



Housing Select Committee

Report title: Council response to the 2022 selective property licensing consultation

Date: 20 September 2022

Key decision: Yes

Class: Part 1

Ward(s) affected: 16 out of 18 (Blackheath and Telegraph Hill unaffected)

Contributors: Fenella Beckman, Director of Housing Services

Outline and recommendations

Housing Select Committee are asked to review the report and the proposed response and to provide comments.

Housing Select Committee are asked to support the approval of this response by Mayor and Cabinet, and the recommendation to proceed with an application for approval to introduce the proposed selective licensing scheme to the Department for Housing, Levelling Up and Communities.

Timeline of engagement and decision-making

24 April 2019	Previous approval to consult on selective licensing
28 May to 21 August 2019	Previous Selective Licensing consultation
11 March 2020	Mayor and Cabinet approved the submission of an application to the Secretary of State for the proposed scheme (subsequently postponed due to the Covid 19 pandemic).
20 October 2021 – 20 May 2022	Second public consultation (Extended in January 2022)

1. Summary

- 1.1. This report summarises the responses to the public consultation carried out on the council's proposals to introduce selective property licensing in 16 out of 18 wards. The consultation results demonstrate clear overall support for all three selective licensing designations proposed by the council.
- 1.2. It also sets out officers' recommendations that the council should proceed to make an application to the Department for Housing, Levelling Up and Communities (DHLUC) for approval to introduce the proposed licensing scheme, based on the response to the consultation.
- 1.3. The report of the consultation, produced by Cadence Innova, the organisation contracted by the council to carry out the consultation, is attached as Appendix 1.
- 1.4. The full summary of consultation responses and the council's proposed responses is included as Appendix 2.

2. Recommendations

- 2.1 Housing Select Committee are asked to review the report and the proposed council response to the consultation and to provide comments.
- 2.2 Housing Select Committee are asked to support the approval of the consultation report, the council's response to the consultation, and the proposed selective licensing designations and conditions, by Mayor and Cabinet.
- 2.3 Housing Select Committee are asked to support the recommendation to Mayor and Cabinet that the council should proceed to make an application to the DHLUC for approval to introduce the proposed selective licensing scheme.

3. Policy Context

- 3.1. The contents of this report are consistent with the Council's policy framework. It supports the achievements of the following Corporate Strategy objectives:
 - Tackling the housing crisis – everyone has a decent home that is secure and affordable.
- 3.2. The contents of this report support the achievement of the following Housing Strategy 2020-26 objectives

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- preventing Homelessness and meeting housing need;
- improving the quality, standard and safety of housing, and;
- supporting our residents to live safe, independent and active lives.

4. Background

- 4.1. According to the Office for National Statistics (ONS) and the Housing Stock and Stressors report findings, the private rented sector (PRS) in Lewisham has grown from 24 per cent in 2011 to 31 per cent in 2021; an increase of almost 30 per cent over 10 years. This shift has come as a result of population growth in tandem with a limited supply of new and affordable homes and therefore has resulted in soaring house prices. The Private Rented Sector has helped address the housing shortage and now 39,674 of Lewisham's 128,798 residential dwellings are privately rented.
- 4.2. The increased demand for privately rented homes has, however, also seen an increase in rents being charged in the borough. This has resulted in residents having to compromise on property standards and their health and safety to access affordable housing. The English Housing Survey (Dec 2020) indicates that 12 per cent of private rented dwellings in England had at least one category 1 hazard; a hazard that poses a serious or immediate risk to a person's health and safety. In stark contrast, 22.7 per cent of Lewisham's PRS properties were found to have at least one category 1 hazard.
- 4.3. Over half of the residential properties in the borough were built pre-Second World War (Housing Stock and Stressors Report, Metastreet, 2021). Housing conditions tend to be worse in older properties and pose greater risk to the health and safety of its inhabitants. For example, the HHSRS Operational Guidance (2006) published by the Office of the Deputy Prime Minister, stressed that there is a greater risk of winter deaths in dwellings with low energy efficiency ratings and this correlates with the age of the property. Dwellings built after 1980 are more energy efficient and are therefore safer. Wards comprising mainly of older properties are inclined to have more hazards, such as excess cold, fire and electrical issues, damp and mould.
- 4.4. The national mandatory HMO licensing scheme came into operation in April 2006.
- 4.5. Following the end of the previous additional HMO licensing scheme in February 2022, a new additional scheme came into force on Tuesday 5 April 2022.
- 4.6. The Council therefore currently operates the following licensing schemes:
 - 4.6.1. Mandatory scheme relating to all Houses of Multiple Occupation (HMO) where five people across two or more households (families) live in the same property and share facilities such as a kitchen or bathroom. This is a national scheme.
 - 4.6.2. Additional licensing applying to any HMO property in Lewisham that is not captured by the National Mandatory Scheme, other than those specifically excluded from licensing.
- 4.7. The Council previously consulted on introducing a Selective Licensing scheme in 2019; however due to the pandemic, plans to seek approval for the proposals from the Government were put on hold. As lockdown restrictions came to an end, the council reviewed housing conditions in the borough once again to take into account any demographic shifts as a result of the pandemic. Some modifications were made as to how a selective licensing scheme could operate in the borough and consequently, following Mayor and Cabinet approval to do so, the council launched a further public consultation to gain feedback on the proposals.

5. Summary of consultation and findings

- 5.1. Lewisham Council carried out a public consultation on proposals to introduce a selective licensing scheme in 16 wards. The council proposed introducing selective

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licensing in three designations, designed to tackle the most pressing issues within the wards.

5.2. Designation One – high repeated antisocial behaviour (ASB) and poor housing conditions:

- Brockley
- Catford South
- Lewisham Central
- New Cross
- Perry Vale
- Rushey Green

5.3. Designation Two – poor housing conditions:

- Crofton Park
- Evelyn
- Ladywell
- Lee Green
- Sydenham

5.4. Designation Three – deprivation:

- Bellingham
- Downham
- Forest Hill
- Grove Park
- Whitefoot

5.5. To consult with landlords, tenants, residents, stakeholders and other interested parties, the council carried out an online survey. The council also hosted public meetings with landlords, tenants, residents, and landlord groups. The council used digital and print media to advertise the consultation, as well as in-person methods, following the easing of social distancing rules.

5.6. The consultation ran for 30 weeks from 20th October 2021 to 20th May 2022.

5.7. In total 1,356 responses were received from the online survey. Qualitative feedback was received at two public meetings and ten written responses from interested parties

5.8. The consultation considered the level of support for introducing selective licensing. The consultation also looked at views on the proposed licence conditions, fees, and the respondents' perceptions of the issues in the borough.

5.9. Table of key findings:

	Overall	Landlords	Privately renting tenants	Other
Total consultation survey responses	1202	361	257	584
Agree with Selective Licensing in Designation 1	52%	13%	69%	69%
Disagree with Selective Licensing in Designation 1	36%	70%	17%	23%

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	Overall	Landlords	Privately renting tenants	Other
Total consultation survey responses	1064	337	242	488
Agree with Selective Licensing in Designation 2	47%	10%	66%	63%
Disagree with Selective Licensing in Designation 2	37%	70%	28%	23%
Total consultation survey responses	1036	321	240	475
Agree with Selective Licensing in Designation 3	48%	11%	68%	65%
Disagree with Selective Licensing in Designation 3	33%	65%	23%	20%
Total consultation survey responses	1298	391	271	636
Agree that the standard property conditions should apply to all designations	64%	29%	80%	79%
Disagree that the standard property conditions should apply to all designations	30%	61%	17%	17%
Total consultation survey responses	1250	380	264	606
Agree that the Supplementary ASB and Poor Housing Conditions should be applied to designation 1 & 2	59%	24%	74%	75%
Disagree that the Supplementary ASB and Poor Housing Conditions should be applied to designation 1 & 2	32%	63%	20%	18%
Total consultation survey responses	1307	393	273	641
Agree that the proposed fee for selective licensing is reasonable	44%	7%	47%	50%
Disagree that the proposed fee for selective licensing is reasonable	47%	90%	36%	40%
Total consultation survey responses	1293	387	273	633
Agree that the proposed discounts for selective licensing are reasonable?	37%	13%	46%	47%
Disagree that the proposed discounts for selective licensing are reasonable?	47%	73%	34%	37%

6. Conclusions

- 6.1. The result of the public consultation on the introduction of a selective licensing scheme demonstrated clear overall support for all three designations. Though a majority of landlord respondents disagreed with the introduction of all three designations, an overwhelming majority of both private tenants and other respondents agreed with all three designations.

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- 6.2. The primary objective of the selective licensing scheme will be to improve the quality of the rental market for private renters and a secondary objective will be to ensure that privately rented homes have a positive impact on neighbourhoods. Officers therefore recommend that the members of the Housing Select Committee should note the results of the consultation, approve the consultation report and the council's response, pending any comments the committee wish to make (see appendices).
- 6.3. Officers further recommend at this stage that some minor amendments to the scheme should be made on the basis of the consultation response, and that officers be given additional time to consider whether further amendments may be appropriate prior to seeking approval from Mayor and Cabinet committee. Officers are currently engaging with our advisors and the Department for Levelling Up, Housing and Communities on whether more material changes are advisable. Members of HSC will be updated if any further changes are made. The minor amendments officers recommend at this time are:
- The addition of a license condition regarding the exterior of the property, to place an obligation on the licence holder to ensure that all boundary walls, fences, communal gardens and yards are kept in a safe condition. This would mirror HMO management regulations and the importance of such a condition was clearly reflected in consultation responses.
 - With regard to fees, some consultation response comments stated that the fee split is unclear. Officers recommend that the fee information be updated with more information about Part A and Part B, how the parts of the fee will be used, and explanatory text outlining things such as how long the licence lasts, who should pay for the licence, what information can be changed without charge (such as change of tenants) and what changes will be charged (change of licence holder).
 - Clearly setting out which landlord accreditation organisations will be eligible for the landlord discount, to ensure that only reputable accreditation providers are accepted.
- 6.4. Officers also recommend that the committee should approve the selective licensing proposals, and support the recommendation to Mayor and Cabinet that the council should proceed to make an application to the DHLUC for approval to introduce the proposed selective licensing scheme.

7. Next steps

- 7.1. Officers will prepare a report for the council's Mayor and Cabinet committee, reflecting the recommendations of the Housing Select Committee, outlined above.
- 7.2. The report will recommend authority be delegated to the Executive Director for Housing, Environment and Regeneration to;
- finalise the application for a Selective Licensing scheme and submit to the DHLUC for ministerial approval, and;
 - implement the Selective Licensing Scheme and publish the 3-month Statutory Notice for the scheme as part of the implementation, pending necessary approvals from the Parliamentary Under-Secretary of State for Rough Sleeping and Housing.

8. Financial implications

- 8.1. This report asks Housing Select Committee to review the responses to the selective licence consultation and the proposed response. It seeks the Committee's comments and support for the approval of this response by Mayor and Cabinet, and the recommendation to proceed with an application for approval to introduce the proposed

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selective licensing scheme to the Department for Housing, Levelling Up and Communities. As such there are no direct financial implications.

- 8.2. A report was presented to Mayor and Cabinet on 11th March 2020 seeking approval for the introduction of an additional licencing scheme for all Houses in Multiple Occupation (HMOs) and for permission to apply to the Secretary of State for approval to introduce a selective licencing scheme. Although approval was granted at that time, the introduction of the schemes were delayed due to the Covid pandemic. The HMO additional licencing scheme was formally launched in April 2022. This report now proposes that permission is sought to proceed with the selective licencing application to DHLUC.
- 8.3. As outlined in the March 2020 Mayor and Cabinet report, for the selective licencing scheme, this will mean that a new fee charge would need to be introduced in order to recover the costs incurred.
- 8.4. There are significant staffing and operational costs associated with the implementation of a selective borough-wide licencing scheme. These costs, will need to be fully covered by the implementation of a licencing fee to ensure full cost recovery.
- 8.5. A comprehensive financial model has been developed to assess the resourcing implications of a new selective licencing scheme over the five-year licencing period. Based on current assumptions within the financial modelling undertaken, a fee in the region of £640 for selective licencing would be sufficient to recover costs incurred.
- 8.6. Whilst the financial modelling is robust, it does rely on assumptions of the number of licensable properties. There is a risk that the numbers could have been over/under estimated resulting in additional costs or loss of income.
- 8.7. In addition, as there is a statutory requirement to split the selective licencing fee into two parts, there is a risk that some of the fee income will remain outstanding and result in a requirement to set-up an impairment allowance (bad debt provision). This has been included within the current forecasts and financial modelling for the scheme. However, every effort will be made to ensure applicants pay the enforcement fee prior to putting forward any outstanding amounts for write-off action.
- 8.8. Mitigation against this and other risks are that staffing levels can be flexed to bring the scheme back into balance. In addition, quarterly reviews of the scheme, its implementation and resourcing will be undertaken to ensure that operational and financial performance is within the scope outlined in this and the 11th March 2020 Mayor and Cabinet reports.

9. Legal implications

- 9.1. Selective Licensing Schemes
- 9.2. Sections 79- 81 of Part 3 of the Housing Act 2004, provide local authorities with power to introduce selective licensing schemes for other houses falling outside of Part 2 of the Act, which deals with licensing of HMOs.
- 9.3. The types of houses to be licensed under a selective licensing scheme are defined within s. 79 (2) of the 2004 Act. Namely, it applies to a house “if (a) it is in an area that is for the time being designated under section 80 [for selective licensing], and (b) the whole of it is occupied either- (i) under a single tenancy or licence that is not an exempt tenancy, or (ii) under two or more tenancies or licences of different dwellings contained in it, none of which is an exempt tenancy or licence...” Further statutory considerations for a local authority apply under Part 3 of the Housing Act 2004 for selective licensing schemes, pursuant to section 80 (2)(a) and (b). These include conditions in relation to housing conditions, deprivation, migration and conditions in relation to crime and anti-social behaviour.

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- 9.4. Before making a decision to introduce selective licensing the local authority must:
- consult with those who are likely to be affected, including those who live, work or operate businesses in adjoining local authority areas where they will be affected
 - consider whether there are other effective methods of achieving the intended objective.
- 9.5. Approval by the Secretary of State is required for selective licensing schemes.
- 9.6. The Secretary of State will take into account when deciding whether to confirm a Scheme, the robustness of the proposed measures to ensure compliance. In particular, the Secretary of State will expect to be assured there are systems in place to monitor compliance and enforcement measures will be in place where there is non-compliance. Approval of the Secretary of State will be required for a selective Licensing scheme as the proposed borough-wide scheme will:
- cover more than 20% of the authority's area, and / or,
 - affect more than 20% of privately rented homes in the authority's area. Selective licensing may come into force no earlier than three months after the designation has been approved (or it falls under the general approval).
- 9.7. When fixing fees, the local housing authority may pursuant to s. 87 of the 2004 Housing Act (subject to any regulations made under subsection 5) take into account:
- all costs incurred by the authority in carrying out their functions under this Part, and,
 - all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 in relation to Part 3 houses (so far as they are not recoverable under or by virtue of any provision of that Chapter).
10. Equalities implications
- 10.1. A draft Equalities Analysis Assessment has been completed and is included at Appendix 3. It will be finalised prior to the report being presented to Mayor and Cabinet for approval.
11. Climate change and environmental implications
- 11.1. The licensing scheme will complement the council's existing licensing schemes in identifying climate and environmental issues not already known such as energy performance, fly-tipping and waste management issues directly linked to properties in the PRS.
- 11.2. A coordinated approach will be taken to engage with landlords. Inspections will focus on the eradication of category 1 and 2 hazards on cold and thermal efficiency, especially for vulnerable residents.
- 11.3. Inspections of these properties will be conducted on a risk basis including analysis of potential poor standards in the stock and will work to address poor standards including damp and cold.
- 11.4. Our officers will be trained to provide advice on potential issues relating to energy efficiency, root damage, subsidence and light.
- 11.5. The council will undertake targeted work with all landlords and using landlord forums to promote energy efficiency, including engaging with landlord accreditation schemes that promote energy efficiency.
- 11.6. The council will also take steps to engage more effectively with renters across the

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borough to raise awareness of the Climate Emergency, and to flag up measures to tackle it, in particular by highlighting renters' rights with regard to the removal of category 1 hazards such as excess cold. This will be particularly important in the context of the current cost-of-living crisis.

- 11.7. The licensing and enforcement team is committed in support Lewisham's climate change initiatives by supporting the climate initiative team in:
- developing a programme to target high-risk streets and neighbourhoods with tailored advice including the publication and promotion of initiatives
 - assessing the actions and investment needed to get all buildings in the PRS to an average of EPC B and in identifying energy inefficient properties
 - exploring the potential to provide a discount on the licence fees based on their EPC rating

12. Crime and disorder implications

- 12.1. One of the objectives of the proposed schemes includes tackling ASB and crime. The scheme will identify crime and disorder issues as a result of inspections and investigation. This may result in an increase in anti-social behaviour casework, which is investigated primarily by the Council's Safer Communities service.
- 12.2. The Private Sector Housing Agency will tackle ASB and crime through active and robust enforcement working in partnership with a range of internal and external agencies including the Safer Communities service and the police, where necessary.
- 12.3. However, the council is clear that the licensing scheme confers powers on the council to take action against criminal and unlawful behaviour by landlords with regard to the management and standards of their rental properties only. This is the primary purpose of selective licensing.
- 12.4. The Council's licensing and housing enforcement service has limited powers and remit to deal with anti-social, or unlawful behaviour on the part of tenants, which, in common with any other resident of the borough is properly the purview of the Safer Communities service, or the police. Landlords are required to have an anti-social behaviour policy as part of the license conditions, and the council can remind landlords of this obligation. The licensing and housing enforcement service is committed to working closely with colleagues in all other relevant council services and other public agencies to support the delivery of safer communities in the borough.

13. Health and wellbeing implications

- 13.1. A key component of delivering the scheme outcomes is the promotion of careers in PRS housing to young people. We will create additional opportunities to promote careers in housing and environmental health to young people, to create a long-term pipeline of qualified officers. Providing new, attractive career options for young residents will have a positive impact on their health and wellbeing.
- 13.2. A poorly managed private rented sector detracts from the look and feel of streets and neighbourhoods, and can have a negative impact on residents' perception of themselves and our borough. A good quality private rented offer, which has a positive impact on neighbourhoods by creating genuinely mixed communities will encourage residents to stay in the borough.
- 13.3. Housing has a huge influence on our mental health and wellbeing. Those who are vulnerable – elderly or young, isolated, without a support network, and adults with disabilities – are more likely to be affected. Poor housing conditions have a long-term impact on health, increasing the risk of severe ill-health or disability by up to 25 per cent during childhood and early adulthood. Children living in crowded homes are more

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likely to be stressed, anxious and depressed, have poorer physical health, and attain less well at school. An improvement in property conditions is expected to lead to a general improvement in residents living conditions and their health.

14. Appendices

- 14.1. Appendix 1: Draft report of the public consultation findings by Cadence Innova
- 14.2. Appendix 2: Draft London Borough of Lewisham response to the consultation on the introduction of a selective licensing scheme
- 14.3. Appendix 3: Equalities Analysis Assessment
- 14.4. Appendix 4: Licensing conditions

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