



WORTHING BOROUGH
COUNCIL

Worthing JSC Sub-Committee
14 March 2024

Key Decision [Yes]

Ward(s) Affected: Central, Heene, Selden

Selective Licensing Scheme for Private Rented Properties in Worthing

Report by the Director for Housing and Communities

Officer Contact Details

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Executive Summary

1. Purpose

1. This report supports the Council's ambition to drive better standards in private sector homes for residents which supports the Adur and Worthing Housing Strategy for 2020-2023, 'Enabling Communities to Thrive in their Own Homes'.
2. The proposal contained in this report is to develop a selective licensing scheme to enable a more proactive approach for our team to target areas of greatest need and work with private sector landlords to drive better standards.
3. The report seeks authority from Members to commence a public consultation on the proposals for a selective licensing scheme in Worthing

2. Recommendations

1. To note the contents of the report and agree to commence a public consultation on the introduction of a selective licensing scheme within Worthing.
2. To delegate to the Director for Housing and Communities, in consultation with the Cabinet Member for Housing and Citizen Services, to:
 - i) Scope out a fully costed selective licensing scheme in Worthing as set out in this report relating to Heene, Central and Selden Wards,
 - ii) subject to this proposal being cost neutral and viable as approved by the Council's Chief Finance Officer, officers to develop and deliver the consultation process
 - iii) subject to this scheme being determined as viable, to report back to this committee following the consultation for further consideration and authority to proceed in principle with an application to the Secretary of State to implement the scheme subject to Full Council approval.

3. Context

- 3.1. The Councils' Housing Strategy 2020-2023 sets out the Councils' ambition to deliver secure and appropriate housing for the people of Adur and Worthing and support all sectors within the communities to live healthy, secure and purposeful lives. It forms part of a connected set of plans and strategic vision for our places to build platforms from which people, communities, businesses and ideas can develop and thrive.

The Council's Housing Strategy: Enabling People to Thrive in their Own Homes was widely consulted on, produced and agreed by the Joint Strategic Committee in March 2020, setting out four key ambitions:

- secure and appropriate housing for the people of Adur and Worthing;
- individual and community resilience, and economic growth;
- communities to live healthy, secure and purposeful lives;
- partnership with businesses, people, and statutory and voluntary sector agencies.

It also set out three key priorities for action, including:

- Housing-related wellbeing support
- Better homes, stronger communities
- Improving levels of affordable housing supply

- 3.2. Our council is committed to continue to use their powers to drive up standards in the private rented sector by making landlords carry out improvements where these are necessary and by licensing Houses in Multiple Occupation (HMOs).

- 3.3. In 2019, Adur & Worthing Councils obtained funding to commission the Building Research Establishment (BRE) to carry out a housing stock condition modelling exercise (the Report) to meet their s.2 duties under the Act. The Report, which was produced early in 2020 provided indicative information on the tenure and condition of properties in Worthing.

The Report notes that at least 22% of properties in Worthing are privately rented, which is well above the national average of 19%. Nearly 40% of the private rented sector in Worthing is located in Heene and Central wards. Over half of all privately rented properties are located in Heene, Central and Selden wards.

Further data indicates that the highest proportion of privately rented property with category 1 hazards (hazards that have the greatest risk of a serious adverse health impact on occupants or visitors) are found in Heene, Central and Selden. These Wards also contain the most houses in multiple occupation (HMO) (licensable and non-licensable).

The Report is supported by data gathered by Adur & Worthing Councils' Private Sector Housing Team (PSHT), which shows the majority of complaints about housing conditions were in respect of dwellings in the Central and Heene wards.

Further data indicates that over 30% of personal, nuisance or environmental anti-social behaviour cases reported in Worthing during 2019 occurred in Central Ward

- 3.4. Under the Housing Act 2004 ('the Act'), Adur & Worthing Councils have a statutory duty to keep the housing conditions in their area under review with a view to identifying any action that may need to be taken by them (s.3).

The Act also imposes a duty to inspect any residential premises within their area if they have reasonable grounds to believe that a category 1 hazard exists and, if there is a category 1 hazard, to take the appropriate enforcement action (ss.4-5).

3.5. **Selective Licensing**

Part 3 of the Housing Act 2004 gave local authorities the power to designate areas of selective licensing to help tackle concerns over issues such as anti-social behaviour, poor property conditions, high crime, high levels of deprivation, high migration and low housing demand. The authority may designate either the whole or a part of its district as subject to selective licensing of residential accommodation. Properties let by local authorities and private registered providers of social housing (PRPSHs) are exempt from the licensing requirements.

An Independent Review of the Use and Effectiveness of Selective Licensing commissioned by MHCLG and completed in 2019 found that:

- 44 local authorities reported operating one or more such schemes.
- Poor housing conditions and pervasive anti-social behaviour are the most common reasons for the introduction of selective licensing, followed by deprivation and low demand.

- Local housing authorities with schemes in operation considered their schemes to be at least “fairly effective” in tackling one or more of the issues licensing was introduced to address.

3.6. The research also highlighted a number of factors through which selective licensing helps to achieve effective change.

- It focuses resources on areas of concern whilst simultaneously generating revenue to contribute to the costs involved;
- It provides a clearly defined offence (licensed/unlicensed) which simplifies enforcement - and where a landlord is intentionally operating without a licence it is highly likely the inspection process will uncover further offences;
- There is no 24-hour notice requirement for access before an inspection for licensing purposes. This is particularly important where criminal (‘rogue’) landlords are present;
- The proactive inspection approach frequently brings other problems to light;
- Licensing provides a clear driver for effective engagement between landlords and local authorities and drives up landlord awareness of their responsibilities;
- The pre-designation process focuses local authority minds on the development of clear, transparent and robust enforcement policies;
- Selective licensing encourages the development of effective intelligence gathering mechanisms – extremely valuable both in identifying unlicensed properties and in targeting priority properties, especially where the ideal inspection figure of 100% cannot be achieved;
- Promotion of joint working within the authority and other agencies - fire and rescue service, police, border control/immigration, social services, HMRC etc;
- Development of clear targets and metrics to measure progress and success.

A selective licensing scheme lasts 5 years and the local authority can charge a fee to meet the costs associated with such a scheme.

4. Issues for consideration

4.1. Housing Strategy & Enforcement

This part of the work of the PSHT falls into two broad but overlapping categories; houses in multiple occupation (HMO) and complaints about housing conditions.

The PSHT uses a combination of tenant complaints, local knowledge and intelligence gathering to detect licensable HMOs (although the role played in encouraging prospective HMO landlords to engage through freely available officer time and advice should not be underestimated).

As of 27 February 2023 there were 165 fully licensed HMOs in Worthing with around 12 further HMOs awaiting issue.

Information on poor housing conditions within the non-licensable HMO and private rented sector is largely gathered as a result of complaints received from residents.

Despite the limited number of staff, the team has still achieved a level of enforcement activity that exceeds the national average in respect of housing conditions and enforcement activity across West Sussex authorities.

Although the team has established a proven record of successful and robust interventions, the nature of reactive work combined with the level of staff means that the improvements are piecemeal and limited.

The data provided by the BRE model suggests that there are nearly 11,000 privately rented properties in Worthing of which an average of 8.7% have category 1 hazards. Over half of the privately rented properties are located in just three wards - Central, Heene and Selden - and over 10% of these will have category 1 hazards.

The BRE data can provide address-point data for Energy Performance Certificates (EPCs), for example, but cannot specify which properties have category 1 hazards and so allow targeted inspections.

It should also be noted that the PSHT would not have capacity to carry out targeted interventions in addition to the current workload and so a more strategic approach to securing borough-wide improvements is indicated.

4.2. The remit of the Private Sector Housing Team includes:

- Enforcement of the provisions of the Housing Act 2004 (mainly in the private rented sector)
- Mandatory HMO licensing (where the number of licensable properties has increased from 35 in 2018 to 190 in 2023)

- Public health interventions such as Filthy or verminous premises (hoarding)
- Mandatory and discretionary grants for disabled adaptations.
- Caravan site licensing
- Public health funerals

4.3. As noted above, although the PSHT achieves high-levels of effective enforcement in respect of poor living conditions, they have limited capacity for proactive investigations and interventions.

4.4. In addition, there are a number of reasons why tenants may choose not to contact the Councils about their housing conditions (lack of awareness of rights, fear of being evicted, etc.) and so complaint-led work will not effectively deal with wider problems with poor housing in an area. Hence, the largely reactive nature of the work means that a strategic approach to improving housing conditions in the private rented sector cannot realistically be achieved within existing resources.

4.5. Further, Adur & Worthing Councils' Housing Strategy 2020-2023 'Enabling Communities to Thrive in their Own Homes' states that, nationally, poor housing is recognised as one of the major determinants of poor health but that some landlords have capitalised on the shortage of dwellings in the private rented sector by renting out substandard or even dangerous properties and so included 'Better Homes; Stronger Communities' as a priority in the Strategy and refer specifically to:

- Continuing to identify homes in multiple occupation and ensure they are licensed
- Ensuring enforcement and regulatory activity is sustained so that the better homes standards are maintained

4.6. The 'as-is' approach to housing enforcement would not therefore be conducive with the council's ambitions in this area.

4.7. The Housing Act 2004 makes provision for three separate but related schemes in respect of the licensing of residential properties in the private rented sector, namely:

- The mandatory licensing of houses in multiple occupation (HMO) meeting a prescribed description i.e. a property with 5 or more persons forming more

than one household who share basic facilities, such as a bathroom, toilet or kitchen (or if the property lacks such facilities)

- Additional licensing schemes, which allow a local housing authority (the authority) to designate an area where HMOs meeting a description set by that authority have to be licensed. This can include all HMOs (i.e. a property shared by 3 or more persons not forming a single household who share basic facilities) and so-called s.257 HMOs.
- Selective licensing schemes, which allow the authority to designate an area where all rented properties meeting a description set by that authority have to be licensed. This can include any and all properties rented under a single tenancy or licence.

4.8. The need for, or benefit of, an additional licensing scheme has largely disappeared following the change of definition of a licensable HMO to remove the requirement for three or more storeys. Other local authorities have pursued this option (Arun District Council have commenced consultation on the implementation of such a scheme as their preferred approach to deal with the poor standards in non-licensable HMOs) and it may be considered less controversial. However, the identification of HMOs covered by such a scheme, as well as the determination of any exemptions, make the scheme arguably more resource and data intensive. It will also exclude all other PRS dwellings, all of which could be in poor condition.

4.9. Further options considered and discounted:

- Landlord Accreditation – Chichester District Council operates an accreditation scheme but this is tied in to grant funding and the presence of a further education facility, which means landlords are incentivised to compete for student tenants. However, the shortfall of private rented properties in Worthing and the local population profile means there is little incentive to obtain accreditation and PSHT also lacks the capacity to run such a scheme.
- Housing Act enforcement powers – As noted above, the ‘as-is’ approach will not allow the targeted action against poor housing conditions and, although PSHT has been effective in using these tools, complaint-driven interventions will not deliver the systemic improvements to the housing stock required.
- Street-by-Street inspections – the PSHT has previously commenced projects to tackle high risk properties, such as accommodation above takeaways/restaurants, or high-rise blocks of flats in partnership with West Sussex Fire and Rescue Service (WSFRS). This approach is limited by the capacity of the team and cannot be sustained at a level which will drive continuous improvements.

- 4.10. The more general selective Licensing scheme is considered to be a more effective and straightforward option to identify problematic HMOs and s257 HMOs, as well as poor private rented sector properties, in addition to generating sufficient income to cover staffing costs and drive improvements within these limited geographical areas.

5. Engagement and Communication

- 5.1. Before making a decision to introduce selective licensing the authority must take reasonable steps to consult persons who are likely to be affected by the designation (including those who live, work or operate businesses in adjoining local authority areas), consider any representations made in accordance with the consultation and not withdrawn; and consider whether there are other effective methods of achieving the intended objective
- 5.2. The consultation process will consider such factors as:
- The need for a selective licensing scheme
 - The scope of the scheme
 - The overall cost of the scheme and the cost of individual licences
 - The proposed licence conditions
 - The positive and negative consequences of such a scheme
- 5.3. The consultation process shall last at least 10-weeks as a statutory requirement of the selective licensing process and shall include internal partners for consideration of the effect on the local rental market, including demands on the services of Housing Needs and homelessness.

Since the proposed selective licensing scheme affects more than 20% of the privately rented homes in the area, the scheme will require consent from the Secretary of State. The council will need to demonstrate that the consultation process was extensive and legitimate and that any representations were considered and, if appropriate, used to adapt the scheme.

Selective licensing can come into force no earlier than three months after the designation has been approved or it falls under the general approval.

6. Financial Implications

- 6.1. The Council has the power to charge a fee necessary to meet the costs associated with the implementation of the scheme (not including the consultation and initial set-up costs), but is not allowed to use fees as a means of generating additional revenue.
- 6.2. The application fee level must reflect the cost of receiving and administering a licence application, as well as inspecting the property and issuing the licence. For context, in 2023 the fee for a mandatory HMO licence was calculated, modelled and set at £1200 for a standard 5-person HMO and is approximately the median cost for an HMO licence in Sussex. Smaller units of accommodation should, in the most part, require less resources as they are smaller and less complex than larger HMOs so allowing lower fees as set out in the indicative fee levels below. The fee upon grant will be fixed as the cost of enforcing the scheme will be shared across all licenced properties

	Application Fee	Fee upon grant	Total
Studio/Bedsit	£300	£450	£750
1-bed dwelling	£300	£450	£750
2-bed dwelling	£550	£450	£1000
3+ bed dwelling	£750	£450	£1200

For the largest property, this would equate to a total of £240 per year or £20 per calendar month.

- 6.3. Due to the nature of the properties in the three wards, a greater proportion will be smaller dwellings. As noted above, there are other costs associated with running the scheme and available research states that there should be sufficient resources made available by the council to facilitate supportive action over and above administration and enforcement. Any fee income in excess of direct salary and associated support costs can legitimately facilitate support to both landlords and tenants affected by the scheme provided by the Housing Needs team, the enforcement activities of the PSHT and legal services, etc.
- 6.4. It is recognised that enforcement action associated with the scheme may result in the issuing of financial penalties, which may lead to further income. This is not guaranteed and should not form part of budget predictions as it could suggest that fines are issued for financial rather than safety issues.

Any decision on formal action will be taken in line with the PSH enforcement policy.

- 6.5. It is possible that the initial uptake will be low but if, in a worse case scenario, only 10% of landlords apply, it is expected that there would be sufficient licence fee income to fund the first year staffing costs. Landlords could, of course, be incentivised by offering discounts for applying early or for being accredited members of organisations such as the National Residential Landlords Association (NRLA). Formal enforcement action at earlier stages of the licensing cycle could also encourage uptake.
- 6.6. Not all landlords will choose to proactively licence their properties, and some will exit the market when asked to improve the quality of housing being provided. Although this may cause initial short-term disruption, affected properties will either be bought by more responsible landlords, or by prospective owner-occupiers who will also work towards improving the overall housing stock.
- 6.7. The cost of the scoping work recommended for approval will be met from existing council budgets.

7. Legal Implications

- 7.1. Section 3 of The Housing Act 2004 ('the Act') imposes a statutory duty upon Councils to keep the housing conditions in their area under review with a view to identifying any action that may need to be taken by them.
- 7.2. Sections 4 and 5 of the Act impose a duty to inspect any residential premises within their area if they have reasonable grounds to believe that a category 1 hazard exists and, if there is a category 1 hazard, to take the appropriate enforcement action.
- 7.3. The Act does not require notice to be given prior to an inspection for licensing purposes and such a proactive approach to inspections can illuminate other issues that require resolution which encourages effective engagement between landlords and local authorities.
- 7.4. The pre-designation process focuses local authorities on the development of clear, transparent and robust enforcement policies.

- 7.5. The scheme has implications for the resources of the enforcement staff and the legal team, but these represent associated costs that can be addressed in the setting of the fee level.
- 7.6. Sections 56(3) and s80(9) of the Housing Act 2004 and paragraph 48 of the 2015 [Secretary of State's guidance](#) states that the Council must take reasonable steps to consult on the proposed designation of a licensing Scheme. The Council is legally required to undertake a consultation exercise before introducing a licensing scheme for a period of a minimum of 10 weeks.

Background Papers

- [Selective Licensing in Worthing.](#)
- [An Independent Review of the Use and Effectiveness of Selective Licensing](#)
- [NAO Report on Regulation of private renting](#)
- [Proposed licence conditions for selective licensing scheme](#)
- [DLUHC Guidance on Selective Licencing in the private rented sector: a guide for local authorities](#)

Sustainability & Risk Assessment

1. Economic

- The cost of the scheme to the landlord is the equivalent of a maximum of £20 pcm over 5 years. There is, however, the potential that some landlords will leave the market due to the cost of ensuring that the rented properties meet suitable standards. The cost of supporting tenants affected by this dynamic would be mitigated through the licence fee income. Improved housing standards make areas more attractive to residents and reduce anti-social behaviour.
- The impact on communities and businesses will form a significant part of the consultation process.

2. Social

2.1 Social Value

- The proposed scheme should drive up standards within the private rented sector and provide additional data on communities residing in the areas.

2.2 Equality Issues

- "Matter considered and no issues identified."

2.3 Community Safety Issues (Section 17)

- There is a correlation between poor housing conditions and the prevalence of anti-social behaviour and environmental crime. One of the drivers for selective licensing schemes is to tackle concerns about anti-social behaviour and poor housing conditions.

2.4 Human Rights Issues

- "Matter considered and no issues identified."

3. Environmental

- A selective licensing scheme would help tackle concerns in a number of areas including poor property conditions. Improved property conditions would positively impact energy efficiency and environmental standards of privately rented accommodation.

4. Governance

- The scheme helps meet Adur & Worthing Council's Housing strategy.
- One of the positive factors associated with selective licensing schemes is the promotion of joint working within the authority and other agencies - fire and rescue service, police, border control/immigration, social services, HMRC etc;
- The scheme should be designed to meet all associated costs and to provide resources to drive up housing standards.