

REPORT TO:	CABINET 21st October 2019
SUBJECT:	Consultation on proposals to renew a private sector housing Selective Licensing Scheme in Croydon
LEAD OFFICER:	Shifa Mustafa, Executive Director – Place Steve Iles, Director Public Realm – Place
CABINET MEMBER:	Councillor Alison Butler, Deputy Leader (Statutory) and Cabinet Member for Homes and Gateway Services
WARDS:	All

CORPORATE PRIORITY/POLICY CONTEXT/ AMBITIOUS FOR CROYDON

This report builds on commitments in the Council's Corporate Plan (2018), reflecting on the Council's approach to the private rented sector and setting out the case for a renewal of selective licensing to meet the following key ambitions:

- *‘Good, decent and safe homes, affordable for all’*
 - Important themes are *quality homes* and *homes for everyone*. Croydon's selective licensing scheme was introduced to ensure everyone in the borough has access to decent, safe housing. We want to ensure that all residents, regardless of tenure, feel they are protected, treated fairly, and can stay in their homes once they are in them.
- *‘A cleaner, greener Croydon’*
 - Croydon's *Don't Mess With Croydon, Take Pride* campaign is important for setting out our ambitions for raising environmental standards and improving the living environment across the borough.
- *‘One borough – many places’*
 - Some parts of Croydon have persistent or difficult issues to address. We want to provide targeted responses to the range of issues across our multifaceted borough.

FINANCIAL IMPACT

The financial impact should be cost neutral as the cost of administering the scheme is covered by charging licence fees to landlords. More details on the current and proposed fee structure are outlined in the appendices below.

FORWARD PLAN KEY DECISION REFERENCE NO.: 2119CAB

This is a Key Decision as defined in the council's constitution. The decision may not be implemented until after 13.00 hours on the 6th working day following the day on which the decision was taken unless referred to the Scrutiny and Overview Committee by the requisite number of councillors.

The Leader of the Council has delegated to the Cabinet the power to make the decisions set out in the recommendations below.

1. RECOMMENDATIONS

The Cabinet is recommended to

- 1.1 Authorise the Executive Director of Place to commence statutory consultation and engagement with key stakeholders on proposals to introduce a new Selective Licensing Scheme in Croydon in 2020;
- 1.2 Authorise the Executive Director Place to recommend an approach to renewal or otherwise of selective licensing in Croydon, based on the evidence presented and feedback from the consultation process;
- 1.3 Delegate authority to the Cabinet Member for Homes and Gateway Services in consultation with the Executive Director of Place to make the final decision on the form of the Selective Licensing Scheme; and
- 1.4 Authorise the Executive Director of Place to seek designation approval from the Secretary of State in 2020, where necessary.

2. EXECUTIVE SUMMARY

- 2.1 Everyone needs a decent, safe and secure home – it is the foundation of a good life. Croydon is a growing borough, yet the new education, employment and leisure opportunities available as part of that growth are not matched by provision of good quality housing that our residents can feel safe and secure in. The private rented sector has grown in Croydon to the extent that it represents more than 35% of housing in the borough. We are determined to do everything required so that all in Croydon, regardless of tenure, have the chance of a decent, safe and secure home and good living environment.
- 2.2 This report presents evidence of poor housing conditions, deprivation, crime, anti-social behavior (ASB) and environmental nuisance linked to the private rented sector (PRS) in Croydon and sets out the process for renewing the selective licensing scheme covering private rented properties in Croydon.
- 2.3 The selective licensing scheme currently in operation in Croydon (CPRPL) began in October 2015 and is due to expire in September 2020. Selective Licensing is provided under the Housing Act 2004 (Part 3). Under new legislation introduced in 2015, local authorities are required to obtain confirmation from the Secretary of State for any selective licensing scheme which would cover more than 20% of their geographical area or would affect more than 20% of privately rented homes in the local authority area.
- 2.4 We seek a decision from Cabinet to carry out consultation with the tenants, landlords, residents and businesses that would be affected by a renewal of selective licensing in Croydon. Introducing selective licensing alongside existing mandatory licensing of houses in multiple occupation (HMOs) would mean all privately rented accommodation in certain or all areas of the borough (dependent upon the final outcome of the consultation and subsequent application to the Secretary of State) would be required to be licensed for a period of up to five years.

- 2.5 The report seeks delegated authority for the Executive Director Place with the Cabinet Member for Homes and Gateway Services to approve the approach to the Secretary of State for a new selective licensing designation in Croydon in 2020. The recommendations it sets out do not have any direct impact on the council's financial planning and budget strategy. Any proposals with implications for the council's revenue budgets will be considered under the existing financial regulations and brought for Cabinet approval if required by the scheme of financial delegation.

3. The private rented sector and selective licensing in Croydon

- 3.1 Croydon has the highest number of private rented properties of any borough in London, and likely more private renters than any borough in England. New research has found there are around 58,585 private rented properties in Croydon equating to 35.6% of the borough's total housing stock (Metastreet, 2019). By contrast, the social rented sector (including council properties and registered providers such as housing associations) represents 15% of the borough's housing stock.
- 3.2 Private renters in Croydon face similar challenges to those in other London boroughs. In London, many families in the private rented sector (PRS) are suffering acute stress in that a substantial proportion of their income goes on rent leaving little else for other living costs (Trust for London Poverty Profile, 2018). This financial stress is often exacerbated by poor housing conditions, insecurity of tenure and environmental problems (Rugg and Rhodes, 2018).
- 3.3 In England, the social rented sector is subject to comprehensive regulatory regimes which actively promote the interests of tenants and ensure that social landlords take a proactive approach to addressing their tenants' needs. Social landlords tend to maintain their properties to a higher standard than required by the Housing Act 2004 and are responsible for dealing with other issues such as ASB and waste management problems such as fly tipping.
- 3.4 In contrast, there is no similar regime to regulate the private rented sector. Local authorities can take statutory action when problems arise. However, the council can only intervene after the event and nearly always because a tenant complains. However, tenants are often too frightened to complain for fear of retaliatory or "revenge" eviction. Research from Citizens Advice (2018) found that private renters in England who formally complain about issues such as damp and mould in their home have an almost one-in-two (46%) chance of being issued an eviction notice within 6 months.
- 3.5 Selective Licensing allows local authorities to adopt a much more proactive approach to raising housing standards as licensing conditions are primarily aimed at good practice to prevent problems arising.
- 3.6 Croydon's current selective licensing scheme (CPRPL) began in October 2015 and will expire on 30th September 2020. In encouraging landlords to meet their responsibilities through proactive engagement, licensing inspections and monitoring and enforcement work, it is hoped that we can make the borough a better place to live and work for all residents.
- 3.7 In Croydon, the proactive approach enabled by CPRPL has allowed more than 11,105 licensed dwellings to be inspected (as of August 2019). More detail on the impact of CPRPL is below.

- 3.8 Since Croydon's current selective licensing scheme (CPRPL) began in 2015 there have been numerous developments the most significant of which are:
- Increased levels of financial hardship for private tenants – rents have risen while benefits have been frozen.
 - The number of new rental units in the borough continues to increase both by conversion and new developments.
 - While the level of private renting continues to increase in Croydon, it is reducing or static in neighbouring authorities.
 - The Grenfell fire emphasised the increased need for fire safety in residential properties.

4. National policy and selective licensing

- 4.1 The private rented sector has doubled in size since 2002 and now houses 19% of households in England (English Housing Survey, 2017-18). Alongside the growth of the private rented sector, some local authorities noted an increase in the prevalence of problems such as anti-social behaviour, poor property conditions, low housing demand and elevated levels of crime, deprivation and migration in areas containing high concentrations of privately rented properties.
- 4.2 The Housing Act 2004 introduced selective licensing to give local authorities an additional tool to tackle problems associated with private renting. Part 3 of the Housing Act 2004 gave local authorities the power to designate areas of selective licensing to help tackle anti-social behaviour and low housing demand. In 2015, the conditions for designation were expanded to include poor property conditions, high crime, high levels of deprivation and high migration.
- 4.3 Under new legislation introduced in 2015, local authorities are required to obtain confirmation from the Secretary of State for any selective licensing scheme which would cover more than 20% of their geographical area or would affect more than 20% of privately rented homes in the local authority area.
- 4.4 The current Guidance on Selective Licensing sets out the statutory criteria for making a designation. Local authorities can designate an area for selective licensing for five years, but must first demonstrate the evidence for their concerns, look at alternative approaches and consult widely.
- 4.5 The application process for selective licensing designation is complex and rigorous and approval is not guaranteed. Approval is subject to recommendation from the Ministry of Housing Communities and Local Government (MHCLG) and is at the discretion of the Secretary of State.
- 4.6 Licences contain conditions with which the applicant must comply over the life of the property licence. Local authorities inspect properties in the area and enforce compliance with the conditions of the licence. The licence requires payment of a fee, part A due at the point of application which covers processing of the application and part B due at point of issue which supports the associated enforcement scheme.
- 4.7 Subject to limited exemptions, a valid licence must be held by the appropriate responsible person in respect of all privately rented properties in such a designated area, typically the landlord or managing agent.

- 4.8 In Spring 2019 the Government published an Independent Review of the Use and Effectiveness of Landlord Licensing. The research indicates that selective licensing can be an effective tool with many schemes achieving demonstrable positive outcomes, and that schemes appear to be more successful as part of wider housing initiative. In brief, the review found that licensing focuses resources; provides clearly defined offences; helps bring other problems to light through proactive inspections; provides a clear means through which local authorities engage landlords; and enables intelligence gathering and promotion of joint working within the authority and other agencies.

5. Early assessment of CPRPL 2015-2020 and adapting to challenges

- 5.1 As of August 2019, CPRPL 2015-2020 has produced the following results:
- 35,500 licences issued.
 - 11,105 inspections of licensed properties carried out. These inspections produced the following results:
 - Satisfactory outcome – 8,010 – 72%
 - Minor breaking of selective licensing conditions – 1,980 – 18%
 - Enforcement action – 1,115 – 10%
 - 806 Improvement Notices (formal and informal) served under Section 11 or Section 12 of the Housing Act 2004 – 49% (391) of which have been complied with. Many notices are in abeyance awaiting the outcome of legal proceedings and sales.
 - 33 Financial Penalties and Prosecutions issued.
 - 51 Prohibition Orders served over a three year period 2016-2018. 15 Prohibition Orders in the first six months of 2019. This compares to 18 Prohibition Orders served over three years prior to the scheme 2012-14.
 - Many multi-agency projects (completed, ongoing and planned).
 - Extensive engagement with landlords via an accreditation scheme, landlord forums and regular newsletters sent to 19,236 licence holders.

5.2 Reactive and proactive enforcement

- 5.2.1 CPRPL effectively includes two enforcement regimes: a reactive service which responds to requests from the public and the proactive inspection of licensed properties. The reactive service is heavily influenced by tenants and generally arises from a tenant complaint. The early stages of CPRPL involved significant proactive work to inspect licensed properties. Landlords engaged with through the proactive inspection of licensed properties tend to be more committed and their properties in less need of substantial works.
- 5.2.2 The enforcement team are developing policy and process to tackle rogue landlords via improved data sharing within the Council such as debt recovery, and with relevant external agencies including London Fire Brigade, the Metropolitan Police, the Greater London Authority (Rogue Landlord and Agent Checker) and the rogue landlord's database administered by MHCLG.

5.3 Unlicensed properties

- 5.3.1 The Council allows members of the public to report an unlicensed property using an on-line reporting tool. In the 12 months to 31st August 2019 the Council received 215 referrals. Following investigation it was found that 144 referrals were unlicensed (67%). By contacting the owner, 81 of these properties were quickly licensed (56%) and the remainder were passed onto the enforcement team to commence enforcement.

- 5.3.2 As of August 2019, there are thought to be up to 10,000 unlicensed properties in Croydon, after licence exemptions have been taken into account such as properties used for temporary or emergency accommodation. See Appendix 1.
- 5.3.3. Metastreet have provided the housing standards team with 'tenure intelligence' on the extent of the private rented sector in Croydon at individual property level. This newly available data means that Council officers now have a list of residential properties likely to be unlicensed. In the remaining 12 months of CPRPL these properties will be targeted for enforcement action. Further details of the Metastreet findings, undertaken in August 2019, are provided below.

5.4 Multi-agency working

- 5.4.1 Funding cuts to public services in the face of rising demand present formidable challenges for all council services. One of the key benefits of a selective licensing scheme is that it facilitates joint-working across service boundaries.
- 5.4.2 Many of the most vulnerable tenants face multiple problems which may include poor housing conditions and living environment, fuel poverty, problems accessing public services, or the anti-social behaviour of a neighbouring tenant. The object of selective licensing is to ensure that landlords are professional and take responsibility for dealing with problems which focus on or emanate from their properties.
- 5.4.3 Private rented properties are increasingly used for unlawful purposes such as for growing or smoking cannabis, or housing illegal immigrants who are often employed in conditions of near slavery. Selective licensing provides for the Council to take a lead in bringing together other appropriate agencies to take a holistic approach to all the problems which may be present at a single address.

5.5 Fire hazards in residential properties

- 5.5.1 Two years after the Grenfell tragedy in June 2017, fire continues to be a serious threat to the safety of the residents of blocks of flats. This is particularly the case with tall buildings (defined as being at least 18 metres high). Apart from construction methods and building materials a key concern is the evacuation procedure in the event of fire.
- 5.5.2 In September 2019 alone there were at least four serious fires which engulfed or destroyed blocks of flats (Worcester Park 9th, Brighton 21st, Clapton 17th, Gidea Park 20th). Fortunately, nobody was killed in these fires.
- 5.5.3 Croydon has a relatively large number of tall buildings concentrated in Fairfield ward. There are 41 tall residential buildings across Croydon of which 28 are in Fairfield. Fairfield also contains the highest concentration of private rented housing of anywhere in the borough - more than half of all dwellings the ward are privately rented, equating to 4,792 dwellings. The vast majority of the residential flats in tall buildings in Croydon are private rented.
- 5.5.4 As now widely known, the Grenfell fire was particularly devastating due to highly flammable external cladding. At present we can't be sure of the extent of flammable cladding used in privately owned blocks in Croydon.
- 5.5.5 The responsibility for conducting checks on cladding falls upon the Council rather than the Fire Brigade due to a legislative anomaly which gives different definitions for 'common parts' in the Regulatory Reform (Fire Safety) Order 2005 and the Housing Act 2004.

Moreover, the Housing Health and Safety Rating System (HHSRS) used to assess the safety of existing housing can override Building Regulations. If a tall building has been constructed using materials or methods which are combustible this can only be dealt with by the Council assessing the risk and taking appropriate enforcement action.

- 5.5.6 In July 2019, The Ministry of Housing, Communities and Local Government (MHCLG) asked all local authorities to complete a data collection exercise to identify external wall materials and insulation on all high-rise residential buildings 18 metres and over within their area. This data collection exercise is intended to be carried out under the aegis of the Housing Act 2004 using the HHSRS. Alongside this, additional guidance on how to use the HHSRS in high rise buildings has been recently published.
- 5.5.7 In Croydon the new requirement to undertake an assessment of external materials and insulation in tall buildings will mean a significant increase in Council Officers workload. All existing tall buildings must be checked in line with the additional HHSRS guidance. Selective licensing is essential to ensuring public safety, particularly in Fairfield ward; it will ensure that licensing and enforcement officers are properly resourced to carry out the data collection requested by MHCLG and checks in line with additional statutory guidance.
- 5.5.8 For purpose-built flats the authority responsible for the building as a whole is the London Fire Brigade. However, for individual flats the responsibility lies with the Council. The proposed selective licensing conditions state it is incumbent on landlords to ensure a safe environment for tenants including fire prevention, detection and escape. Selective licensing also places a duty on landlords to inform their tenants of evacuation procedures – which may vary from building to building and from floor to floor – and to ensure that freeholders and/or managing agents are fulfilling their duties in respect of fire safety. Given the transience of the private rented sector and the large numbers of flats which are rented out, often to vulnerable families, selective licensing is vital to ensuring that all residents are properly protected and informed, regardless of tenure.

5.6 Case studies

5.6.1 London Road, Norbury

Following intelligence from a neighbour that there were breaches of licensing conditions in a flat over a shop, a warrant was obtained from the magistrate's court for an unannounced entry. In the early morning Council officers entered the building via the open front door. 13 people were found to be living there in 5 rooms. One room was occupied by four adults (a couple and two women). Another was occupied by the legal tenant, his wife and teenage son and another was occupied by adult twin brother and sister and her baby. There was no door to the only kitchen which was a severe fire hazard. There was only one WC and bath. The owner denied all knowledge of the sub-letting but officers still inspected all properties believed to be associated with the owner and his companies. No further serious breaches were found.

5.6.2 Cannabis Factories

During the first half of 2019 police dealt with 25 cannabis factories, nearly all of which were privately rented properties (eight were licensed). Council officers have visited all the properties concerned. All have since been (or are about to be) renovated. The cannabis growing has stopped and the landlords all deny any knowledge of the activities.

This project is ongoing and selective licensing officers are working with the police on a more routine basis which involves sharing intelligence and joint visits. This applies not just to the cannabis factories but to all illegal activities such as prostitution and anti-social behaviour.

5.6.3 London Road, Broad Green

First floor one bedroom flat occupied by a couple in the living room and three adults who shared the bedroom. It seems reasonable to believe that the managing agent was fully aware of the situation here, i.e. an illegal house in multiple occupation. A joint inspection programme for other associated properties is currently being arranged.

6. Building knowledge of the private rented sector and licensing in Croydon

Phase 1 - Rogue Landlords Enforcement Grant Initiative

- 6.1 The opportunity for increasing knowledge of the problems facing the private rented sector in Croydon provided by the Selective Licensing Scheme enabled the carrying out of a review of housing conditions under Section 3(1) of the Housing Act 2004.
- 6.1.2 Inspection programmes were devised and carried out between August 2018 and June 2019. During that time, in addition to dealing with routine complaints and enquiries, the Selective Licensing Inspection Team targeted specific geographical areas around the borough. This work was intensified as a result of funding from MCHLG as part of the Rogue Landlords Enforcement Grant initiative. This work has been detailed in Appendix 2 but is summarised below.
- 6.1.3 The most significant findings from this work were:
- The large number of families with children who were living in relatively crowded conditions because appropriately sized housing was unaffordable
 - Many tenants were worried about reporting problems to their landlord for fear of retaliatory eviction
 - Large numbers of unreported hazards as defined by the Housing Act 2004
 - Reportedly significant numbers of landlords operating “below the radar”
 - Where there are housing issues there are usually a complex of needs e.g. landlord behaviour, lack of licence, ASB as victim or perpetrator, waste management and crowding.
 - Complex needs call for a multi-agency approach
 - Boundaries between the agencies should be treated as blurred but still identify clear roles for any given situation
 - Rogue landlords are outnumbered by incompetent amateur landlords who are often more difficult to deal with as they receive the “benefit of the doubt” for enforcement purposes. This means that it takes longer to resolve problems because formal action is deferred until it is certain that the landlord understands the situation. Also, consider the role of individual leaseholder landlords of high-rise flats.
- 6.1.4 The review of housing conditions produced two overarching conclusions:
- A reshaped enforcement regime is needed.
 - Improving landlord professionalism must be at the heart of selective licensing schemes.

Phase 2 – Metastreet

6.2 In August 2019 a company was engaged to model and analyse relevant Council data together with publicly available statistics using methodologies which have been accepted by the Government in local authority submissions for selective licensing designation. Metastreet used machine learning to differentiate between properties that are private rented, owner occupied or social rented and generate a number of other insights into private renting in Croydon. The data also reinforced the findings of the Phase 1 fieldwork.

6.2.1 More detail is provided in Appendix 1, but key findings from Metastreet include:

- 35.6% of the total housing stock in Croydon is private rented.
- In 22 wards more than 19% of the total housing stock is private rented (or above the national average of 19%).
- In 6 wards less than 19% of the total housing stock is private rented. These wards are: Kenley, Selsdon & Addington Village, Sanderstead, Shirley South and Old Coulsdon, New Addington North.
- Across the borough, more than 23% of private rented dwellings have at least one serious home hazard (or above the national average for Category 1 hazards of 14%).

6.2.2 The data generated by Metastreet will be used to support enforcement work across the Council and help prevent crime and fraud, such as failure to licence and council tax evasion.

7. Qualifying conditions and process for selective licensing designation

7.1 The process of evidence gathering and consultation prior to designation is rigorous and challenging. Where the proposed designation covers either 20% of the total geographic area of the authority or 20% of the total privately rented stock. The designation requires approval by the Secretary of State.

7.2 Section 80(6) of the Housing Act 2004 provides that a local authority may designate an area for Selective Licensing if:-

- the area is experiencing a significant and persistent problem caused by anti-social behaviour;
- 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
- making a designation will, when combined with other measures 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.

7.3 The Selective Licensing of Houses (Additional Conditions) (England) Order 2015 provide four additional criteria and must be read alongside Government Guidance. For these conditions to apply the Guidance requires that the level of PRS housing should be above the national average (19%):

- poor property conditions
 - This condition is met if, following a review of housing conditions under section 3(1) of the Housing Act 2004, the authority considers a significant number of properties in the private rented sector need to be inspected in order to determine whether any of those properties contain category 1 or 2 hazards. The Selective Licensing Scheme must be part of a wider strategy to tackle housing conditions, so that enforcement action under Part 1 of the Act can be prioritised, whilst ensuring through licence

conditions under Part 3 that the properties are properly managed to prevent further deterioration. In this context “significant” means more than a small number, although it does not have to be a majority of the private rented stock.

- high levels of migration
 - the Guidance states that a population increase of around 15% or more over a 12 month period would be indicative that the area has or is experiencing a high level of migration into it.
- high level of deprivation
 - When an area has a high level of deprivation when compared to other similar neighbourhoods in the local authority area or within the region.
- high levels of crime
 - The Guidance suggests that to meet this condition the area has displayed a noticeable increase in crime over a relatively short period, such as in the previous 12 months or the crime rate in the area is significantly higher than in other parts of the local authority area or that the crime rate is higher than the national average.

7.4 In addition to proving the existence of one or more of the above criteria, it must also be shown how existing measures alone are not sufficient to tackle the underlying housing problems of a specific area. The Guidance states that selective licensing is not a tool that can be used in isolation. The designation should be part of the overall strategic borough wide approach, complementing existing policies on:

- Homelessness
- Empty Homes
- Regeneration
- Anti-social behaviour associated with privately renting tenants

8. Selective licensing as part of wider housing strategy in Croydon

8.1 The Council’s draft housing strategy priorities come under three headings: to create *New Homes* for sale and for rent for local people, ensure existing homes are *Quality Homes*, and provide opportunities for *Homes for Everybody*.

8.2 The proposal for a renewal of selective licensing in Croydon forms a key part of the *Quality Homes* aspect of the Housing Strategy, as outlined below:

1. Improve private rented homes

Some 58,500 homes are rented privately (36% of all dwellings in Croydon). The number is rising as this is an important option for people who cannot afford to buy.

- Advise and train landlords and enforce standards where necessary
- Following consultation, seek approval from the Secretary of State to renew the selective licensing scheme in 2020 to improve housing conditions in the private rented sector
- Require owners to seek planning permission from 2020 before converting properties into small houses in multiple occupation
- Support proposals for private rented sector reform including the Mayor of London’s blueprint for reforming tenure and rents

2. Help with repairs to private homes for those who need it most

- Continue to provide loans and grants for essential repairs and energy efficiency improvements.

8.3 In the absence of a comprehensive regulatory regime for the private rented sector,

selective licensing is a vital tool through which the Council can engage with landlords and improve housing standards through monitoring and enforcement of licensing conditions.

9. Proposals under consideration for a new selective licensing scheme

- 9.1 A review has been undertaken of which qualifying conditions Croydon meet as outlined in the Selective Licensing Guidance for Local Authorities. Further detail of how the qualifying conditions are met is provided in the appendices below.
- 9.2 The focus is on meeting the statutory criteria. Following advice from the Ministry for Housing Communities and Local Government (MHCLG), all conditions may be mentioned as supporting criteria where relevant, and particularly in how selective licensing can help tackle or address problems.
- 9.3 Potential designations in line with qualifying criteria are outlined below. The designation applies to an area comprising wards or lower super output areas (LSOAs). There are 28 wards in Croydon and 220 LSOAs. A LSOA often crosses ward boundaries:

9.3.1 Option one

Two designations that together cover approximately 92% of PRS in the borough, to address:

1. [D1] Property conditions and anti-social behaviour in 10 wards and 11 LSOAs. The PRS represents over 19% of all dwellings and there are significant home hazards.
2. [D2] Property conditions, anti-social behavior and deprivation in 12 wards and 5 LSOAs. The PRS represents over 19% of all dwellings and there are significant home hazards. There is also significant deprivation relative to the rest of Croydon and neighbouring areas.

Fairfield ward has the highest number of private rented dwellings - and tall residential buildings - in Croydon and a large number of serious home hazards. There has been a high net population increase in one LSOA in Fairfield ward.

Notes: This enables a targeted approach to tackling deprivation and anti-social behaviour in Croydon; building on the work of the current scheme. Dependent on advice from MHCLG, it may be necessary for Fairfield ward to be addressed in a separate designation focused on other qualifying criteria. Every ward in Croydon is included in Option One – either the whole or part of the ward.

<u>The 10 wards proposed for designation 1 in Option 1 are:</u>	<u>The 12 wards proposed for designation 2 in Option 1 are:</u>
Addiscombe East Addiscombe West Coulsdon Town Crystal Palace & Upper Norwood Norbury & Pollards Hill Park Hill & Whitgift Purley & Woodcote Purley Oaks & Riddlesdown Selsdon Vale & Forestdale South Croydon	Bensham Manor Broad Green Fairfield New Addington South Norbury Park Selhurst Shirley North South Norwood Thornton Heath Waddon West Thornton

	Woodside
<u>The 11 LSOAs proposed for designation 1 Option 1 fall within the following wards (excluding the 22 wards already mentioned):</u>	<u>The 5 LSOAs proposed for designation 2 Option 1 fall within the following wards (excluding the 22 wards already mentioned):</u>
Kenley New Addington North Sanderstead Selsdon & Addington Village Shirley South Old Coulsdon LSOA codes: E01001075 E01001107 E01001034 E01001125 E01001135 E01001063 E01001065 E01001015 E01001068 E01001016 E01001106	New Addington North Selsdon & Addington Village Shirley South LSOA codes: E01001054 E01001053 E01001061 E01001126 E01001133

See Appendix 1 and 3 for more detail on the evidence base for this designation. See Appendix 4 for the area to be covered under Option One [D1 and D2].

9.3.2 **Option two**

One designation to address property conditions across the whole borough.

1. [D3] Property conditions in all 28 wards. Taking the whole borough as 'the area' for designation, the private rented sector represents 36% of total housing stock in Croydon (58,585 PRS dwellings). Borough wide, there are Category 1 hazards in over 23% of private rented properties which is significant compared to the national average for serious home hazards.

Notes: The borough may not be accepted as the 'area' by the Secretary of State. Currently 6 wards fall under the 19% PRS threshold for selective licensing designation. It is possible that in 2020, the national average for private rented housing will change, which may change the position of some wards in relation to an above average size PRS as condition for selective licensing designation.

See Appendix 1 for more detail on the evidence base for this designation.

9.3.3 **Option three**

Two designations that together cover the whole borough, to address:

1. [D4] Property conditions in 22 wards. The PRS is over 19% of all dwellings and there are significant home hazards.

2. [D5] Anti-social behavior in 6 wards. The rate of anti-social behaviour linked to private rented housing is high. These 6 wards have lower numbers of private rented dwellings, but anti-social behaviour is a significant issue.

<u>The 22 wards proposed for designation 4 in Option 3 are:</u>	<u>The 6 wards proposed for designation 5 in Option 3 are:</u>
Addiscombe East Addiscombe West Bensham Manor Broad Green Coulsdon Town Crystal Palace & Upper Norwood Fairfield New Addington South Norbury & Pollards Hill Norbury Park Park Hill & Whitgift Purley & Woodcote Purley Oaks & Riddlesdown Selhurst Selsdon Vale & Forestdale Shirley North South Croydon South Norwood Thornton Heath Waddon West Thornton Woodside	Kenley New Addington North Old Coulsdon Sanderstead Selsdon & Addington Village Shirley South

Notes: CPRPL 2015-2020 was brought in to tackle anti-social behavior and it will be important to build on the work of the current scheme.

See Appendix 1 for more detail on the evidence base for this designation.

10. CONSULTATION

- 10.1 Where Cabinet approval is given to the consultation exercise and the taking of further steps to proceed towards a further selective licensing designation the Council will need to undertake the statutory consultation. An application to MHCLG would need to consider all representations made during the consultation. This requires the Council to take reasonable steps with persons who are likely to be affected by the proposed designation and to consider all such representations made and not withdrawn. The relevant section is 80(9) of Part 3 of the Housing Act 2004.
- 10.2 The consultation specification provided in the appendices below details the approach to consultation tender. A single Provider will be chosen to fully administer the consultation process. The consultation will consider:
- The role the Council should play in ensuring Croydon is a Better Place to Rent with a high quality private rented sector.

- The various options available and whether a selective licensing designation is the most appropriate means of dealing with the identified problems.
- The consequences of choosing one designation over another. See Section 9 for more detail on the options for designation including the proposed area to be covered by the designation.
- The proposed designation conditions and fees. See:
 - Appendix 5 – property licensing conditions.
 - Appendix 6 – licensing fee structure
 - Appendix 7 – frequently asked questions.

10.3 The Providers' expertise should ensure high levels of participation across all sections of the area involving private rented sector housing. This includes landlords, tenants, agents, Council services, Third Party organisations, support services, statutory providers, representative groups and other. The consultation should look to seek representations from persons who are both based in and outside of the Borough of Croydon. The impact of licensing can be felt in a wider area.

10.4 This consultation period will be 14 weeks from (proposed) Monday 11th November 2019 until Monday 17th February 2020.

11. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

11.1 The financial impact of this proposal is anticipated to commence in 2020/21 and be cost neutral. The cost of administering the selective licensing scheme is covered by charging licence fees to landlords.

11.2 The effect of the decision

The introduction of selective licensing would mean that the council would incur additional costs for the administration of the scheme. It is expected that the costs will be covered by the license fee, as prescribed by the Housing Act 2004.

11.3 Risks

- 3.1 There is the potential risk of a budget shortfall and a failure to effectively reduce Anti-Social Behaviour if the scheme does not receive sufficient applications. This risk is mitigated as we have the experience of running the scheme previously, and also by ensuring that we have sufficient staff levels to identify un-licensed properties and carry out licensing activities.
- 3.2 A number of schemes across the country have been subject to Judicial Review. These have only been successful where local authorities have failed to follow the correct processes or have been unable to justify part of their scheme, proposals or evidence base. There is therefore the potential for additional and unfunded legal work to meet any challenges or cases. To mitigate this risk, this report recommends funding for additional officers to carry out consultation and implementation and/or consultancy support.
- 3.3 Irresponsible and/or rogue landlords could migrate from neighbouring boroughs also seeking to introduce licensing schemes; however, this risk is mitigated through

approval for a scheme designating all wards in Croydon as a selective licensing scheme.

11.4 Future savings/efficiencies

- 5.1 The scheme itself would be self-financing. The scheme has the potential to create potential savings in a number of areas:
- 5.2 Health benefits: the most common significant hazard found in older properties is excess cold which can be easily remedied by the installation of an adequate heating system and insulation. This would also contribute to reducing fuel poverty. Another significant hazard is trips and falls – works to remove the risk of these costs less than £400 but the cost to care for someone who has been injured by falling over is £3,000.
- 5.3 Fraud detection: Other licensing schemes have identified housing benefit, council tax benefit and leasehold tenancy fraud through their schemes, recouping money for the public purse as a result and bringing much needed council properties back into use for people that need them.

Approved by: Lisa Taylor, Director of Finance, Investment and Risk, S151 Officer

12. LEGAL CONSIDERATIONS

- 12.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Law and Governance that selective licensing was introduced in Part 3 of the Housing Act 2004 alongside Part 1 (Housing Conditions) and Part 2 (Housing in Multiple Occupation). Part 3 of the Housing Act 2004 gives the Council the power to designate areas of selective licensing to help tackle concerns over high levels of anti-social behaviour or low housing demand (e.g. low value properties, high turnover of occupiers, significant vacancy). In 2015 the conditions for designation were expanded by The Selective Licensing Houses (Additional Conditions) (England) Order 2015 to include poor property conditions, high crime, high levels of deprivation and high migration. The Council can designate an area for selective licensing for five years but must first demonstrate the evidence of their concerns, look at alternative approaches and consult widely. Failure to engage in meaningful consultation with those likely to be affected by a proposed designation could lead to a scheme being quashed by the courts following judicial review.
- 12.2 Subject to limited exemptions, a valid licence must be held by the appropriate responsible person in respect of all privately rented properties in such a designated area, typically the landlord or managing agent. The legislation permits funds raised to be used for administration of the scheme and (subject to constraints) enforcement.
- 12.3 In 2015 revised approval arrangements were put in place such that where the proposed designation covers either 20% of the total geographic area of the authority or 20% of the total privately rented stock (based on consensus figures) the designation requires approval by the Secretary of State.
- 12.4 There is no 'light touch' process for authorities seeking to re-designate an area at the end of a period of licensing.

- 12.5 In addition as a public authority, the Council must take account of the provisions of the Human Rights Act 1998 and not act in a way which is incompatible with a Convention right. Under Article 8, any interference with the right to respect for a person's private and family life and home must be proportionate and Article 14 requires that there must be no unjustified discrimination within the scope of human rights on any grounds, such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, or other status.
- 12.6 The Council must also have 'due regard' to the Public Sector Equality Duty (PSED) in Section 149 of the Equality Act 2010. Section 149(1) provides that, in exercising its functions, a public authority must have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 12.7 Section 149(3) provides that having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Approved by Sandra Herbert, Head of Litigation and Corporate Law on behalf of the Director of Law and Governance & Deputy Monitoring Officer.

13. HUMAN RESOURCES IMPACT

- 13.1 There are no direct human resources impacts arising from the recommendations of this report.

Approved by Gillian Bevan Head of HR (Resources) on behalf of the Director of Human Resources

14. EQUALITIES IMPACT

- 14.1 An Equalities Analysis has been carried out to ascertain the impact of a renewal of selective licensing on groups that share a protected characteristic. The key findings were that there is no reason to believe that the protected groups will be at any greater risk than

the rest of the population. Opportunities to advance equality have been taken, so no change to the recommendations is suggested.

- 14.2 In developing the proposal for consultation on renewal of selective licensing in Croydon, regard has been had to the council's Corporate Plan and its equality objectives contained in the Opportunity and Fairness Plan 2016-20.
- 14.3 Selective licensing has a positive impact relevant to all protected characteristic groups in that protection from unlawful discrimination is built into the selective licensing conditions. The proposed renewal of selective licensing in Croydon will offer vital protection for vulnerable tenants in a number of ways: through improving living and environmental conditions, providing enhanced protection against retaliatory eviction, signposting to other services, and joint working with other enforcement agencies to deal with crime and anti-social behaviour.
- 14.4 Our evidence comes from experience gained through implementation of the current selective licensing scheme in Croydon. Licensing inspectors talk to tenants and there are specific questions about health and anti-social behavior.
- 14.5 The outcome of our Equality Analysis in relation to the recommendations contained in this report are as follows:
- No major change – Selective licensing protects all vulnerable tenants. It would be a serious breach of licensing conditions if a landlord were to discriminate against any of the protected groups. Landlords who have been convicted of a discriminatory offence cannot receive a licence. Selective licensing provides additional safeguards because of the joint-working arrangements and signposting which are built into the scheme.

Approved by: Yvonne Okiyo, Equalities Manager. See Appendix 8.

15. ENVIRONMENTAL IMPACT

- 15.1 The recommendations set out in this report should have a positive impact on energy use and energy efficiency in Croydon, as the selective licensing conditions include a requirement for landlords to improve the EPC rating of their properties. See Appendix 4 for the proposed selective licensing conditions.
- 15.2 The recommendations set out in this report should also have a positive impact on the living environment in Croydon. The selective licensing conditions encourage landlords to take responsibility for the condition of their properties and other matters such as waste disposal in the area relevant to a property.

16. CRIME AND DISORDER REDUCTION IMPACT

- 16.1 The recommendations set out in this report should facilitate the prevention of crime in Croydon under Section 17 of the Crime and Disorder Act 1998 and reduction of crime and disorder under Section 6 of the same Act. Private rented properties are increasingly used for unlawful purposes such as for growing or smoking cannabis, or housing illegal immigrants who are often employed in conditions of near slavery. Selective licensing enables intelligence sharing between multiple agencies and provides for the Council to take a lead in bringing together other appropriate agencies to address the problems which may be present at a single address.

17. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION

- 17.1 The report seeks authorisation for the commencement of the statutory consultation and engagement with key stakeholders on proposals to introduce a new selective licensing scheme in Croydon in 2020. The report seeks authorisation for the Executive Director Place to recommend an approach to renewal of selective licensing in Croydon, and delegated authority for the Cabinet Member for Homes and Gateway Services to give final approval for seeking a selective licensing designation from the Secretary of State in 2020.
- 17.2 These decisions are sought to ensure all residents, regardless of tenure, have access to decent, safe housing, feel protected and are treated fairly. These decisions are also aimed at improving the living environment across Croydon, and will enable targeted responses to the range of issues across the borough.

18. OPTIONS CONSIDERED AND REJECTED

- 18.1 This report recommends the authorisation of a statutory consultation process on proposals to introduce a new selective licensing designation in Croydon. Options outside of the statutory process are not considered suitable.
- 18.2 This report could recommend to not begin the statutory process for renewal of the selective licensing scheme, however the Executive Director PLACE advises this would mean losing the opportunity to continue and build on the successful work of CPRPL 2015-2020. The intelligence gathered and experience gained through administering selective licensing in Croydon are invaluable to enforcement of housing standards. In the absence of a comprehensive regulatory regime for the private rented sector, selective licensing is a vital tool through which the Council can engage with landlords and improve housing standards through monitoring and enforcement of licensing conditions.

19. DATA PROTECTION IMPLICATIONS

19.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'? YES

The details of people and companies with an interest in the licensed property will be obtained as part of the application process.

19.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED? YES

The Director of Public Realm confirms that a DPIA has been completed and signed off and will be kept under review

Approved by: Steve Iles Director of Public Realm

CONTACT OFFICER:

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Ext: 50190.
Martin Davies, Senior Environmental Health Officer Ext. 61180.

APPENDICES:

- Appendix 1 - PRS housing in Croydon
- Appendix 2 – Housing conditions including review of housing conditions
- Appendix 3 – Public data on population, migration and deprivation in Croydon
- Appendix 4 – Map showing the area covered by Designation 1 & 2
- Appendix 5 – Proposed conditions for CPRPL 2020
- Appendix 6 – Proposed fee structure for CPRPL 2020
- Appendix 7 – FAQ for CPRPL 2020
- Appendix 8 – Equality Analysis Form

BACKGROUND DOCUMENTS: None