



Cabinet
17 April 2023

**Report from the Corporate Director
of Resident Services**

**Selective Licensing in the Private Rented Sector in
Brent 2023**

Wards Affected:	All
Key or Non-Key Decision:	Key
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
No. of Appendices:	12 – Appendix 1 - Consultation Findings Report (Feb 2023) Appendix 1(a) - Consultation Findings Report (Feb 2023) Appendices Appendix 2 - Council response to representations (Feb' 23) Appendix 3 - Consultation Proposals Evidence Report Appendix 4 - Metastreet Evidence Report Appendix 5 - Selective Licensing Scheme Designation Appendix 6 - PHS Enforcement Policy Appendix 7 - Fee structure for Selective Applications Appendix 8 - Selective Licence scheme conditions Appendix 9 - Equalities Analysis (EA) Appendix 10 - Letters of support for the licensing Appendix 11 - Designation Map & Draft Designation notice
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Introduction

Brent's private rented sector (PRS) has been subject to small selective licensing schemes for the past eight years. While the Council has Government consent to implement schemes of up to 20% of the total stock, or up to 20% of the borough's geographical area, larger schemes require confirmation from the Secretary of State from the Department for Levelling Up Housing and Communities (DLUHC).

The private rented sector (PRS) in Brent has seen rapid growth over the last eleven years, with around 58,000 homes in the borough privately rented (46% of the total dwellings). Renters in private accommodation make up the largest proportion of occupants in our borough. For a greater proportion though living in the PRS is not a choice freely made, but a result of a housing market that leaves little other route to a roof over their heads.

However, poverty is widespread across the borough with many households experiencing financial difficulties. In addition, all areas are affected by poor property conditions and there is significant and persistent evidence of antisocial behaviour (ASB) across wards in the borough.

The Brent-Labour Manifesto 2022 sets out rationale for further landlord licensing in the borough as part of this Council's administration's agenda for "safe, secure and decent housing", and to protect the safety and wellbeing of renters through high standards.

Subject to Cabinet's approval of the scheme, we intend to commence a programme of inspection of selectively licensed properties, to run alongside our existing programme of inspection of Houses in Multiple Occupation (HMOs). We will continue our responsive activities of homes falling outside the selective scheme and continue to build the Brent PRS evidence base.

This report seeks approval of the steps for new licensing schemes.

1.0 Purpose of the Report and Executive Summary

- 1.1 In August 2014 the Council approved the introduction of a Selective Licensing scheme, covering all private rented housing in the wards of Harlesden, Wembley Central and Willesden Green. The scheme came into effect in January 2015 and ran until 31st December 2019. In June 2018 the selective licensing scheme was extended to the (pre-May 2022 Boundary Commission changes) electoral wards of Dudden Hill, Kensal Green, Kilburn, Mapesbury and Queens Park. This latter designation will end on 30 April 2023.
- 1.2 Under the selective licensing schemes, landlords of privately rented homes within the designations are required to apply to the Council for licences for which fees must be paid. Where licences are granted, the Licence Holder and Manager, if different, are required to comply with property management licence conditions.
- 1.3 On 22 September 2022, the Cabinet Member for Housing, Homelessness & Renters Security agreed to consult on proposals to renew and extending selective licensing to other areas of the borough. The decision was informed by

an evidence-based report and the relevant Government guidance on the introduction of discretionary licensing schemes. The detailed proposed schemes are;

- I. Introducing a selective licensing scheme designation for five years in the three wards of Dollis Hill, Harlesden & Kensal Green and Willesden Green (covering 18% of the Private Rented Sector stock in Brent) on the grounds of poor property conditions and anti-social behaviour.
- II. Introducing a selective licensing scheme designation for five years in 18 wards of the borough of Brent excluding Dollis Hill, Harlesden & Kensal Green, Willesden Green and Wembley Park on the ground of poor property conditions.
- III. Setting the fees for selective licensing for the above-mentioned proposed designations at £340.00 for the application fee and £300.00 for the remaining fee if the application for a licence is approved; and
- IV. The review and content of licensing conditions for selective licensing.

1.4 The consultation with landlords, tenants, residents, stakeholders and other interested parties started on the 31 October 2022 and ran for 12 weeks, concluding on 23 January 2023. The council used digital and print media to advertise the consultation, as well as in-person methods.

1.5 The main feedback method was via an online or paper questionnaire. The council also hosted several public meetings with landlords, tenants, residents, and landlord groups. 853 individuals or organisations completed the online or postal questionnaire. Qualitative feedback was received at deliberative meetings with interested groups and from written responses from landlord representatives. In summary the results were very similar to previous consultation exercises we have undertaken on private sector licensing, with residents and business being in favour of the schemes and landlords less in favour or not at all. Of those who returned the questionnaire 53% were residents or businesses, 42% were landlords or agents and 5% were other stakeholders.

1.6 The consultation looked at the level of support for introducing selective licensing, and looked at views on the proposed licence conditions, fees, and the respondents' perceptions.

1.7 The findings of the consultation exercise are provided in Appendix 1 2023 and the Report Appendices 1(A).

1.8 This report makes recommendations in relation to the licensing schemes beyond 30 April 2023.

2.0 Recommendations

Cabinet is recommended to:

2.1 Note the outcome of the consultation process detailed in the Consultation Findings Report of February 2023 and the Report Appendices [Appendix 1 & Appendices 1(A)], the representations received and the Council's consideration thereof, and response to these representations [Appendix 2].

- 2.2 Note the consultation evidence [Appendix 3] relating to the problems being caused by poorly managed privately rented properties, and that the report has considered that selective licensing will assist the Council in achieving wider objectives, as well as the alternatives to licensing.
- 2.3 Note the content of the Equality Impact Assessment as set out in Appendix 9.
- 2.4 Note the legal implications section 11 which sets out the legislative requirements of selective licensing.
- 2.5 Note that upon approval, if granted, that the scheme shall be publicised via an agreed communications plan, and in accordance with the regulations before the scheme comes into force.
- 2.6 Agree that the evidence report [Appendix 3] highlights that the legal requirements as set out in paragraphs 11.6 to 11.27 of this report for introducing Selective Licensing on the grounds of anti-social behaviour (ASB); and/or poor property conditions; have been met regarding the proposed selective licensing designation.
- 2.7 To note that this designation falls within the description of designations in relation to which the Secretary of State has given a general approval under section 82 of the Housing Act 2004 and The Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015 as both the size of the private rented stock and the geographical area of the designation are under 20%.
- 2.8 Agree, subject to paragraphs 2.1 and 2.2 above, to authorise the designation of 3 wards for selective licensing to last for five years from the date of designations coming into force, and which cover the following Council wards as delineated and edged red on the map in Appendix 4:

Designation 1/2023: A selective licensing scheme designation in the wards of Dollis Hill, Harlesden & Kensal Green, Willesden Green under Part 3, s.80 Housing Act 2004 on the grounds of (1) poor housing (property) conditions and (2) ASB with effect from 1 August 2023 (in accordance with the criteria set out in the Housing Act 2004 and Selective Licensing of Houses (Additional Conditions) (England) Order 2015 , or at a later date in accordance with the statutory time required for the scheme to come into force.
- 2.9 Agree that the selective scheme described in 2.8 above shall be cited as the London Borough of Brent Designation No 1/2023.
- 2.10 Agree the authority to issue the required statutory notification in relation to the Selective Licensing Scheme Designation 1/2023 is delegated to the Corporate Director of Residents Services, in consultation with the Lead member for Housing, Homelessness, and Renters' Security.
- 2.11 Agree that, subject to the issue of statutory notifications, that the Corporate Director of Residents Services, in consultation with the Cabinet Member for

Housing, Homelessness & Renters Security is authorised to decide the date from which the council will begin to accept applications for selective licensing.

- 2.12 Agree to the proposed fee structure for licence applications made under the Selective Licensing scheme set out at in Appendix 7 and in section 9 of this report.
- 2.13 Agree that authority be delegated to the Corporate Director of Residents Services, in consultation with the Cabinet Member for Housing, Homelessness & Renters Security to agree the basis for, and level of any changes including discounts which may be applied to these licensing application fees.
- 2.14 Agree that the standard licensing conditions for licences granted in the proposed designation areas for selective licensing as set out in Appendix 8 be approved and to authorise the Corporate Director for Residents Services, in consultation with the Cabinet Member for Housing, Homelessness & Renters Security, to make any minor variations to such licensing conditions.
- 2.15 Note that the Selective Licensing scheme will be kept under review at least annually and that any significant changes, including the withdrawal of a licensing designation or a proposal to introduce any new designation(s), will be subject to further decision by Cabinet.
- 2.16 Note the letters of support for the licensing proposals as attached in Appendix 10.
- 2.17 Note that a further report will be brought to Cabinet in 2023 regarding any further proposed designation.

3.0 Background

- 3.1 Brent's population has increased by 18 per cent over the past 10 years. The Office of National Statistics (ONS) Census 2021 population estimates for Brent was 339,800. This makes Brent the 5th most populous London borough. Like most London boroughs Brent has a younger age profile, with more adults aged 20-44.
- 3.2 Brent is one of the most diverse boroughs in the country with over 55% of its residents born outside the UK (This is the highest proportion in England and Wales). Our largest single ethnic group is Indian (17.3% of the population) followed by White Other (16.2%) and then White British (16.0%). There were more applications to the EU Settlement Scheme from Romanians (21,180) in Brent than for any other nationality. As well as Indian and European residents, around 17% of residents were from Black ethnic groups (higher than the London average (13%). Brent also has Pakistani (4.7%), Chinese (1.2%), and Bangladeshi (0.5%) residents.
- 3.3 The private rented sector (PRS) in Brent has grown from 32% (35,000 properties) of the total housing stock in 2011, to our current estimates of 46% in 2022. All of Brent's wards have a higher percentage of PRS than the national average

(England), which was 19% in 2021. The average is 39.6% for 21 of the 22 wards, which excludes Wembley Park. There are a total of 127,378 residential dwellings in Brent, 58,105 of which are privately rented. The PRS in Brent at 46%, is now higher than its owner-occupied sector (35%), and bigger than its social rented sector (19%).

- 3.4 The Indices of Multiple Deprivation (IMD) is a measure of relative deprivation based on seven domains of deprivation: income, employment, education, health, crime, living environment, and barriers to housing and services. Brent ranks as the 49th most deprived borough in England out of 317, with 16 of 22 wards having an aggregated IMD ranking below the national average.
- 3.5 A household is considered to be fuel poor if they have required fuel costs that are above average (the national median level); and were they to spend that amount, they would be left with a residual income below the official poverty line. The fuel poverty score was produced by the Department for Business, Energy & Industrial Strategy (BEIS) using 2019 data and published in 2021. Brent has a higher proportion in fuel poverty (17.3%) than the national average (13.8%). Over the next 12 months these figures are likely to change significantly as a result of acute fuel price increases.
- 3.6 Brent has the 4th highest number of private landlord possession claims in London, with 2,399 in 2019 (Appendix, Figure 6). The average number of claims for London boroughs during this period was 1,224.
- 3.7 Local authorities are required by law to either provide accommodation to homeless households, work to stop households becoming homeless or relieve homelessness when it does occur. Homelessness returns to government in 2017/18 for Brent has the 12th highest numbers accepted as being homeless (536).
- 3.8 Brent has above average rents for London, with 53% of average (median rent for one-bedroom dwellings) earnings used to pay rent. The London average is 47.9%.
- 3.9 Housing conditions are affected by the level of maintenance and quality of repair, the age of the property, thermal efficiency, and type of construction. Category 1 (HHSRS) hazards have a physiological or psychological impact on the occupant and may result in medical treatment. Hazardous conditions in the PRS cost the NHS around £340 million a year. In 2021, 12% of private rented dwellings in England had at least one Category 1 hazard; this was a higher proportion than the average for the total housing stock (9%). 21 of the 22 Brent wards have levels of category 1 hazards above the national average (12%).
- 3.10 Under the Housing Act 2004, there are three types of licensing available to local authorities:
 - (a) Mandatory Licensing - All local authorities are obliged to run a licensing scheme covering most Houses in Multiple Occupation (HMOs) that are occupied by five or more people. A scheme has been in operation in Brent since 2006.

- (b) Additional Licensing - Section 56 of the Housing Act 2004 provides a power to licence HMOs not covered by mandatory licensing; defined as properties containing 3 or 4 people forming 2 or more households. Under Additional Licensing, local authorities can designate an area for an initial 5 years but must be satisfied that a significant proportion of the HMOs in the area are being managed sufficiently ineffectively as to give rise to one or more problems, either for those occupying the HMOs or for members of the public. In April 2014 the Executive approved the designation of an Additional Licensing Scheme covering the whole borough with effect from 1st January 2015. The Brent additional licensing scheme was renewed for a further five years with effect from 1st February 2020.
- (c) Selective Licensing - Under Part III of the Act, local authorities can introduce Selective Licensing schemes that focus on improving the management of privately rented properties accommodating single households as well as HMOs, which are not subject to additional licensing. A scheme covering three wards has been in place since 1st January 2015, and this was extended to a further five wards of Dudden Hill, Kensal Green, Kilburn, Mapesbury and Queens Park in June 2018.

3.11 This report is concerned solely with the designation of selective licensing to areas of the borough. The statutory and non-statutory provisions are set out later in section 11 – Legal Implications

3.12 According to the proposal document, the Council had licensed 17,930 properties including 6,660 Houses in Multiple Occupation (HMOs). Licensing has been used strategically to deal with problems of ASB and to improve conditions associated with the PRS. For example, the Council has operated a licence condition and compliance inspection regime, along with proportionate enforcement action, to target non-compliant landlords and improve properties. This has led to over 8,240 properties being improved for the years January 2015 to October 2022.

3.13 Over the same period, over 2,200 housing notices have been served on private landlords and there have been 187 prosecutions resulting in fines and costs totalling £1.8m. As an alternative to prosecutions, in some cases the Council has also issued over 253 Civil Penalty Notices.

4.0 The Proposals for Selective Licensing in Brent

4.1 The council has been truly selective in proposing the areas for this licensing scheme. Thorough evidence gathering and research has been carefully carried out to ensure that the most severe problems in each ward can be dealt with. All properties in the designated area that are rented to single families (or two sharers) will need to have a licence to be legally let. These proposals which are set out in Section 7 of the consultation proposals [appendix 3].

- 4.2 The council is proposing a five-year scheme made up of two proposed designations to be implemented in, potentially, two phases. -designation 1 and designation 2. The scheme would apply to all private rented sector properties in the designated areas that are not included in the mandatory or additional licensing schemes. A second designation, phase 2 (designation 2/2023), would cover a total of 18 wards and 62% of the total PRS. Whilst the Council collated evidence and carried out a public consultation for both designation 1 and designation 2, this report does not seek approval to implement designation 2 at this time for the reasons set out in 4.7 below.
- 4.3 The first proposed phase (designation 1/2023) covers a total of 3 wards. The size of designation1 is 19.7% of the total private rented sector stock and the total geographical area of the designation is 13.9% of the total geographical area (43.13 Km².) which affect less than 20% of the geographical area of Brent and less than 20% of its privately rented housing, means they can be agreed locally by the council's cabinet under the general approval set out in the 2015 Statutory Instrument and could be brought in by June/July 2023 (see further in legal implications in paragraph 11.15)
- 4.4 Subject to consideration of the responses in the consultation process, the Council is keen to seek to address the serious problems of ASB and poor property / housing conditions in the 3 wards at Dollis Hill, Harlesden and Kensal Green, and Willesden Green as soon as reasonably practicable.
- 4.5 All 853 online consultation respondents answered the question on the proposal for Selective Licensing in Designation 1. Looking at the responses by group, residents / local business and other stakeholder are in favour of the proposals with over 65% of each group agreeing. Landlords are opposed to the proposals with over 65% disagreeing
- 4.6 All 853 online consultation respondents answered the question on the proposal for Selective Licensing in Designation 2 (excluded Wembley Park ward). Looking at the responses by group, residents / local business and other stakeholder are in favour of the proposals with over 65% of each group agreeing. Landlords are opposed to the proposals with over 73% disagreeing.
- 4.7 The Council proposes to introduce designation 1 first under the general approval set out in the 2015 Statutory Instrument as referred to in paragraphs 2.8 and explained in the legal implications at 11.15. There are several good reasons for this:
- (i) This will allow the Council to continue to have a selective licensing scheme in operation in the borough, in the areas where there is the most acute need. The timeline for implementation of this designation means that there should only be a small break (2-3 months) between the existing selective scheme and the new designation 1. This is important as these three wards, as set out in the table at Figure 10, paragraph 7 below have the highest levels of ASB and the highest levels of repeat incidents of ASB in the borough.

- (ii) To introduce both designation 1 and designation 2 at the same time would overwhelm the Private Rented Housing Service (PHS) team and if the targeted ward based approach does not meet completely with the Council's objectives in the first few months any minor changes necessary to improve outputs would be more difficult with a larger scheme. The phased approach ensures that the new approach to licensing is effective, that the Council has the capacity to run the schemes effectively and make changes to improve the performance of the schemes where necessary before introducing a larger and more complex scheme.
- (iii) The Council needs time to scale up staffing from the current team size of 22 ½. The relatively small size of this designation means that the Council will be able to scale up staffing from 22 ½ to 33 officers over the next 3 to 6 months to manage the current proposed Designation. It is envisaged that designation 2 would require the number of suitably qualified officers to increase substantially to 60. Due to the anticipated size of designation 2, subject to agreement by the Council's cabinet, approval will also be sought from Cabinet to make an application to the Secretary of State for the Department of Levelling Up, Housing and Communities (DLUHC) requesting confirmation of the Selective Licensing Designation 2.

5.0 The Scope for selective licensing

5.1 A selective licensing designation may be made if the area to which it relates satisfies one or more of the following conditions. The area is one experiencing:

- (i) low housing demand (or is likely to become such an area); (note: this criterion is not applicable to LB Brent)
- (ii) a significant and persistent problem caused by anti-social behaviour (see 5.3 (i))
- (iii) poor property conditions (see 5.3 (ii))
- (iv) high levels of migration (see 5.3 (iii))
- (v) high level of deprivation (see 5.3 (iv))
- (vi) high levels of crime (see 5.3(v))

5.2 In considering whether to designate an area for selective licensing on the grounds above on property conditions, migration, deprivation and crime the local housing authority may only make a designation if the area has a high proportion of property in the private rented sector. Nationally the private rented sector currently makes up 19% of the total housing stock in England (EHS 2021). Where the actual number of privately rented properties in a given area is more than 19%, the area can be considered as having a high proportion of privately rented properties.

5.3 Below provides further guidance in satisfying the conditions in 5.1(ii to vi) above.

- (i) (a) that the area is experiencing a significant and persistent problem caused by ASB where some private sector landlords who have let premises in the area (whether under leases or licences) are failing to take action to combat the problem that it would be appropriate for them to take, and; (b) that making a

designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, lead to a reduction in, or the elimination of the problem.

- (ii) That there is evidence of poor housing conditions in the sector and that making a designation will, combined with other measures, contribute to an improvement in general housing conditions in the area.
- (iii) High levels of migration, in that a) recently experienced or is experiencing an influx of migration into it; (b) that a significant number of the properties are occupied by those migrants; and (c) that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, contribute to (i) the preservation or improvement of the social or economic conditions in the area; and (ii) ensuring that the properties are properly managed, and in particular, that overcrowding is prevented.
- (iv) That the area is suffering from a high level of deprivation, which affects a significant number of the occupiers of relevant properties; and that making a designation will, with other measures, contribute to a reduction in the level of deprivation in the area.
- (v) That the area suffers from high levels of crime and criminal activity affects those living in relevant properties or other households and businesses in the area; and that making a designation will, with other measures, contribute to a reduction in the levels of crime in the area, for the benefit of those living in the area.

6.0 Selective licensing general set of conditions

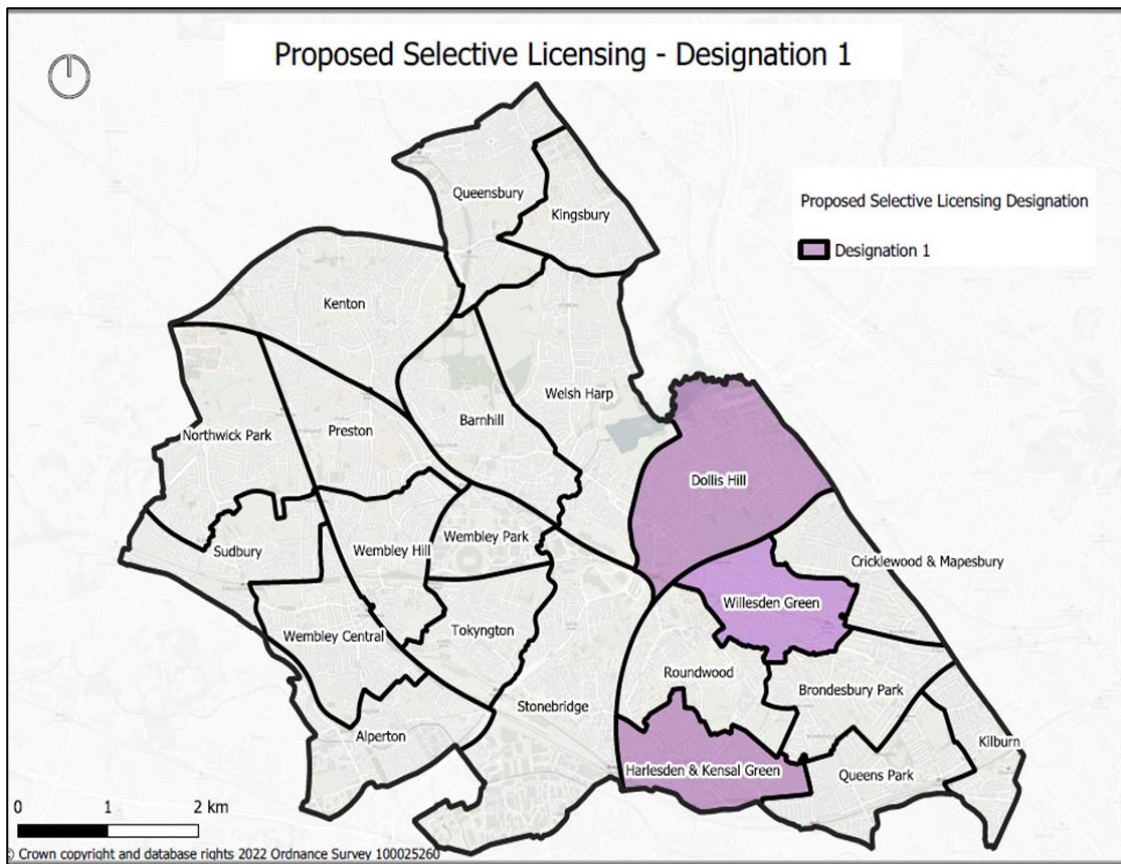
6.1 Figure 1 below shows a summary of data for all wards in the borough of Brent when considering some of those factors in 5.1 and 5.2 above, i.e. does each ward have above average levels of PRS properties, above average levels of poor property conditions and finally high levels of repeat ASB associated with PRS properties.

Wards	Designation Criteria		
	High Proportion of PRS (above the national average of 19%)	Poor Property Conditions (above national average of 12%)	Very High Number of PRS Properties with Repeat ASB
Alperton	✓	✓	X
Barnhill	✓	✓	X
Brondesbury Park	✓	✓	X
Cricklewood & Mapesbury	✓	✓	X
Dollis Hill	✓	✓	✓
Harlesden & Kensal Green	✓	✓	✓
Kenton	✓	✓	X

Kilburn	✓	✓	X
Kingsbury	✓	✓	X
Northwick Park	✓	✓	X
Preston	✓	✓	X
Queens Park	✓	✓	X
Queensbury	✓	✓	X
Roundwood	✓	✓	X
Stonebridge	✓	✓	X
Sudbury	✓	✓	X
Tokington	✓	✓	X
Welsh Harp	✓	✓	X
Wembley Central	✓	✓	X
Wembley Hill	✓	✓	X
Wembley Park	✓	X	X
Willesden Green	✓	✓	✓

Figure 1 - Metastreet, Appendix 4, wards summary overview actual figures

6.2 The three wards selected for this designation are Dollis Hill, Harlesden & Kensal Green and Willesden Green. As can be seen in figure 1 above, these wards have poor property conditions and the highest levels of ASB connected to the PRS compared to all other wards in the borough. In addition, these wards have the high proportion of private rented sector (above the PRS national average) properties. The geographical location of the wards can be seen in the map below.



6.3 Housing Tenure - Consistent with the long term nationwide and regional trend, the private rented sector (PRS) in Brent has grown steadily from 32% in 2011 to 46% in 2022. This represents a 43.8% increase over the last 11 years as seen below in Figure 2. There are a total of 127,378 residential dwellings in Brent, 58,105 of which are privately rented under assured shorthold tenancies (ASTs) or licences. Private renting has grown at the expense of owner occupation; however, a sizable proportion of the growth appears to come from new supply. The new supply is dominated by the build-to-rent (BtR) sector, with purpose-built blocks of flats concentrated in the Wembley Park ward. Metastreet Appendix 4, pg. 24, Table 2 below shows the % PRS dwellings in each ward and compares these to the national average of 19%.

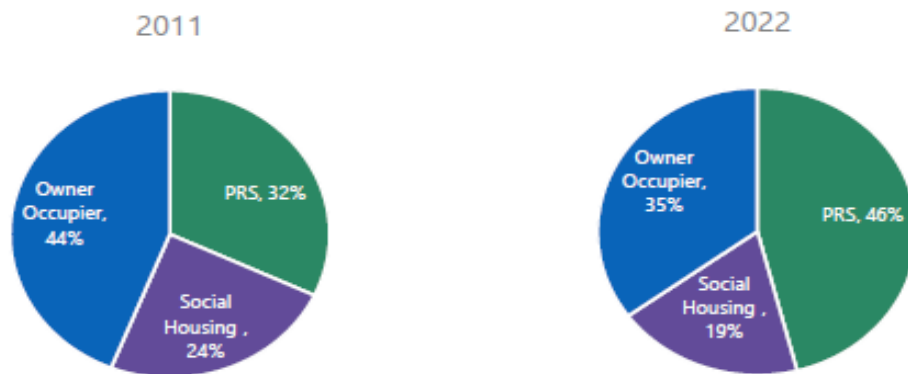


Fig. 2 Housing Tenure in Brent 2011 compared to 2022

- 6.4 Proportion of PRS dwellings across Brent wards - The PRS is spread across all 22 wards in Brent. The percentage of PRS properties in each ward ranges between 98% in Wembley Park and 31% in Stonebridge. (Figure 3). All of Brent's wards have a higher percentage of PRS than the national average (England), which was 19% and the London average of 29% according to the English Housing Survey (EHS) 2021-22. The average rate of PRS across all wards is 46%, (and the average is 39.6% for all wards excluding Wembley Park). The numbers and proportions of PRS dwellings in Designation 1- Dollis Hill (48.8%), Harlesden and Kensal Green (46%) and Willesden Green (50.5%) are high compared to the total housing stock.

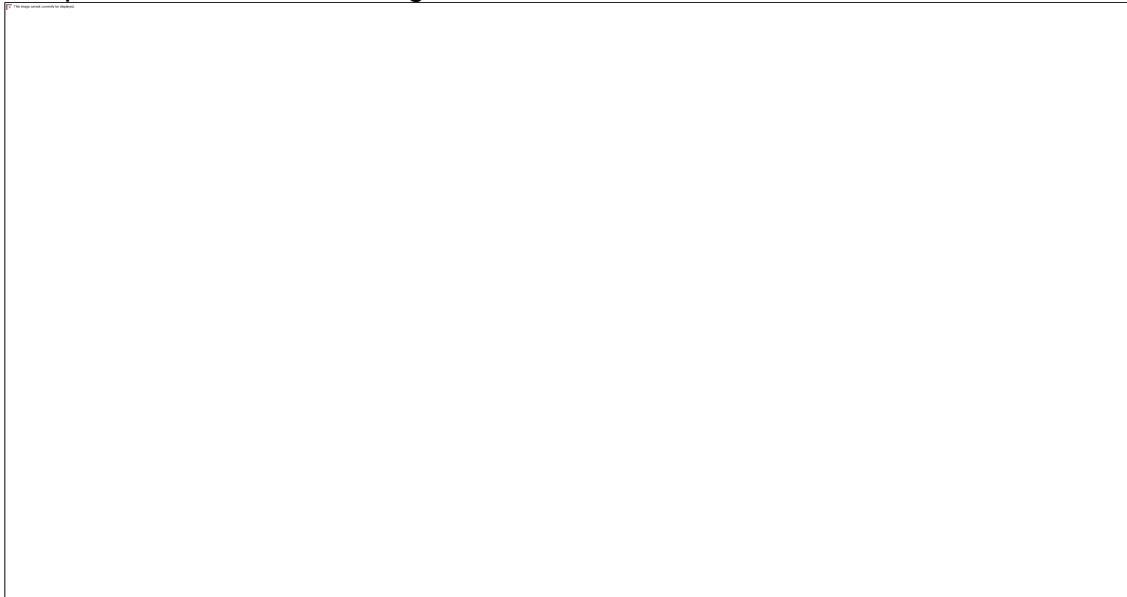


Figure 3: % of PRS Dwellings by each ward - Horizontal black line shows national average 2021 (19%)

Anti-social behaviour (ASB) (excluding known HMOs)

- 6.5 The second set of general conditions is set out in section 80(6) of the HA 2004 in relation to ASB and already summarised in section 5.3 (i) (a), (b) and (c) above. Anti-social behaviour is defined in law as conduct that has caused, or is likely to cause, harassment, alarm, or distress to any person. The law also gives specific definitions of anti-social behaviour in housing and can include loud noise from neighbours, harassment such as verbal abuse or threats, vandalism, property damage and graffiti, fly posting, dumping rubbish, abandoned cars, and animal nuisance. Our Appendix 3: The Metastreet Evidence report has analysed the data related to ASB in the borough.

ASB (a) that the area is experiencing a significant and persistent problem caused ASB.

- 6.6 The number of ASB incidents by tenure recorded by the council over the last 5 years, (expressed as a rate per 100 properties) are shown in Appendix 4 Figure 25 (ASB Rates/100 properties). They relate to ASB associated with residential premises only. ASB incidents investigated that cannot be linked to a residential property are excluded from the study. The study showed that the PRS rate is highest at 18%, compared to 10% for social housing and 3% for the owner-occupied properties.

ASB (b) that some or all of the private sector landlords who have let premises in the area (whether under leases or licences) are failing to take action to combat the problem that it would be appropriate for them to take.

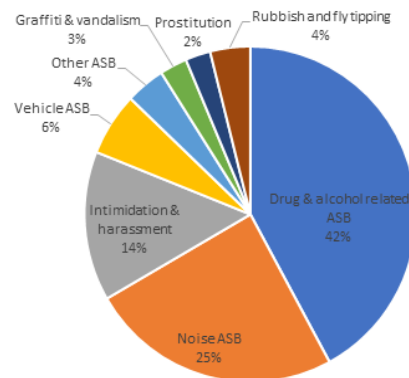


Figure 4 - ASB incidents linked to PRS dwellings by type (Source: Ti 2022).

6.7 ASB directly linked to PRS properties occurs across the borough. Over a 5-year period, a significant number of 10,398 ASB incidents have been recorded. (Metastreet Appendix 4, Figure 27, and Map 8). Follow up investigations identified that the majority of complaints were around substance misuse and noise and rowdy behaviour. (Figure 4).

6.8 Figure 5 below shows the results for the Designation 1/2023 area of Dollis Hill, Harlesden and Kensal Green, and Willesden Green. In these three wards alone, there were 2421 (23.3%) complaints of ASB over the five-year period. 424 properties (17.5%) in these wards had repeat ASB, showing that some landlords are failing to take the appropriate action to deal with ASB in their properties when it first occurs.

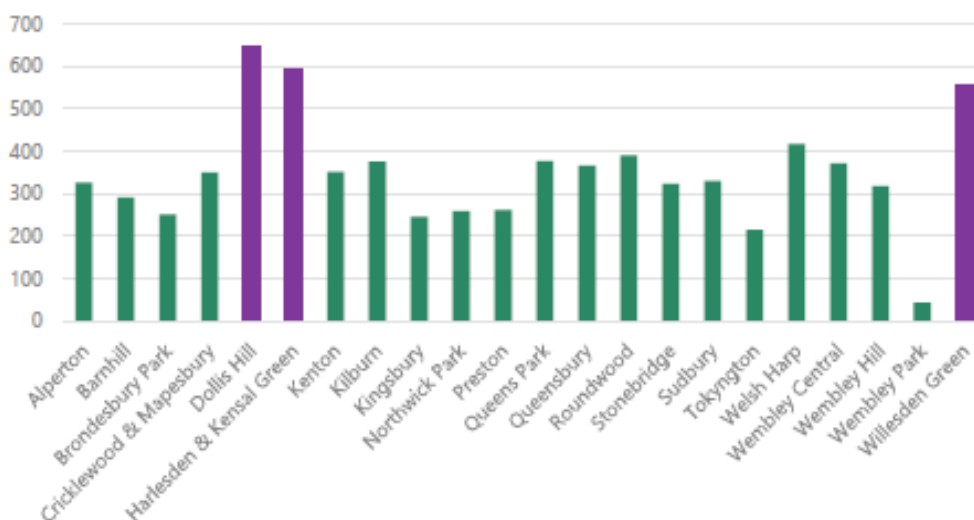


Figure 5: ASB incidences linked to Designation 1 Area

ASB (c) that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, lead to a reduction in, or the elimination of, the problem.

- 6.9 A new selective licensing scheme in these wards would give the council greater information and powers to deal with the properties that cause such a problem for neighbours and the community.
- 6.10 A designation of these three wards would allow the council to work proactively with the landlords and owners of the properties to prevent ASB and, where necessary, deal with ASB in their properties. The licence conditions will clearly state the responsibilities of landlords to prevent and also deal with any ASB that arises. There will also be guidance and support for landlords on how to manage tenants who are causing ASB. Information for tenants about their responsibilities about causing ASB will also be available.
- 6.11 Since 2015 an Enforcement Practitioners Group (EPG) has been operational which brings together regulatory enforcement teams from across the council, including Trading Standards and Planning to tackle complaints about ASB in privately rented properties. These complaints range from crack houses, brothels and cannabis factories to harassment of neighbours and issues with aggressive dogs. The group meets every five weeks, shares intelligence and works together to try and resolve ASB. On average twenty multi-agency operations are carried out each year.
- 6.12 In addition, the Brent Joint Action Group (BJAG) is a multi-agency group which meets monthly to manage issues raised by residents (through ward panels) or through data analysis. Monthly hotspot maps are used routinely to prioritise multi-agency enforcement and engagement in the appropriate areas. In 2021/22, eight high priority cases were referred and managed through the BJAG. Issues such as drug dealing, and drug use were tackled during tasking operations and ASB enforcement powers such as Closure Orders used to deal with nuisance.
- 6.13 The Private Housing Service has a quality management procedure agreed with the Council's Nuisance, Crime and Community Safety team on combating reported ASB in PRS properties.

Poor Property conditions

- 6.14 The Council has carried out recent reviews of its housing conditions as required by Section 3 (1) of the Housing Act 2004, and The Selective Licensing of Houses (Additional Conditions) (England) Order 2015. The published and archived reports are,
- Housing Quality Network (HQN), 2014
 - Mayhew Harper Associates, 2016
 - Brent In-house, Business Intelligence Team Study, 2018
 - Building Research Establishment (BRE) Dwelling Level Housing Stock Report, 2019
- 6.15 For this scheme, a *Housing Stock Condition and Stressors Report, October 2022*, has been provided by Metastreet. The Evidence Report *Appendix 3* will facilitate the delivery of a private sector housing strategy and will enable a targeted approach to tackling poor housing and provides accurate estimates of

levels of serious housing hazards that might amount to a Category 1 hazard under the *Housing Health and Safety Rating System* (HHSRS).

6.16 There are 10,108 private rented properties in Brent that are likely to have at least 1 serious housing hazard (Category 1, HHSRS). PRS properties with serious hazards are distributed across the borough. Our evidence shows that the three wards in this designation have the highest number of properties with at least one Category 1 hazard. Harlesden & Kensal Green (812), Dollis Hill (796) and Willesden Green (766). Overall, at 2,374 properties, Designation 1 accounts for almost one quarter (23.5%) of the total Category 1 hazards in the borough and a significant number of these would need to be inspected to ensure tenant safety. The proportion of properties in each ward with category 1 hazards is also around double the national average of 12% (Figure 6 and 7).

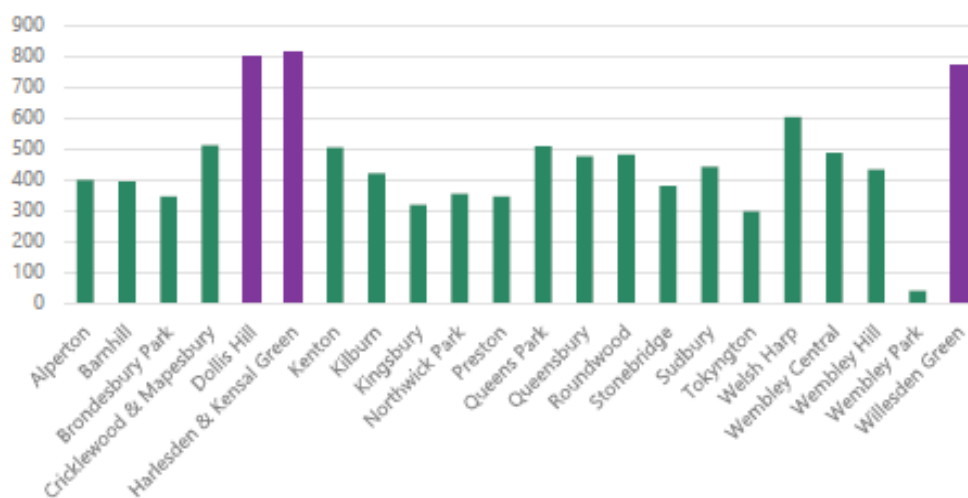


Figure 6: Predicted number of properties with a Category 1 hazard by ward

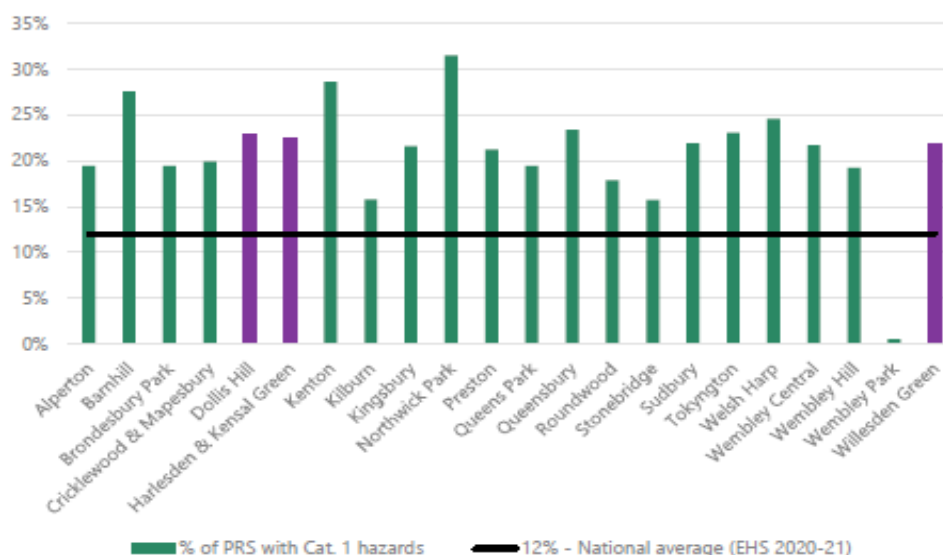


Figure 7: Percentage of PRS dwellings with Category 1 hazards by ward

PRS Enforcement and regulation interventions (excluding known HMOs)

6.17 Brent recorded 3,229 complaints and service requests from private tenants and others about poor property conditions and inadequate property management linked to PRS properties over a 5-year period. Harlesden & Kensal Green (337), Dollis Hill (290) and Willesden Green (240) generated most private tenant service requests (*Metastreet, Appendix 3, Figure 18 & Map 5*).

6.18 Brent uses a range of statutory housing and public health notices to address poor housing standards in the PRS. Over a 5-year period (2017-22) Brent served 6,920 housing and public health notices (*Metastreet, Appendix 3, Figure 23 & Map 6*). Additionally, over a 5-year period 1,282 planning enforcement notices have been served on PRS properties in Brent.

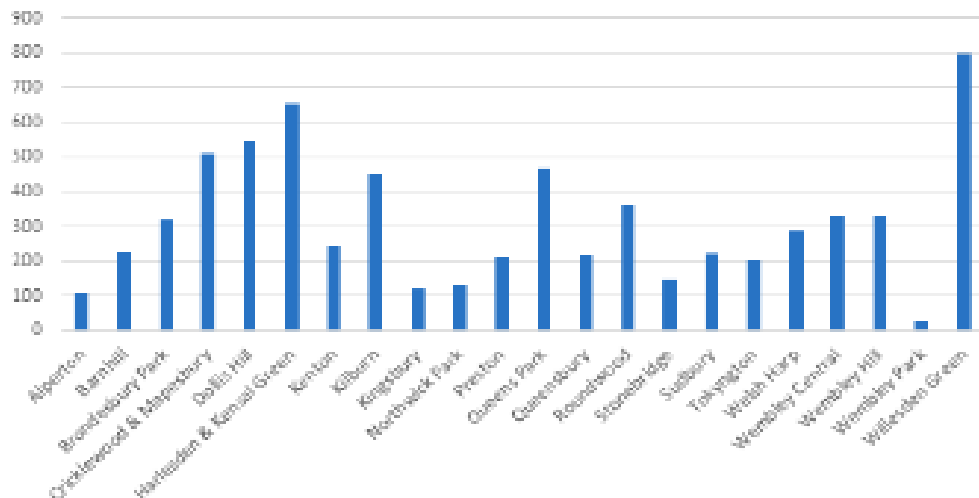


Figure 8: Statutory housing notices served on PRS properties (excl. known HMOs)

6.19 When combined with the PRS planning enforcement notices (131) issued, the properties in the three wards comprising Designation 1 have required a significant number of council interventions, representing a huge drain on council resources. Over a five-year period (2017-2022) the council has issued 2,283 housing, public health and planning enforcement notices where Willesden Green (875), Harlesden & Kensal Green (729) and Dollis Hill (679) received the most statutory notices.

Other stressors analysed which impacting on poor housing conditions

Housing stock age, type, and construction profiles

6.20 A local authority's property age profile can have an impact on housing conditions. It is notable that there is a gradient of risk with age of the property, the risk being greatest in dwellings built before 1900, and lowest in the more energy efficient dwellings built after 1980. Brent has a high number of residential properties (65.7%) built pre-Second World War (*Metastreet, Appendix 3, Figure 14*).

6.21 A borough's property type profile offers an indication of housing density, construction type and other population factors. The most common private rented property type in Brent is flats (67%). (*Metastreet, Appendix 3, Figure 15*).

6.22 Using a sample of properties that are known to have at least one serious housing hazard (Category 1, HHSRS), it is possible to show the distribution and rates of PRS properties with at least one serious hazard. across the wards in the borough (*Metastreet, Appendix 3, Map 4 and Figure 17*).

Assessment of Energy Efficiency (EPC rating) and Fuel Poverty

6.23 The energy efficiency of a dwelling depends on the age, thermal insulation of the structure, on the fuel type, and the size and design of the means of heating and ventilation. Any disrepair or dampness to the dwelling and any disrepair to the heating system may affect efficiency.

6.24 The Minimum Energy Efficiency Standard (MEES) regulation applies to PRS properties. All dwellings must have an EPC rating of E and above to be compliant. It has been calculated that 12.2% of PRS properties in Brent have an E, F, and G rating. 1.3% of PRS properties have an F and G rating (Figure 19). Extrapolated to the entire PRS, 755 PRS properties are likely to fail the MEES statutory requirement and present a Category 1 or High Category 2 HHSRS *Excess Cold* hazard.

6.25 F and G properties present a serious risk to the occupants' health, particularly if over the age of 65. The statistical evidence (HHSRS Guidance 2006) also shows that children in cold homes are twice as likely to suffer from a variety of respiratory problems. EPC ratings in the Brent PRS by ward is shown (*Metastreet, Appendix 3, Figures 20 to 22*). The difference and gap between the current and potential energy performance scores (EPC) represents the opportunity to improve the energy performance of PRS dwellings within the designation area.

6.26 Fuel poverty (termed "Low Income High Costs") is where a household has required fuel costs that are above the average (the national median level), and is that amount is spent, they would be left with a residual income below the official poverty line. Figures for the fuel poverty score (published by BEIS in 2021) are likely to change significantly because of acute fuel price increases. Notwithstanding, Brent has a higher proportion in fuel poverty (17.3%) than the national average (13.8%). (*Appendix 3, Figure 5*)

Information on Deprivation – Cross referencing deprivation with Housing Conditions

6.27 To determine deprivation, Metastreet has looked at the 2019 Indices of Multiple Deprivation (IMD) with LSOAs matched to the new wards using ONS Open Geoportal lookup tables. Factors that have been used to determine whether a proposed area suffers from high level of deprivation include: the employment status of adults; the average income of households; the health of households; the availability and ease of access to education, training, and other services for households; housing conditions; the physical environment; and levels of crime.

6.28 Brent ranks (Rank of average rank) as the 49th most deprived borough in England out of 317. Data at ward level (*Metastreet, Figure 4 and Map 1*) shows

16 of the 22 wards worse than the national IMD average (5), including the three wards in Designation 1. Stonebridge and Roundwood wards are most deprived (IMD average 1-2), followed by **Dollis Hill, Harlesden & Kensal Green** (IMD averages 2-3), with **Willesden Green** in the next less deprived group of 5 wards (IMD averages 3-4).

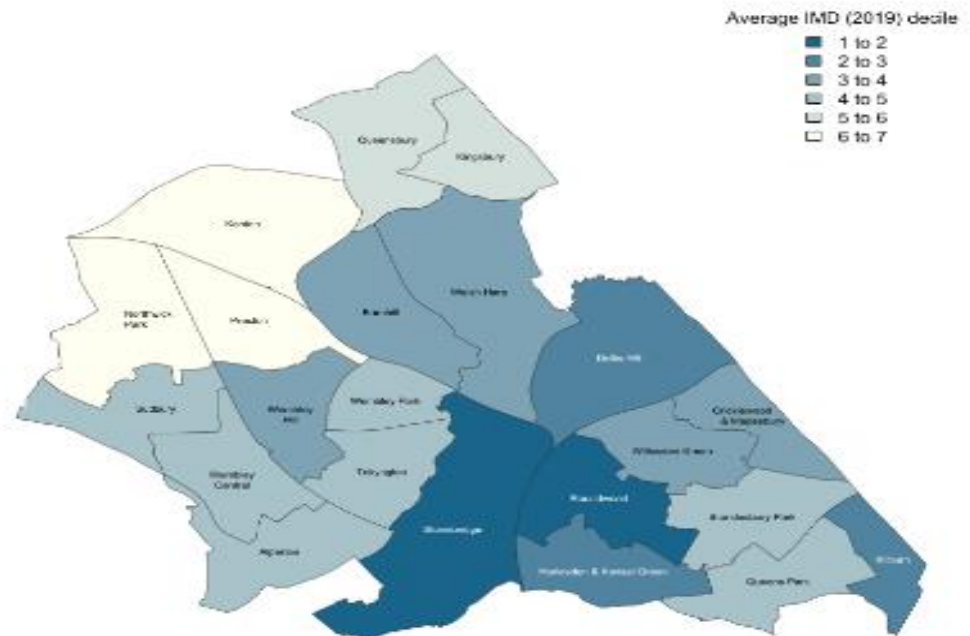


Figure 9 – Distribution of average IMD (2019) decile by ward (Source: ONS 2019, map by Metastreet)

6.29 The Council is not proceeding with a selective licensing scheme under this condition as it would be a huge challenge to satisfy section 5.3 (iv) above. However, it is useful to cross-reference deprivation with poor housing conditions, by looking at the distribution of LSOAs with category 1 hazards at levels which are greater than the national average (12%), or the London average (9%) and also the IMD decile. The picture would show that there are pockets of areas with both high levels of hazards and in deprived areas – for example, Stonebridge, Harlesden & Kensal Green, and Dollis Hill, and supporting the case for inclusion of the last two wards in designation 1.

The contribution of Selective Licensing to an improvement in general housing conditions in the area.

6.30 The designation of these three wards will allow the council to start dealing with some of the worst property conditions in the borough. This could be effective by August 2023.

6.31 Selective licensing will allow for the collection of additional data that will allow us to take a strategic and operational approach to address current and emerging issues e.g., excess cold, damp and mould, energy efficiency of PRS, and the national PRS Rental Reforms and Decent Homes proposals.

- 6.32 There will be clear licence conditions relating to the standard and management of rented properties in the area. Higher risk properties will be prioritised for inspection by officers to check for hazards and compliance with licence conditions. The council will take enforcement action (under Part 1 of the Housing Act), where necessary, to improve poor property conditions. It is much easier to rectify property issues under the legal framework of the licensing scheme and when the landlord and other property management companies are known to the council. Landlords who fail to licence their properties could receive a civil penalty for failure to license.
- 6.33 Information and support on the professional management of properties will be available to landlords through the council's web site and landlord forums (in person and online). The licence conditions relating to the management of the properties will help ensure that properties are properly managed to prevent further deterioration.
- 6.34 The council will work with landlords to address poor property conditions and help them to comply with the licence conditions in these wards. The council will also continue to work with the London Fire Brigade, Home Office, Police, HMRC, as well as additional council departments, to identify properties that need improvement. In addition, licensing has seen better and more effective working with internal stakeholders too, such as planning enforcement, The Brent Joint Action Group (BJAG), Brents Enforcement Practitioners Group (EPG), Empty Properties Team, Housing Needs and Council Tax.
- 6.35 Over the last seven years of the previous schemes, this co-working resulted in an increase in prosecutions of rogue landlords to 189. This can largely be attributed to the increased and efficient intelligence sharing across multiple disciplines and a robust enforcement policy.

7.0 Summary of evidence for selective licensing Designation 1/2023

- 7.1 The evidence for the selective licensing designation proposal is summarised in Section 7 of Evidence for Consultation 2022 report (Appendix 3). Figure 10 below gives a breakdown of the size and distribution of the PRS stock, elements of poor property conditions (Category 1 hazards) and ASB for each ward and the ranking based on outcome tables. Other specific reasons for Designation 1/2023 include;
- a. Although the % PRS average for all wards is significantly above the national average (19%), these wards are individually more than double the national average, and of the three, only Harlesden & Kensal Green (42%) rank below the Brent ward average (43.6%).
 - b. Very high repeat ASB – The three wards alone account for almost one-fifth (23.3%) of all recorded complaints of ASB over the five-year period. 17.5% of their total were repeat ASB complaints showing that some landlords are failing to take the appropriate action to deal with ASB in their properties when it first occurred.

- c. The highest levels of poor property conditions - overall Designation 1 accounts for almost one quarter (23.5%) of the total Category 1 Health and Housing Safety hazards in the borough.
- d. High levels (30%) of the total recorded complaints and service requests about poor property conditions and inadequate property management linked to PRS properties over a 5-year period.
- e. As set out in paragraph 6.19 the three wards comprising Designation 1 have required a significant number of council interventions, representing a huge drain on council resources. Over (2017-2022) they account for (30%) of the housing, public health and planning enforcement notices served in the borough.
- f. Cross referencing the area shows close links with high levels of deprivation and other housing related stressors
- g. The three wards are well geographically located, separated only by the newly formed Roundwood ward and for the most part will be restarted or continued under the selective licensing regime.
- h. Allowing the council to continue to improve standards in the PRS in what was previous designated areas that are considered to be the worst, those being Harlesden, Kensal Green, Willesden Green. Although Dollis Hill has not been previously designated, the ward boundaries have changed such that some properties and occurrences in the previously licensed Dudden Hill ward, are now attributed to designation 1/2023.
- i. Facilitates delivery through Brent Harlesden Connect (Harlesden & Kensal Green ward), Brent Willesden Green Connect (Willesden Green and Dollis Hill wards), Brent Community Safety Team localities, and the supportive Harlesden Neighbourhood Forum (whose membership is drawn primarily from the Harlesden and Kensal Green wards) and the Willesden Green Town Team (WGTT) residents' association.
- j. The ability to target problems and to deploy resources to designations over time, working strategically with others to achieve the desired scheme benefits.
- k. From the consultation responses, the overall majority, around 45% of respondents, agree with the proposal for Selective Licensing in Designation 1 and around 41% disagree. Looking at the responses by group, residents/local business (68%) and other stakeholder (73%) are in favour of the proposals. Fewer landlords and agents (16%) agree with to this proposal.

Ward	No. PRS (predicted)	% PRS and Rank (ex. W/Pk)	Category 1 (predicted) and	ASB Incidents and Rank			
Alperton	2,051	45.1	7	399	14	448	12
Barnhill	1,426	37.9	12	393	15	413	15
Brondesbury Park	1,779	31.8	18	346	18	336	20
Cricklewood & Mapesbury	2,572	46.4	3	512	5	443	13
Dollis Hill	3,471	46.9	1	796	2	878	1
Harlesden & Kensal Green	3,626	42.0	9	812	1	812	2
Kenton	1,765	31.3	19	505	7	493	10
Kilburn	2,665	32.0	17	420	13	496	7
Kingsbury	1,474	36.9	15	318	20	348	18
Northwick Park	1,124	31.3	19	354	17	380	17
Preston	1,626	43.8	8	345	19	342	19
Queens Park	2,620	35.8	16	508	6	495	8
Queensbury	2,034	37.7	14	475	10	505	6
Roundwood	2,693	42.0	9	481	9	548	5
Stonebridge	2,419	30.2	21	379	16	483	11
Sudbury	2,020	46.8	2	442	11	435	14
Tokyngton	1,285	41.3	11	296	21	284	21
Welsh Harp	2,448	40.7	12	602	4	570	4
Wembley Central	2,237	45.5	5	485	8	495	9
Wembley Hill	2,257	45.2	6	433	12	411	16
Wembley Park	8,405	98.4		41	22	52	22
Willesden Green	3,498	46.0	4	766	3	731	3
Total	55,495	43.6		10,108		10,398	

Figure 10 - Ward PRS summary overview for selective licensing (Source Tf 2022) (Excluding known HMOs).

- 7.2 **The Exclusion of the Wembley Park ward** - The Council has also chosen to exclude the Wembley Park ward because the evidence does not support the criteria for selective licensing as stated in its proposal (Appendix 3, section 7.3). The area is characterised by BtR purpose-built blocks of flats, which are owned and managed by institutional landlords. In defining the selective area, the council considers it more appropriate to focus its resources on the worst affected areas.
- 7.3 The Wembley Park ward is already covered under the council's HMO licensing schemes, where Part 2 of the Housing Act requires dwellings shared by 3 or more unrelated people, including certain student accommodation to be licensed.
- 7.4 Although licensing under Part 2 requires the council to "satisfy themselves, as soon as is reasonably practicable, that there are no Part 1 functions that ought to be exercised by them in relation to the premises in respect of which such applications are made". The HHSRS Fire hazard has been assessed in relation to those buildings with external wall cladding material and system (EWS). The issue is being resolved through the new Building Safety Act 2022, support from the LGA's Joint Inspection Team and the Building Safety Fund. Where necessary Part 1 HHSRS enforcement notices have been served.

- 7.5 However, this ward will be kept under review and a further designation could be considered should the evidence change.
- 7.6 From the consultation responses to question 14 (*to what extent do you agree or disagree with this proposal for the selective the licensing scheme in the three wards of Dollis Hill, Harlesden & Kensal Green and Willesden Green*), the overall majority, around 45% of respondents, agreed with the proposal. and around 41% disagree. Looking at the responses by group, residents/local business (68%) and other stakeholder (73%) are in favour of the proposals. Most landlords and agents are opposed to the proposals with over 68% disagreeing and 16% agreeing. The landlord response rates are typical for licensing schemes in general (Appendix 1).

Other matters applying to selective licensing

- 7.7 **Effect of the schemes** - If introduced, the effect will be that landlords who rent or let any property that is not occupied as a House in Multiple Occupation (HMO) must have a licence. The licence application must be accompanied by a fee [Appendix 7], and where a licence is granted, licensing conditions will be applied to the licence [Appendix 8]. See section 9.0 on licensing fees and section 8.0 on licensing conditions.
- 7.8 **Selective licensing exemptions** – Some properties are exempt from licensing. The full list of exemptions is found in The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006, but includes,
- a) properties licensable as a mandatory or additional HMO.
 - b) properties let by a local authority or a Registered Provider (RP), traditionally known as a not-for-profit Housing Association.
 - c) properties already subject to a management order.
 - d) properties subject to a temporary exemption notice.
 - e) owners who reside in the property they own as their main residence (owner occupiers).
 - f) holiday lets; and tenancies under a long lease and business tenancies.
 - g) Any building which is occupied principally for the purposes of a religious community whose principal occupation is prayer, contemplation, education, or the relief of suffering.
 - h) Student accommodation directly managed by educational institutions, e.g., halls of residence.
 - i) properties managed by a charity registered under the Charities Act 2011 and which— a. is a night shelter, or b. consists of temporary accommodation for

persons suffering or recovering from drug or alcohol abuse or a mental disorder.

Objectives licensing aim to achieve

7.9 Licensing is part of an overall approach to help improve privately rented properties in the London Borough of Brent. As such, any outcomes will be because of a range of initiatives and methods that the council can use. However, licensing is an important element and will place the responsibility on the landlord to inform the council that their property is licensable and encourage them, with the council's support, to ensure that they meet the required standards. The council can then prioritise its resources effectively to dealing with the properties of most concern and target enforcement actions to those landlords who fail to licence their properties and/or breach licence conditions.

7.10 The selective licensing scheme will be assessed against the following scheme objectives:

Objective	Link to strategic goals	Performance indicator (target)	Outcome	Benchmark targets
Improve property conditions in single family dwellings	Addressing BAME and equality Poverty and housing conditions Linking to LBB manifesto	Improve 1500 properties annually Undertake compliance inspection in 50% of licences issued and measure improvement outcomes. 100% of all licence application desk-based risk assessment completed. Achieve 100% selective licence applications over the life of the scheme. (Compared with modeled figures).	Reduce Cat 1, Cat 2 hazards and compliance of licence conditions Achieve a general improvement of property conditions in the designated area within the lifetime of the designation. Improve engagement of tenants in the PRS.	hazards identified and dealt with over 5 years 250 year 1 350 year 2 400 subsequent years
Improve management standards in PRS	Poverty and housing conditions	Be in the top 5 of London Council whose landlords are accredited to the LLAS 1 landlord forums per annum 4 newsletters sent to registered landlords that have signed up Take appropriate enforcement action against those landlords who fail to license or breach licence conditions.	Engagement with Landlords Improve engagement of tenants in the PRS.	100% of licensable properties to be licensed Proactively target high risk part 3 properties within the designation and carry out audit and compliance checks as per enforcement plan Respond to 100% of tenant complaints

Reduction in (repeat) Antisocial behaviour in single family dwellings	ASB seems to be an issue and could be used as part of the objectives	Conduct a detailed analysis to identify causes of ASB in wards included in Designation 1 Work more closely with the ASB to combat the causes of ASB in those wards. Review the existing ASB strategy and make sure that a more strategic and integrated approach is taken that combines both regulatory services and Housing.	Reduction in ASB incidents Reduce ASB concerns by residents over 5 years	10% reduction in ASB compared to the baseline 25% reduction in repeat ASB over 5 years compared to the baseline Four properties per year with repeat ASB addressed
Increased awareness for tenants on the minimum standards to be expected in rented accommodation and what their other rights are when renting in the PRS	Sustainability – increasing the energy efficiency in PRS and link government green policy Poverty Commission report Future of London Report Cost of Living Crisis & the Resident Support Fund	Create and promote a new tenant pack available on and offline and in different languages to inform PRS residents of their rights, services available to them, what to do in case of issues. Links with MEES and Green Doctor Services and Grants	Combat deprivation in the most deprived areas Supporting the most vulnerable tenants e.g., benefits assessments	Tackle fuel poverty by reducing number of homes with F&G rating Identify properties below C rating as a result of licensing Provide education to 50 households on MEES

Alternatives to licensing that have been considered –

7.11 When considering whether to make a selective licensing designation a local authority must identify the objectives that a designation will help it to achieve. We have considered other courses of action, or alternatives to the selective licensing proposals. But we do not believe that they provide as effective means of tackling poor housing conditions and repeat ASB in the borough. These other courses of action and the reasons why we believe that they will be ineffective are set out in the table below.

Alternative Measure	Strengths	Weaknesses
<p>Use of Part 1 Housing Act 2004 enforcement powers [HHSRS] and Public Health powers</p>	<p>Following an investigation, formal statutory notices can be served that require improvements to be carried out to a property.</p> <p>Councils can carry out work in default if a notice is not complied with.</p> <p>Landlords risk being prosecuted if they do not comply with the notice, or the Council can impose a civil penalty on the person responsible.</p>	<p>The powers do not place any obligation on landlords to be proactive in improving conditions. Formal action is generally slow, with appeal provisions against most types of notices served, which can significantly delay the time for compliance.</p> <p>Work in default can be effective but it is expensive and time consuming to the Council, with the risk that not all costs are recovered.</p> <p>Successful prosecutions and civil penalties do not in themselves secure improvements in property conditions and the Council's costs in pursuing legal action are often not met in full.</p>
<p>Rely on prosecutions and civil penalties for housing offences</p>	<p>Provides a disincentive to keep properties in poor conditions.</p>	<p>These powers do not place any obligation on landlords to be proactive in improving conditions. Successful prosecutions, or the imposition of civil penalties, do not in themselves secure improvements in property conditions. The absence of licensing significantly reduces the scope of the council to impose civil penalties in respect of identified housing breaches.</p>
<p>Wider promotion of voluntary accreditation schemes to facilitate improvement in management practices and standards</p>	<p>For those landlords who take part, accreditation can increase their knowledge and competence and their ability to effectively manage a property.</p>	<p>This requires voluntary landlord engagement and rogue operators are unlikely to attend/engage in such schemes.</p>
<p>Improvement grants to improve sub-standard properties</p>	<p>Grants subsidise improvement works, improving standards and giving benefits for landlords and tenants.</p>	<p>Generally, there are few grants available, and the council has very limited scope to offer grants through successful external funding bids. In the most part, grant awards would fund improvements that the landlord should be carrying out to meet their legal obligations.</p> <p>Any grant scheme would be discretionary and would rely on voluntary landlord engagement.</p>
<p>ASB powers</p>	<p>Formal notices can be served at addresses identified as having ASB issues. This can resolve ASB at the address.</p>	<p>Action would generally be taken against the tenant in occupation. The powers do not place any obligations on landlords to be proactive in managing their properties to prevent or reduce the likelihood of ASB occurring.</p>

Approach consistent with housing strategy/Licensing and wider council strategies

7.12 As part of this project, we have mapped strategies and policies across the council which link to PRS licensing. The licensing proposals are set in the context of the council's wider programmes to tackle housing need, improve property standards, and reduce ASB.

Council Borough Plan

7.13 The Council's Borough Plan 2023-27 is about moving Brent forward together. The plan sets out five strategic themes to improve the lives of those who live work, study, and do business in Brent. Desired outcomes include improve the quality of housing in Brent across the private sector. Also, to reduce anti-social behaviour (including environmental nuisance) by tackling it on a targeted neighbourhood basis.

Housing Strategy

7.14 Brent Council is currently in the process of drafting the new overarching Housing Strategy and a Private Sector Housing Strategy for 2023 onwards. However, the licensing proposals are also in line with the existing strategic priorities.

7.15 The interventions in the proposed areas support the Council's Draft Private Sector Housing Strategy, 2023-27 looking to "increase the supply of private sector homes available in Brent so it is an accessible housing option for our residents" whilst also making sure that "we effectively tackle poor property conditions across the private sector in Brent". In addition, the draft strategy commits to "prioritise supporting residents to stay in their private-sector home and live comfortably".

7.16 "The Housing Strategy identifies opportunities for the private rented sector to "play an important role in delivering new supply" to deliver "supply that meets required standards of management and maintenance and is accessible to people on a range of incomes in a market that is well regulated and offers appropriate protection to tenants".

Homelessness Strategy

7.17 Brent Council has outlined its strategy to maximise the prevention of homelessness and to minimise the negative impacts of homelessness upon families and individuals where prevention is not possible in the Brent Homelessness and Rough Sleeping Strategy 2020-2025. The council's homelessness review has shown that the loss of a private sector assured-shorthold tenancy is still the most common reason for people to approach the council for help.

7.18 Working to improve access to and conditions in the private sector is therefore vital for providing a wider housing offer for Brent residents and the council has

committed (commitment 3) to '*work to increase the supply of and access to stable and affordable homes across the borough*'.

7.19 This will be achieved through licensing and enforcement processes and working together with local landlords through the Landlord forum to improve standards and drive-up conditions in the private rented sector. Continuing to facilitate access to stable homes in the private rented sector.

Poverty Reduction Strategy

7.20 The council has outlined its strategy for poverty reduction. The Poverty Reduction Strategy states Brent households in poverty stands at 17% before housing costs and rises to 33% with housing expenditure included. For children, rises from 22% in poverty before, rising to 43% with housing costs. In the PRS, rents very often exceed 40% of net incomes. The policy states there is a need to rigorously enforce standards in the private rented sector (PRS).

7.21 The policy states that many of those renting privately reported issues with the quality, security, and affordability of their housing. These issues included overcrowding damp, disrepair, needing to share facilities and ultimately homelessness, which is closely linked to difficulty paying rent. The latter can lead to eviction associated with poverty.

7.22 The policy acknowledges that the council does "have powers to improve standards within the private rented sector, including through licensing of landlords."

Brent Climate & Ecological Strategy

7.23 In 2021 Brent declared a climate and ecological emergency and pledged to achieve carbon neutrality in the borough by 2030. The Brent Climate & Ecological Strategy 2021-2030 recognises that better insulating homes and making them more energy efficient is one of the key actions that must be taken to reduce carbon emissions.

Anti-social behaviour Policy

7.24 Brent Council recognises the need to challenge any form of Anti-Social Behaviour (ASB) in an effective robust and proportionate manner. Residents have a right to a quiet and peaceful enjoyment of their environment, which they live in making sure cases are resolved through effective intervention and support services.

7.25 Brent Council ASB policy applies to all residents including all landlords and tenants in the private rented sector. To tackle ASB problems, we have made it conditional on all private landlords who hold licences under our HMO or selective scheme to prevent and combat ASB associated with properties they manage. Section 57(5) of the Housing Act 2004 gives a definition of ASB for the purposes of licensing under Parts 2 and 3 of the Act.

7.26 PHS will use all tools and powers available to Council officers to support our customers affected by anti-social behaviour (ASB) and to take action, including prosecution, against licence holders who do not take adequate steps to tackle ASB. The Housing Act 2004 refers to an offence being committed if a landlord breaches a condition of a licence without reasonable excuse.

PHS Enforcement Policy

7.27 It is important to stress that enforcement must consider a wide range of factors and activities that are essential to improving standards by landlords and managing agents to enable compliance in the sector. There are broadly four types of regulatory approaches: Light-touch, Hard-line, Compliance-focused, and Creative approaches.

7.28 Notably since 2014, Private Housing Service in Brent has responded to the challenges posed by the sector by restructuring into Licensing and Enforcement teams, strengthening its engagement with Government, landlords, tenants, and regulatory agencies and by the practical application of the legislation powers available.

7.29 Since March 2020, the service has adopted procedures in response to the impact of Covid-19 on private renting and the lockdown changes.

7.30 Whilst there is no doubt that, there is a wealth of legislation governing housing standards and the remedies available where landlords breach their obligations, there are concerns about the effectiveness and application of the laws. Generally, the legal framework is found in the Acts below or safety regulations and statutory guidance made under these Acts.

- The Landlord and Tenant Act 1985
- The Housing Act 2004
- The Protection from Eviction Act 1977 and The Deregulation Act 2015
- The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006
- The Selective Licensing of Houses (Additional Conditions) (England) Order 2015.
- The Housing and Planning Act 2016
- The Licensing and Management of Houses in Multiple Occupation (Mandatory Conditions of Licences) (England) Regulations 2018.
- The Homes (Fitness for Human Habitation) Act 2018.

7.31 Our enforcement policy considers a wide range of factors and activities that are essential to improving standards and compliance in the sector.

7.32 The light touch approach starts with regulating the relationship between the landlord, tenant, and the Council at an individual level, with landlords and tenants in particular being aware of their rights and responsibilities. Two areas to mention relate to providing “Right to Rent” requirements, and to advice on section 21 eviction. The success of such areas is backed by the willingness of all concerns to be able to exercise the rights.

7.33 Typical problems reported to us or identified through inspections include general disrepair, dampness, cold and fuel poverty, security of tenure, nuisance (antisocial) behaviour and enviro-crime. These problems are likely to pose threats to the health and safety of the tenants and have a negative impact on the local communities.

8.0 Licensing Conditions

- 8.1 The conditions for Selective Licensing are set out in Appendix 8 of this report. Some of these are mandatory requirements given under the *Schedule 4 of the Housing Act 2004*, and therefore must be included in any scheme (this requirements are set out at paragraph 11.9 in the legal implications)
- 8.2 The council also has discretion to set the precise conditions of the licence subject to the requirements set out in section 90 of the Housing Act 2004.
- 8.3 Appendix 8 “Conditions for the selective property licensing scheme” is produced in a booklet form and accompanies each and every licence that is granted. However, in some circumstances, for a particular property, where the council believes there are specific issues not being covered by the conditions in the booklet, additional or more specific conditions can be added. This forms part of the formal notice of the granting of the licence which always also includes the “terms of the licence” examples of these can be found in appendix 8a and 8b.
- 8.4 The conditions in Appendix 8 have been slightly amended from those currently in operation under the current selective licensing scheme in order to reflect changes in legislation and comments/feedback from the consultation. This includes the mandatory conditions relating to electrical installations and information on Minimum Energy Efficiency Standards (MEES). The full list of deletions and amendments can be seen in the table below.

Table of Deletions and Amendments to proposed licence conditions

Proposed Condition topic	Deletion from existing conditions	Amendment	Reason/ change
ASB prevention	6a(1v)		Does not relate to the property being licensed. Risks disclosure of personal information
ASB Action	6b(v1)		Covered in 6b(1V) and likely to be covered in a tenancy agreement
Door Security	10(b)		Falls outside management, use and occupation parameter
Smoke alarms	15.1 (e)		Exceeds the mandatory smoke alarm condition which is already included
Means of escape from fire	16		Unclear in respect to single family properties. However, a fire safety advisory note and fire safety guidance has been added to condition 15.

Tenant references		2	Condition 2 - We have accepted that a strict requirement in every case may cause difficult to those good landlords who house certain vulnerable tenants. The condition is amended to “As a minimum any reference checks should give consideration to the tenant’s history and credit and must consider whether the tenant has the right to rent the property”.
Rent payments		3	Condition 3 - Slightly amended to reflect the move away from rent books and note other normal methods of paying rent and records.
Gas safety		7	Condition 7 – The short sentence requiring a new certificate if a risk is identified has been removed as it is deemed inconsistent with the gas safety enforcement regime.
Electrical Appliances		8	Condition 8 - Amended to include the schedule 4 mandatory electrical installation condition
Security of the property		10(a)	Condition 10 (a) - Following the deletion of 10(b), this condition has been amended to also require that “entry systems are appropriate”
Inspection of the external Areas		11	Condition 11 – Amended to clarify that one six-monthly inspection may be sufficient to complete all the required checks
Refuse and waste		12 (e)	Condition 12(e) - Amended to avoid interference with the terms under which the tenancy is granted, s90(7).
Pest Control		14	Condition 14 – Amended to restrict the requirement to “checking and ensure”, as it is accepted that the licence holder will not be responsible for all pest issues in single-family property.

8.5 Most respondents (54%) agreed with the proposed licence conditions. Substantial majorities of Brent residents and other stakeholders agreed with the proposed conditions for a Selective Licence (71% of each). Landlords and agents were split, with 30% agreeing and 45% disagreeing, though a significant 25% of these respondents neither agreed or disagreed or responded, “Don’t Know”. (See Appendix 1).

8.6 Comments and submissions were received regarding some specific selective conditions. These comments were considered and where accepted, we have deleted and amended the conditions, as well as more clearly indicated what matters are licensing conditions, as opposed to those which are for advice and guidance. No changes were made to the mandatory conditions. The standard conditions to be applied to all licenses that are expected to be granted if the scheme is approved are at Appendices 8 to the Cabinet Report. The Council’s response to representations raised on the condition is provided in Appendix 2 to the Cabinet report.

9.0 Licensing Fees

9.1 The council is entitled to cover the costs associated with the scheme through a fee but is not allowed to make a surplus or to use the fee income for purposes

unrelated to licensing. If the conditions are complied with, the licence would remain valid until the end of the scheme (i.e., up to a maximum of 5 years). To meet these conditions, applicants are required to pay a fee for each property licence application. Fees are set at £640 for five years for a Selective Licence, payable in two parts – Part 1 for the processing and administration, and Part 2 for the enforcement of the scheme. The proposal included a discount for certain landlords who are members of the London Landlords Accreditation scheme (LLAS).

- 9.2 From the open questionnaire, most respondents, 63% said that they thought that the fee is too high. Looking at the responses by group, residents / local businesses and other stakeholder had a more mixed view of the fee, with 40% and 47% respectively saying that the fee was too high, however 53% of residents/local business and 44% of other stakeholders said the fee was about the right level or too low.
- 9.3 In contrast, Landlord / agents had a more consistent view, with 95% saying that the fee was too high. From the questionnaire free text comments, landlords also expressed some concern that PRS fees would incentivise them to sell their properties, resulting in reduced housing stock in Brent as a whole.
- 9.4 Consultation comments were made e.g., extending the discount to landlords accredited to other schemes, pro-rating the charging and “early-bird” discounts. These have been captured in the consultation report, Appendix 1. The Council’s response to representations made regarding fees is provided in Appendix 2 to this report.
- 9.5 Brent current licensing fees (£540 for selective and £840 for HMOs) are low when benchmarked against comparable London boroughs, where the typical average fees are £750 for selective and £1075 for an additional (smaller) HMO licence.
- 9.6 Where licences run for the full 5 years, a new fee of £640 equates to £2.46 per week. It should not be necessary for landlords to pass this cost onto tenants.
- 9.7 The fee structure is set out at Appendix 7 and will be kept under review to ensure that the running of the licensing function is cost neutral. The council does not agree that further discounts are appropriate but will consider a range of measures to ease any financial burden on good landlords e.g., maintaining a lower renewal fees, inviting “early applications” before any fee increases are applied, raising invoices for bulk applications and for certain portfolio landlords.
- 9.8 Brent Council works in partnership with LLAS to provide training and education to landlords and agents operating in the borough. We will continue to work with other landlord bodies e.g., NRLA, Safeagent and PropertyMark, to ensure that their members benefit from the scheme, are able to make early applications and avoid incurring enforcement action costs.

10.0 Consultation Summary and Representations

- 10.1 The consultation exercise was undertaken over 12 weeks starting on 31st October 2022 and closing on 23 January 2023. To consult with landlords, tenants, residents, stakeholders and other interested parties, the council carried out an online survey. The council also hosted several public meetings with landlords, tenants, residents, and landlord groups. The council used digital and print media to advertise the consultation, as well as in-person methods.
- 10.2 The consultation received 853 responses to its online/paper questionnaire. For the sake of clarity, the views of the responses from residents, tenants and businesses, private landlords and managing agents have been analysed and reported separately. Qualitative feedback was received at public meetings and written responses from interested parties.
- 10.3 The consultation looked at the level of support for introducing selective licensing in designated areas, both designation 1/2023 and designation 2/2023. The consultation also looked at views on the proposed licence conditions, fees, and the respondents' perceptions of the issues in the borough.
- 10.4 The open questionnaire responses were analysed and reported separately. A full report on the consultation findings is attached at Appendix 1, with paragraphs which summarise the process and key findings on their views.
- 10.5 Looking at the responses by group, residents / local business and other stakeholder are in favour of the various elements of the proposals with over 65% of each group agreeing. Landlords are generally opposed to the various proposals with over 75% disagreeing. A summary of the responses to the consultation questions found in appendix 1 are as follows:
- 10.5.1 Overall, 45% of respondents were in support of the designation 1/2023 wards proposed. This varied from 68% of residents and local businesses, 73% other stakeholders being in support compared to 16% of landlords or managing agents. Overall, 41% of respondents disagreed with the proposals. Most of this disagreement was by was landlords (68%), while residents and local business (25%) and other stakeholders (21%) disagree.
- 10.5.2 59% of landlord or agents who responded managed their own properties with 34% that they use a managing agent.
- 10.5.3 56% of landlords responding live in Brent, 44% live outside Brent, also indicating the reach of the consultation
- 10.5.4 Fees – Overall, 20% agree with the proposal that it was about right; Residents and local business (34%), other stakeholders (23%), landlords and managing agents (3%). Overall, 63% of respondents though the fee was too high; Residents and local business (40%), other stakeholders (47%), landlords and managing agents (95%) thought the fee was too high. Overall, 11% of respondents though the fee was too low: Residents and local business (19%), other stakeholders (21%), landlords and managing agents (0%) thought the fee was too low.

- 10.5.5 Licence conditions – Overall, 54% of respondents agree with the proposed licensing conditions; Residents and local business (71%), other stakeholders (71%), landlords and managing agents (30%). While overall, 32% of respondents disagree with the proposed licensing conditions; Residents and local business (19%), other stakeholders (20%), landlords and managing agents (52%) disagree.

Views on issues in Brent

- 10.5.6 Antisocial behaviour – Most respondents, (52%) thought that that ASB was a very big or fairly big problem in their local area as opposed to 42% who thought otherwise. Analysed by group, Residents and local business (63%), other stakeholders (71%), landlords and managing agents (51%) thought that ASB was a big or fairly big problem in their area.
- 10.5.7 Poor property conditions - A majority of respondents stated that they thought that poor property conditions are a fairly big or very big problem (46%). Analysed by group, Residents and local business (68%), other stakeholders (76%), landlords and managing agents (16%) thought poor property conditions were a problem, compared to Residents and local business (27%), other stakeholders (19%), landlords and managing agents (68%) who thought not a problem at all or not a very big problem.
- 10.5.8 Deprivation – The largest proportion of respondents (52%) though that deprivation was fairly, or very big problem as opposed to 36% who thought not. Looking at the responses by group, Residents and local business (69%), other stakeholders (68%), landlords and managing agents (31%) thought that deprivation was a problem, compared to Residents and local business (26%), other stakeholders (23%), landlords and managing agents (54%) who thought not a problem at all or not a very big problem.

Views on the PRS in Brent

- 10.5.9 Poorly maintained properties – The largest proportions of respondents (34%) strongly agreed, while 21% tend to agree, that poorly maintained properties were contributing to the decline of some areas in Brent. Looking at the responses by group, residents/local business (74%), other stakeholders (66%), and landlords and managing agents (31%) agreed. Disagreeing were landlords and managing agents (37%) and equal amounts of residents/local businesses and other stakeholders (19%).
- 10.5.10 Poorly managed properties - The largest proportions of respondents (34%) strongly agreed, while 19% tend to agree, that poorly managed privately let properties were contributing to the decline of some areas in Brent. Looking at the responses by group, residents/local business (74%), other stakeholders (68%), and landlords and managing agents (25%) agreed. Disagreeing were landlords and managing agents (42%), residents/local businesses (19%) and other stakeholders (22%).

10.5.11 Landlord responsibility - When asked if landlords have a responsibility to manage their properties effectively, the largest proportion of respondents (75%) strongly agreed. Looking at the responses by group, there is consistent strong agreement (>94%) from each stakeholder group.

10.5.12 'Fit and proper' person - When asked if to help with the management of privately let properties in the borough, landlords should be 'fit and proper' persons, there was very strong agreement (81%). Looking at the responses by stakeholder group landlords and agents (74%) and percentages of the two other groups agreed with the statement.

Views on whether selective licensing scheme had improved things in Brent

10.5.13 Respondents were asked if they thought that the selective licensing scheme had improved things in Brent. The question gave the following options and respondents could choose as many as they thought applied:

- Improved the condition of properties
- Reduced waste/rubbish such as mattresses dumped in private property front gardens
- Reduced waste/rubbish dumped on streets
- Reduced noise from neighbouring privately rented properties
- Reduced overcrowding in privately rented properties
- Tackled deprivation and inequalities in Brent
- Support to landlords and tenants
- Other (Please specify)
- None of the above

A significant number of residents/local businesses and other stakeholders thought that all matters had been improved with "improved property conditions", "reduction in waste" and the "support to landlords" scoring highest. The landlords scores were significantly lower.

Views on the consequences of stopping the selective licensing schemes

10.5.14 Respondents were asked if the selective licensing schemes in Brent stopped and were not continued, what issues they thought would get worse as a consequence. The question choices were the same as in 10.5.14 above. The highest number of responses were for "overcrowding in privately rented properties", "none of the above" and "the condition of properties". Looking at the responses by group, residents/local businesses and other stakeholders gave the highest number of responses to "the condition of properties" and "overcrowding in privately rented properties" and "the amount of waste and rubbish dumped on the street".

Views on if continuing selective licensing would improve the condition and management of privately rented properties

10.5.15 Overall. equal numbers (42%) of all respondents agree and disagree with the statement. Looking at the responses by group, residents / local businesses (63%), other stakeholder (68%), and landlords and managing

agents (12%) agree that continuing selective licensing would improve the condition and management of privately rented properties in Brent, whilst residents / local businesses (23%), other stakeholder (17%), and landlords and managing agents (68%) disagree.

10.6 The council has considered the representations made during the consultation as required by HA 2004, and a consultation response is provided in appendix 2.

10.7 The diversity of the respondents to the open questionnaire are representative of the Borough population profile (Equalities Analysis - Appendix 9).

11.0 Legal Implications

Selective Licensing

11.1 Under section 80(2) of the Housing Act 2004 ("HA 2004"), before introducing a selective licensing scheme, the Council (in this case, the Council's Cabinet) must consider that –

- (a) the first or second set of general conditions mentioned in section 80(3) or (6) of the HA2004; or
- (b) any conditions specified in an order under section 80(7) of the HA 2004 as an additional set of conditions are satisfied in relation to the area. In this case, The Selective Licensing of Houses (Additional Conditions) (England) Order 2015 ("2015 statutory instrument") will apply as they have provided for additional conditions which involve poor housing conditions, migration, deprivation, and crime.

11.2 Section 80(3) of the HA 2004 refers to the first set of general conditions which relates to low housing demand and that is not relevant for this report.

ASB (anti-social behaviour)

11.3 The second set of general conditions is set out in section 80(6) of the HA 2004 and relates to ASB and they are as follows:

- (a) that the area is experiencing a significant and persistent problem caused by anti-social behaviour.
- (b) that some or all of the private sector landlords who have let premises in the area (whether under leases or licences) are failing to take action to combat the problem that it would be appropriate for them to take; and
- (c) that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, lead to a reduction in, or the elimination of, the problem. "Private sector landlord" does not include a non-profit provider of social housing or registered social landlord within the meaning of Part 1 of the Housing Act 1996.

11.4 ASB is relied upon as the one of the reasons and justifications for the proposed designation area and the Council's Cabinet must be satisfied the requirements

set out in (a), (b) and (c) in the previous paragraph are met when considering and deciding to make Selective Licensing Designation area as set out above on the ground of anti-social behaviour.

- 11.5 The definition of “ASB”, is set out in section 57(5) of the HA 2004 which states that: “anti-social behaviour” means conduct on the part of occupiers or, or visitors to, residential premises –
- (a) Which causes or is likely to cause a nuisance or annoyance to persons residing, visiting or otherwise engaged in lawful activities in the vicinity of such premises; or
 - (b) Which involves or is likely to involve the use of such premises for illegal purposes.

2015 Statutory Instrument – additional conditions

11.6 In relation to the 2015 statutory instrument, the following conditions are specified as additional conditions which the Council’s Cabinet must consider are met in relation to a proposed designation area before making a selective licensing designation:

- (i) that the area contains a high proportion of properties in the private rented sector, in relation to the total number of properties in the area;
- (ii) that the properties referred to in sub-paragraph (i) above are occupied under either assured tenancies or licences to occupy; and
- (iii) The additional four sets of conditions referred to above are poor housing conditions, migration, deprivation and crime.

11.7 This report will explain the conditions relating to poor housing but will not expand upon migration, deprivation and crime because they are not relevant to this report

Conditions in relation to housing conditions

11.8 The additional four sets of conditions referred to above are poor housing conditions, migration, deprivation and crime. This report will explain the conditions relating to poor housing but will not expand upon migration, deprivation and crime because The first set of additional conditions, which are set out in the 2015 statutory instrument, relate to poor housing conditions. The requirements to rely on poor housing conditions as a sufficient reason to introduce a designation for selective licensing are as follows:

- (a) that having carried out a review of housing conditions under section 3(1) of the 2004 Act, the local housing authority considers it would be appropriate for a significant number of the properties referred to in paragraph 11.16(i) above to be inspected, with a view to determining whether any category 1 or category 2 hazards exist on the premises;
- (b) that the local housing authority intends to carry out such inspections as referred to in the previous sub-paragraph, with a view to carrying out any necessary enforcement action; and

- (c) that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, including any licence conditions imposed under section 90 of the 2004 Act, contribute to an improvement in general housing conditions in the area.

11.9 Poor housing conditions are relied upon as the reason and justification for the proposed designation area. The Council's Cabinet must be satisfied the requirements set out in paragraph 11.16 above and in (a), (b) and (c) in the previous paragraph are met when considering and deciding to make a Selective Licensing Designation area for the proposed designation on the ground of poor housing conditions.

Other matters relating to selective licensing

11.10 Under section 81(2) of the HA 2004, the Council must ensure that any exercise of the power in relation to a selective licensing designation is consistent with the Council's overall housing strategy.

11.11 Under section 81(3) of the HA 2004, the Council, when making its designation, must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and ASB affecting the private rented sector, both: (a) As regards combining licensing (under Part 3 of the HA 2004 – selective licensing) with other courses available to them, and (b) As regards combining licensing with measures taken by other persons.

11.12 Under section 81(4) of the HA 2004, the Council must not make a particular designation (for selective licensing) under section 80 of the HA 2004 unless –

- (a) They have considered whether there are other courses of action available to them (of whatever nature) that might provide an effective method of achieving the objective or objectives that the designation would be intended to achieve; and
- (b) They consider that making the designation will significantly assist them to achieve the objective or objectives (whether or not they take any other course of action as well).

11.13 As for the Council's general duties regarding selective licensing under Part 3 of the HA 2004, these are set out in section 79(5) of the Housing Act 2004 which states as follows: "every local housing authority has the following general duties:

- (a) To make such arrangements as are necessary to secure the effective implementation in their district of the licensing regime provided for by this Part (i.e., Part 3 HA 2004 regarding selective licensing).
- (b) To ensure that all applications for licences and other issues falling to be determined
- (c) by them under this Part are determined within a reasonable time."

- 11.14 Under section 80(9) of the HA 2004, before making a designation relating to selective licensing, the Council must-
- (a) take reasonable steps to consult persons who are likely to be affected by the designation, and,
 - (b) consider any representations made in accordance with the consultation and not withdrawn.
- 11.15 By section 82 of the HA 2004 and paragraphs 5 and 6 of the *Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015* ("the General Approval"):-
- (a) a selective licensing designation that covers no more than 20% of the geographical area of the Council's district, nor affects more than 20% of its privately rented homes, will not require Ministerial confirmation before it comes into force, but will be approved under section 82 and will come into force on a date set by the Council, provided it has first consulted about the designation for no less than ten weeks; Consultation as taken place as per the requirement.
 - (b) by contrast, a selective licensing designation that, either itself or in combination with other such designations, covers more than 20% of the district's geographical area, or affects more than 20% of its privately rented homes, *will* require Ministerial confirmation, and will not come into force until confirmation is given.
- 11.16 In this case, Selective Licensing Designation 1 equates to 13.9% of the geographical area of the borough and 19.7% of the total private rented sector in Brent, so this designation can be agreed locally and will not require confirmation from the Secretary of State.
- 11.17 As soon as a designation regarding selective licensing has been made pursuant to section 83 HA 2004, the Council must publish in the prescribed manner a notice stating —
- (a) that the designation has been made;
 - (b) whether or not the designation was required to be confirmed by the Secretary of State and that it has been confirmed;
 - (c) the date on which the designation is to come into force; and
 - (d) any other information which may be prescribed.

Licence Fees

- 11.18 Sections 87(7) of the HA 2004 provide for the fixing of selective licensing fees respectively. In summary, they say that local authorities take into account all costs incurred when carrying out their functions in relation to selective licensing. The power to charge fees for selective licensing is set out in section 87(3) of the HA 2004. Those powers to charge allow the Council to require a licensing application to be accompanied by a fee. 11.18 However, the EU

Directive and the Provision of Services Regulations 2009 was subsequently passed. Regulation 18 of the Provision of Services Regulations 2009, which incorporates Article 13(2) of the 2009 EU Directive, states: "Any charges provided for or by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities."

- 11.19 In the case of *Hemming v Westminster CC*, the Supreme Court stated that the fee relating to the administration of the application can be charged when the application is submitted and is non-returnable if the application is refused and is compatible with the EU Directive. The Supreme Court also stated that the fee to cover the costs of managing and enforcing the licensing regime can be charged and is compatible with the 2009 EU Directive if the application for a license is successful. However, as for the costs of managing and enforcing the licensing regime if the application for a license is unsuccessful, the European Court of Justice stated that charging in advance for costs other than those directly related to the authorisation process, even if the payment is refundable where the application for a license is refused.

Licence Conditions

- 11.20 Section 90 of the HA 2004 allows the Council local authorities to impose such conditions that are considered appropriate to regulating the management, use or occupation of the properties.
- 11.21 Schedule 4 of HA 2004, sets out the mandatory conditions and states that a licence under Part 2 or 3 must include the following conditions:
- 2) Conditions requiring the licence holder, if gas is supplied to the house, to produce to the local housing authority annually for their inspection a gas safety certificate obtained in respect of the house within the last 12 months.
 - (3) (a) to keep electrical appliances and furniture made available by him in the house in a safe condition;
(b) to supply the authority, on demand, with a declaration by him as to the safety of such appliances and furniture;
 - (c) (i) to ensure that every electrical installation in the house is in proper working order and safe for continued use; and
(ii) to supply the authority, on demand, with a declaration by him as to the safety of such installations;
 - (d) for the purposes of paragraph (c) "electrical installation" has the meaning given in regulation 2(1) of the Building Regulations 2010.]
 - (4) (a) (i) to ensure that a smoke alarm is installed on each storey of the house on which there is a room used wholly or partly as living accommodation, and
(ii) to keep each such alarm in proper working order;
(b) to supply the authority, on demand, with a declaration by him as to the condition and positioning of such alarms.
 - (4A)

- (a) to ensure that a carbon monoxide alarm is installed in any room in the house which is used wholly or partly as living accommodation and contains a fixed combustion appliance other than a gas cooker;
 - (b) to keep any such alarm in proper working order; and
 - (c) to supply the authority, on demand, with a declaration by him as to the condition and positioning of any such alarm.
- (5) Conditions requiring the licence holder to supply to the occupiers of the house a written statement of the terms on which they occupy it.

Additional conditions to be included in licences under Part 3

- 2) A licence under Part 3 must include conditions requiring the licence holder to demand references from persons who wish to occupy the house.

11.22 The Council has reviewed the licence conditions and in so doing have taken account of relevant legal decisions, including the Court of Appeal decision of *Brown v Hyndburn [2018] EWCA* in relation to selective licensing.

Public Sector Equality Duty

11.23 The Council's duty under section 149 of the Equality Act 2010 is to have "due regard" to the matters set out in relation to equalities when considering and making decisions on the introduction of additional licensing for the area of Brent and the introduction of selective licensing. Due regard to the need to eliminate discrimination, advance equality and foster good relations must form an integral part of the decision-making process. When the decision comes before the Cabinet, Members must consider the effect that implementing a particular policy will have in relation to equality before deciding. An Equality Impact Assessment will assist with this.

11.24 The "protected characteristics" are age, disability, race (including ethnic or national origins, colour or nationality), religion or belief, sex, sexual orientation, pregnancy and maternity, and gender reassignment. Marriage and civil partnership are also a protected characteristic for the purposes of the duty to eliminate discrimination.

11.25 Having "due regard" to the need to "advance equality of opportunity" between those who share a protected characteristic and those who do not includes having due regard to the need to remove or minimise disadvantages suffered by them. Due regard must also be had to the need to take steps to meet the needs of such persons where those needs are different from persons who do not have that characteristic, and to encourage those who have a protected characteristic to participate in public life. The steps involved in meeting the needs of disabled persons include steps to take account of the persons' disabilities. Having due regard to "fostering good relations" involves having due regard to the need to tackle prejudice and promote understanding.

11.26 There is no prescribed way the equality duty must be exercised, though producing an Equality Impact Assessment is the most usual method. The Council must have an adequate evidence base for its decision making. This

can be achieved by means including engagement with the public and interest groups and by gathering relevant detail and statistics.

11.27 The Equality Impact Assessment is set out in Appendix 9 to this report.

12.0 Equality Implications

12.1 The introduction of selective licensing is intended to enhance housing management practices in the private rented sector (PRS), in compliance with the Housing Health and Safety Rating System (HHSRS) standards. It is anticipated that this will have positive outcomes for tenants across all protected characteristics, particularly those who are currently over-represented in the PRS.

12.2 It should be stressed that data relating to the protected groups among both tenants and landlords is limited, partly due to the unregulated nature of the sector. Although Census data provides a breakdown of tenure by ethnicity and age, analysis relevant to other issues such as disability has not yet been completed by ONS. Overall, the size of the sector and the estimated number of landlords suggests that there will be members of all protected groups among both tenants and landlords. The sector also contains a mix of household and income types that ranges across the spectrum.

12.3 To inform the final licensing proposals, officers have carried out an extensive consultation and research available in Appendix 1 and a full Equality Analysis available in Appendix 10. The findings of the analysis show that the groups that are over-represented in PRS are ethnic minority groups (notably Asian, but also including White: Other groups), older adults, people under 35, households with children (including single parent households), as well as people with disabilities and long-term health conditions, socio-economic and other vulnerable groups.

12.4 If the licensing schemes are introduced, all equality groups are likely to benefit from improvements in engagement, communication and signposting information between the council, landlords and tenants and other service providers. Information would relate to such matters as changes in the law affecting the PRS, energy efficiency measures and grants availability, information on local organisations and agencies which may be able to provide support. One of the intended outcomes of licensing is that landlords will be more aware of their duties under the Equality Act 2010 and of the support and funding available to them and their tenants such as the Disabled Facilities Grant for reasonable adaptations. Disabled people will also benefit from the need for PRS homes to comply with the Housing Health and Safety Rating System in terms of reasonable adaptations, reducing trip hazards and falls, personal hygiene and sanitary facilities, as well as the requirements around excess cold, which can cause or exacerbate poor health. This will further enhance the equality outcomes for people with disabilities and long-term health conditions, older adults and their carers, as well as other vulnerable groups.

12.5 One of the key aims of licensing is to reduce antisocial behaviour, including hate crime and homophobic incidents. This will benefit all protected

characteristics, including sexual orientation, gender identity, disability, race and religion.

- 12.6 The Equality Analysis, however, has also identified some potential negative consequences for over-represented equality groups in the affected landlord, agent and tenant cohorts. Black, Asian and minority ethnic (BAME) landlords are overrepresented in Brent, and it is recognised that the introduction of the scheme is likely to have a greater impact on them in relation to increased business costs and potential financial penalties.
- 12.7 The main identified risk of negative impact at this stage is the possibility that the introduction of licensing may lead some landlords – particularly those likely to struggle to comply with licensing conditions – to withdraw from the market and evict their tenants. It is not possible to assess the scale of this risk accurately, although experience elsewhere has not demonstrated any significant withdrawal from the market. The findings of the study by Future of London (2017) bear directly on this point and will be considered in the implementation of any scheme. Any impact, in this or other areas, will be monitored closely and will inform regular reviews of the operation of licensing.
- 12.8 It is likely that tenants most impacted by these proposals will be among the lower income groups in the sector, living in the poorest quality housing and, similarly, that the landlords of these properties will experience the greatest impact from their perspective.
- 12.9 In addition, data indicates that Black and Asian tenants are over-represented in the private rented sector. There is a high presence of European migrants in the sector. Again, it is likely that many of these are living in properties at the poorer condition end of the market.
- 12.10 Some landlords may seek to pass on costs arising from the scheme to tenants, which may result in cases of tenant displacement and landlords' claims for possession through both legal and illegal actions. If landlords decide to increase rents, tenants from over-represented equality groups such as people under 35, migrants, single parent households may be particularly affected by this. However, based on the PRS team's experience of licensing over the past seven years and that of other Councils who have introduced s licensing, it is believed that this unintended outcome is very unlikely to materialise.
- 12.11 Tenants may also potentially be affected by enforcement actions against landlords of overcrowded properties. Wherever possible the Council will work with landlords to make properties fit for the number of tenants. In cases when tenants have been unlawfully displaced or evicted, every effort will be made to effectively support and signpost them to available information and support.
- 12.12 Much concern has been expressed about the Government's plan to end section 21 "no-fault" evictions. Both landlord and tenant groups say that licensing will add to the problems they will face and have asked that the Council clearly sets how it will act with regard to section 21, should the ban be introduced.

12.13 In the longer term, licensing will, among its other benefits, provide an opportunity to obtain a more complete picture of the sector and its operation that will assist in identifying issues relevant to protected groups. At the same time, closer partnership working with landlords should support promotion of good practice on equalities in the sector. The Equality Analysis includes a detailed action plan available in Appendix 9.

13.0 Financial Implications

13.1 The administration of the scheme is such that it is intended to be self-financing over a five-year period with higher levels of income from years 1 and 2 funding expenditure over the full 5 years. This will be managed with a use of an earmarked reserve. Fees of £640 will be charged per application and are set at a level where the total revenue from the fee is intended to cover the total costs incurred.

13.2 It is estimated that licences issued in the 5-year period will generate income in the region of £6.4m which will be commensurate with the total expenditure.

13.3 The income will be closely monitored, and a team proportionate to the demand for the service will be employed. The costs of the scheme exclude the cost of any enforcement action on non-licensed properties but will cover the cost of processing the license application, compliance monitoring and enforcement against an applicant who is given a licence.

14.0 Staffing Implications

14.1 With the introduction of Selective licensing in January 2015 Private Housing Services already has a dedicated and experienced team of officers employed to both process applications and inspect properties as well as carry out and required enforcement activities. As explained in paragraph 4.7 above the Council is intending to increase the size of the PHS team considerable and will be bringing a report to Cabinet later in the year setting out the plan to do this as part of the proposed designation 2/2023.

15.0 Next Steps

15.1 A decision to proceed with selective licensing proposals triggers a formal notification by way of a designation notice, which must be followed by a period of at least three months before any scheme comes into effect. Following the issue of the designation notice and, on a date, to be set by the Corporate Director for Residents Services in consultation with the Cabinet Member for Housing, Homelessness & Renters Security, licensing applications will be invited and processed.

Related Documents:

- Housing Act 2004: Licensing of HMOs and Selective Licensing of other residential accommodation (England) General Approval 2015

- Selective Licensing in the private rented sector: A guide for local authorities (MHCLG, March 2015)
- Lead Member Consultation Decision - <https://democracy.brent.gov.uk/ieDecisionDetails.aspx?ID=6141>
- Selective Licensing Cabinet Report June 2017 - <https://democracy.brent.gov.uk/documents/s54742/Extending%20Selective%20Licensing%20Covering%20Report.pdf>

Report sign off:

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