

<b>Subject:</b>	<b>Private Rented Sector – Selective Licensing Update</b>		
<b>Date of Meeting:</b>	<b>13 March 2019</b>		
<b>Report of:</b>	<b>Executive Director – Neighbourhoods, Communities &amp; Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Martin Reid</b>	<b>Tel:</b> <b>01273 293321</b>
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<b>Ward(s) affected:</b>	<b>All</b>		

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

- 1.1 Proposals to introduce a Selective Licensing Scheme in 12 wards in the city received cross party Housing & New Homes Committee support in November 2017. The scheme aimed to improve management and housing conditions across the private rented sector. The benefits of a scheme would include:
- Responsible landlords would 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 would be clear on what they can expect from both the homes that they rent and the landlord that they rent it from, with minimum standards resulting in better managed, quality and safer homes;
  - Communities would benefit from a consistent approach towards proactively assessing and improving housing conditions across an area;
  - Health and well-being will improve with improved housing standards and so reduce financial impacts for other public sector areas.
- 1.2 An application was made to the Secretary of State to confirm a designation for selective licensing on the grounds of poor property conditions and anti-social behaviour. We are disappointed that the Secretary of State declined to grant our application in relation to anti-social behaviour. They did initially grant on the basis of property conditions, but withdrew the consent when confronted with a proposed judicial review by a landlord association. While we are disappointed by the Secretary of State's withdrawal of approval for our proposed Selective Licensing Scheme, we still believe it is the best way to improve management and housing conditions across the city's private rented sector.
- 1.3 Our existing licensing schemes for HMOs have shown that licensing is an effective tool to raise standards. Almost 90% of our licensed HMO properties in the city needed improvements to ensure they were fit and safe for occupation. Our consultation results showed there is public support for selective licensing,

with 81% of respondents in favour, and our priority remains to help more privately renting tenants in the city to live in safe, healthy and well-managed homes.

- 1.4 Given the withdrawal of Secretary of State's approval we propose to reconsider the extent and scope of any future Selective Licensing Scheme and report back to committee on proposals at the earliest opportunity.

## **2. RECOMMENDATIONS:**

That the Housing & New Homes Committee:

- 2.1 Note the contents of this report and request a report be brought back to Housing & New Homes Committee detailing future options for selective licensing.

## **3. CONTEXT/ BACKGROUND INFORMATION**

- 3.1 At Housing & New Homes Committee on 17 November 2017 there was cross party approval for the following recommendations concerning a proposed Selective Licensing Scheme for privately rented homes:

- Noting the results of the consultation undertaken in relation to the proposed Selective Licensing Scheme
- Designating the following wards as subject to selective licensing under section 80 of the Housing Act 2004: 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.
- Authorising the Executive Director Neighbourhoods, Communities and Housing to submit an application for confirmation of the designation to the Secretary of State.
- Agreeing the fee structure for a Selective Licensing Scheme.
- Approving the Selective Licensing Scheme conditions.

- 3.2 The application from Brighton & Hove City Council requesting confirmation of a Selective Licensing Scheme designation was submitted to Secretary of State on 11 January 2018. A letter was received on 10 September 2018 from Secretary of State confirming Brighton & Hove City Council's proposed designation as subject to selective licensing from 4 February 2019. The Secretary of State withdrew the confirmation of the designation on 31 October 2018 following a legal challenge.

- 3.3 In January 2019, Housing & New Homes Committee were advised that we have the option to commence judicial review. Members were also advised that an alternative option may be to build on our current position and submit a fresh application.

- 3.4 While, having taken Counsel's advice, we are confident that we would be able to challenge the Government's refusal to review, even were we to successfully challenge the Secretary of State the result is simply that they have to reconsider

the decision. Given there is a wide margin of discretion for any public body making a decision, there may be little to be achieved by pursuing a potentially costly judicial review against the Secretary of State, where they may still reject the application. We may also damage any relationship with the Secretary of State in relation to our case for any further applications.

3.5 We therefore propose to re-consider the extent and scope of any future selective licencing scheme and report back to committee on proposals at the earliest opportunity.

3.6 This will include further analysis of our evidence, and consideration of what further evidence may be collected to support the introduction of a scheme. This would include commissioning a stock condition survey on a sample of privately rented homes in the city to support existing evidence on poor property conditions.

3.7 A specification for a stock condition survey on council owned homes has been completed and it is due to be commissioned and procured April 2019 with the surveys due to be completed by Summer 2019. This additional stock condition survey work has now been included within the specification, to allow this additional evidence gathering to take place swiftly. Further to the results of this survey, full analysis of the range of evidence available will be undertaken in order to support recommendations coming back to this committee.

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

4.1 Further analysis of our evidence and factors determining poor property condition and anti-social behaviour in private sector housing stock in the city will be undertaken to inform future options for a scheme which will be reported back to this committee.

#### **5 COMMUNITY ENGAGEMENT & CONSULTATION**

5.1 An extensive consultation exercise on the proposal to introduce selective licensing took place in summer 2017 with 81% of respondents in favour of a scheme. Should a new scheme be proposed a further statutory consultation exercise will need to be completed.

#### **6. CONCLUSION**

6.1 Further analysis of our evidence, and collecting supplementary evidence will enable us to re-consider the extent and scope of any future scheme. Options will then be reported back to this committee.

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

##### Financial implications

7.1 The one-off costs of the private sector housing element of the stock condition survey are estimated to be manageable within the Housing General Fund budget for 2019/20.

Legal Implications:

- 7.2 The legal situation is set out above. We have had the benefit of Counsels advice throughout. The contents of the report do not generate further legal implications, but as next steps are decided there will need to be further consideration of the legal situation depending on what options are proposed.

Lawyer consulted: Simon Court

Date: 01/03/19

Equalities Implications:

- 7.3 A draft Equalities Impact Assessment was undertaken in relation to the proposed scheme. No significant negative consequences relating to groups with protected characteristics were identified. This assessment will be updated to take account of any new proposed scheme.

Sustainability Implications:

- 7.4 Action to tackle poor property conditions in the private rented sector is expected to improve the quality of the city's housing stock, thereby improving its sustainability. The conditions for any new scheme would support improved sustainability of properties including energy efficiency, heating and insulation.

Any Other Significant Implications:

Crime & Disorder Implications:

- 7.5 Action to tackle anti-social behaviour through a scheme is expected to reduce anti-social behaviour and nuisance associated with these properties.

Public Health Implications:

- 7.6 Poor housing conditions, management and anti-social behaviour impact negatively on health, as evidenced in the city's Joint Strategic Needs Assessment. Improvements to housing quality and management will have a positive health impact on tenants and neighbours.

Corporate / Citywide Implications:

- 7.7 The long term impact of a scheme would be a higher quality and better managed private rented sector to the benefit of owners, tenants and neighbours. Improvements sought in management and standards and reductions in anti-social behaviour related to private rented homes would have wider beneficial impacts, and are not anticipated to have a significant adverse effect on property supply.

## **SUPPORTING DOCUMENTATION**

**Appendices: None**

**Documents in Members' Rooms: None**

### **Background Documents**

1. Housing & New Homes Committee Private Rented Sector Licensing Schemes Reports 16 November 2016, 14 June 2017, 17 November 2017, 16 January 2019.

