

<b>Subject:</b>	Private Rented Housing - Permission to consult on a further Discretionary Licensing Scheme		
<b>Date of Meeting:</b>	<b>14 January 2015</b>		
<b>Report of:</b>	<b>Executive Director of Environment, Development &amp; Housing.</b>		
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<b>Ward(s) affected:</b>	Seven wards: Brunswick & Adelaide, Central Hove, East Brighton, Goldsmid, Preston Park, Regency, Westbourne		

### FOR GENERAL RELEASE

#### 1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 A key Housing Strategy review theme has been the significant growth in private rented housing in Brighton & Hove. While many landlords operate responsibly, a significant number do not and as a result issues continue to be raised in relation to the management, standards and quality of homes in this expanding sector, in particular Houses in Multiple Occupation (HMOs).
- 1.2 The principal Council regulatory powers relating to standards in the private rented sector include: Housing Act powers in response to requests for assistance; mandatory licensing of larger HMOs across the city; discretionary, additional licensing of smaller HMOs in the Lewes Road wards.
- 1.3 Following an initial review of the existing discretionary licensing scheme and in light of on-going issues of concern identified in other areas of the city, Housing Committee (10/09/14) agreed a detailed options paper be reported to a future meeting on extending coverage and / or widening the scope of discretionary licensing schemes in the city. In addition, Council (24/10/14) resolved that the Living Rent petition be noted and referred to the Housing Committee for consideration with recommendations including 'developing a licensing scheme for all private landlords as has happened in Newham'.
- 1.4 In addition to the Lewes Road designation, research to understand the situation across the city indicates a correlation between other areas with high concentrations of private rented homes not covered by discretionary licensing and a range of issues including higher levels of Private Sector Housing service requests, noise complaints, anti-social behaviour, poor fire safety and health inequalities.
- 1.5 This report updates Housing Committee on the evidence and options that may support a possible extension of discretionary licensing to further wards in the City and seeks approval to consult on the designation of a further scheme in the areas identified: Brunswick & Adelaide; Central Hove; East Brighton; Goldsmid; Preston Park; Regency; Westbourne. The report also recommends the wider availability of the existing register of licensed HMOs through publication on the council website.

## 2. RECOMMENDATIONS:

- 2.1 That Housing Committee note the evidence available to support the possible extension of additional HMO licensing designation to more wards in the city and approve consultation on designation of a further discretionary licensing scheme in relation to HMOs consisting of two or more storeys and with three or more occupiers, other than those that are HMOs by virtue of Section 257 of the Housing Act 2004.
- 2.2 That Housing Committee agrees that the existing register of licensed HMOs is placed and regularly updated on the council website.

## 3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 A key overarching theme arising from the city-wide Housing Strategy review has been the significant growth in private rented housing in Brighton & Hove. The Private Rented Sector stands at 34,081 homes (private renting from a landlord or letting agency) or 28% of all housing stock in the City (2011 Census). The City has the ninth largest private rented sector in England & Wales and sixth highest proportion of converted dwellings or shared houses (houses in multiple occupation and bedsits) in England & Wales. The sector increased by 45.7%, an extra 10,691 homes, between the 2001 and 2011 Census. 15 of our 21 wards exceed the regional and national average of 15% of households living in private rented homes. Three wards have 50% or more households in homes rented through private landlords or lettings agents. The Census figure is likely to be a minimum for the rented sector as it now stands as a proportion of all homes in the city. This growth brings the benefits of a flexible housing market response to meet accommodation needs in the City. However, while many landlords operate responsibly, issues continue to be raised in relation to the management, standards and quality of homes in the expanding private rented sector, in particular Houses in Multiple Occupation (HMOs).
- 3.2 The table below compares private renting from a landlord or letting agent in Brighton & Hove with numbers and percentages in England, London and the South East.

Area	All tenures (total)	Private rented: Private landlord or letting agency	% Private rented: Private landlord or letting agency
Brighton & Hove	121,540	34,081	28%
England	22,063,368	3,401,675	15%
London	3,266,173	775,591	24%
South East	3,555,463	521,479	15%

Source: Census 2011 (DC4101EW)

### Private Rented Sector – benefits & issues

- 3.3 The private rented sector is an important source of flexible housing supply in the city with a range of benefits including: Catering for a highly mobile population; Supporting university growth to the benefit of the local economy, labour market

and cultural offer; Helping to address housing need in the city; Supporting investment in improving city housing stock; Supporting direct and indirect employment, including in local trades and businesses.

- 3.4 The sector has an important role in providing housing options for those not wishing or not able to consider home ownership or for those to whom social housing is not an option, as well as providing housing for the city's large student population. The council is keen to ensure that the sector meets the demands placed upon it by the housing needs of the wide range of tenants it services by providing well managed and quality accommodation.
- 3.5 Much of the private rented sector provides decent well managed accommodation, playing a key role in meeting housing requirements of a third of the households in the City. However there are problems with part of the sector arising from poor management, property conditions and related problems of anti-social behaviour. In particular, the private rented sector does have some problems for which statutory regulation, particularly licensing, may be required.
- 3.6 Our Private Sector Stock Condition Survey (2008) indicated that 35% of all private sector homes fail the Decent Homes Standard (national average 27.1%) and 36.9% of private rented homes fail it. This failure is largely driven by category 1 hazards under the Housing Health and Safety Rating System and poor standards of thermal comfort. This is likely to be aligned to the fact that a significant proportion of the city's stock was built before 1919, much higher than the national average, with solid walls and sliding sash windows, hindering energy efficiency with 42% of carbon emissions in the City coming from domestic sources.
- 3.7 In addition to HMO licensing the Private Sector Housing Team deal with service requests about standards within private sector housing in the city, including issues such as dampness, disrepair and drainage and complaints concerning nuisance caused by the condition of neighbouring properties. Service requests are reactive requests for assistance received by phone, email or in writing or via referral from other teams or agencies. Between 1 April 2013 and 31 March 2014 the Private Sector Housing team was in receipt of 1128 service requests from across the city. Of these 369 (33%) related to dampness and 226 (20%) related to non-emergency disrepair complaints.
- 3.8 In addition to stock condition and service requests received by the Private Sector Housing Team, the expanding private rented sector continues to have other impacts across the City. This includes the fact that loss of private rented sector accommodation remains the most common single cause for being accepted as homeless by Brighton & Hove City Council. In Quarter 4 2013/14 reasons for homelessness included: 30% due to loss of private rented accommodation; 26% due to eviction by parents; 16% due to eviction by family and friends; 11% due to fleeing domestic violence.

### **Private Rented Sector HMOs**

- 3.9 The principal tool for regulating standards in Houses in Multiple Occupation (HMOs) is HMO licensing. Currently, across the whole of England and Wales, all HMOs of three or more storeys and with five or more occupants must be licensed under the Government's mandatory licensing scheme. As of 17 December 2014

the council currently license and / or have licence applications for 1048 larger HMOs under the national mandatory licensing scheme applied city-wide.

- 3.10 The designation of an Additional Licensing scheme in the five Lewes Road wards (applying to smaller HMOs of two or more storeys and three or more occupiers) commenced on 5 November 2012. Housing Committee approved the designation on the basis of extensive consultation and robust evidence that a significant proportion of the smaller HMOs in the wards affected were being managed sufficiently ineffectively as to give rise to one or more particular problems either for those occupying the HMOs or for members of the public. As of 17 December 2014 the Council has received 2064 valid additional licence applications (though a few of these are now new owners re-applying on the same property) and checked and issued 1958 draft licences, of which 1808 have been followed up with full licences (issued on condition that any work required is carried out within an agreed period).
- 3.11 HMOs are amongst the more difficult to manage properties in the sector. Demand for HMOs is growing, mainly aligned to demographics and affordability. Welfare reform and increasing private sector rents are making self contained accommodation unaffordable for many residents. With an increasing population, including growth in student numbers through university expansion and demand for more cost effective housing options, HMOs are increasingly being used to meet accommodation pressures across the city.
- 3.12 The Brighton & Hove City Council Stock Condition Survey (2008) and other data highlights that Brighton & Hove has an exceptionally high number of HMOs. Some are small bed-sits, others large shared houses. Many of the small bed-sits are concentrated in the centre of the city and often provide accommodation for the more vulnerable households. This is in addition to the significant and growing number of smaller HMOs along the Lewes Road 'corridor' providing housing for students and young professionals sharing the cost of rents.
- 3.13 In some HMOs the standards of management and living conditions can be poor. Research has shown the risk in HMOs from hazards such as fire can be as much as four or more times higher than the risk in a residential property occupied by a single household. Licensing allows local authorities to proactively identify and engage with landlords, particularly with the less responsible private landlords.
- 3.14 In relation to the existing additional HMO licensing scheme, in addition to the eight mandatory licence conditions, the most common special conditions applied to additional licensed HMOs are below (a full breakdown is in the report appendix).:

**Top 5 Special Conditions Applied between 1 November 2012 to 30 November 2014**

	Hanover & Elm Grove	Hollingdean & Stanmer	Moulsecoomb & Bevendean	Queen's Park	St. Peter's & North Laine	Total Conditions
Other Fire Works	543	180	634	91	370	1818
Structural Fire Works	497	163	613	80	343	1696
Fire Alarms	415	162	558	65	283	1483

Management Repairs	388	137	493	65	264	1347
Loft Insulation	293	93	365	39	180	970

The above table shows the separate condition types applied to licensable properties N.B. one or more conditions could apply to an individual property.

### **Further discretionary licensing**

3.15 Housing Committee (10/09/14) were advised of options to extend coverage and / or widen the scope of the existing discretionary licensing schemes to address issues that continue to be raised in relation to management, standards and anti-social behaviour in relation to the expanding private rented sector in the city. The report outlined circumstances set out in the Housing Act where a local authority may consider establishing a Selective Licensing scheme or any further designation of Additional Licensing subject to statutory requirements in relation to consultation, evidence base and resourcing any new schemes. The report appendix included a peer review of licensing schemes applied in other local authority areas.

### **What is discretionary licensing**

3.16 Discretionary licensing is a term used for additional and selective licensing schemes as defined in Parts 2 and 3 of the Housing Act 2004 (HA2004). Subject to proven needs and the views of people likely to be affected, it allows local authorities to require licensing of privately rented properties other than those subject to mandatory licensing of HMOs.

3.17 The aim of additional licensing is to tackle poor management and improve housing conditions in HMOs that are not covered by mandatory licensing requirements in the HA2004. The aim of selective licensing is to tackle poor social or economic conditions in low housing demand areas and/or significant or persistent anti-social behaviour issues. Selective licensing involves licensing all privately rented accommodation in the designated area, not just HMOs.

3.18 Discretionary licensing enables local authorities to work with landlords to raise standards in the private rented sector and to reduce the impact of large concentrations of private rented accommodation on the surrounding neighbourhood. It does not allow for limiting the number of HMO's in any given area.

3.19 A Local Authority can designate discretionary licensing area(s) subject to meeting certain prescribed criteria. Evidence must be collected to prove the need for the scheme(s), reasonable steps must be taken to consult people likely to be affected and consultation representations made must be considered. This would include a consultation of not less than ten weeks seeking local community, business, landlord, managing agent and statutory agency views on the proposals in the proposed and surrounding area(s).

### **What are the potential benefits of further discretionary licensing?**

3.20 The benefits of discretionary licensing include development of a proactive and consistent council-led approach towards identifying, and tackling complex issues of management, standards and anti-social behaviour conditions across the areas where the designation applies to the benefit of tenants, responsible landlords and the local community. Responsible landlords will gain from the improved clarity of

their role in raising property and tenancy management standards while action is taken to tackle those who flout their legal responsibilities. Tenants will be clear on what they can expect from both the home that they rent and the landlord that they rent it from, with implementation of minimum standards resulting in better managed, quality and safer homes. Any repairs and improvements will be required by the council rather than a tenant complaining and subsequently fearing loss of their tenancy, taking tension out of the landlord and tenant relationship. Communities benefit from a consistent approach towards proactively assessing and improving housing conditions across an area and simply knowing who is responsible for the management of properties that are rented out.

### **Options for further discretionary licensing in Brighton & Hove**

3.21 In addition to existing discretionary licensing in the five Lewes Road wards in reviewing potential options for consultation on any extension of licensing we considered the factors relating to further wards in the City as outlined below.

3.22 The wards in Brighton & Hove with the highest number of households living in homes rented via private landlords or lettings agents is outlined in the table below.

<b>Households living in the private rented sector in homes rented via private landlords or letting agencies</b>		
<b>Ward</b>	<b>Number</b>	<b>%</b>
Regency	3,190	56%
Brunswick & Adelaide	3,261	56%
Central Hove	2,681	50%
St. Peter's & North Laine	3,915	45%
Goldsmid	3,164	40%
Queen's Park	2,735	34%
Hanover & Elm Grove	2,166	33%
Westbourne	1,420	31%
Preston Park	1,987	31%
Moulsecoomb & Bevendean	1,259	21%
Wish	847	21%
Withdean	1,269	20%
Rottingdean Coastal	1,270	20%
East Brighton	1,265	19%
Hollingdean & Stanmer	826	16%
South Portslade	553	14%
Hove Park	563	14%
Hangleton & Knoll	547	9%
Patcham	518	9%
North Portslade	345	8%
Woodingdean	300	8%

Source: 2011 Census Table DC4101EW

3.23 **Application of existing regulatory activity, mandatory licensing of larger HMOs (17/12/14):**

Ward Name	Count of Licences
St. Peter's & North Laine	249
Hanover & Elm Grove	216
Queen's Park	113
Moulsecoomb & Bevendean	97
Hollingdean & Stanmer	72
Preston Park	67
Regency	55
Goldsmid	44
Brunswick & Adelaide	37
Central Hove	27
East Brighton	21
Westbourne	19
Withdean	8
South Portslade	7
Wish	7
Rottingdean Coastal	6
Hove Park	3
<b>Total</b>	<b>1048</b>

**3.24 Application of existing regulatory activity, service requests received between 1 April 2013 and 31 March 2014.**

Ward	No. of Service Requests
St Peter's & North Laine	164
Hanover & Elm Grove	103
Moulsecoomb & Bevendean	100
Queens Park	93
Regency	88
Brunswick & Adelaide	81
Preston Park	64
Goldsmid	60
Hollingdean & Stanmer	59
Central Hove	53
Westbourne	49
East Brighton	43
Withdean	34
Wish	28
Hangleton & Knoll	23
South Portslade	23
Rottingdean	18
Hove Park	17
North Portslade	13
Patcham	7
Woodingdean	7

- 3.25 Having reviewed the extent of private renting and existing Private Sector Housing activity across wards in the city where discretionary licensing is not yet applied we further reviewed a more detailed set of criteria against the following seven wards not subject to current discretionary licensing and highlighted in 3.24 above: Brunswick & Adelaide; Central Hove; East Brighton; Goldsmid; Preston Park; Regency; Westbourne.
- 3.26 Service requests received by the Private Sector Housing Team between 1 April 2013 and 31 March 2014 for seven identified wards (a full breakdown for all wards is in the report appendix):

Ward	Service Requests
Regency	88
Brunswick & Adelaide	81
Preston Park	64
Goldsmid	60
Central Hove	53
Westbourne	49
East Brighton	43
Other Wards *	689
<b>Total Requests</b>	<b>1127</b>
7 Ward Average	63
Other Wards Average	49

Source: B&HCC Private Sector Housing

- 3.27 Noise Complaints received by Environmental Health Team by Ward - 1 April 2013 - 31 March 2014 (a full breakdown for all wards is in the report appendix):

Ward Name	Total	Music	Party	People noise - footsteps/talk ing/shouting	TV/Radio	Misc - all other Noise
Regency	247	115	22	54	1	55
East Brighton	174	56	17	42	4	55
Brunswick & Adelaide	157	59	23	35	1	39
Goldsmid	155	51	16	29	6	53
Central Hove	127	42	14	37	1	33
Preston Park	124	50	22	27	1	24
Westbourne	51	15	7	9		20
<b>Total 7 Wards</b>	<b>1035</b>	<b>388</b>	<b>121</b>	<b>233</b>	<b>14</b>	<b>279</b>
Total Other Wards	1721	623	235	341	35	487
<b>Total All Wards</b>	<b>2756</b>	<b>1011</b>	<b>356</b>	<b>574</b>	<b>49</b>	<b>767</b>
<b>7 Ward Average</b>	<b>148</b>	<b>55</b>	<b>17</b>	<b>33</b>	<b>2</b>	<b>40</b>
Other Wards Average	123	45	17	24	3	35

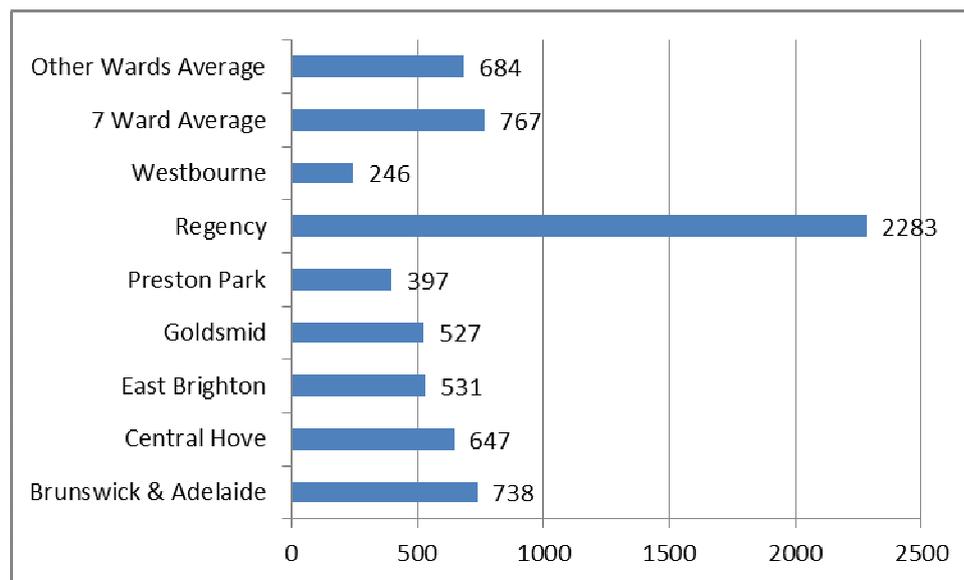
Source: B&HCC Environmental Health

- 3.28 Refuse/Waste Complaints received by City Clean Team by Ward - 1 April 2013 to 31 March 2014 (a full breakdown for all wards is in the report appendix).

Ward	Total	Foul - Residential e.g. drainage, dustbins	Public Health e.g. medical waste	Fly Tipping	Street Sweeping Litter
East Brighton	83	4	11	52	16
Regency	60	3	5	36	16
Goldsmid	43	1	3	34	5
Preston Park	43	2	5	22	14
Westbourne	41	4	2	28	7
Brunswick & Adelaide	32	1	3	20	8
Central Hove	30	1	1	20	8
Other Wards	720	62	69	436	153
Total Complaints	1052	78	99	648	227
<b>7 Ward Average</b>	<b>47</b>	<b>2</b>	<b>4</b>	<b>30</b>	<b>11</b>
Other Wards Average	51	4	5	31	11

Source: B&HCC Environmental Health & City Clean

3.29 Anti Social Behaviour (ASB) incidents reported by Sussex Police - 1 April 2013 to 31 March 2014 (a full breakdown for all wards is in the report appendix).



Source: Sussex Police

3.30 In relation to ASB data, it is our understanding from the Community Safety Team that it is currently not possible to separate the effect of the night time economy (or indeed other factors such as more general increased street activity) from housing tenure as the raw data is not classified in this way. We will review comparing housing tenure maps and ASB incident maps to identify where areas with a high proportion of HMO/PRS housing coincide with local ASB hotspots. For example, Regency ward is both an area with a very high proportion of private renting and reported ASB incidents.

3.31 **Fires reported to East Sussex Fire & Rescue Service (ESFRS) - 1 April 2013 – 31 March 2014.** The following table shows all primary fires in dwellings,

broken down by wards (with the seven wards identified for consultation highlighted):

Ward Name	Dwellings (Census 2011)	% Dwellings	No. of Dwelling Fires (Apr 13 - Mar 14)	% Dwelling Fires	Incidence of Dwelling Fires
<b>Goldsmid</b>	<b>8,423</b>	<b>7%</b>	<b>25</b>	<b>10%</b>	<b>+54%</b>
St. Peter's & North Laine	8,992	7%	22	9%	+27%
<b>East Brighton</b>	<b>6,893</b>	<b>5%</b>	<b>20</b>	<b>8%</b>	<b>+51%</b>
<b>Regency</b>	<b>6,150</b>	<b>5%</b>	<b>18</b>	<b>7%</b>	<b>+52%</b>
<b>Brunswick &amp; Adelaide</b>	<b>6,318</b>	<b>5%</b>	<b>17</b>	<b>7%</b>	<b>+40%</b>
Queen's Park	8,397	7%	15	6%	-7%
Withdean	6,501	5%	15	6%	+20%
Hanover & Elm Grove	6,698	5%	14	6%	+9%
<b>Preston Park</b>	<b>6,741</b>	<b>5%</b>	<b>14</b>	<b>6%</b>	<b>+8%</b>
North Portslade	4,182	3%	13	5%	+62%
Hollingdean & Stanmer	5,366	4%	11	5%	+7%
<b>Central Hove</b>	<b>5,816</b>	<b>5%</b>	<b>9</b>	<b>4%</b>	<b>-20%</b>
Patcham	5,889	5%	9	4%	-21%
<b>Westbourne</b>	<b>4,888</b>	<b>4%</b>	<b>9</b>	<b>4%</b>	<b>-4%</b>
Hangleton & Knoll	6,137	5%	8	3%	-32%
Moulsecoomb & Bevendean	5,988	5%	7	3%	-39%
Rottingdean Coastal	6,976	6%	6	2%	-55%
Wish	4,269	3%	5	2%	-39%
Woodingdean	3,996	3%	3	1%	-61%
Hove Park	4,189	3%	2	1%	-75%
South Portslade	4,018	3%	2	1%	-74%
<b>Total</b>	<b>126,827</b>	<b>100%</b>	<b>244</b>	<b>100%</b>	<b>+0%</b>

Households included in the above table are all homes and includes both accidental fires and deliberate fires.

Dwelling Fires Likelihood by Ward	
30%-62% more likely	Up to 30% more likely in
Brunswick & Adelaide East Brighton Goldsmid North Portslade Regency	Hanover & Elm Grove Hollingdean & Stanmer Preston Park St. Peter's & North Laine Withdean

3.32 The following table shows all primary fires in HMOs, broken down by wards (with the seven wards identified for consultation highlighted).

Ward Name	No. of Dwelling Fires (Apr 13 - Mar 14)	No. of Dwelling Fires in HMOs (Apr 13 - Mar 14)	% of all HMO fires	HMO fires as % of all dwelling fires in Ward
<b>Regency</b>	<b>18</b>	<b>14</b>	<b>17%</b>	<b>78%</b>
<b>Brunswick &amp; Adelaide</b>	<b>17</b>	<b>13</b>	<b>16%</b>	<b>76%</b>
<b>Central Hove</b>	<b>9</b>	<b>5</b>	<b>6%</b>	<b>56%</b>
<b>Westbourne</b>	<b>9</b>	<b>5</b>	<b>6%</b>	<b>56%</b>
<b>Goldsmid</b>	<b>25</b>	<b>13</b>	<b>16%</b>	<b>52%</b>
St. Peter's & North Laine	22	9	11%	41%
Hanover & Elm Grove	14	5	6%	36%
<b>Preston Park</b>	<b>14</b>	<b>4</b>	<b>5%</b>	<b>29%</b>
Queen's Park	15	4	5%	27%
Withdean	15	4	5%	27%
Wish	5	1	1%	20%
Moulsecoomb & Bevendean	7	1	1%	14%
Hangleton & Knoll	8	1	1%	13%
<b>East Brighton</b>	<b>20</b>	<b>2</b>	<b>2%</b>	<b>10%</b>
Hollingdean & Stanmer	11	1	1%	9%
North Portslade	13	0	0%	0%
Patcham	9	0	0%	0%
Rottingdean Coastal	6	0	0%	0%
Woodingdean	3	0	0%	0%
Hove Park	2	0	0%	0%
South Portslade	2	0	0%	0%
<b>Total</b>	<b>244</b>	<b>82</b>	<b>100%</b>	<b>34%</b>

Fires in HMOs by Ward	
Location of most HMO Fires (>10% of all HMO fires)	Above average rate of HMO fires (>34% of fires are in HMOs)
Brunswick & Adelaide Goldsmid Regency St. Peter's & North Laine	Brunswick & Adelaide Central Hove Goldsmid Hanover & Elm Grove Regency St. Peter's & North Laine Westbourne <i>*Withdean (high but below average)</i>

Sources:

- ESFRS
- 2011 Census: Dwellings, household spaces and accommodation type, local authority ward

Mapping of the geographical spread of these 244 fires across Brighton & Hove is included in the report appendix.

3.33 In response to our previous discretionary licensing scheme the East Sussex Fire and Rescue Service commented (10/02/12). *HMOs in the City historically have been a fire safety issue and statistically have a higher proportion of domestic dwelling fires. Today most of the issues centre around the responsibilities of the relevant landlords and how pro-active they are, especially with fire safety. When a premises is licensed by the local authority I believe it takes away some of this doubt and provides a prescriptive approach to the fire safety standards similar to the old defunct fire certification process. Therefore, an extension of licensing HMOs would appear to have merit that the Fire Authority would support.*

#### **Public Health data in relation to the seven additional wards**

3.34 In partnership with Public Health, we considered population health issues in the seven wards identified in this report in relation to proposed consultation on further discretionary licensing. Public Health colleagues producing a weighted average for the wards where we propose to consult on a new discretionary licensing scheme. This suggests an association between health indicators and housing tenure / HMO densities. However, Public Health colleagues do note that whilst factors of physical and emotional health and wellbeing are related to poor housing, and some to HMOs, they emphasise that a relationship at Ward level between a health indicator and housing tenure/HMO density does not evidence a causal link. Here we consider population health issues in the seven wards being considered (more detailed information is in the report appendix):

- There are slightly lower levels of social capital, a sense of belonging and seeing or speaking to neighbours regularly and one in ten fewer people say that they have someone they can ask for help in these areas than in other wards across the City.
- There are slightly more people at risk of major depression in these wards (41% vs 37%).
- More residents in these wards feel anxious or stressed about their housing conditions than in other wards across the city (24% vs 18%) and likewise for noise (33% vs 28%).
- In addition more residents cannot afford to keep their home warm in winter (20% vs 16%).
- There is twice the rate of residents not having central heating (6% vs 3%) and almost double the rate of overcrowding (22% vs 13%).
- Emergency hospital admissions for COPD (respiratory condition) are 10% higher in these wards than would be expected, for the other wards in the city admissions are 2% lower than would be expected.

#### **Mapping of multi-occupied homes in the areas considered.**

3.35 In light of the conditions, in particular around fire safety, identified and addressed with landlords on application of the existing discretionary HMO licensing scheme and the initial evidence on issues including around requests for assistance, noise, anti social behaviour and fire safety aligned to the additional wards identified, we have sought to map the proliferation of multi-occupied homes in Brunswick & Adelaide, Central Hove, East Brighton, Goldsmid, Preston Park, Regency, Westbourne with a view to recommending consultation and further evidence gathering in connection with possible additional HMO licensing in these areas.

3.36 Information and mapping in the attached appendix seeks to identify proliferation of HMOs that may be subject to further discretionary licensing in the additional seven wards identified based on use of Council Tax data, Electoral Register and our existing mandatory licensing activity.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

4.1 The introduction of a selective licensing scheme would require the area concerned to be an area of low housing demand and/or to be experiencing significant and persistent problems of anti-social behaviour as a result of inaction of private sector landlords. Brighton & Hove is an area of particularly high housing demand and it is felt that levels of anti-social behaviour attributable to private sector housing do not suggest that selective licensing would currently be appropriate anywhere in the city.

4.2 The 2004 Housing Act (Section 56(2)) requires that before making an additional HMO licensing designation for a particular type of HMO, or for a particular area, a local authority must consider whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question.

4.3 A two stage appraisal of the options open to the council was carried out in accordance with Government guidance and reported to Housing Committee on 20 June 2012 in order to inform the decision on the existing additional licensing designation. The first stage involved the development of key options available for tackling poor quality problematic HMOs in the city and consideration of the strengths and weaknesses of each. The second stage involved the appraisal of the options against seven objectives identified to help contribute towards the council's vision for the city's private rented sector. This work would need to be carried out again / revisited before considering any recommendation to implement a new discretionary licensing scheme.

#### **5. PROPOSED COMMUNITY ENGAGEMENT & CONSULTATION**

5.1 In order to introduce discretionary licensing for Houses in Multiple Occupation local authorities are required to take reasonable steps to consult people who are likely to be affected and consultation representations made must be considered. This would include a consultation of not less than ten weeks seeking views on the proposals from local residents and community, business, landlord, managing agent and statutory agencies in the proposed and surrounding area(s).

#### **6. TIMELINE**

6.1 The following outline timeline shows the minimum that might apply should Committee agree consultation and should a new additional HMO licensing scheme be recommended:

<b>Housing Committee - Permission to Consult</b>	<b>14 January 2015</b>
Consultation – 10 weeks minimum	Proposed consultation period - 26 January 2015 to 6 April

Consideration of representations	
Report to HC with findings of consultation - Permission to Implement Scheme	June / July 2015
Implement Scheme - 3 months from approval	October / November 2015

## 7. RESOURCES & PROPOSED FEES

- 7.1 Licence fees charged are based on the estimated cost of delivering the service over the 5 year scheme. If a new scheme were to be introduced licence fees would be based on the same structure as existing schemes and would be similar to those that apply to the current additional HMO licensing scheme. These are currently: -

Single tenancy shared houses								
No. of Occupiers	3	4	5 (2 storey)	6 (2 storey)	7 (2 storey)	8 (2 storey)	9 (2 storey)	9 (2 storey)
Fee per HMO for 5 yrs	£566	£578	£590	£602	£614	£626	£638	
For each additional letting over 9 add £12								
Multiple tenancy lets <b>Additional Licensing</b>								
No. of lettings	2 or 3	4	5 (2 storey)	6 (2 storey)	7 (2 storey)	8 (2 storey)	9 (2 storey)	10 (2 storey)
Fee per HMO for 5 yrs	£686	£734	£782	£830	£878	£926	£974	£1022
For each additional letting over 10 add £48.								
Fees are payable for each let that shares amenities such as bathrooms, WCs or kitchens. If there is a self-contained let within the house (all amenities are within the letting) no fee is payable for this let.								

## 8. PROPOSED LICENCE CONDITIONS

If a new additional HMO licensing scheme were to be introduced the licence conditions would be from the same framework as currently used in the existing HMO licensing schemes. Conditions would reflect any shortcomings in respect of the council's HMO licensing standards.

## 9. ON-LINE E-REGISTER

The Housing Act places an obligation on local housing authorities to maintain a register of licences they have granted. Under the Housing Act 2004 the register must be available for inspection by members of the public at the authority's head office (taken as meaning the office where the relevant team are located)

at all reasonable times. It must contain a range of information including the names and addresses of licence holders and any managing agents.

Previously the register was kept on paper but with moves to a more paperless working environment it is now kept electronically. A list of licensed properties is currently published on the council's website but only the property addresses are shown. Committee are asked to decide if the entire register should be published online.

Information received from the council's Data Protection Manager indicates that, as the information is in the public domain by virtue of being accessible at the council's 'head office', it can be published lawfully in any format. Publishing the register online would make it much more easily accessible to those people who might want to see it but it would make the contents, including licence holders' and agents' names and addresses, more accessible than strictly required under terms of the Housing Act.

## **10. CONCLUSION**

In light of the conditions, in particular around fire safety, identified and addressed with landlords on application of the existing discretionary HMO licensing scheme and the initial evidence on issues including around requests for assistance, noise, anti social behaviour and fire safety aligned to the additional wards identified, plus the proliferation of private rented / multi-occupied homes in Brunswick & Adelaide, Central Hove, East Brighton, Goldsmid, Preston Park, Regency, Westbourne this report recommends consultation and further evidence gathering in connection with possible additional HMO licensing in these areas.

## **11. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 11.1 The costs associated with the consultation exercise will need to be met from existing resources, the majority of which will be achieved by diverting existing staff to carry out the necessary duties. However, It is not possible to quantify the impact of this at this stage as it will be dependent on the number of responses received.
- 11.2 The fees outlined in the body of the report are in respect of existing schemes and are indicative only at this stage. Fees chargeable for any new scheme would be set at a level reasonably expected to cover the costs incurred to provide the service; this would include estimated officer time and associated costs for the processing of applications, inspections, monitoring etc. The proposed fees would be brought to this Committee for approval in due course.

*Finance Officer Consulted: Michelle Herrington*

*Date: 05/01/2015*

### Legal Implications:

- 12.1 The legal framework for introducing further HMO licensing is set out in the body of the report. Before making a designation of an area as subject to additional

licensing the council as local housing authority (LHA) must take reasonable steps to consult persons who are likely to be affected by the designation. In its guidance, "Approval steps for additional and selective licensing designations in England" DCLG states,

" LHAs will be required to conduct a full consultation. This should include consultation of local residents, including tenants, landlords and where appropriate their managing agents and other members of the community who live or operate businesses or provide services within the proposed designation. It should also include local residents and those who operate businesses or provide services in the surrounding area outside of the proposed designation who will be affected. LHAs should ensure that the consultation is widely publicised using various channels of communication."

12.2 The courts have determined that the following four elements are required for proper consultation:

- It must be undertaken at a time when the proposals are still at a formative stage;
- Sufficient reasons must be given for particular proposals to allow those consulted to give intelligent consideration, and an intelligent response;
- Adequate time must be given;
- The product of the consultation must be conscientiously taken into account when the final decision is taken.

12.3 In order to be effective, the designation has to be confirmed by the Secretary of State, or it has to fall within the description of designations for which there is a general approval. In April 2010 the Secretary of State issued a General Approval to all LHAs. In order to benefit from the General Approval, the council must have consulted persons who are likely to be affected by the designation for not less than ten weeks.

12.4 The importance of proper consultation for "not less than ten weeks" was recently highlighted in the judicial review case of R, on the application of Regas –v- London Borough of Enfield. There the local authority's consultation on a proposal to designate the entire borough for additional licensing of houses in multiple occupation and selective licensing of private sector properties had been inadequate because it had not involved potentially interested parties in adjoining parts of the neighbouring borough and had not lasted long enough. The court ruled that the schemes could not be implemented. It is understood that Enfield are considering an appeal.

*Lawyer Consulted:*

*Name Liz Woodley*

*Date: 22/12/14*

Equalities Implications:

13.1 A full equalities impact assessment was been undertaken in relation to the existing additional licensing scheme and presented to Housing Committee on 20 June 2012. No negative consequences of additional licensing were identified. A full equalities impact assessment would be undertaken in relation to any further discretionary licensing scheme recommended to Housing Committee for approval.

#### Sustainability Implications:

- 13.2 Maintenance and improvement of existing housing stock is generally more sustainable than continued deterioration. Licensing of HMOs should improve standards for the residents in those homes and the liveability of residential areas more generally.

#### Crime & Disorder Implications:

- 13.3 Additional licensing can assist the Private Sector Housing team to have a better understanding of the problems in any wards where implementation may be agreed. This in turn should be helpful in addressing concerns about crime and disorder and in some cases additional licensing would help reduce the likelihood of neighbourhood nuisance.

#### Risk and Opportunity Management Implications:

- 13.4 Any risks associated with any proposals for future discretionary licensing the proposals will be outlined in any future report on scheme implementation that may be presented to Housing Committee. These will be managed in compliance with the Council's risk management strategy with a full risk log.

#### Public Health Implications:

- 13.5 These are outlined in the body of the report.

#### Corporate / Citywide Implications:

- 13.6 Additional Licensing has had a positive impact on residents in the areas where we have introduced the existing discretionary licensing scheme, particularly for those living in smaller HMOs. Experience with the current HMO licensing schemes in the city suggests that discretionary licensing has had no significant adverse effect on property supply.

### **14. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 14.1 These are outlined in the report.

### **15. REASONS FOR REPORT RECOMMENDATIONS**

- 15.1 These are outlined in the report.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Permission to consult on a further discretionary licensing scheme.

### **Documents in Members' Rooms**

1. None

## **Background Documents**

1. Housing Committee 20 June 2012: Proposed Additional Licensing Scheme for Houses in Multiple Occupation (HMO) & Amendment of Standards for Licensed HMOs.
2. Appendix 1: Report for Additional Licensing for Housing in Multiple Occupation
3. Appendix A: Standards
4. Housing Committee 26 September 2012: Update on the Implementation of the Additional Licensing Scheme for Houses in Multiple Occupation (HMO).
5. Housing Committee 19 June 2013: HMO Licensing Update.
6. Housing Committee 30 April 2014: HMO Licensing update.
7. Housing Committee 10 September 2014: HMO Licensing Update.