

## FURTHER INFORMATION ON DISCRETIONARY LICENSING SCHEMES

### 1. LICENSING OF HOUSES IN MULTIPLE OCCUPATION (HMO)

- 1.1 An HMO is defined under section 254 of the 2004 Act and it applies if one of the following applies:
- The property is a house or flat occupied as a main residence by three or more persons in two or more households (a household can be an individual, couple or family) where the toilet, bathroom or kitchen facilities are shared by the occupiers.
  - The building has been converted into self-contained flats where one or more of the flats has its toilet, bathroom or kitchen facilities located outside the flat across a communal hall or landing.
- 1.2 Part 2 of the 2004 Act covers the national mandatory houses in multiple occupation licensing (“MHMOL”) scheme. A MHMO is a property that has 5 or more unrelated people living in it in 2 or more separate households. In Croydon approximately 800 HMOs are licensed with the MHMOL scheme.
- 1.3 Part 2 also includes for discretionary licensing of an HMO that falls outside of the MHMO definition. This is termed additional HMO licensing (“AHMOL”) and it allows the council to designate under, section 56 of the 2004 Act that specific types of HMOs, located in an area or the whole of its area should be subject to additional licensing controls.
- 1.4 Section 56(2) outlines the condition in relation to the making of a designation; the council must consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.
- 1.5 Additional HMO licensing enables the council to set a common policy across all HMOs, requiring all landlords work to the same standards with poorer badly managed properties being improved over a five year time frame. By holding a licence, a landlord will need to comply with licensing conditions which ensures the HMO is properly managed, tenants are protected, ASB or waste is controlled, and the property is not overcrowded and meets acceptable health and safety standards. A licence is only awarded when the licence holder is deemed to be a fit and proper person.
- 1.6 Discretionary licensing allows a council to choose to licence certain types of HMO including purpose-built flats and buildings which have been poorly converted in the past. A “s257 HMO” applies where the building was converted into self-contained flats before 1991 (or after 1991 without Building Regulation Approval), is occupied as a main residence by three or more persons living in two or more of the flats and less than two thirds of the flats are owner-occupied. Section 257 HMOs are not subject to Mandatory HMO

licensing and there is some cross over with selective licensing that sees flats subject to licensing.

- 1.7 In 2010 Croydon council made an AHMO licensing designation for an area of Croydon with the designation running from the 24<sup>th</sup> August 2010 for 5 years. The scheme incorporated HMOs of any size occupied by three or more unrelated tenants who shared toilet, bathroom or kitchen facilities. The area covered all borough wards except Fieldway, New Addington, Selsdon and Ballards and Shirley. [Note Borough ward boundary changed in October 2018 so these reflect historic wards]. In 2010 the council was aware of 511 HMOs and received approximately 250 complaints in relation to HMOs per year.
- 1.8 On the 1<sup>st</sup> August 2014, for the remaining period of the original designation, the existing AHMOL scheme was widened. In 2010 not all wards contained an HMO. Over time, changes in the nature of occupancy of properties in these wards meant these wards became more favourable to locate HMOs and so their exclusion had led to a disparity in the standards required in different parts of the borough. The widening saw the inclusion of;
  - i. all wards so Fieldway, New Addington, Selsdon and Ballards and Shirley were included; and
  - ii. Section 257 HMOs blocks of flats when located in any ward. Under the Housing Act 2004, a converted block of flats is classed as a HMO if the conversion does not comply with 1991 Building Regulations and where less than two-thirds of the flats are owner occupied (usually leasehold).
- 1.9 At the end of the 2015 AHMO licensing scheme an additional 235 HMOs benefited from a property licence. A further designation was not made because the smaller HMOs were incorporated into CPRPL 2015.
- 1.10 Whilst larger selective licensing schemes need to make an application to Government, AHMO licensing schemes fall under a General Approval; Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of other residential accommodation (England) General Approval 2015 ("General Approval"). The Secretary of State for Communities and Local Government in exercise of powers under section 58(6) of the Housing Act 2004 gives to all local housing authorities in England the following general approval: Subject to the undertaking of a consultation period, of not less than 10 weeks, every LHA that designates an area as subject to additional HMO licensing has the Secretary of State's general approval of that designation for the purposes of section 58(1) (b).
- 1.11 Where the council believes that an area would benefit from the making of an AHMO licensing designation the council must take reasonable steps to consult persons who are likely to be affected by the designation; and then consider any representations made in accordance with the consultation and not withdrawn.
- 1.12 The option exists for Croydon to take such steps as to make an AHMOL designation for the area or part area of Croydon and for specific types of HMOs.

1.13 The table provides the wards in which the mandatory (some pending renewal) and non-mandatory (“NM”) HMOs are located.

**Table 1 - Location of the boroughs HMOs at a ward level.**

Ward	MHMO numbers	NMHMO	Ward	MHMO numbers	NMHMO
Addiscombe East	24	19	Purley & Woodcote	19	11
Addiscombe West	52	45	Purley Oaks & Riddlesdown	12	4
Bensham Manor	79	47	Sanderstead	6	5
Broad Green	67	42	Selhurst	79	39
Coulsdon Town	6	3	Selsdon & Addington Village	7	3
Crystal Palace & Upper Norwood	13	10	Selsdon Vale & Forestdale	5	2
Fairfield	44	10	Shirley North	6	4
Kenley	6	2	Shirley South	1	4
New Addington North	4	2	South Croydon	46	21
New Addington South	15	3	South Norwood	39	21
Norbury & Pollards Hill	44	8	Thornton Heath	72	34
Norbury Park	26	12	Waddon	34	28
Old Coulsdon	3	1	West Thornton	67	43
Park Hill & Whitgift	1	3	Woodside	28	23
			<b>TOTAL</b>	<b>805</b>	<b>455</b>

## 2. SELECTIVE LICENSING OF PRIVATE RENTED PROPERTIES.

- 2.1 The 2004 Act introduced selective licensing to give local authorities an additional tool to tackle problems associated with private renting. Part 3 of the 2004 Act gave local authorities the power to designate areas of selective licensing to help tackle anti-social behaviour (“ASB”) and low housing demand. In the 2015 Order the conditions for introducing a designation were expanded to include poor property conditions, high crime, high levels of deprivation and high migration. A pre-requisite to allow consideration of one of the 2015 conditions is that that the area must contain a high proportion (over 19%) of properties in the PRS, in relation to the total number of properties in the area. Croydon has 6 wards where the PRS tenure is <19%; see table 2.
- 2.2 CPRPL 2015 was introduced to tackle the persistent ASB in the borough. The two designations made by Cabinet on the 11<sup>th</sup> May 2020 [CPRPL 2020] proposed a more focused approach than the previous borough-wide scheme [CPRPL 2015]. The proposed scheme had two areas; Area A: (22 wards in mainly north and central Croydon) was to be introduced to tackle poor property conditions and Area B: (6 wards across the south of Croydon) was to be introduced to tackle ASB. The focus for both schemes was property condition, ASB and the causes of deprivation.
- 2.3 With the decision of the Secretary of State to refuse the application for two

designations the council needs to re-consider the best approach to tackle the significant PRS problems identified. Any new approach will need to pull together objectives with clear purpose. The objectives proposed for CPRPL 2020 in relation to property condition and management were:

- Reduce housing hazards in licensable dwellings by 25%.
- Carry out compliance checks by email on 100% of licenced properties.
- Carry out targeted audit and compliance checks by inspecting at least 10,000 licensed properties over the lifetime of the scheme.
- The council will remain involved with the property until it is free from hazards and has the best practicable Energy Rating and that there are no continuing long term management issues.
- Ensure that all licensed properties have an energy rating of at least “E” by the end of the scheme and that 75% have an energy rating of at least “D” (subject to exemptions).

- 2.4 It is worth noting that Secretary of State approval would only be required where 20% or more of the borough’s PRS or 20% or more geographical borough land area was included in the designation(s). This was introduced by the General Approval 2015. 20% of the PRS is 11,710 properties of which it is estimated that around 85% would be licensable (not subject to an exemption).
- 2.5 It is not an alternative for a LHA to make two or more designations at the same time, each of which account for less than 20% of the area or private rented stock, but cumulatively account for more than 20% of either. In this situation all of the schemes will need to be submitted to the Secretary of State for confirmation.
- 2.6 If a LHA makes one or more designations that are in force partly concurrent to an existing scheme, and cumulatively all the designations cover more than 20% of the area or the private rented stock, those new designations will need to be submitted to the Secretary of State for approval. If there is to be a future introduction of selective licensing this will require, for each designation, a full assessment, consultation and notification process to comply with the statutory requirements all of which will have additional financial and time costs.

**Table 2: PRS property condition in Croydon; evidence base.**

Ward	Number of PRS properties	% PRS of stock	E-G of all properties	IMD Decile	No. of category 1 hazards	% PRS with category 1 hazard	ASB incidents	ASB per 1,000 PRS
Fairfield	4792	56.80%	611	2.6	642	13.40%	828	173
Addiscombe West	3488	48.90%	1032	4.78	697	20.00%	861	247
Bensham Manor	3125	47.40%	771	3.82	884	28.30%	894	286
Broad Green	3638	46.20%	806	3	816	22.40%	942	259
Selhurst	2525	46.20%	608	2.17	688	27.20%	644	255
Park Hill & Whitgift	1202	45.90%	367	7.67	184	15.30%	186	155
South Norwood	3640	45.80%	1108	3.2	898	24.70%	987	271
South Croydon	3718	45.30%	1255	5.6	812	21.80%	659	177
West Thornton	3175	45.30%	805	3.55	889	28.00%	804	253
Thornton Heath	3278	42.90%	916	3.5	1012	30.90%	1114	340
Woodside	3077	40.90%	974	3.6	762	24.80%	954	310
Norbury & Pollards Hill	2002	40.10%	610	4.86	499	24.90%	545	272
Waddon	2850	36.40%	1031	3.5	599	21.00%	562	197
Crystal Palace & Upper Norwood	2860	36.10%	1005	4.67	604	21.10%	736	257
Addiscombe East	1790	34.90%	560	6.14	416	23.20%	385	215
Purley Oaks & Riddlesdown	1291	30.00%	651	7.67	285	22.10%	300	232
Purley & Woodcote	2011	29.00%	938	6.7	514	25.60%	659	328
Norbury Park	1092	28.90%	539	5.6	350	32.10%	347	318
Selsdon Vale & Forestdale	1126	26.40%	405	7	181	16.10%	217	193
Coulsdon Town	1281	22.40%	534	7.71	314	24.50%	411	321
New Addington South	969	21.60%	271	2.43	241	24.90%	256	264
Shirley North	1242	20.10%	868	6.22	273	22.00%	443	357
Kenley	754	18.30%	777	7.43	234	31.00%	354	469
Selsdon & Addington Village	731	18.20%	465	6.43	248	33.90%	391	535
Sanderstead	1032	17.00%	936	8.78	295	28.60%	374	362
New Addington North	656	16.90%	223	2.14	157	23.90%	288	439
Shirley South	638	15.60%	525	6.67	209	32.80%	230	361
Old Coulsdon	570	14.20%	725	6.86	193	33.90%	307	539
<b>TOTAL</b>	<b>58553</b>	<b>35.60%</b>	<b>20316</b>		<b>13896</b>	<b>23.70%</b>	<b>15678</b>	<b>268</b>

Note: order of wards is related to the project %PRS.

ASB incidents: numbers relate to a 4 year period from 1.4.2015.