

18 June 2019		ITEM: 7
Housing Overview and Scrutiny Committee		
Exploration of Selective Licensing of Private Rented Accommodation		
Wards and communities affected: All	Key Decision: Key	
Report of: Dulal Ahmed, Housing Enforcement Manager		
Accountable Assistant Director: Carol Hinvest, Assistant Director of Housing		
Accountable Director: Roger Harris, Corporate Director of Adults, Housing and Health		
This report is Public		

Executive Summary

Selective Licensing was introduced in the Housing Act 2004, to tackle a variety of problems local authorities experience in their local housing market, such as, significant and persistent problems of anti-social behavior, poor property conditions, low housing demand, high levels of crime, to name a few.

It's a discretionary scheme that local authorities have to adopt, to license all private landlords in a designated area with the intention of ensuring that a minimum standard of management is met. The scheme requires, all landlords obtaining a license from the local authority with the exception of registered providers of social housing and landlords awarded a House of Multiple Occupation [HMO] license under Mandatory or Additional Licensing.

The council's Housing Strategy 2015-2020 recommended the exploration of a Selective Licensing scheme to address the impact of poor quality private landlords and anti-social tenants in the private rented accommodation sector in Thurrock.

Local Authorities have the power to introduce Selective Licensing with Secretary of State approval for any scheme covering more than 20% of their geographical area or affecting more than 20% of private rented homes in the local authority area.

The business case for Selective Licensing is required to be evidence led and all applications are considered on a case by case basis.

This report sets out the approval steps for Selective Licensing all or parts of the borough that have high levels of private rented accommodation and that experience poor housing conditions, high levels of deprivation and persistent problems with crime and anti-social behavior.

The committee will review the views and representations of the public exercise consultation programme before any recommendations to Cabinet to implement a Selective Licencing scheme.

1. Recommendation(s) that the Housing Overview and Scrutiny Committee:

1.1 Note and comment on the exploration of a Selective Licensing scheme covering all or certain parts of the borough;

1.2 Note that a business case will be produced to support selective licensing areas of high levels of private rented accommodation;

1.3 Note the approval steps for a Selective Licensing designation as set out in paragraph 5 and;

1.4 Note and comment on the public consultation exercise to gather views and representation about the proposed scheme

2. Introduction and Background

2.1 The council values the private rented sector as a source of housing for local people and wants to see a strong, healthy and vibrant market contributing to the social and economic wellbeing of the area.

2.2 Licensing of private landlords regulates the private accommodation sector to enforce management and property standards. It helps the council engage with less responsible owners and letting agents who do not proactively manage their properties, nor address the unacceptable behaviour of their tenants with enforcement led action.

2.3 The council already regulates large and small HMOs let to 5 or more unrelated persons under Mandatory Licensing and will start an Additional Licensing regime from 1 June of dwellings let to 3 to 4 unrelated persons. This covers around 1000 dwellings.

2.4 The proposed selective licensing scheme covers the rest of the private rented sector.

2.5 In Thurrock's 2011 census, Office for National Statistics estimated there were 11,000 properties in the private rented sector. Presently, the private housing service estimates around 14,000. This assumption is partly based on growth of the buy to let market from 2011 to 2016 before changes to taxation and stamp duty came into force, slowing down buy to let property purchases.

2.6 The Housing Strategy 2015-20 recommended the development of a licensing scheme to improve the private rented sector due to the following market conditions and health wellbeing concerns:

- Rapid growth in its size over recent years without regulatory inspection,

- Local residents at risk of living in poor quality homes classed as '*not decent*' from rogue landlords
- Management difficulties to resolve persistent and significant Anti-Social Behaviour with their tenants

2.7 The council will produce a business case and evidence base to support a selective licensing scheme of areas of high level of private rented accommodation.

3. Private Rented sector in Thurrock

3.1 Nationally there has been increase in the private rented sector in recent years, reflected in Thurrock as a 16% increase in private rented sector tenancies compared to 2011. This means that there are now a similar if not more number of residents living in the private rental sector as there are living in social housing.

3.2 The private rented accommodation sector makes up 20.5% of all housing stock in the borough. The extra homes provides greater opportunities for Thurrock residents to privately rent but has also provided opportunities for migration into the borough from elsewhere.

3.3 The private rented sector is an important source of housing supply in the borough with a range of benefits including

- Helping address housing need
- Supporting direct and indirect employment, including local trades and businesses
- Catering for a mobile population
- Meeting the demand of population growth

3.4 However, the private rented sector does have some problems for which regulation particularly licensing can help deliver significant benefits, such as encouraging landlords to do required works on their properties and deal with problems of anti-social behavior tenants under their tenancy policy.

4. The benefits of Selective Licensing

4.1 Licensing allows local authorities to proactively identify and engage with landlords before tenant and landlord relationships breakdown, particularly with the less responsible private landlords. This framework assists the council in carrying out its statutory duties and prevents homelessness as a result of:

- A lack of security of tenure for tenants
- Illegal evictions and homelessness cases
- Unacceptable states of disrepair
- Overcrowding
- Fire safety breaches
- ASB
- Health inequalities

4.2 A selective licensing scheme of private rented properties over the five year period will be looking at achieving the following outcomes in Thurrock:

- Improved housing conditions;
- A reduction in significant problems caused by ASB and environment crime such as fly tipping;
- Safer and better neighbourhoods
- Reduced levels of property related crime
- An increase in good landlord and tenant behaviours

5. Approval steps to Selective Licensing designation

5.1 Section 80 of the Housing Act 2004 allows local authorities to apply for Selective Licensing in respect of private rented homes provided certain conditions are met. In order to implement the scheme for 5 years, local authorities are required to obtain approval from the Secretary of State for any selective licensing scheme which would cover more than 20% of their geographical area or would affect more than 20% of privately rented homes in the local authority area. This legislative order came into force in April 2015.

5.2 In order for selective licensing to be considered one or more of the following 6 statutory grounds have to be met.

1. low housing demand or is likely to become such as area [this covers value of residential premises in comparison to value of similar premises in other areas, turnover of occupiers in rented and owner occupied properties, the number of residential premises available to buy or rent and the length of time for which they are unoccupied, general appearance of the locality]
2. significant and persistent problems caused by ASB not being adequately addressed by landlords of private rented accommodation this covers intimidation, harassment, noise, nuisance, animal related problems, vehicle related problems, anti-social drinking or prostitution, illegal drug taking or dealing, litter and waste within the curtilage of the property
3. poor property conditions
4. influx of migration[includes the movement of people from one area to another and overseas migrants]
5. high levels of deprivation
6. high levels of crime

5.3 Criteria 3 and 6 can only be applied where the area contains a high proportion of private sector dwellings. The national average is currently 19% as a reference guide. The evidence gathering process will identify areas of high rented private sector dwellings by ward.

5.4 There is also a requirement on the local authority under Sections 56(6) and 80(9) of the Act 2004 to

- Ensure that the exercise of the power is consistent with its Housing Strategy
- Adopt a coordinated approach in connection with dealing with homelessness, empty properties and ASB affecting the private rented sector as regards combining licensing with another action taken by them or others
- Consider whether there are any other courses available to them [of whatever nature] that might provide an effective method of achieving the objectives that the designation would be intended to achieve
- Consider that making the designation will significantly assist them to achieve the objectives [whether or not they take any other courses of action as well]
- Take reasonable steps to consult persons who are likely to be affected by the designations and consider any representation made.

5.5 The above steps need to be compiled with before a designation can be brought into force.

6. License Fee

6.1 Private landlords would have to pay a license fee to the council with their license application if selective licensing is approved. The fee would cover all the costs incurred by the council in carrying out its licensing function. Fees are typically in the region of £500 to £600 for a single property.

6.2 Failure to apply for a license may result in landlords and managing agents being prosecuted and subject to an unlimited fine on conviction or served with a civil penalty notice as alternative to prosecution of up to £30k.

6.3 Licensing designation lasts for five years to help improve the standards within the area. Sections 60 and 84 of the Act 2004, requires the council to keep the scheme operation under review and if following a review they consider it appropriate to do so re-apply to the Secretary of State for another five years designation if required or revoke the designation.

7. Reasons for Recommendation

7.1 Licensing is consistent with the council Housing Strategy 2015-2020 for the management of private rented homes to ensure homes are fit and safe.

7.2 Part 3 of the Housing Act 2004 gives local authorities the power to apply for Selective Licensing where problems in the private rented sector have been evidenced.

7.3 Consideration has been given to other options:

[a] Do nothing and carry on without developing a licensing scheme;

[b] Continue to respond to complaints and carry out inspections and enforcement action. However, this is not an effective use of our resources with complaints prioritised on the basis of a risk assessment;

[c] Continue to promote landlord accreditation and guidance through landlord forums. The number of accredited landlords operating in Thurrock is significantly low compared to the number of dwellings within the private rented sector.

8. Consultation (including Overview and Scrutiny, if applicable)

8.1 The council will carry out a consultation programme over 11 weeks to obtain the views of key stakeholders including landlords, letting /managing agents, tenants, residents, businesses, stakeholder representatives organisations, as well as neighbouring boroughs on the proposed licensing scheme. A minimum consultation period of 10 weeks is required under the General Consent by the Secretary of State in March 2010.

8.2 The results of the consultation will be shared on the council's website.

8.3 The committee will consider all the relevant issues before Cabinet makes a decision to introduce a Selective Licensing scheme in the borough.

9. Impact on corporate policies, priorities, performance and community impact

9.1 Licensing will improve the health and wellbeing of private tenants through the reduction of poor and unsafe housing conditions and will enable the authority to bring about general improvements in the neighbourhoods where licencing takes place.

10. Implications

10.1 Financial

Implications verified by: **Julie Curtis**
HRA and Development Accountant

There are no financial implications for the council that arise from this report at this time. However should the council decide to introduce selective licensing then this would have some key financial implications for the council. The implications shall be considered fully as part of the business case.

Staffing costs will have to be considered to administer the Selective Licensing scheme.

Section 63[3] of the Housing Act 2004 provides that license applications may be accompanied by a fee to be determined by the local housing authority [LHA]. In setting its fee LHA may take into account all costs it's incurred in carrying out its licensing function which we have done for licence applications for up to a 5 year period. The costs and fees are subject to review annually.

All income generated through the licencing scheme is ring-fenced to administer the scheme and improve private rented housing management and living conditions in the Borough.

10.2 Legal

Implications verified by: **Simon Scrowther**
Senior Litigation Barrister

Part 3 of the Housing Act 2004 enables Local Authorities to introduce Selective Licensing in certain circumstances. The maximum period for which Selective Licensing can run is 5 years.

Should the council on consideration of a business case decide to pursue a Selective Licensing scheme then there are various steps that it would need to take including a full and comprehensive consultation and satisfy the requirements specified in Sections 81 and 82 of the 2004 Act, and in particular that the exercise of the power is consistent with its overall housing strategy before issuing of a public notice of designation.

In areas subject to licensing, all private landlords must obtain a licence and if they fail to do so, or fail to achieve acceptable management standards, the authority can take enforcement action for this offence under section 95 of the Act 2004 not to licence a property which is licensable.

The definition of 'private' sector landlord does not include a non-profit registered provider of social housing or a landlord falling with the exceptions set out in Regulation's.

10.3 Diversity and Equality

Implications verified by: **Roxanne Scanlon Community Engagement**
and Project Monitoring Officer

No implications at this time. However a Community and Equalities Impact Assessment will be carried out during the approval steps of Selective Licensing designation.

10.4 **Staffing implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

The council has forecast around 14,000 properties in the borough could require a licence therefore staffing implications have been considered to manage this scheme.

The income generated from licensing will finance the staff to administer the scheme as all licensing income is ring fenced as per the regulatory guidance in the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006.

11. **Background papers used in preparing the report** (including their location on the Council's website or identification whether any are exempt or protected by copyright):

- I. Thurrock Council Housing Strategy 2015-20, Thurrock Council
- II. Approval steps for additional and selective licensing designations in England, Revised edition February 2010, Department for Communities and Local Government

12. **Appendices to the report**

- None

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