

Decision Maker: PUBLIC PROTECTION AND ENFORCEMENT POLICY
DEVELOPMENT & SCRUTINY COMMITTEE

Date: Tuesday 14 November 2023

Decision Type: Non-Urgent Non-Executive Non-Key

Title: HOUSES OF MULTIPLE OCCUPATION (HMO) ADDITIONAL
LICENSING AND PRIVATE SECTOR LICENSING ASSESSMENT
– MEMBER UPDATE

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Chief Officer: Colin Brand, Director of Environment and Public Protection

Ward: All

1. Reason for decision/report and options

- 1.1 The purpose of this report is to update the Committee on the findings of the open-source data assessment to determine whether the current policies and processes with regard to Houses in Multiple Occupation (HMOs) are adequate to ensure that private rented sector tenants,(HMO) tenants, and the wider Bromley community, are sufficiently protected.
- 1.2 The undertaking to 'introduce mandatory licensing for HMOs of all sizes and invest in resources to monitor and enforce this' is an approved action currently being delivered by Public Protection, listed in the LB Bromley Housing Strategy 2019 – 2029. 2.1 Following a comprehensive review, Members should note that Bromley does not meet the statutory test for the introduction of additional HMO Licensing or Private Rented Sector Selective Licensing schemes.
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2. **RECOMMENDATION**

- 2.1 Following a comprehensive review, Members should note that Bromley does not meet the statutory test for the introduction of additional HMO Licensing or Private Rented Sector Selective Licensing schemes.

Impact on Vulnerable Adults and Children

1. Summary of Impact: HMOs are more likely to be occupied by younger people and those who are more economically disadvantaged who are unable to afford market rent for an individual flat or house. Private Sector Licensing standards apply to all rented properties, including HMOs. Licensing fees fund dedicated resources to deliver proactive inspections and enforcement of standards. However, the cost of licensing schemes is likely to be passed onto the tenants through increased rents.
 2. The current financial climate is already impacting on the financial benefits landlords can realise from properties, it is reported that many landlords are finding that the increased interest rates on Buy to Let mortgages have resulted in rental income no longer covering the mortgage payments. As improved housing standards are introduced through legislation and licensing schemes, this is likely to reduce the availability of affordable rented housing options.
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Transformation Policy

1. Policy Status: Existing Policy:
 2. Making Bromley Even Better Priority:
 - (1) For children and young people to grow up, thrive and have the best life chances in families who flourish and are happy to call Bromley home.
 - (2) For adults and older people to enjoy fulfilled and successful lives in Bromley, ageing well, retaining independence and making choices.
 - (3) For people to make their homes in Bromley and for business, enterprise and the third sector to prosper.
 - (4) For residents to live responsibly and prosper in a safe, clean and green environment great for today and a sustainable future.
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Financial

1. Cost of proposal: Not Applicable
 2. Ongoing costs: Not Applicable
 3. Budget head/performance centre: Not Applicable
 4. Total current budget for this head: Not Applicable
 5. Source of funding: Not Applicable
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Personnel

1. Number of staff (*current and additional*): Not Applicable
 2. If from existing staff resources, number of staff hours: Not Applicable
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Legal

1. Legal Requirement: None
 2. Call-in: Not Applicable: No executive decision is required at this stage.
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Procurement

1. Summary of Procurement Implications: Not Applicable
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Property

1. Summary of Property Implications: Not Applicable

Carbon Reduction and Social Value

1. Summary of Carbon Reduction/Sustainability Implications:

Since 1 April 2020, landlords can no longer let, or continue to let, properties that are covered by the Minimum Energy Efficiency Standards (MEES) Regulations 2015. If the property has an Energy Performance Certificate (EPC) rating below E it cannot be let unless the owner has a valid exemption.

HMOs require an EPC where:

- The HMO was sold as a whole property after 2008 and an EPC would have been required when it was marketed for sale, as for any other residential building.
- The HMO is let as a whole dwelling (i.e., tenants are on a joint tenancy contract)
- Where an HMO has self-contained flats, those flats require an EPC.

Impact on the Local Economy

1. Summary of Local Economy Implications: Not Applicable

Impact on Health and Wellbeing

1. Summary of Health and Wellbeing Implications: Not Applicable

Customer Impact

1. Estimated number of users or customers (*current and projected*): Census 2021 data reflects that there were approximately 23,660 people living in private rented accommodation in Bromley on Census Day, this includes residents living in HMOs.

Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: Not Applicable

3. COMMENTARY

- 3.1 A detailed assessment of open-source data has been undertaken to understand the current position with regard to HMOs in Bromley and to determine whether the criterion for adoption of an Additional HMO Licensing Scheme or a Private Rented Sector Selective Licensing Scheme could be suitable to apply in Bromley, see [Appendix A](#).
- 3.2 The Census 2021 identified that privately rented properties now account for 30% of homes in London, much higher than the national average of just over 20%. In Bromley properties rented through a private landlord or letting agency account for 15.8%, other private rented property, such as shared ownership or living rent free, accounts for a further 1.6% of households. Socially rented properties account for 13% of homes in Bromley.
- 3.3 The Bromley Housing Strategy 2019-2029 made a commitment to introduce mandatory licensing for HMOs of all sizes and invest in resources to monitor and enforce this. Mandatory Licensing of HMOs in Bromley currently applies to properties occupied by five or more persons from two or more households, unless an exemption applies. This is now in place and operating. Further to this the Housing Act 2004 sets out thresholds for the local authority to consider the introduction of discretionary licensing schemes, such as Private Rented Sector Selective Licensing or HMO Additional Licensing.
- 3.4 The requirement for adopting HMO Additional Licensing either in the whole borough or part, is that the local authority considers that a significant proportion of HMOs of a particular type are being managed ineffectively and that they give rise, or are likely to give rise, to one or more problem/s either for those occupying the HMOs or for members of the public.
- 3.5 To adopt a Private Rental Sector Selective Licensing scheme at least one of the following conditions must be met. The area:
- i) Is, or is likely to become, an area of low housing demand
 - ii) Has a significant and persistent problem of anti-social behaviour
 - iii) Has a significant number of privately rented properties in a poor condition
 - iv) Is experiencing an influx of migration. Migration refers to movement within the country or from overseas.
 - v) Has high levels of deprivation.
 - vi) Suffers from a high level of crime.
- 3.6 Secretary of State approval is required for Selective Licensing schemes covering over 20% of the boroughs geographical area or private rented sector provision.
- 3.7 The assessment found that;
- 3.7.1 Bromley remains an area with high demand for its properties, both for sale and rent.
- 3.7.2 International and domestic migration resulted in a net population decrease of 544 from 2019 to 2020.
- 3.7.3 In 2022/23 Bromley Council received 111 complaints related to the private rented sector and 34 complaints related to HMO's or possible HMOs. This accounts for less than 1% of the available 21,415 privately rented properties. Most of the complaints relating to matters of disrepair, including mould and damp, however, there were no identified concentrations of complaints in particular areas.

- 3.7.4 The level of detail about crime allegations and ASB is not available to the Council to directly link them to specific properties or tenure types, therefore, information on a Ward basis has been assessed.
- 3.7.5 Whilst reported crime increased across London by 6%, in Bromley it reduced by 2% in 2022/23 when compared to the previous year. Biggin Hill, Chelsfield, Farnborough & Crofton, Kelsey & Eden Park and Mottingham Wards saw increases in crime reporting, however, the Ward boundary changes, which took effect on 5 May 2022, means that data at Ward level cannot be accurately compared with the previous year.
- 3.7.6 Reported incidents of anti-social behaviour in Bromley reduced by 16%. A small number of Wards, Biggin Hill, Chelsfield, Darwin and Kelsey & Eden Park, appear to have had an increased number of reported incidents when compared to the previous year, however, due to the Ward boundary changes the data at Ward level cannot be accurately compared.
- 3.7.7 Fifty of the boroughs 191 Lower Super Output Areas (LSOAs) are in Deciles 1 to 5. St Paul's Cray Ward has the highest concentration of these, with no areas above Decile 5. When focussing on the IMD Barriers to Housing domain St Paul's Cray remains the Ward with the highest concentration of LSOAs in the 50th percentile. Mottingham, St Mary Cray and Crystal Palace and Anerley Wards also have over 70% of their LSOAs in the 50th percentile.
- 3.8 Considering the criteria set out in the Housing Act this assessment did not find significant evidence that areas of the boroughs private rented sector would be improved by the introduction of selective licensing or that any particular HMOs would benefit from additional licensing.
- 3.9 Irrespective of a licensing scheme private sector landlords have legal obligations and responsibilities to protect the safety and rights of their tenants. Tenants, the Council, the Police and the Fire Brigade have a range of tools available to them should they be needed to address issues with individual properties or landlords, these include;
- **The London Borough of Bromley's HMO Adopted Standards:** all HMOs regardless of licensing must meet Bromley's adopted standards. These relate to size and amenities as well as fire precautions.
 - **Gas Safety:** Landlords must ensure that all gas appliances and flues are maintained in a safe condition. This includes annual gas safety checks conducted by a Gas Safe registered engineer. Landlords must provide tenants with a copy of the Gas Safety Certificate.
 - **Electrical Safety:** Landlords are required to ensure that electrical installations are safe and in good working order. Electrical safety checks by a qualified electrician may be necessary. From April 2021, new electrical safety regulations came into force in England, requiring an Electrical Installation Condition Report (EICR) to be provided to tenants.
 - **Fire Safety:** Landlords should ensure that the property has adequate fire safety measures, including working smoke detectors on each floor, and that tenants have clear escape routes. Additionally, landlords are responsible for maintaining fire safety equipment and conducting fire risk assessments in certain properties.
 - **Energy Performance Certificate (EPC):** Landlords are required to provide tenants with an Energy Performance Certificate (EPC) that rates the energy efficiency of the property. The EPC must be provided at the start of the tenancy.
 - **Protection of Deposits:** Landlords must protect tenants' security deposits in a government-approved tenancy deposit scheme. They must also provide tenants with prescribed information regarding the deposit protection within a specific timeframe.
 - **Right to Rent Checks:** Landlords must carry out right to rent checks to ensure that tenants have the legal right to reside in the UK.

- **Repairs and Maintenance:** Landlords are responsible for keeping the property in good repair and working order. This includes plumbing, heating, and structural maintenance.
- **Minimum Energy Efficiency Standards (MEES):** Landlords are required to ensure that rental properties meet minimum energy efficiency standards. Properties with low EPC ratings may not be eligible for rental.
- **Environmental Protection Act 1990:** Local authorities can use this act to take action against landlords if a property is in a state of disrepair or is causing a nuisance to neighbouring properties.
- **Anti-social Behaviour, Crime and Policing Act 2014:** provides a range of tools to address anti-social behaviour.
- **Building Regulations:** Building regulations in the UK include standards for the construction and safety of buildings. Local authorities can use these regulations to ensure that properties meet safety and structural standards.

3.10 A number of legislative changes are currently being planned which are intended to address the challenges around the private housing sector whilst maintaining decent housing standards for tenants. The Government's White Paper, 'A fairer private rented sector', sets out the government's long-term vision for a private rented sector (PRS) that is fit for the 21st century and delivers a better deal for tenants. This includes plans to:

- Abolish Section 21 'no-fault' evictions and introduce a simpler tenancy structure
- Apply the Decent Homes Standard to the PRS for the first time
- Introduce a new Property Portal to help landlords understand their obligations
- Introduce a Housing Ombudsman to cover all PRS landlords and provide redress for tenants.

3.11 There are also anticipated changes in legislation the Houses in Multiple Occupation (Asylum-Seeker Accommodation) (England) Regulations 2023 which, if implemented, will exempt HMOs that are used by the Home Office, or their approved contractors, to accommodate asylum seekers for a period of 2 years from the date the occupants are placed.

3.12 It is also expected that the Levelling-Up and Regeneration Bill, which is currently at Report Stage in the House of Lords, will introduce firmer regulation to the short-term let market.

4. IMPACT ON VULNERABLE ADULTS AND CHILDREN

4.1 HMOs are more likely to be occupied by younger people and those who are more economically disadvantaged who are unable to afford market rent for an individual flat or house. Private Sector Licensing standards apply to all rented properties, including HMOs. Licensing fees fund dedicated resources to deliver proactive inspections and enforcement of standards. However the cost of licensing schemes are likely to be passed onto the tenants through increased rents.

4.2 The current financial climate is already impacting on the financial benefits landlords can realise from properties, it is reported that many landlords are finding that the increased interest rates on Buy to Let mortgages have resulted in rental income no longer covering the mortgage payments. As improved housing standards are mandated through legislation and licensing schemes, this is likely to impact on the benefits to landlords and reduce the availability of affordable rented housing options.

5. TRANSFORMATION/POLICY IMPLICATIONS

5.1 Not applicable

6. FINANCIAL IMPLICATIONS

6.1 Due to not meeting the criteria within the Housing Act to justify the implementation of additional HMO licensing, there are no financial implications to report against this paper.

7. PERSONNEL IMPLICATIONS

7.1 Not applicable

8. LEGAL IMPLICATIONS

8.1 The report correctly identifies the criteria that must be met for the introduction of additional HMO Licensing or a Private Rental Sector Selective Licensing Scheme under applicable legislation.

9. PROCUREMENT IMPLICATIONS

9.1 Not applicable

10. PROPERTY IMPLICATIONS

10.1 Not applicable

11. CARBON REDUCTION/SOCIAL VALUE IMPLICATIONS

11.1 Where an HMO is required in law to have a current EPC (i.e., no older than 10 years) the property must meet a minimum standard/rating of E and the licence holder or manager must provide a copy of the certification to their tenant/s.

12. IMPACT ON THE LOCAL ECONOMY

12.1 Not applicable

13. IMPACT ON HEALTH AND WELLBEING

13.1 Not applicable

14. CUSTOMER IMPACT

14.1 Census 2021 data reflects that there were approximately 23,660 people living in private rented accommodation in Bromley on Census Day, this includes residents living in HMOs.

14.2 Private rented properties provide an important part of the housing infrastructure for many people living in the UK. The reasons people rent property are many and varied, such as:

- Less of a financial burden, such as a smaller deposit being required, no solicitors' fees or stamp duty, no buildings insurance and no maintenance costs.
- Tenancy terms can vary to suit needs, so planning for a future move is easier.
- More controls in the rental market mean tenants enjoy more legal protection.
- No danger of incurring negative equity.

14.3 The Private Rented Sector also provides landlords a secure financial investment, either as a regular income or through the eventual release of capital upon sale of the property. However, the reducing amount of private rented sector properties was identified in the Housing Strategy 2019-29 as one of the three main causes of homelessness.

14.4 At a time when demand for housing is increasing it is important to balance the need for landlords to achieve their financial aims, whilst ensuring they deliver a good standard of accommodation that meets the requirements of renters.

15. WARD COUNCILLOR VIEWS

15.1 Not applicable

Non-Applicable Headings:	
Background Documents: (Access via Contact Officer)	London Borough of Bromley - Adopted Housing Standards 2021