

## **SLOUGH BOROUGH COUNCIL**

**REPORT TO:** Cabinet **DATE:** 18<sup>th</sup> March 2019

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**WARD(S):** All

**PORTFOLIO:** Cllr Mohammed Nazir - Corporate Finance & Housing

### **PART I** **KEY DECISION**

#### **PROPOSALS FOR PRIVATE RENTED PROPERTY LICENSING**

##### **1 Purpose of Report**

- 1.1 The purpose of this report is to present the consultation results for proposed Additional and Selective Licensing Schemes for private rented properties. In addition, this report recommends making Additional and Selective licensing designations.

##### **2 Recommendation(s)/Proposed Action**

The Cabinet is requested to resolve:-

- (a) That the representations received in response to the consultation on the Additional Houses in Multiple Occupation (HMOs) and Selective Licensing Schemes (as attached at Appendix 4) be considered;
- (b) That it be agreed to introduce Additional Licensing of Houses in Multiple Occupation (HMOs). This will cover the whole of the borough as delineated in the map at Appendix 1a, to be cited as Slough Borough Council's Designation for an Area for Additional Licensing of Houses in Multiple Occupation, No 1, 2019 and that this additional licensing designation shall come into force on 1<sup>st</sup> July 2019;
- (c) That it be agreed to introduce a Selective Licensing Scheme, which covers the majority of Chalvey and Central wards delineated in red on the map at Appendix 1b. This is to be cited as Slough Borough Council's Designation for an Area for Selective Licensing, No 2 2019 and that this selective licensing designation shall come into force on 1<sup>st</sup> July 2019;
- (d) That the schemes be publicised as required by regulation before enforcement starts and deliver a comprehensive publicity campaign, which will begin after this decision;

- (e) That the mandatory license fee be brought into line with the proposed additional license fee and to introduce a per room additional fee for the larger HMOs;
- (f) That delegated authority be given to the Director of Regeneration following consultation with the Portfolio Holder for Corporate Finance and Housing, the authority to agree minor changes to the proposed implementation and delivery, including administration, fees and conditions where necessary and ensure that all statutory notifications are carried out in the prescribed manner for the licensing designation.

### 3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

#### 3a. **Slough Joint Wellbeing Strategy Priorities**

Housing is one of the four priority areas in the Joint wellbeing strategy. It states 'the links between housing and wellbeing are well documented – where people live can have a significant impact on the quality of their lives. There are strong evidential links between the quality of someone's home and their life chances; including educational attainment for children and young people, employment prospects, social participation and sense of belonging to a local community'.

Property licensing can be an effective tool for tackling some of these key priority areas; preventing or controlling overcrowding, improving conditions and reducing anti- social behaviour. It is well documented that overcrowding has a serious and lasting impact on health and the psychological well-being of families, especially young people which negatively affects their life chances. Licensing can improve the overall condition of properties and controls the number of permitted persons allowed to occupy a licensed property.

#### 3b. **Five Year Plan Outcomes**

The Housing Strategy, in line with the Slough's updated 5 Year Plan recognised Housing as a key determinant of improving health, well-being, social mobility and educational attainment. Taking into account that around 33% of all dwellings are private sector tenancies, an effective, fit for purpose regulatory approach is paramount in improving this sector. Key data is provided in the supporting information section below.

The 5 Year Plan and Housing Strategy objectives are;

- Improving housing conditions across all tenures
- To provide local landlords with support and guidance to run a professional business and maximise their return whilst better protecting their assets
- Drive out rouge landlords from Slough

- Deal with ant-social behaviour and make Slough a safe place to live and work

Outcome 4 of the 5 Year Plan identifies Housing as a key priority. The plan makes specific reference to introducing a new landlord licencing/registration scheme to help regulate the private rented sector and improve the quality of housing across the borough.

In addition, Outcome 3 of the 5 Year Plan relates to making Slough an attractive place to live, work and stay and outlines performance measures relating to street cleanliness, crime rates and residents' perception. Anti-social behaviour remains the single most negative issue that local residents are experiencing and concerned about.

#### 4 Other Implications

##### (a) Financial

The fee proposals were included in the Consultation. There was considerable opposition to the fees proposed which has required the fees to be reviewed. As a result officers have reassessed the issue and have revised the fees proposed to be charged. These fees are set out in table 1 below.

**Table 1: Fees proposed at Consultation**

	Part A	Part B	Total
<b>Selective licence (Houses with one family or two people who aren't related)</b>	£350	£300	£650
<b>Additional licence (HMO)</b>	£450	£300	£750
<b>Mandatory licence</b>	£650	£300	£950

#### **Revised fees re-structure**

	Part A	Part B	Total	
<b>Selective licence (Houses with one family or two people who aren't related)</b>	£175 / £200 (TBC)	£300	£475 / £500 (TBC)	
<b>HMO Licensing Fee (additional and mandatory)</b>	£450	£300	£750	<b>For houses that have over 6 rooms: additional charge of £30 per room</b>

This change means that the service will still require existing levels of general funding for its enforcement activities.

The fee income can only be forecasted as it will depend on landlord compliance with the scheme as there is a large discount being offered for landlords who apply early.

On approval of these proposals, we will aim to develop a payments process for portfolio landlords who may be required to make large fee payments to apply for licenses. This would be assessed on a case by case basis so to prevent any hardship this may cause. This must be in compliance with the licensing regulations.

(b) Risk Management

<b>Risk</b>	<b>Mitigating action</b>	<b>Opportunities</b>
<b>Legal:</b> Any fees must be set out and charged in accordance with case law.	The fees have been split into Part A and Part B as a result of the Hemmings and Gaskin cases.	Licensing can provide a powerful framework for regulating the private rented sector and driving up accommodation standards. In time the service could become self-sustaining through licensing fees.
<b>Legal:</b> There is always a risk of Judicial review when introducing this type of policy change.	Most Judicial reviews against licensing schemes have been as a result of invalid consultation processes. Slough B.C has carried out a 12 week consultation following all available guidance.	N/A
<b>Property:</b> N/A	None	Improve conditions within the private rented sector (PRS).
<b>Human Rights:</b> N/A	None	None
<b>Health and Safety:</b> N/A	None	To improve health and safety of private tenants.
<b>Employment Issues;</b> None	None	None
<b>Equalities Issues:</b>	The enforcement of low quality / substandard PRS will have positive impacts on all tenant groups. Both Central and Chalvey wards have	None

	<p>over 65 % BAME populations and high proportions of residents in PRS. Although no equalities profiles are collected on landlords, a point raised at consultation was whether the policy unfairly impacted on the Pakistani community, whom it was suggested make up a significant proportion of affected landlords. Officers have carried out a full Equality Impact Assessment and the policy will be closely monitored</p>	
<p><b>Community Support:</b> N/A</p>	<p>None</p>	<p>None</p>
<p><b>Communications:</b> Inadequate communication could result in an invalid scheme. There are prescribed advertising requirements to be followed. Schemes need to be widely publicised to ensure a high number of applications.</p>	<p>To work with Customer Services or Corporate Communication's Team to develop an effective communication strategy.</p>	<p>To reach private landlords and tenants and deliver information and awareness of their rights and responsibilities. To use licensing as an opportunity to engage with landlords.</p>
<p><b>Community Safety:</b> No risk.</p>	<p>None</p>	<p>To improve community safety and the communities perception of their area by tackling poor management of privately rented housing which is often associated with anti-social behaviour.</p>
<p><b>Financial:</b> The forecasted income is dependent on compliance/receipt of applications.</p>	<p>There is a clear operational plan to identify and enforce against landlords who fail to apply for a licence. The structure of the fees is such that non-</p>	<p>A licensing scheme opens up more circumstances where civil penalties can be used. The use of new civil penalties can be retained by the Local</p>

	compliant landlords pay more. This will mitigate any poor compliance.	Authority and used to further the Local authority's statutory functions in relation to their enforcement activity covering the private rented sector.
<b>Timetable for delivery:</b> A delay could impact delivery against the 5 year plan.	A deliverable project plan has been developed.	To prepare an effective proactive programme to improve the private sector.
<b>Project Capacity:</b> Insufficient capacity poses a risk to the delivery of the scheme.	Licensing income can be used to resource licensing processing systems and administration of the scheme. The Part B fee can also be used for monitoring compliance.	To build on the overall housing regulation capacity and capability to improve the private sector.
<b>Other:</b> None	None	<b>None</b>

(c) Human Rights Act and Other Legal Implications

Every reasonable effort will be made to consult with all those who may be affected.

There are detailed guidelines to be followed for the statutory consultation.

(d) Equalities Impact Assessment

Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states that a public authority must, in the exercise of its functions, have due regard to the need to:-

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age, race, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnerships.

The Equality Duty ensures that public bodies consider the needs of all individuals in their day to day work, particularly any potential impact on

protected groups – in shaping policy, in delivering services, and in relation to their own employees.

An equalities impact assessment was re-evaluated after the consultations.

The proposals in this report tend to have a positive effect on those with a protected characteristic if they were a tenant or a resident. However, it is thought they will have a negative effect on Landlords who also have a protected characteristic. It is likely that there are more tenants with a protected characteristic than landlords.

The introduction of selective and additional licensing will have a positive impact on living conditions of residents in the private rented sector by ensuring the landlords, estate agents, developers, etc. meets their legal obligations in providing safe and decent homes for which they charge rent.

The proposed schemes are only formalising and consolidating landlord obligations, which they should be complying with in any case. The purpose of introducing this licensing is to better and more effectively protect private tenants, who may subject to unsatisfactory housing conditions and poor tenancy management.

## **5. Supporting Information**

### **(a) Statutory conditions and evidence – Additional Licensing**

Before making an additional HMO licensing designation for a particular area, the local authority must:-

- Consider that a significant proportion of the HMOs 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;
- Consider whether there are any other courses of action available to them that might provide an effective method of dealing with the problem(s) in question;
- Consider that the making of the designation will significantly assist them to deal with the problem(s)
- Have taken reasonable steps to consult persons who are likely to be affected by the designations and consider any representations made.

### **(b) Statutory conditions and evidence – Selective Licensing**

Before making a selective licensing designation for a particular area, the local authority must show the circumstances meet the following:-

- The area has a high proportion of property in the private rented sector i.e. 20% or more. Central and Chalvey wards have a high proportion of PRS (over 50%);
- A significant and persistent problem caused by anti-social behaviour or poor housing conditions;
- Consider whether there are any other courses of action available to them in achieving the objectives that the designation would be intended to achieve;
- Consider that the making of the designation when combined with other measures taken by the authority will significantly assist them to resolve the problem identified
- Have taken reasonable steps to consult persons who are likely to be affected by the designations and consider any representations made.

As the proposed selective area identified makes up less than 20% of privately rented homes in Slough BC and covers less than 20% of the borough's geographical area, the scheme can be introduced without confirmation from the Secretary of State.

### **(c) Effect of Designations**

The designations cannot come into force until at least 3 months after the Cabinet decision is made. There are prescribed notification requirements in that a public notice of a designation must be given within set timescales once it is made. There will also be a further publicity campaign inviting landlords to license and an awareness campaign for residents to report unlicensed properties.

If the additional HMO licensing designation and selective designation are approved the authority will review the operation of the licensing scheme from time to time. This will be essential to monitor the progress of the scheme and the effectiveness of dealing with rogue landlords.

The service has already established an accurate database of properties, which are rented and would require a licence if this proposal is agreed. If landlords owning these properties fail to license, they will be directly targeted requesting that they do so and ultimately enforced against if no action is taken. This proactive approach will also satisfy one of the main concerns raised during consultation which asked for the scheme to be properly enforced.

It is proposed that an initial review is carried out at the end of the first year of enforcement in 2020 with a further review towards the end of year 4, which will be useful for determining the strategic direction of the scheme and in particular if a further or expanded designation is required.

Some boroughs in London, who have experienced this growth before Slough, have found that requiring rental properties (in addition to the



mandatory scheme) to be licensed has enabled them to regulate this sector at the level now required.

Some benefits of additional and selective licensing are outlined below:-

- Licensing schemes provide an effective policy framework to properly regulate and control the private rented sector;
- A property licensing scheme affords more protection to the most vulnerable tenants in the borough;
- Private tenants would have many more rights and protections when renting a licensed property, including written tenancy agreements and additional protections from eviction;
- Can deal with property related ASB at source e.g. by improving management and reducing rubbish/litter and fly tips;
- Opens up the use of civil penalties to deal with smaller HMOs and unlicensed selective properties;
- Identifies non-compliant landlords by their absence from the scheme and allows enforcement action to be targeted at the worst offenders rather than at the majority of compliant landlords;
- For licences, which have been granted the Council can charge an average fee for enforcement which will assist the Council in being able to afford effective enforcement of the sector
- Where housing defects are identified through licensing, landlords act more quickly to carry out repairs.

**(d) Consultation**

Before making a designation under Part 2 and Part 3 of the Housing Act 2004, the authority must take all 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. The statutory consultation must be for a minimum period of at least 10 weeks.

The statutory consultation ran from 7<sup>th</sup> November 2018 until 31<sup>st</sup> January 2019. This consisted of an on-line questionnaire, four focus groups/forums, drop-in sessions for residents, landlords and tenants, direct mail-outs, adverts, social media, etc.

An online questionnaire was available via the Council website; in addition paper copies were available for people to complete at libraries, My Council service centre and the Slough Shelter Office. In total, 270 responses were received.

**Key findings:**

There is a consensus that something needs to be done to tackle the poor housing and the environmental conditions, which exist in Chalvey and Central wards. It is also clear that there are strong opinions on each side of the debate; for licensing or against licensing. From the comments

in the open section of the questionnaire and at the forums nearly all landlords who participated opposed the scheme. However, there are many other groups, residents and tenants included that are very supportive and also wanted to see licensing in more areas than just Chalvey and Central. It is worth noting that 19% of the landlords who completed the questionnaire agreed with both the additional and selective licensing schemes.

Overall there was support for licensing. There is more support for an additional scheme (HMO) 55% than for the selective licensing proposals (49.8% as opposed to 35.13% against) although both scheme proposals have more of a positive response than negative. The majority of respondents felt that the licensing scheme would improve conditions in privately rented property.

Fees - the proposed fees received the most comments from landlords in relation to another cost for their business and from tenants/residents who were concerned that the cost of the licence could mean an increase in rents. The proposed selective fees have been reviewed and reduced as a result which is set out in table 1 above.

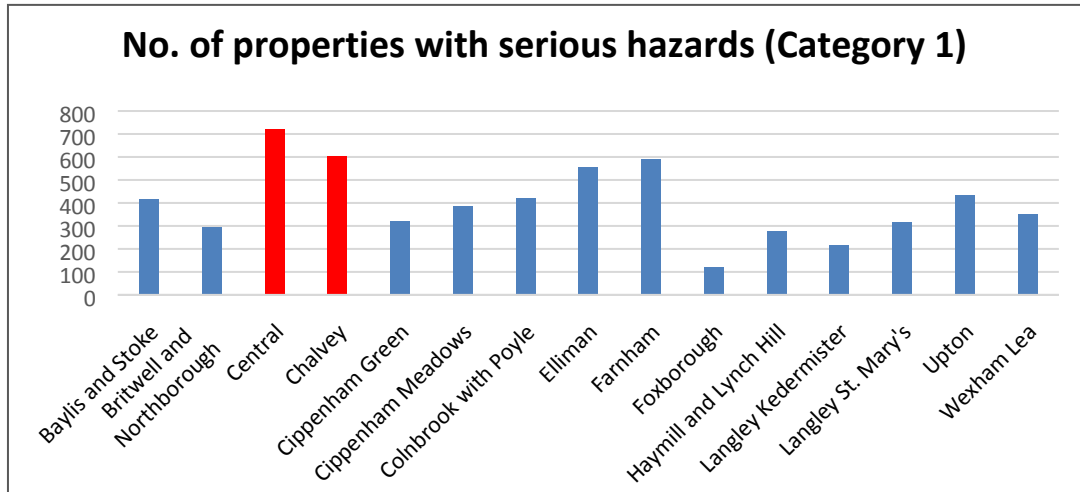
Conditions - there is strong support for the licensing conditions with 67.7% of respondents in favour as opposed to 22.3% against. Some practical suggestions were received by landlords and these have been incorporated.

The full consultation report is enclosed as Appendix 3.

The Council's consideration of responses to the consultation is also enclosed as Appendix 4. There have been several changes to the proposed scheme as a result of the consultation. The main changes are; a reduction in the selective fee and a realignment of the mandatory HMO licence fee with the proposed additional HMO licensing. After detailed discussions with some managing agents, there have also been significant changes to some of the space and amenity standards required. We further clarified the levels of Fire Safety and precaution in HMOs. This is enclosed as Appendix 7.

The evidence shows that the housing conditions, ASB and level of PRS meet the prescribed criteria.

<b>Tenure</b>	<b>No. of ASB incident since 2013 per 1000 dwellings</b>
HMOs (subset of Private Rented Sector)	914
Private Rented Sector	425
Social Housing (Council and RSL stock)	299
Owner Occupiers	175



These graphs clearly demonstrate poor housing conditions in the selected area and high levels of ASB in the PRS as compared to other tenures. HMOs have the highest levels of ASB.

## 6. Options Considered

### 6.1 Do nothing and continue with existing legal powers

Existing powers available to the council are largely reactive with officers responding to tenants' complaints. Many tenants are reluctant to complain through fear of retaliatory eviction. Although current enforcement activity has been successful in remedying problems in individual dwellings, it is not felt to have raised the standard of private sector dwellings generally and at the scale now required. 33% of dwellings in the borough are now privately rented.

### 6.2 Voluntary Accreditation

Although the voluntary accreditation scheme could be helpful in driving up standards, however, as far as we are aware, the take up is generally poor and is likely to be used by self-selecting professional landlords rather than rogue landlords. We do not have any data on the number of landlords in Slough who may be accredited with any national schemes.

### 6.3 Additional scheme only

Introduce a borough wide additional scheme but not the selective scheme in Chalvey and Central. There is a consensus that something needs to be done in these wards. There were calls in the consultation to cover more areas than just these two wards.

## 7. Comments of Other Committees

7.1 There are no comments from other committees.

## **8. Conclusion**

- 8.1 The conditions prevalent in the private rented sector meet the prescribed evidential criteria for introducing a borough wide additional HMO licensing scheme and for the majority of two wards, which have 50% private rented properties, Chalvey and Central.
- 8.2 A statutory consultation has been carried out, the results of which are appended to this report. Changes to the proposed scheme have been made as a result of the consultation. The scheme must be properly enforced to achieve potential benefits from licensing. The scheme should be monitored and reviewed against the objectives of the scheme.
- 8.3 The Mandatory licensing fees are to be brought into line with additional fees to simplify the scheme and discourage under reporting. For fairness, a room surcharge is in place for larger HMOs.

## **9. Appendices (See Appendix Pack)**

Appendix 1a	-	Additional licensing designation and map
Appendix 1b	-	Selective licensing designation and map
Appendix 2	-	Summary of evidence
Appendix 3	-	Consultation report
Appendix 4	-	Consideration and responses to consultation
Appendix 5	-	Proposed fees
Appendix 6	-	Licensing conditions
Appendix 7	-	Standards in licensable properties
Appendix 8	-	Equalities Impact Assessment

## **10. Background Papers**

Slough Five Year Plan  
Slough Housing Strategy 2017  
Cabinet report 17<sup>th</sup> September 2018