the target for additional licensing in the borough.
- 9.2 Private landlords tend to the view that our proposed license conditions are a bit

too tough and the proposed fee too high, whilst private tenants expressed a stronger view the conditions were not tough enough and the fee too low; the overall opinion has a majority opinion that conditions are about right or not tough enough and the fee about right or too low.

- 9.3 Those respondents who wanted tougher license conditions identified a number of additional conditions which are listed under paragraph 8.4 above. It is recommended to incorporate all the conditions in this list that are permissible. The non-permissible items are variously expressly excluded by the Housing Act 2004, Part 2, such as council tax regulations and court fines for licensing offences are not controlled by the council. The proposed scheme will however incorporate the permissible items, subject to the agreement of Mayor and Cabinet.

10 Conclusion

- All aspects of the proposals were supported by a majority of respondents
- The survey captured the opinions of both landlords and tenants; landlords were more negative about the proposals while tenants were strongly supportive
- Landlords did not disagree with the principle of licensing
- Just under half of the landlords considered the proposed standards too tough, and only one third agreed licensing improves standards
- Less than a third of landlords were in support of the proposed fee
- Only a quarter of landlords agreed with licensing HMOs over commercial premises.
- Therefore feedback was broadly in agreement with the principles and framework of the proposed scheme and so the recommendation to Mayor & Cabinet has been made here to take forward the additional licensing of HMOs over commercial property across the Borough.

11 Next steps

- 11.1 A detailed project plan for implementation will be developed incorporating the publication of a Statutory Notice for a required 3 month period.
- 11.2 During this 3 month Notice period the new staffing structure for the combined Environmental Health and Grants Standards and Enforcement Agency will be rolled out to lead the work on the additional licensing scheme implementation, if approval obtained, supported by improved ICT technology to support online applications.
- 11.3 A programme of inspections of the estimated 1800 properties/4200 "lettings" or units will start the process and provide an in depth assessment of the

conditions of the properties as well as confirm the details of the actual numbers of lettings and licences that will form the basis of the additional licensing scheme.

12 Licence Fee level

- 12.1 The current mandatory licensing fee is £180 “per letting”, up to a maximum of £1800 per property, every 5 years. There is a discount for second and any subsequent HMO license fee applications from the same landlord for other properties under their ownership of £120 per unit with a maximum fee of £1200. A discount of 20% is available for all landlords accredited through the London Landlord Accreditation scheme (LLAS) or where they are members of a recognised Landlord Association. Registered charities receive a further 50% discount on current fees. It is proposed to increase the mandatory fee level in line with the ‘additional’ licensing fee for all new mandatory license applications.
- 12.2 The proposed new fee level is £500 per letting. The fee has been set to cover all of the administrative costs associated with the licensing process. There will be a similar discount for landlords of more than one property and registered charities as with the existing scheme and a maximum fee level of £5000 per property over 5 years.

13 Financial implications

- 13.1 The Council’s current budget includes a budget of £0.74m for licensing and environmental health in the strategic housing division.
- 13.2 The Mayor and Cabinet report of 15 July 2015 indicated that the cost of the service would be up to £2.4m over five years, based on the estimated costs of a new stand-alone service. Since then, more accurate estimates have been obtained and some costs have been integrated into existing budgets, such as corporate overheads and some staffing expenditure. This has reduced the requirement for additional budget to £1m over five years.
- 13.3 Funding for the additional £1m has been identified as a part of the budget setting process for 2016/17 and beyond.
- 13.4 The Council is required to set a licensing fee that covers no more than the cost of the licensing element of the service. The fee cannot contribute to the cost of the enforcement elements of the service. Current estimates indicate that a fee of £500 per letting would achieve this requirement.

14 Legal Implications

- 14.1 Pursuant to s. 56(1) of the Housing Act 2004 (“HA 2004”), “a local housing authority may designate either (a) the area of their district, or (b) an area in their district, as subject to additional licensing” in relation to HMOs specified in the designation.
- 14.2 The proposed designation must be consistent with the authority’s overall

housing strategy. (s. 57 HA 2004.)

- 14.3 As soon as the designation is made by the local housing authority, the authority must publish it in accordance with the provisions of s. 59 HA 2004 and the authority is obliged to review the operation of the designation.
- 14.4 HMOs for the purposes of s. 56 of the HA 2004 are widely defined (in accordance with the provisions of s. 254(1) HA 2004), as a building or part of a building if it meets any one of the following conditions and described in the HA 2004 as being “ the standard test”,(defined fully within s. 254(2)HA 2004) or ‘the self-contained flat test’, (defined fully within s. 254(3) HA 2004) ‘the converted building test’, (defined fully within s. 254(4) HA 2004, or a ‘converted block of flats’(pursuant to s. 257 HA 2004).
- 14.5 The local housing authority pursuant to s. 63 of the HA 2004 has the power to impose a requirement for applicants for these licences to pay a fee. When fixing fees, the local housing authority may take into account all costs incurred by them in carrying out their related functions.
- 14.6 The European Convention on Human Rights states in Article 8 that “Everyone has the right to respect for his private and family life, his home and correspondence”. The Human Rights Act 1998 incorporates the Convention. Whilst it does not, however, necessarily mean that everyone has an immediate *right* to a home, (because Article 8 is a “qualified” right and therefore is capable in certain circumstances, of being lawfully and legitimately interfered with,) the provision by an Authority of a relevant scheme such as an HMO additional licensing scheme does assist to reinforce the Article 8 principles
- 14.7 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 14.8 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 14.9 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 14.10 The Equality and Human Rights Commission has recently issued Technical

Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at: <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

14.11 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

1. The essential guide to the public sector equality duty
2. Meeting the equality duty in policy and decision-making
3. Engagement and the equality duty
4. Equality objectives and the equality duty
5. Equality information and the equality duty

14.12 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

15 Crime and disorder implications

15.1 No specific crime and disorder implications have been identified as arising from this report

16 Equalities implications

16.1 An Equalities Analysis Assessment has been carried out and is attached at Appendix 2.

17 Environmental implications

17.1 No specific environmental implications have been identified as arising from this report.

18 Background Documents and Report Originator

- Appendix 1: Consultation Report – Additional Licensing Scheme For Private Rented Sector Properties

- Appendix 2: Equalities Assessment Analysis

18.1 If you require further information about this report please contact Madeleine Jeffery on 020 8314 9484 or Antoinette Stasaitis on 0208 314 9340.

LICENSING SUPPLEMENTARY COMMITTEE		
Title	Proposed Additional Licensing Fee and Increase of Current Mandatory Licensing Fee	
Key Decision	Yes	Item No.3
Ward	All wards	
Contributors	Executive Director of Customer Services	
Class	Part 1	Date: 22 March 2016

1. Purpose

- 1.1 On 15th July 2015 Mayor and Cabinet received a detailed report for consideration of the business case for introducing an “additional” licensing scheme in Lewisham, to improve conditions of private rented Houses in Multiple Occupation (HMOs) above commercial premises (primarily flats over shops) across the borough.
- 1.2 The in-principle case for introducing “additional licensing” of private rented HMOs above commercial premises was accepted and officers were asked to undertake statutory public consultation on the proposals as presented, in line with the current statutory requirements and to report back the findings of the consultation later in the year. On the 1st of December the case for introducing “additional licensing” was considered and supported by the Housing Select Committee
- 1.3 On the 2nd of March 2016 Mayor and Cabinet received details of the public consultation undertaken on “additional licensing” and approved the implementation of the “additional licensing” scheme.
- 1.4 This report seeks formal approval to increase the mandatory licensing fees for Houses of Multiple Occupancy (HMO) and approve the proposed fees for the “additional licensing” of flats above commercial premises.

2. Recommendation

The Licensing Supplementary Committee is asked to:

- 2.1 Approve the following levels of Licensing fee charges

Licence fee at first application

Additional Licence Fee £500
Per unit, per 5 year period

Mandatory Licence Fee £500
Per unit, per 5 year period

Subsequent applications or relicensing by the same landlord

Additional Licence Fee £334
Per unit, per 5 year period

Mandatory Licence Fee £334
Per unit, per 5 year period

- 2.2 Both additional and mandatory licence fees will be capped at a maximum of £5000 per property. A 20% discount is offered to accredited landlords and landlords who are members of recognised landlord associations and a further 50% discount is offered to registered providers.
- 2.3 Note the costs of implementing the proposed additional licensing scheme set out in section 11 of this report. The estimated costs in the report to Mayor and Cabinet in July 2015 of £2.4m over 5 years has reduced to £1m over 5 years.
- 2.4 Note the results of both mandatory licensing and additional licensing consultation.

3. Policy Context;

- 3.1 The housing landscape is rapidly changing and demand is increasing across all tenures. The private rented sector in Lewisham is growing rapidly – having doubled in size since 2001 it now consists of more than 30,000 units and makes up more than 25% of all households. This is consistent with the trend across London where the growth in private renting over the decade to 2011 constitutes a 65.5% increase, or an additional 341,000 households.
- 3.2 Despite the increasing costs of private renting, the sector is expected to grow further in Lewisham to a level comparable with or even in excess of the social rented sector which is 31% based on 2011 census data. This is due in part to the relative unaffordability of home ownership as a result of rapidly increasing house prices, the large numbers of households on the housing waiting list (8,290 households as of December 2013) and relatively low levels of lets, all of which when combined means that Lewisham residents are more reliant on the private rented sector than ever before. The council recognises this and continues to act creatively by developing relationships and working in close partnership with private landlords to drive up standards and offer longer term tenancies, thereby ensuring residents have more choice. This is especially pertinent given that private renting remains the only option for many low income households and those in need.
- 3.3 The Housing Act 2004 introduced the mandatory licensing of HMOs. Mandatory licensing came into force on the 6th of April 2006. Local authorities are required to enforce mandatory licensing of HMOs which have three or more storeys and are occupied by five or more persons

forming two or more households. The Act also introduced additional licensing, allowing councils to impose licensing on other categories of HMOs. Additional licensing can cover properties which are not subject to mandatory licensing if the Council considers that a significant proportion of these HMOs are being managed sufficiently ineffectively giving rise to problems for either the occupants of the HMOs or for members of the public.

- 3.4 Following a series of reports to Housing Select Committee and Mayor and Cabinet between December 2014 and July 2015, it was agreed that the poorest standards, conditions, hazards and services in the private rented sector are to be found in properties over commercial property, primarily shops.
- 3.5 Based on these findings, it was concluded that an “additional” licensing scheme for approximately 4,500 private rented multi-occupied lettings above commercial premises:
- will help deliver the housing authority’s strategic private sector housing policies;
 - is founded on quantitative evidence of problems created by poor private sector housing management;
 - is founded on evidence that licensing will sustainably assist with addressing the problem;
 - is the best solution to address the problem;
 - must operate for no more than five years and must be kept under review; if the exercise has achieved its objectives, it should be discontinued.

4. License Fee Levels

- 4.1 The mandatory HMO scheme has been in place since 2006. The license fee under the scheme was last reviewed in 2012. A review of the fee charged has reached the conclusion that it does not fully recover the costs of managing the scheme.
- 4.2 The current mandatory licensing fee is £180 “per letting” for 5 years up to a maximum of £1800 per property every 5 years. There is a discount for second and any subsequent HMO license fee applications from the same landlord for other properties under their ownership. A 20% discount is offered to accredited landlords and landlords who are members of recognised landlord associations and an additional 50% discount to registered providers
- 4.3 By raising the mandatory license fee to £500 “per letting” alongside the implementation of additional licensing the council will recover the costs of administering both schemes.

5 Lewisham's Consultation process

- 5.1 Statutory consultation has been undertaken on the proposed Additional Licensing scheme as required by Section 56 (3) of the Housing Act 2004. Results of the consultation were considered by Mayor and Cabinet as part of the approval of the "additional licensing" scheme and can be seen in full in Appendix 1.
- 5.2 There is no specific statutory requirement to consult on the level at which the Mandatory license fee is set. However existing license fee holders have been formally consulted on the proposed fee increase, full results of which will be presented to the Supplementary Licensing Committee on the night.

6. Financial implications

The Council is required to set a licensing fee that covers no more than the cost of the licensing element of the service. The total cost of the scheme over a five year period is expected to be £1.3m. Based on the current estimated number of properties and letting to be covered by the scheme, a fee of £500, allowing for discounts, would achieve this requirement.

7. Legal Implications:

- 7.1 Houses in Multiple Occupation, ("HMO"s) for the purposes of s. 56 of the Housing Act 2004 ("HA 2004" are widely defined (in accordance with the provisions of s. 254(1) HA 2004), as a building or part of a building if it meets any one of the following conditions, (described in the Housing Act 2004 as being " the standard test", (defined fully within s. 254(2)HA 2004) or 'the self-contained flat test', (defined fully within s. 254(3) HA 2004) 'the converted building test', (defined fully within s. 254(4) HA 2004, or a 'converted block of flats'(pursuant to s. 257 HA 2004)).
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- 7.5 In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.
- 7.6 The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
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and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:

<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

8. Equalities Implications

An equalities impact assessment has been carried out in relation to the introduction of the additional licensing scheme and is attached at Appendix 2.

9. Environmental Implications

No specific environmental implications have been identified as arising from this report.

10. Crime and Disorder Implications

No specific crime and disorder implications have been identified as arising from this report

Background Documents and report author

Appendix 1 **CONSULTATION REPORT – ADDITIONAL LICENSING SCHEME FOR PRIVATE RENTED SECTOR PROPERTIES**

Appendix 2 **ADDITIONAL LICENSING – EQUALITY ANALYSIS ASSESSMENT**

If you require further information about this report please contact Madeleine Jeffery on 020 8314 9484 or Antoinette Stasaitis on 0208 314 9340.

APPENDIX I

CONSULTATION REPORT – ADDITIONAL LICENSING SCHEME FOR PRIVATE RENTED SECTOR PROPERTIES

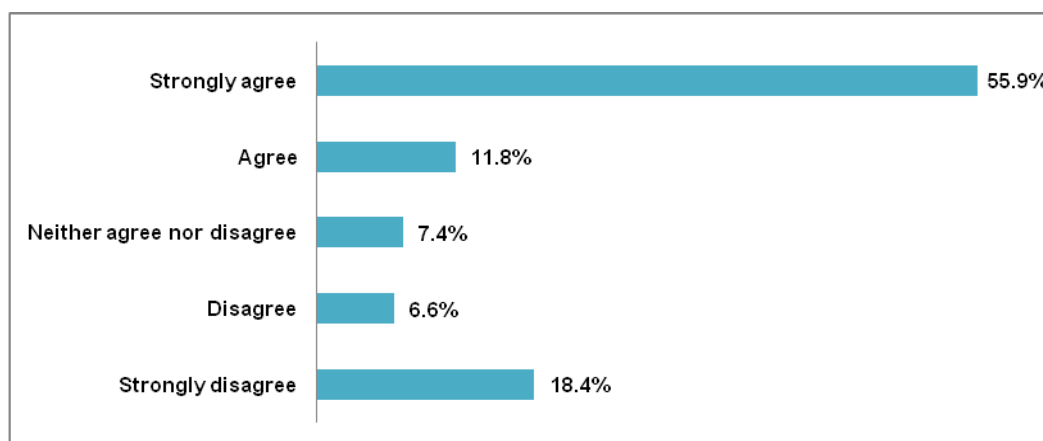
Introduction

The consultation on proposals to introduce an additional licensing scheme to cover all multi-occupied private rented accommodation above commercial properties in the borough (such as flats above shops) ran from 2 September 2015 to 24 November 2015. This report analyses the responses to the proposal in principle, the proposed standards that landlords would need to reach in order to be eligible for a licence and the fees to be charged.

Overall Survey Responses

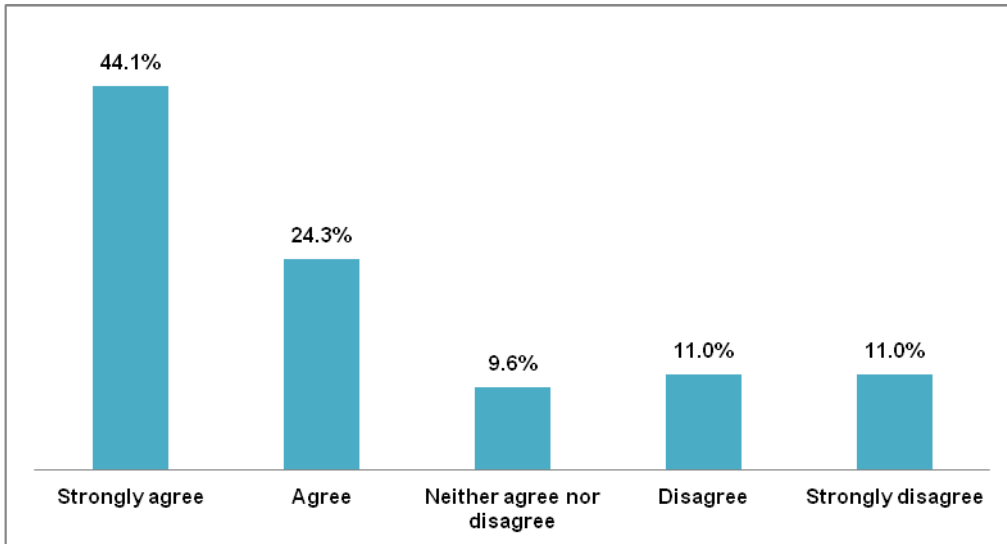
In total, there were 136 responses to the consultation.

Q1) More properties for private rent should be licensed



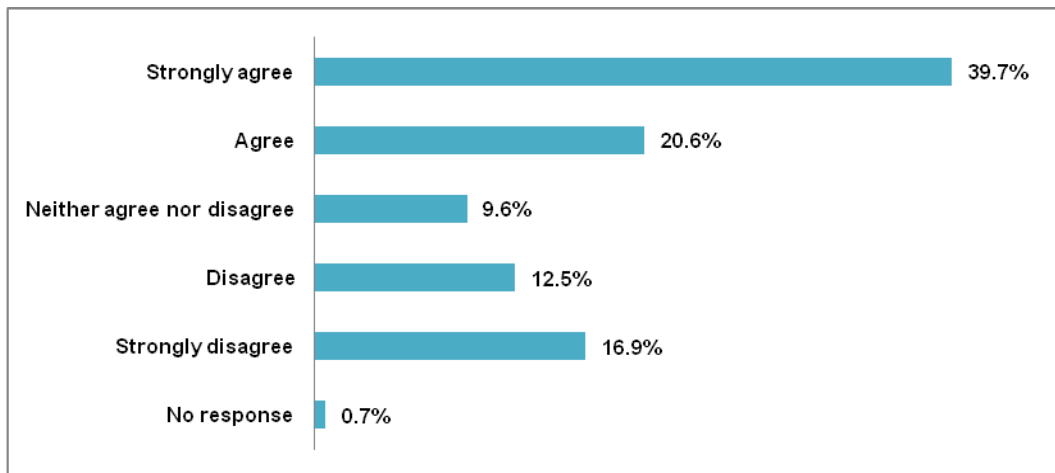
A total of 92 respondents (67.7%) either agreed or strongly agreed that more properties for private rent should be licensed. Of these, 7 respondents identified themselves as a private landlord whilst 27 were private tenants. A total of 34 respondents (25%) either disagreed or strongly disagreed with this statement (none were private landlords and only 6 were private tenants).

Q2) Licensing more private properties will help improve living conditions



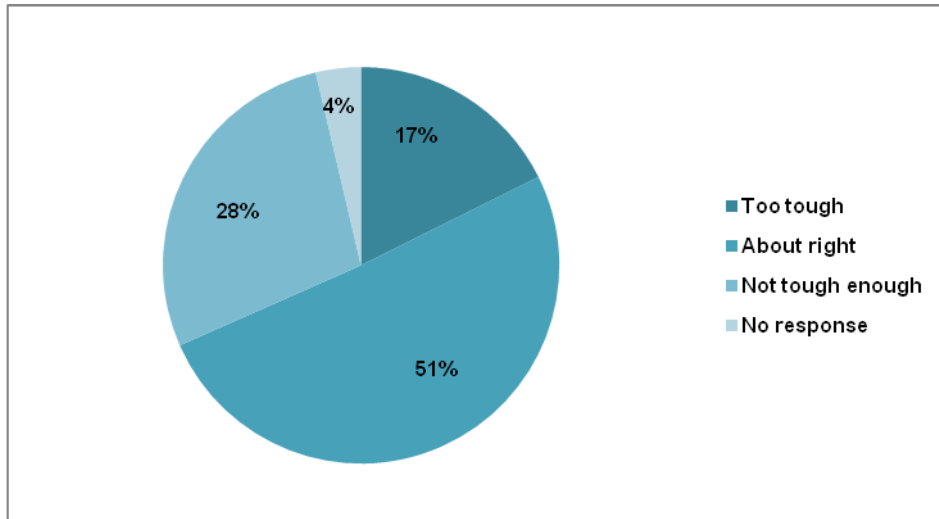
A total of 93 respondents (68.4%) either agreed or strongly agreed that licensing more private properties will help to improve living conditions. Of these, 9 respondents identified themselves as a private landlord whilst 26 were private tenants. A total of 30 respondents (21%) either disagreed or strongly disagreed with this statement (21 of whom were private landlords or private tenants).

Q3) It is right to target flats above shops and other commercial properties



A total of 82 respondents (60.3%) either agreed or strongly agreed that it was right to target flats above shops and other commercial properties. A total of 40 respondents (29.4%) either disagreed or strongly disagreed with this statement. Overall, private landlords were more likely to disagree (21 respondents versus 5 who were in favour) whilst private tenants were more likely to agree (27 respondents versus 3 who were not in favour).

Q4) Do you think the standards required to meet to be eligible for a licence are:



A number of standards that landlords would be required to reach in order to be eligible for a licence were proposed in the consultation documentation, including ensuring there were no health hazards in their property and meeting the legal requirements for managing their property (as set out in the Management Regulations Act 2006). The licence holder and any person appointed by them to manage the property on their behalf would also need to be a ‘fit and proper person’.

In total, 69 respondents (51%) felt that the standards proposed in the consultation were about right. However, 38 respondents (28%) felt that the standards were not tough enough – interestingly, the vast majority (33 respondents) were private tenants. In contrast, only 24 respondents (17%) felt that they were too tough, although over half (13 respondents) were private landlords.

Q5) Please tell us if you think there are any standards or conditions that should be added or removed?

46 respondents provided additional comments – the key themes are summarised below by tenure type:

Owner occupiers

- The licensing scheme will discourage, penalise and further tax private landlords – as a result, there will be fewer landlords and fewer properties available for rent
- Perception that the scheme is simply a way for the Council/central government to increase revenue
- All individuals should be taxed or incentivised to look after themselves and the local community (wider focus than private rented properties)
- Tenants already have rights if the property is sub-standard (e.g. withholding rent, breaking contract or moving out)
- Landlords already have an obligation to provide decent housing for tenants under existing legislation
- The proposed standards should include requirements relating to energy efficiency, adequate soundproofing, insulation, limits on the number of occupants, minimum square footage per tenant and minimum requirements for health & safety (including fire regulations)

- The scheme should also require landlords to keep their properties in good cosmetic condition
- Almshouse should be exempted from the scheme
- All HMOs should be included in the scheme, rather than only those above commercial properties
- Explore whether fees can be levied via Council Tax or NHS registrations (otherwise landlords may increase rents to cover the costs of the licence, which will impact poorer and more vulnerable tenants)

Private tenants

- Tenants who request improvements to the property may be at risk of 'revenge evictions' by landlords – could there be a requirement for tenancies/leases to stipulate that existing tenants have priority at renewal?
- The proposed standards should include requirements relating to energy efficiency, insulation, damp proofing, soundproofing, minimum square footage per tenant, pest control, adequate heating
- All private rented properties should be included in the scheme, rather than only those above commercial properties
- Perception that the scheme is simply a way for the Council/central government to increase revenue and will not improve conditions
- Landlords may pass the costs of the licence and any improvements required to the property onto tenants – could there be a requirement that rent increases do not exceed the average level of inflation over the previous 12 months unless the landlord can prove that extensive improvements had been done to the property, the overall cost of which exceeded 5% of the market value of the property?
- The Council should tighten up the rules for defining an HMO and review all non-HMO rental properties in the borough to ensure that they still meet these tighter rules to be exempted from being considered an HMO
- The licence scheme should also protect tenants from exploitative landlords and lettings agents e.g. ensuring deposits are capped, allowing a six-month break clause, requiring repairs and maintenance to be dealt with within an agreed time frame and permitting residents to have their names on Council Tax even if their bills are inclusive
- Properties should be maintained/refurbished every 3-4 years to maintain liveable conditions
- There should be tighter regulation for buy-to-let properties, which would ensure transparency in agency fees, proper protection for deposits, an increased awareness of landlord obligations, full tax on rental income, a better complaint route for tenants and a cheaper mediating space (rather than the courts)
- The licence scheme should not apply to fully-mutual housing co-operatives

Social housing tenants

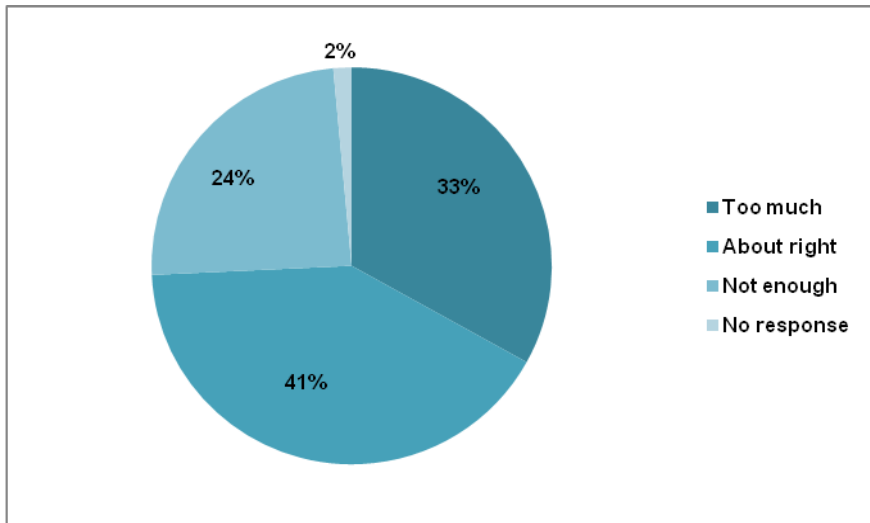
- All landlords should be held responsible for antisocial tenants
- The licence scheme should meet the Lewisham Decent Homes standard
- Commercial properties should include spaces above pubs which are rented out by owners
- Landlords with two or more properties should have a different licence, which is much stricter in its terms and conditions
- Agents that breach conditions should first be fined for breaches, with a second penalty of five times the amount of the first penalty, followed by a closure order

- Individuals that run agencies should be registered and should any closure/winding up order be imposed on their businesses, they should have a life time ban from running another agency
- Owners (both private and commercial) or directors should be required to put their own homes down as security and these could be seized if they repeatedly breach conditions
- Landlords should be obliged to have an annual inspection of their properties carried out by qualified Local Authority Property Inspectors

Private landlords

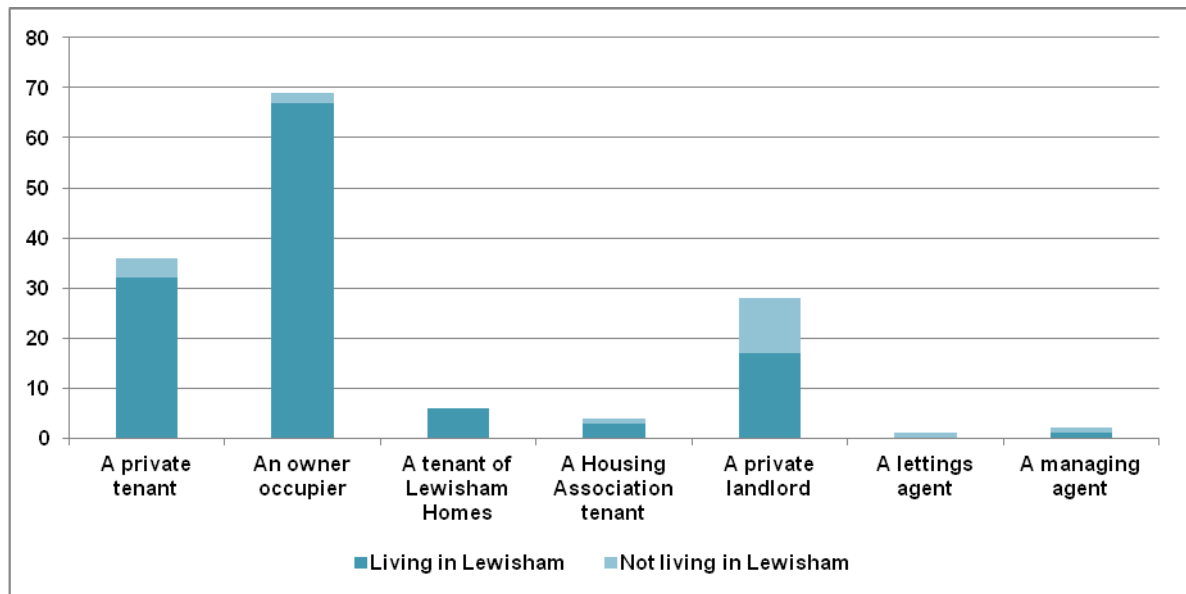
- The licence scheme penalises good landlords (bad landlords will not comply) and only adds more 'red tape' to an increasingly bureaucratic process – they will simply pass the costs of the licence onto tenants via a rent increase
- There is already a high-level of law and protection for the tenants that live in any flat above shops or flats (e.g. they can contact the Council in regards to repair issues), although landlords should be fined if they do not meet standards
- Perception that the scheme is simply a way for the Council/central government to increase revenue and will not improve conditions
- The proposed standards should include building regulations and safety of structures, particularly extensions and outbuildings (to address the 'beds in sheds' issue)
- The licence scheme will only be effective if it is properly enforced (the Council already has legislative powers to address property standards, but has only prosecuted five landlords since 2011)
- The Council should consider alternative schemes, such as the Home Safe scheme in Doncaster and SEAL in Southend, which are more cost effective
- All private rented properties should be included in the scheme, rather than only those above commercial properties

Q6) Do you think the proposed fee of £100-£110 per year is:



In total, 56 respondents (41%) felt that the proposed fee of £100-£110 per year was about right. However, 45 respondents (33%) felt that the standards were too much – of these, 20 respondents were private landlords. In contrast, 33 respondents (24%) felt that the proposed fee was not enough, although only 10 of these respondents were private landlords or private tenants. Overall, 65% of respondents were in favour of charging at least £100 per year for a licence.

Q7) What is your tenure type?

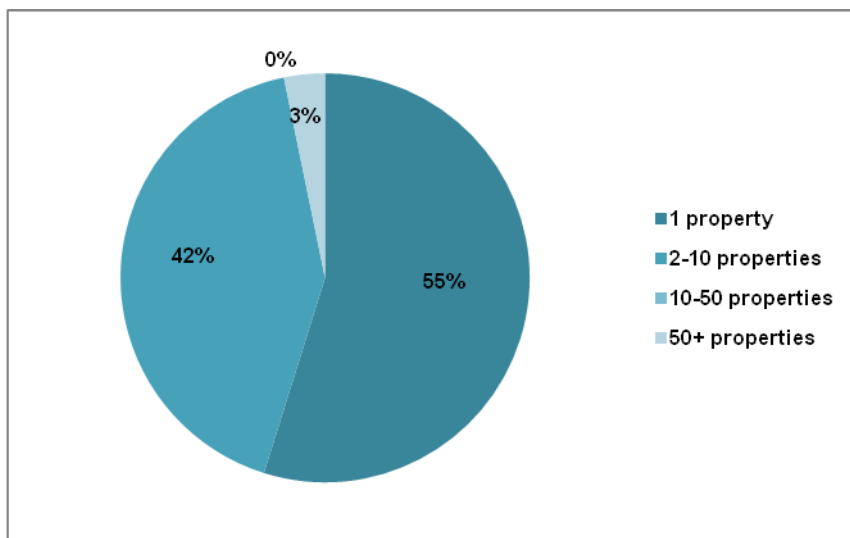


Tenure Type	Living In Lewisham	Not Living In Lewisham	Total
A private tenant	32	4	36
An owner occupier	67	2	69
A tenant of Lewisham Homes	6	0	6
A Housing Association tenant	3	1	4

A private landlord	17	11	28
A lettings agent	0	1	1
A managing agent	1	1	2
TOTAL	126	20	146

There were 146 individual responses to this question (as respondents were able to select multiple options). A total of 69 respondents stated that they were owner occupiers whilst 36 respondents were private tenants and 10 respondents were social housing tenants. Overall, 28 respondents were private landlords – 8 of these respondents also identified as owner occupiers (2 of whom were additionally managing agents). None of the private tenants were also owner occupiers, lettings agents or managing agents.

Q8) If you are a private landlord, how many properties do you let out?



A total of 31 respondents identified as private landlords (which does not correlate exactly with the number above). All but one of the respondents (97%) stated that they let out between 1-10 properties each, with more than half (55%) only letting out 1 property.

APPENDIX 2

ADDITIONAL LICENSING – EQUALITY ANALYSIS ASSESSMENT

1 Introduction

1.1 Public bodies such as local authorities are legally required to consider the three aims of the Public Sector Equality Duty (set out in the Equality Act 2010) and document their thinking as part of the process of decision making. The Act sets out that public bodies must have regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between people who share a protected characteristic and those who do not share that characteristic;
- foster good relationships between those who share a protected characteristic and those who do not share that characteristic.

1.2 This equality analysis assessment sets out how the Council has considered the likely impact of the Additional Licensing scheme on the characteristics protected under the Equality Act of 2010.

2 Additional Licensing - background and context

2.1 The Housing Act 2004 (Part 2) introduced a mandatory duty for local housing authorities to administer a licensing scheme for all large Houses in Multiple Occupation (HMO). It became a criminal offence for anybody to run an unlicensed HMO.

2.2 It also introduced a power for local authorities to decide to extend the Mandatory licensing scheme to include additional types of HMO – i.e. smaller HMOs and illegally converted properties that do not meet planning requirements or Building Regulations. This is known as additional licensing.

2.3 The proposal here is to introduce additional licensing for HMOs classified as 'Private Rented Sector Flats over Commercial Premises'. In order to introduce a scheme of this type, the Council must consider that a significant number of properties of this type are likely to be managed ineffectively and therefore cause problems for people who live in those properties and the wider environment. It must also carry out consultation with persons likely to be affected by the scheme.

2.4 The rationale for extending Lewisham's HMO licensing scheme is that the properties identified – those over commercial premises – have similar characteristics to properties which fall under the mandatory licensing scheme. That is, tenants of these properties are more likely to be vulnerable and the properties are more likely to be poorly managed and maintained. Therefore the Council is seeking to intervene to extend the protection of HMO licensing to this additional designation of properties and vulnerable tenants.

2.5 Between the 2001 and 2011 censuses the Private Rental Sector in Lewisham has doubled and is continuing to grow. There are an estimated 3,700 Landlords operating in the borough, the majority of which are small and own a handful of properties. Localised additional licensing of private rented flats and

HMO's above commercial premises is estimate to cover 4,223 lettings across 1813 addresses.

- 2.6 There is a clear pattern of concentration whereby the poorest standards, conditions, hazards and services are concentrated along the high roads of 6 secondary shopping streets (Deptford, Lee, Hither Green, Brownhill Road, Sydenham and Brockley).
- 2.7 It is important that the Council strikes a balance between taking action that will reduce the supply and affordability of decent private sector housing and taking licensing action to prevent those in the sector from risk of unacceptably low physical and management standards.
- 2.8 Fewer than 60% of tenants in the Private Rental Sector in Lewisham are from White ethnic groups, just under 22% are from Black ethnic groups and 10.5% are from Asian ethnic groups. 44% have a gross income below £20,800 per annum, 29% have a gross income between £20,800 and £31,2000 per annum and the remaining 27% have a gross income over £31,2000 per annum. Those with health problems or a disability comprise over 8% of those in this sector. 58% of tenants in this sector are working full time and 16% are working part time. 55% are aged between 16 and 34, 32% are aged between 35 and 49, 10% are aged between 50 and 64 and 2% are aged over 65. Just under 34% of households in the Private Rental Sector in Lewisham are in receipt of Housing Benefit.

3 Consultation

- 3.1 A letter was sent to over 4000 properties where there is a mix of commercial and residential use with a summary of the proposal, an invitation to a public meeting and a link to the website. 136 responses were received of which 56% were received from Private Tenants and 44% were received from private landlords.
- 3.2 The consultation asked respondents to answer five questions relating to the proposal, the outcome was as follows.
- **“More properties for private rent should be licensed”**: this question showed the strongest positive agreement and biggest consensus, including a quarter of the private landlords. No private landlords disagreed with the statement.
 - **“Licensing improves conditions”**: a large majority agreed with this statement, including just under a third of private landlords, although 21% disagreed with the statement.
 - **“It is right to target flats above commercial premises”** 60% agreed though private landlords were divided on the question with only one quarter of them agreeing. 90 % of tenants were in agreement.
 - **Proposed standards to be met for a license**: a small majority felt standards proposed are about right, but 28% who were overwhelmingly private tenants, felt the standards were not tough enough. Just under half of landlords considered them too tough.

- **On the proposed fee of £100- £110 pa** : opinion was most divided on this question; a small majority favoured the fee being *at least* the proposed sum but more than two thirds of landlords thought the fee too high

3.3 Whilst there is concern that the introduction of additional license will result in an increase in rent to cover the costs, it was felt that the main driver for current rent increases was the opportunity to increase profit, and that there are no grounds to believe that not introducing an additional fee will reverse this trend. To monitor this it was suggested that the PRS survey be undertaken again in two years' time to assess the impact.

3.4 The overall opinion is strongly in favour of extending private licensing and there was a broad agreement that flats above commercial properties was a suitable area for such an extension. Generally speaking, private landlords favoured the view that the proposals are too tough and the fee as too high, whereas private tenants were inclined to see the proposals as not tough enough and the fee as too low. On balance it seems that the proposals have a broad consensus.

4. Impact of proposed changes on specific groups

4.1 In developing Lewisham's Additional Licensing Scheme, consideration has been given to the impact of the proposals on specific groups protected under the Equality Act 2010. The Act provides specific protection to the following:

Age	<p>There is no intention or foreseeable impact of the policy to mean that people would be treated more adversely on the grounds of age as a consequence of additional licensing to flats above commercial premises.</p> <p>Only a small proportion of residents of PRS accommodation are children or older adults, however improved standards of accommodation as a result of additional licensing will be particularly beneficial to these vulnerable groups.</p> <p>Additional licensing will increase Landlord's knowledge of legal requirements positively impacting vulnerable tenants.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership.</p>
Disability	<p>There is no intention or foreseeable impact of the policy to mean that disabled people would be treated more adversely as a consequence of additional licensing to flats above commercial premises.</p> <p>The negative health impacts of poor standards of accommodation are well documented. The worst housing conditions have been identified in flats above commercial premises in Lewisham. Additional licensing will improve the standards of accommodation to flats above commercial premises positively impacting on people with disabilities.</p>

	<p>Additional licensing will increase Landlord's knowledge of legal requirements positively impacting vulnerable tenants.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership</p>
Gender	<p>There is no intention or foreseeable impact of the policy to mean that people would be treated more adversely on the grounds of gender as a consequence of additional licensing to flats above commercial premises.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership</p>
Gender reassignment	<p>There is no intention or foreseeable impact of the policy to mean that people would be treated more adversely on the grounds of gender reassignment as a consequence of additional licensing to flats above commercial premises.</p> <p>Additional monitoring of Landlords of flats above commercial premises will provide Lewisham council with greater control over poor landlord practice such as not tackling ASB. As a result instances of ASB, discrimination and hate crime will be reduced.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership</p>
Marriage & civil partnership	<p>There is no intention or foreseeable impact of the policy to mean that people would be treated more adversely on the grounds of marriage and civil partnership as a consequence of additional licensing to flats above commercial premises.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership</p>
Pregnancy & maternity	<p>There is no intention or foreseeable impact of the policy to mean that people would be treated more adversely on the grounds pregnancy and maternity as a consequence of additional licensing to flats above commercial premises.</p> <p>A child's physical and mental health and education attainment is negatively impacted by poor accommodation standards. The worst housing conditions have been identified in flats above commercial premises in Lewisham. Additional licensing will improve the standards of accommodation to flats above commercial premises</p>

	<p>positively impacting pregnant women, mothers and their children.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership</p>
Race	<p>There is a risk that landlords of flats above commercial premises for whom English is not their first language are negatively impacted by the additional licensing scheme as a result of language and literacy barriers. Landlords may not understand the legislative requirements and therefore be at increased risk of enforcement action. In order to mitigate this risk information, notifications, application forms and guidance will be made available in multiple languages.</p> <p>Additional licensing will improve the standards of accommodation to flats above commercial premises resulting in better accommodation and security of tenure for tenants. As a consequence tenant turnover may be reduced resulting in increased community cohesion.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership</p>
Religion & belief	<p>There is no intention or foreseeable impact of the policy to mean that people would be treated more adversely on the grounds religion and belief as a consequence of additional licensing to flats above commercial premises.</p> <p>Additional licensing will improve the standards of accommodation to flats above commercial premises resulting in better accommodation and security of tenure for tenants. As a consequence tenant turnover may be reduced resulting in increased community cohesion.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership</p>
Sexual orientation	<p>There is no intention or foreseeable impact of the policy to mean that people would be treated more adversely on the grounds sexual orientation as a consequence of additional licensing to flats above commercial premises.</p> <p>Additional monitoring of Landlords of flats above commercial premises will provide Lewisham council with greater control over poor landlord practice such as not tackling ASB. As a result instances of ASB, discrimination and hate crime will be reduced.</p> <p>Additional monitoring of Landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership</p>

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5. Conclusion

5.1 As noted above, it is anticipated that the introduction of Additional Licensing will have a positive impact on all groups protected under the Equality Act 2010 because additional monitoring of landlords of flats above commercial premises will prevent unlawful practice in the form of discrimination on the grounds of age, disability, gender, race, religion, sexual orientation, gender reassignment and marriage and civil partnership.

5.2 This Equalities Analysis Assessment recognises that there is a risk that landlords of flats above commercial premises for whom English is not their first language are negatively impacted by the additional licensing scheme as a result of language and literacy barriers. In order to mitigate this risk information, notifications, application forms and guidance will be made

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