

## Notice of Non-Key Executive Decision

Subject Heading:	Consultation on Proposed Licensing Schemes for Houses in Multiple Occupation (HMOs) and the other Private Rented Sector Housing
Decision Maker:	Helen Oakerbee, Director of Planning & Public Protection
Cabinet Member:	Cllr Barry Mugglestone
ELT Lead:	Helen Oakerbee, Director of Planning & Public Protection
Report Author and contact details:	Anand Punj, Public Protection Manager 01708 432 253 <a href="mailto:Anand.Punj@havering.gov.uk">Anand.Punj@havering.gov.uk</a>
Policy context:	A great place to live, work and enjoy - Promote good private sector housing for local people.
Financial summary:	There is a cost to running the statutory consultation. This will be met within existing budget. The financial objective of the scheme is to be self-financing, and the fees have been set accordingly.
Relevant Overview & Scrutiny Sub Committee:	Places Overview & Scrutiny Sub Committee
Is this decision exempt from being called-in?	The decision will be exempt from call in as it is a Non key Decision

### **Non-key Executive Decision**

The subject matter of this report deals with the following Council Objectives

People - Supporting our residents to stay safe and well [X]

Place - A great place to live, work and enjoy [X]

Resources - Enabling a resident-focused and resilient Council [X]

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### Part A – Report seeking decision

#### **DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION**

The purpose of this decision is to request permission to commence the formal consultation process required before the proposed introduction of a five-year borough wide Additional licensing designation, in addition to a ward specific Selective licensing designation (five-year). For the Selective Licensing Scheme the seven qualifying wards are Beam Park, Harold Wood, Rainham & Wennington, Rush Green & Crowlands, St Alban's, St Edwards.

#### **AUTHORITY UNDER WHICH DECISION IS MADE**

General

3.3.3.

1.1 To take any steps, and take any decisions, necessary for the proper management and administration of their allocated directorate, in accordance with applicable Council policies and procedures.

#### **STATEMENT OF THE REASONS FOR THE DECISION**

##### **Introduction**

The Council seeks to implement:

- A borough wide Additional HMO licensing scheme
- A ward specific selective licensing designation covering - Beam Park, Harold Wood, Rainham & Wennington, Rush Green & Crowlands, Squirrels Heath, St Alban's and St Edward's

Sections 56 (3) & 80 (9) of the Housing Act 2004 states that when considering designating an area the local housing authority must:

- take reasonable steps to consult persons who are likely to be affected by the designation, and
- consider any representations made in accordance with the consultation and not withdrawn

A decision is necessary to authorise formal consultation in respect of this proposal.

##### **Background**

A 'designation' refers to a formal decision made by a local housing authority to apply specific regulatory controls to privately rented properties within a defined geographic area. These designations are typically used for Selective Licencing and Additional

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Licencing schemes and they impose certain obligations on landlords operating in the designated area.

The current Selective & Additional Licensing Designations expire on 24th January 2026 and were originally introduced in selected wards due to poor housing conditions and anti-social behaviour; in addition to a significant proportion of smaller HMO's which were being poorly managed. The scheme enabled the Local Authority to create the Landlord Licensing team to deal with complaints, specifically from privately rented properties within respective designations.

Before proposing a designation and embarking on a consultation, the local housing authority must identify the problems affecting the area to which the designation will apply and provide evidence to demonstrate the existence of the problems. It must also decide what other measures they will take along with other stakeholders to mitigate or eliminate those problems, enabling the aims of the scheme to be achieved. It should be noted that in making a selective licensing designation, the local housing authority must also take other measures to help address the problems. A scheme cannot be proposed unless those other measures are to be introduced (or continued).

To introduce Additional HMO licensing the council must be satisfied that:

- A significant proportion of the HMOs are being poorly managed and are giving rise, or likely to give rise, to problems affecting the occupiers or members of the public.
- Decision to implement an additional licensing scheme must be consistent with the council's housing strategy
- Is part of a coordinated approach for dealing with homelessness, empty homes and other related policies. There are no other courses of action that might provide an effective remedy
- The introduction of a licensing scheme will significantly assist in dealing with the problem.

The Council should also consider whether the proposed Additional HMO scheme includes 'section 257 HMOs'. These are buildings that:

- Have been converted into self-contained flats; and
- The conversion did not comply with the relevant Building Regulations in force at that time and still does not comply; and
- Less than two-thirds of the flats are owner-occupied

A selective licensing designation may be made if the area to which it relates satisfies one or more of the following conditions. The area is one experiencing:

- low housing demand (or is likely to become such an area)
- a significant and persistent problem caused by anti-social behaviour
- poor housing conditions
- high levels of migration
- high level of deprivation
- high levels of crime

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Should a local authority be considering designating an area on the following grounds:

- poor housing conditions and/or
- migration
- deprivation
- crime

Then the local housing authority may only make a designation if the area has a high proportion of housing in the private rented sector. Nationally the private rented sector currently makes up 19% of the total housing stock in England. The actual number of privately rented properties in a given area may be more or less than this, and if it is more than 19%, the area can be considered as having a high proportion of privately rented properties. Local authorities should consult the latest available English Housing Survey or Census when considering whether an area has a high proportion of privately rented properties

Metastreet Ltd were commissioned by London Borough of Havering to review the housing stock in the borough and assess housing stressors related to key tenures, particularly the private rented sector (PRS). (See appendix A)

The main aim of this review was to investigate and provide accurate estimates of:

- Current levels of private rented sector (PRS) properties and tenure change over time, including Houses in Multiple Occupation (HMO).
- Levels of serious hazards that might amount to a Category 1 and high scoring category 2 hazard (Housing Health & Safety Rating System (HHSRS)).
- Other housing related stressors, including service demand, population and deprivation linked to the PRS.
- Assist the council to make policy decisions, including the possible introduction of property licensing schemes under Part 2 & 3 of Housing Act 2004

The key finding of this report were that:

- PRS accounts for 19.3% of Havering's housing stock, distributed across all 20 wards.
- Seven wards have PRS percentages equal to or above the 2024 national average (19%). Namely: Beam Park, Harold Wood, Rainham & Wennington, Rush Green & Crowlands, Squirrels Heath, St Alban's and St Edward's
- The rates of Category 1 and/or high scoring Category 2 HHSRS hazards per 100 PRS properties reveals a wide distribution across Havering.
- Mawneys (29.5 per 100) has the highest rates of predicted PRS properties with serious hazards.
- All seven eligible wards have above the national average percentage (12%) of category 1 or high category 2 hazards which justifies a selective licensing scheme.
- All wards have above the national average percentage (12%) of cat 1 or high cat 2 hazards for HMOs. The evidence supports borough-wide Additional HMO scheme.

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As General Approval came into effect from 23 December 2024 local housing authorities in England are no longer required to obtain confirmation from the Ministry of Housing, Communities and Local Government (MHCLG), before implementing a selective licensing scheme of any size. This has resulted in a single designation covering all qualifying wards to be deemed the most appropriate option (See appendix B)

### **OTHER OPTIONS CONSIDERED AND REJECTED**

#### **Option 1 - Do Nothing upon expiration of the existing designations.**

The landlord licensing team is responsible for processing, monitoring and enforcement of properties within the current designations, which include the wards with the highest percentage PRS stock within the borough.

Complaints regarding properties outside of the designation are dealt with by the Council's Private Sector Housing Team (PSH), whose budget is derived from the general fund limiting the team to a maximum of two Public Protection Officers.

Without a designation in place the landlord licensing team would be dissolved leaving the PSH team unable to respond and investigate to all the complaints received; resulting in service delivery failures. More officers would have to be employed to enable service delivery posing a significant pressure on the General Fund. Therefore, this option has been rejected.

#### **Option 2 – A single selective licensing designation covering a smaller area, or fewer wards.**

Omitting qualifying wards would not be congruent with original aims of selective licensing, to offer a greater security of tenure and safer, higher quality homes for renters. Therefore, this option has been rejected.

### **PRE-DECISION CONSULTATION**

No formal consultation was required in respect of the recommendations in this report. As per Government guidance the local housing authority has commissioned subject matter experts to identify the objective or objectives that a designation will help it achieve, and consider whether there are any other courses of action available to it that would achieve the same objective or objectives as the proposed scheme without the need for the designation to be made.

Councillor Barry Mugglestone, the Lead Member for Environment, was briefed about the proposal and consultation on 15 January 20 March and 8 April 2025

### **NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER**

Name: Anand Punj

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Designation: Public Protection Manager

Signature: A. Punj

Date: 08/04/2025

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### Part B - Assessment of implications and risks

#### **LEGAL IMPLICATIONS AND RISKS**

The Statutory conditions for introducing an additional HMO scheme are as follows:

The Housing Act 2004 sections 56 and 57 set conditions before any designation can be made including:

- a) That a significant proportion of the HMOs (that will be subject to the proposed designation) in the area are being managed sufficiently ineffectively as to give rise, or likely to give rise, to problems either for those occupying the HMOs or for members of the public.
- b) That the making of the designation when combined with other measures taken by the authority alone or with other persons will significantly assist them to resolve the problem identified (whether or not they take any other course of action as well).
- c) Whether there are any other courses of action available to them that might provide an effective method of dealing with the problem or problems in question.

The Council must also:

- d) Take reasonable steps to consult persons who are likely to be affected by the designations and consider any representations made.
- e) Adopt a coordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector as regards combining licensing with other action taken by them or others.
- f) Ensure that the exercise of the power is consistent with their overall Housing Strategy.

Section 80 of the Housing Act 2004 (the “Act”) and the Selective Licensing of Houses (Additional Conditions) (England) Order 2015 sets out the criteria and considerations that the Council must be satisfied are met when considering designating a selective licensing area.

These general conditions are:

- a. That the area is, or is likely to become, an area of low housing demand.
- b. That the area is experiencing a significant and persistent problem caused by antisocial behaviour.
- c. The area has poor property conditions.
- d. The area has high levels of migration.
- e. The area has high levels of deprivation.
- f. The area has high levels of crime.



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Section 81 of the Act requires the Council to ensure that the exercise of its powers under section 80:

- a. Is consistent with its Housing Strategy
- b. Adopts a coordinated approach in dealing with homelessness, empty homes and anti-social behaviour both as combining selective licencing under the Act with other courses of action available to it and combining licencing with actions taken by other persons.

The Council is not permitted to make a designation under section 80 unless it has considered whether there are any other courses of action available to it that might provide an effective method of achieving the objective or objectives that the designation would be intended to achieve, and it considers that making the designation will significantly assist it to achieve the objectives (whether or not it takes any other course of action as well).

Details of the general approval have been set out in the body of the report.

Consultation:

The consultation period for both licensing schemes must be for a period of not less than 10 weeks. Those must be consulted who are likely to be affected by the schemes. This does not just include those who live and work in the borough but also those who may be affected within neighbouring boroughs.

Sedley QC defined that a consultation is only legitimate when these four principles are met:

- 1. Proposals are still at a formative stage:** A final decision has not yet been made, or predetermined, by the decision makers.
- 2. There is sufficient information to give 'intelligent consideration':** The information provided must relate to the consultation and must be available, accessible, and easily interpretable for consultees to provide an informed response.
- 3. There is adequate time for consideration and response:** There must be sufficient opportunity for consultees to participate in the consultation. This has already been set for 12 weeks which is sufficient time to allow responses given the extent of the schemes.
- 4. 'Conscientious consideration' must be given to the consultation responses before a decision is made:** Decision-makers should be able to provide evidence that they took consultation responses into account.

Fees:

For the additional HMO licensing scheme, section 63(7) of the Housing Act 2004 states that: "when fixing fees under this section, the local housing authority may (subject to any regulations made under subsection (5)) take into account:

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- (a) all costs incurred by the authority in carrying out their functions under this Part, and
- (b) all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 in relation to HMOs (so far as they are not recoverable under or by virtue of any provision of that Chapter)".

Article 13(2) of the EU Services Directive (2006/123/EC) requires that the licence fee paid by the applicant must be reasonable and proportionate to the cost of the authorisation (licensing) procedure and shall not exceed the cost of the authorisation procedure. Therefore, the schemes must be costs neutral.

In line with *Hemming v Westminster City Council*, the licence fee will be levied in two parts. Part A of the fee is for the application for a licence and covers the costs of processing, administration, and validation of the application. Part B of the fee funds the running costs of the scheme, including licensing inspections and enforcement.

Details of the full fee structure and any discounts for both schemes must be set out in the consultation paper.

### **FINANCIAL IMPLICATIONS AND RISKS**

The consultation is a legal requirement to introduce both Additional and Selective Licensing scheme designations.

The scheme is designed to produce no financial burden on the Council with services provided being covered by license fee income. The cost of the consultation will also be met from the licensing fee income, any residual balance at the end of the scheme's lifetime is retained for the purpose of review, potential cessation, on-going enforcement and monitoring of active licenses.

The following table shows the cost breakdown of known consultation costs, as of June 2024.

Item/Description	Total £m
<b>Expenditure</b>	
<b>Milestone 3: Communications strategy and activity plan with campaign messaging</b>	<b>£0.030m</b>
<b>Milestone 4: Consultation evidence pack</b>	<b>£0.030m</b>
<b>Milestone 5: 12-week support with consultation delivery</b>	<b>£0.040m</b>
<b>Milestone 6: Council consultation response report</b>	<b>£0.022m</b>
<b>Milestone 7: Final Consultation report</b>	<b>£0.022m</b>
<b>Total Expenditure for this phase (Exc. VAT)</b>	<b>£0.144m</b>

If this report is agreed and the consultation is completed, a further Cabinet paper will be filed with a finalised financial forecast for the life of the scheme.

**HUMAN RESOURCES IMPLICATIONS AND RISKS  
(AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)**

The recommendations made in this report do not give rise to any identifiable HR risks or implications that would affect either the Council or its workforce.

**EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS**

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- (i) The need to eliminate discrimination, harassment, victimisation, and any other conduct prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics and those who do not; and
- (iii) The need to foster good relations between those who have protected characteristics and those who do not.

Note: Protected characteristics include age, sex, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity, and gender reassignment.

The Council is committed to all of the above in the provision, procurement, and commissioning of its services, and the employment of its workforce. Additionally, the Council is dedicated to enhancing the quality of life and wellbeing for all Havering residents with regard to socio-economic and health determinants.

An EHIA (Equality and Health Impact Assessment) has been undertaken

The Council seeks to ensure equality, inclusion, and dignity for all.

There are not equalities and social inclusion implications and risks associated with this decision.

**ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS**

The recommendations made in this report do not give rise to any identifiable climate change implications and risks associated with this decision.

**BACKGROUND PAPERS**

<https://www.gov.uk/government/publications/selective-licensing-in-the-private-rented-sector-a-guide-for-local-authorities/selective-licensing-in-the-private-rented-sector-a-guide-for-local-authorities#what-is-selective-licensing>

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**APPENDICES**

APPENDIX A - Private Rented Sector: Housing Stock Condition and Stressors Report

APPENDIX B – Feasibility & Options Appraisal Report

**Part C – Record of decision**

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed 

Name: Helen Oakerbee, Director of Planning and Public Protection

Date: 08/04/2025

Lodging this notice

The signed decision notice must be delivered to Committee Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on \_\_\_\_\_

Signed \_\_\_\_\_