

Subject:	Private Rented Sector Selective Licensing Update	
Date of Meeting:	13th November 2019	
Report of:	Executive Director for Housing, Neighbourhoods & Communities	
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Ward(s) affected:	(All Wards);	

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 Following a report to Housing & New Homes Committee on 13 March 2019, this report is to further update members by outlining the current position in considering taking forward a smaller-scale selective licensing scheme for private rented housing in the City. This would primarily cover properties occupied by single-family units. It would not cover Houses in Multiple Occupation that are currently licenced under the National or Additional HMO Licensing Schemes.
- 1.2 Proposals to introduce a Selective Licensing Scheme in 12 wards in the city received cross party Housing & New Homes Committee support in November 2017. Following a legal challenge, the Secretary of State withdrew approval for the previously proposed scheme to designate 12 wards in the city as subject to selective licensing. Private rented housing accounts for around 28% of the total housing stock in the city and so we want to ensure that such accommodation is safe and well managed. Licensing is a pro-active approach to achieve this, as opposed to taking reactive action, when an issue has been reported to us. We are therefore exploring a smaller scheme with a focus on specific areas where there are indications of poor standards and/or management.

2. RECOMMENDATIONS:

- 2.1 That the Committee notes the current position and that there is a lot more work to be undertaken with the aim to bring a report to Housing committee updating on the strength of the evidence to support a scheme in March 2020.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 At Housing & New Homes Committee on 17 November 2017 there was cross party approval for recommendations concerning a proposed Selective Licensing Scheme for privately rented homes. Proposals sought to designate the following 12 wards as subject to selective licensing: St Peters & North Laine; Regency; Moulsecoomb & Bevendean; Hollingdean & Stanmer; Queens Park; Hanover & Elm Grove; Brunswick & Adelaide; East Brighton; South Portslade; Central Hove; Westbourne; Preston Park. The previous proposed scheme intended to cover all

single occupancy private rented properties in these wards, which was approximately 27,000 properties. Following a legal challenge, the Secretary of State withdrew approval for the previously proposed scheme.

- 3.2 The private rented sector is a disproportionately large sector and is an important source of accommodation for a large number of households covering many different income scales, from basic accommodation through to luxury end.
- 3.3 There is a concern that some of the accommodation, particularly at the lower end of the market where vulnerable households may reside, is not safe and not well managed.
- 3.4 Whilst we can bring Enforcement action against property owners whose properties fall below standard, this relies on the tenant informing us and there may be reasons why tenants are concerned to do this. It is also a reactive remedy.
- 3.5 In contrast, Licensing can be a more pro-active approach but it does not allow us to address issues with an individual property. Licensing is to address the management, use and occupation of private sector accommodation as it affects others in the locality, with a view to ameliorating the problems of low housing demand and anti-social behavior, which occasioned designation as a selective license area. Its purpose therefore is to address community issues in a local area (which can be geographically small). For instance if an area is run down we may be able to get the landlord to address the external façade of the property, but not the internal conditions in any direct way. There are limitations to the terms of the licence and it is not possible legally to directly address physical problems with the property
- 3.6 In view of the previous response of the Secretary of State, any further proposed scheme needs to be robust. This proposal is therefore being developed with detailed input from our legal team and will build on and update the work previously undertaken by Mayhew and Harper Associated Ltd, which was considered at Housing & New Homes Committee on November 2016, and building on previous consultation. As these reports are now several years old, the information will need to be updated and this work is being undertaken.
 - 3.6 The legislation has several grounds for introducing a selective licensing scheme:
 - Anti-social behaviour
 - Poor housing conditions
 - Migration
 - Deprivation
 - Crime
 - (low Housing Demand – which we can discount as there are no such areas in the city)
 - 3.7 Current work is underway to collate and analyse information available in relation to a range of factors that would feed into one or more of the above grounds. This encompasses data around anti-social behaviour; noise nuisance; fly tipping, public health, migration, deprivation and crime. In addition, we are undertaking a stock condition survey focused on a sample of approximately 250 properties. We would also need to consider any ‘unforeseen circumstances’. For example Would

an unintended consequence be that we in fact further reduce properties available to vulnerable groups. For instance if we were to obtain a licence based on anti-social behaviour in a specific area, this might mean that landlords would filter out people who may be more likely to engage in anti-social behaviour.

- 3.8 Early analysis of the information is indicating a much smaller scheme than previously, which would focus on several areas accounting for no more than five wards. If the evidence robustly supports this, it would be below that which would require Secretary of State Consent.
- 3.9 There is a lot more work to be undertaken and we are aiming to bring to Housing committee in March 2020 an update on the strength of the evidence in support of a scheme.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 We are analysing all options that will ensure private rented accommodation is safe and well managed.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Extensive consultation was previously undertaken and we will build on this when we have distilled the information and evidence to inform potential areas for a licensing scheme

6. CONCLUSION

- 6.1 To note that work is underway to consider an alternative selective licensing scheme that is robust and proactively addresses conditions so that properties are safe and well managed.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The costs of the stock condition survey relating to the private rented sector are being met from current Housing General Fund budgets.

Finance Officer Consulted: Monica Brooks

Date: 21/10/19

Legal Implications:

- 7.2 There are multiple legal requirements under the Housing Act to be met even if the Secretary of State approval is not sought. For instance there is a requirement in relation to anti-social behaviour (s 80) to establish that “some or all of the private sector landlords are failing to take action to combat problems that it would be appropriate for them to take;” that it is consistent with the overall housing strategy; that there is a co-ordinated approach between homelessness, empty

properties and anti-social behaviour ; we must have considered what other options are available to us; and that it will significantly assist us to achieve objective.

- 7.3 Each one of the grounds has its own set of requirements.
- 7.4 Given the judicial challenge to the previous applications, it is likely that there will be further challenge even to a reduced scheme. On that basis, it is important to ensure that we can meet each and every required criterion.

Lawyer Consulted:
2019

Name Simon Court

Date: 22nd October

Equalities Implications:

- 7.5 A previous Equalities Impact Assessment was undertaken for the city-wide proposed scheme and this will be updated to reflect any new scheme proposed.

Sustainability Implications:

- 7.6 Any proposed scheme would aim to improve sustainability of properties that would be licensed including energy efficiency, heating and insulation. Whilst we cannot require additional items we can ensure that what is in the property is fully operational and fit for purpose.