

Homes & Neighbourhoods
222 Upper Street, N1 1XR

Report of: Executive Member for Homes and Communities

Meeting of: Executive

Date: 20 July 2023

Wards: Finsbury Park, Tollington, Hillrise

Subject: Designating the wards of Finsbury Park, Tollington and Hillrise for Selective Property Licensing

1. Synopsis

- 1.1 The Private rented sector covers around 30% of housing in Islington and rents account for about 70% of renters' gross earnings. Although many privately rented properties are perfectly satisfactory, a significant amount are not up to standard.
- 1.2 The proposed selective licensing scheme will require all private landlords in three wards to apply for a licence and to meet minimum standards with regards to the management, use and maintenance of privately rented accommodation.
- 1.3 This report contains relevant information and evidence to support extending selective property licensing to Hillrise and Tollington wards and redesignating Finsbury Park ward to recognise the ward boundary changes that came into effect in May 2022.

2. Recommendations

- 2.1 To note the evidence relating to problems being caused by poorly managed privately rented accommodation in Finsbury Park, Tollington and Hillrise described in the consultation document in appendix A and FAQs appendix B
- 2.2 To note the outcome of the consultation process and the consideration of the responses to representations in appendix C
- 2.3 To revoke the existing Finsbury Park selective licensing scheme.

- 2.4 To designate the wards of Finsbury Park, Tollington and Hillrise as areas subject to selective licensing. See map in Appendix D.
- 2.5 To approve the fee structure for the new scheme

3. Background

- 3.1 Selective licensing applies to any privately rented houses or flats in a designated area that are occupied by:
- a single person
 - two people sharing (regardless of their relationship to one another)
 - any number of persons forming a single household
- 3.2 Selective licensing enables the council to regulate private rented properties by setting standards relating to the management, use and maintenance. Licences are issued to either the landlord or person responsible for the day to day management of the property. Licence conditions include safety measures such as those relating to gas, electrical and fire safety, the provision of adequate facilities for heating, refuse and recycling facilities, as well as property maintenance and management of anti-social behaviour and security measures.
- 3.3 Selective licensing is discretionary and can be only implemented where the council is able to demonstrate that specific criteria have been met. Licensing schemes last for up to five years, after which they expire, unless they are renewed, following a further consultation process.
- 3.4 Any selective licensing scheme that covers more than 20% of a boroughs private rented sector will require approval from the Secretary of State for Levelling Up Housing and Communities. The proposed Selective Licensing Scheme covering Finsbury Park, Hillrise and Tollington wards is below the 20% threshold and therefore will not require Secretary of State approval.
- 3.5 Approximately 5400 privately rented properties will be covered by the proposed 3 three ward selective licensing scheme, including the 1800 private rented properties covered by the existing Finsbury Park licensing scheme.

4. Evidence Based Decision Making

- 4.1 The regulatory framework for selective licensing is contained in the Housing Act 2004 and one or more of the following conditions must be met:
- the area is, or is likely to become, an area of low housing demand

- the area is experiencing a significant and persistent problem caused by antisocial behaviour
- the area has poor property conditions
- the area has high levels of migration
- the area has high levels of deprivation
- the area has high levels of crime.

4.2 The consultation document in appendix A contains the relevant ward data for each criteria. Data analysis indicated that poor property conditions in the private rented sector support the proposal selective licensing in the 'new' wards of Finsbury Park, Tollington and Hillrise. Evidence also indicates that some of these wards also have higher than average levels of antisocial behaviour, crime and deprivation.

5. Redesignation Finsbury Park

5.1 The existing selective licensing scheme in Finsbury Park was introduced on 1 February 2021. The Local Government Boundary Commission for England made changes to ward boundaries in Islington which came into effect on 5 May 2022. These changes have made the existing designation of the Finsbury Park scheme both contradictory to the new ward boundaries and confusing for all concerned.

5.2 In order to address this, and to expand the scheme to other adjacent areas that meet the criteria, should the council approve the proposed selective licensing scheme, the recommended course of action will be to revoke the existing scheme for Finsbury Park and redesignate the new Finsbury Park ward. All existing selective licences will passport to the new scheme so there will be no need for landlords who have already applied and paid for a selective licence to reapply.

6. Consultation

6.1 The statutory consultation and residents' engagement ran for 13 weeks, ending on 27 March 2022. The consultation document is in Appendix A and consultation FAQs are in Appendix B

6.2 The consultation document and FAQs, published on our website, explained the reasons for proposing the licensing schemes, the alternative options considered and relevant supporting evidence. The consultation was promoted via press release, social media, Islington Life and the Residents E- Bulletin. Letters and emails were sent to all landlords, managing and letting agents known to be operating in the borough to encourage them to submit their views. All organisations representing landlords, managing and lettings agents were provided details of the proposals. Three drop-in sessions were held for landlords, agents and tenants to seek more information and to express their views in person. To simplify the feedback process for tenants, residents and landlords an online feedback questionnaire was made available as an alternative to providing bespoke written feedback on the proposals.

7. Consultation Feedback

7.1 There were 68 responses to the online feedback questionnaire and 2 written and verbal responses to the consultation. Overall response rates were very low and there was a significant difference in opinion between landlords and tenants with 15% private landlords and managing agents in favour of licensing whereas for tenants it was 72%.

7.2 The table below summarises the responses to consultation question:

To what extent do you agree or disagree with the proposed property licencing scheme?

Responses	Number of respondents	Agree/strongly agree %	Neither agree/nor disagree %	Disagree/strongly disagree %
Private landlord or managing agent with properties in Islington	34	15%	15%	70%
Private Tenant	11	72%	19%	19%
Owner occupier or other resident in Islington	3	33%	33%	33%
Other interested party	7	43%	0	57%

7.3 A full analysis of the 70 responses and LBI response to bespoke feedback can be found in Appendix C.

8. Implementing the Proposed Licensing Scheme

8.1 Following the formal designation of a licensing scheme there is a statutory notification process that needs to be followed which in effect means that there is a minimum of three months before the schemes can go live. If the designation is approved the suggested implementation date is 1 January 2024.

8.2 Landlords will be required to demonstrate through their licence application(s) that they, and anyone involved in the management of their property, meet fit and proper person criteria, and that the management arrangements are satisfactory. Their application must be supported by plans of the property and certificates covering fire, gas and electrical safety. The cost of providing a licence is lower in relation to landlords who have already made the effort to join a recognised accreditation scheme. This justifies the reduced fees proposed for accredited landlords.

- 8.3 The Housing Act 2004 allows the council to set licence conditions that are appropriate for the management, use and occupation of properties subject to licensing requirements. The Selective Property Licence conditions were adopted by the council in March 2020 and are attached as Appendix E for information.
- 8.4 The council is entitled to cover the costs associated with the scheme through a licence fee but is not allowed to make a surplus or to use the fee income for purposes unrelated to licensing. Councils can agree their own fees that are reasonable and proportionate. It is recommended that the council increase the selective licence fee for the new scheme from £500 to £800. This increase is recommended as having run the scheme for two years in one ward we now appreciate better the level of resourcing that is required to ensure that all elements are delivered effectively.
- 8.5 The number of additional staff required to operate the new scheme is being proposed as 9.5 FTE. This includes a mixture of Licensing Support posts to administer the applications, environmental health and compliance officers, two apprentices and a graduate environmental health trainee. The mixture of experienced and trainee staff will provide the greatest opportunity to maintain sufficient capacity given recruitment challenges in this area as well as providing good career opportunities for people.
- 8.6 It has also been necessary to ensure that all expenditure related to the scheme is covered. Any remaining income after the additional staff costs have been allocated will be spent in full on specialist software licences, legal costs for enforcement and personal costs for staff such as travel/equipment. Total forecast net costs are currently expected to show a balanced position. The recommended new fee will provide sufficient income for the scheme to be managed effectively and enable the council to proactively improve housing conditions, support tenants and hold rogue landlords to account without impacting on the wider council budget.
- 8.7 The licence fee is payable in two parts, part 1 to cover the cost of processing the application and part 2 to cover the cost of running and enforcing the scheme. The recommended apportionment of the fee current fee for a 5 year Selective Property Licence is as follows:

Selective licence application fee	Part I: £450.00 per dwelling
	Part II: £350.00 per dwelling
	Total: £800.00 per dwelling
Selective licence application fee for licence holders or managers accredited under the London Landlord Accreditation Scheme, RLA, NLA, safeAgent or ANUK	Part I: £410.00 per dwelling
	Part II: £315.00 per dwelling
	Total: £725.00 per dwelling

- 8.8 The intention is to ensure that all properties subject to licensing are identified and licenced. A light touch approach towards landlords who comply with licensing requirements will enable enforcement resources to be targeted at those that seek to evade licensing and provide inadequate accommodation. All licenced properties will

receive at least one compliance and monitoring inspection during the five year licensing period, with those being assessed as high risk inspected during the early part of the scheme.

- 8.9 We are fully committed to allocating resources to identifying unlicensed premises, as this is essential to the success of any licensing scheme, and we will use data and intelligence to identify unlicensed premises and take appropriate action to secure compliance.

9. Implications

9.1 Financial implications

- 9.1.1 The administration of Selective Licensing Schemes should be self-funding over the five year licensing period. Most income will be received in years 1 and 2 and the annual surplus will need to be carried forward to subsequent years to fund monitoring and enforcement activities.
- 9.1.2 It is estimated that an additional 3500 Selective Licences could be issued generating an income in the region of £2.748m over the next 5 years. The amount generated will depend on the number of applications that may qualify for a discount. The income is forecast based on a conservative estimate of the number of properties in the area compared against comparable average discount rates. Enforcement action against those failing to register for Selective Licences through issuing Civil Penalty notices will generate some income, but it is expected to be negligible.
- 9.1.3 The additional income must be spent entirely on the administration, monitoring and enforcement costs associated with the scheme. There is no net financial gain for the Council and the income will primarily be spent on additional processing and enforcement officers. Detailed staffing and resourcing plans will be developed if the proposed designations are confirmed based on average officer costs are expected to be up to 9.5 staff members costing approximately £0.507m per annum. The remaining income will be spent in full on specialist software licences £25,000p.a, legal costs for enforcement £25,000p.a, and personal costs for staff such as travel/equipment and training £20,000p.a. Legal enforcement costs are hard to determine, but the department realises that some legal challenges and engagements may not be successful and has provided for them accordingly. Total forecast net costs are currently expected to show a balanced position (<£10,000) – if an overspend looks apparent, the department will reduce staffing and personal costs to ensure a balanced position is maintained. The forecast income and expenditure can be seen below:

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Income	(1,236,375)	(412,125)	(412,125)	(412,125)	(274,750)	(2,747,500)
Staff Costs	424,456	445,152	466,862	489,635	580,024	2,406,129
IT (Metastreet)	25,000	25,000	25,000	25,000	25,000	125,000
Travel/Equipment/Personal Costs	20,000	20,000	20,000	20,000	20,000	100,000
Legal Provision for enforcement	25,000	25,000	25,000	25,000	25,000	125,000
Net Surplus/Cost	(741,919)	103,027	124,737	147,510	375,274	8,629

9.2 Legal Implications

9.2.1 Section 80 Housing Act 2004 allows the council to designate either

- (a) the whole borough
- (b) an area of the borough as subject to selective licensing if specific requirements are met.

The council must consider if the first or second set of general conditions are met:

The first set of general conditions are:

- a) the area is or likely to be an area of low demand
- b) that making the designation will, when combined with other measures taken by the council or other persons, contribute to the improvement of social or economic conditions in the area

9.2.2 The second set of general conditions are:

- a) that the area is experiencing a significant and persistent problems caused by antisocial behaviour
- b) that some or all of the private landlords who have let premises in an area are failing to take action to combat the problems that it would be appropriate for them to take and
- c) making a designation will, when combined with other measures taken in the area lead to a reduction or elimination of the problem

9.2.3 Section 81 requires the following further considerations when making a designation for selective licensing:

- that the proposed designation is consistent with the council's overall Housing Strategy
- seek to adopt a coordinated approach to homelessness, empty properties and antisocial behaviour affecting the private rented sector both when
 - o using licensing powers and other courses of action available
 - o using licensing powers with measures taken by other persons
- consider whether there are any other alternative courses of action available to them that might provide an effective method of dealing with the problem
- consider that making the designation will significantly assist them deal with the problems

9.2.4 The Selective Licensing of Houses (Additional Conditions) (England) Order 2015

This order specifies additional conditions which the council must consider to be satisfied before making a selective licensing decision:

- a) that the area contains a high proportion of properties in the private rented sector
- b) the properties are occupied under assured tenancies of licence to occupy and
- c) one or more of the following conditions are satisfied:
 - i. it would be appropriate for a significant number of properties to be inspected with the view to determining if any category 1 and 2 hazards and appropriate enforcement action taken
 - ii. the area has experienced or is experiencing an influx of migration
 - iii. the area suffers from a high level of deprivation
 - iv. the area suffers from high levels of crime

9.2.5 Before deciding to introduce an area of additional or selective licensing the council must consult people who are likely to be affected by the designation and consider any representations made.

9.2.6 The Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015 (“the General Approval”) provides the council with the Secretary of State’s general approval to designate an area as subject to selective licensing where the Council has carried out a consultation for a minimum of 10 weeks.

9.2.7 The General Approval provides that Secretary of State consent is required for implementation of any selective licensing scheme which covers more than 20% of the council’s geographical area or would affect more than 20% of privately rented homes in the borough.

9.3 **Licence Fees**

9.3.1 The Housing Act 2004 section 87 allows the council to set licence fees.

9.3.2 The Provision of Services Regulations 2009 requires licence fees to be reasonable and proportionate to the cost of the scheme.

9.4 **Licence Conditions**

9.4.1 The Housing Act 2004 section 90 allows the council to set appropriate licence conditions

9.5 **Environmental Implications and contribution to achieving a net zero carbon Islington by 2030**

9.5.1 The designation of Selective Licensing Property Schemes will not undermine the net zero carbon emissions objective and there are no negative environmental implications arising from the proposal.

9.5.2 Landlords will be able to apply for licence applications online and upload supporting documentation electronically. This will minimise the use of paper and the need to recycle paper applications and documentation at the end of data retention period.

9.5.3 Enforcement Officers will continue to walk, cycle or use public transport when traveling to compliance and enforcement inspections.

9.5.4 The designation will not give the council additional powers regarding the energy efficiency of homes but there are regulations already in place (Minimum Energy Efficiency Standard) that the scheme will support. Inspections will identify improvements that are likely to increase the energy efficiency of properties and the landlord register can potentially be used to push out messages to support the net zero priority.

9.6 **Equalities Impact Assessment**

9.6.1 The Council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The Council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The Council must have due regard to the need to tackle prejudice and promote understanding.

9.6.2 The Equalities Impact Assessment concluded that the proposal will have either positive or neutral impacts on people with protected characteristics and from disadvantaged groups. The Equalities Impact Assessment is attached in appendix G

10. Reason for recommendations

10.1 Designating areas of the borough for property licensing is consistent with the council's Housing Strategy and mission to ensure that everyone has a safe place to call home. Evidence supports the proposal to designate a Selective Licensing Scheme for all privately rented properties in Finsbury Park, Tollington and Hillrise. Stakeholder consultation indicated that landlords tend not support licensing schemes whereas private renters, are in favour of licensing to regulate and improve housing conditions in the private rented sector.

Appendices:

- A Consultation Document
- B Consultation FAQs
- C Consultation Response and LBI Response- to Consultation
- D Map showing boundary of Finsbury Park, Tollington and Hillrise Selective Licensing Scheme
- E Selective Licence Conditions
- F Licence Fees
- G Residents Impact Assessment

Background papers:

DHCLG – An Independent review of the Use and Effectiveness of Selective Licensing June 2019

Final report clearance:

Authorised by: Executive Member for Homes and Communities

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