



Report for: Cabinet

Date of Meeting:	27th May 2021
Subject:	Renewal of Selective Licensing of private rented accommodation in the Wealdstone Ward
Key Decision:	No
Responsible Officer:	Mark Billington, Acting Corporate Director (Community)
Portfolio Holder:	Councillor Peymana Assad, Portfolio Holder for Community Cohesion, Crime and Enforcement
Exempt:	No
Decision subject to Call-in:	Yes
Wards affected:	Wealdstone
Enclosures:	Appendix A – Consultation Responses Appendix B – Consultation (including forms) Appendix C – Designation of Selective Licensing Appendix D – Draft Conditions Appendix E - Equality Impact Assessment

Section 1 – Summary and Recommendations

This report proposes the re-introduction of a Selective Licensing Scheme in the ward of Wealdstone (which previously had one), which would require private rented accommodation to be licensed and meet conditions, in order to address significant and persistent problems with anti-social behaviour in that area.

Recommendations:

Cabinet is requested to:

1. Consider the evidence, consultation responses and other information forming part of this report and determine whether the Wealdstone ward (as delineated and edged in red on the map at **Appendix C**) should again be designated as being subject to Selective Licensing.
2. If the Wealdstone ward is to be designated again as being subject to selective licensing, confirm that the designation is to take effect from **2nd September** for a period of five years.
3. Agree that the Council can begin to accept applications for Selective Licensing (if approved) from **2nd August 2021**, in anticipation of the scheme coming into effect on **2nd September 2021**.
4. If the scheme is approved, agree to the Head of Community & Public Protection taking all steps necessary to publicise, commence and administer the scheme including the issuing and amending of licences.
5. Note that the Selective Licensing scheme (if approved) and the operation of the designation will be reviewed annually.
6. Delegate authority to the Corporate Director Community, following consultation with the Portfolio Holder for Environment, to amend and approve discretionary licensing conditions implemented by the Head of Community and Public Protection.

Reason: (For recommendation)

To continue to address issues of anti-social behaviour in the Wealdstone ward, in line with the corporate priorities of making a difference to residents, community, businesses and the vulnerable.

Section 2 – Report

1. Introduction

- 1.1 Harrow Council is committed to maintaining a clean and safe environment for the benefit of everyone in the borough. The commitment recognises the Council's responsibility to keep the local environment clear of litter, fly-tipping and vandalism; encourage behaviour change to initiate improvements; and reduce the fear of any crime in the Borough. This includes tackling rogue landlords but assisting those that need help.

What is Selective Licensing

- 1.2 Part 3 of the Housing Act 2004 (the Act) sets out the scheme for licensing private rented properties in a local housing authority area. Under section 80 of the Act a local housing authority can designate the whole or any part or parts of its area as subject to selective licensing.
- 1.3 Where a selective licensing designation is made it applies to privately rented property in the area. Subject to certain exemptions specified in the Selective licensing of Houses (Specified Exemptions)(England) Order 2006 , all properties in the private rented sector which are let or occupied under a licence, are required to be licensed by the local housing authority, unless the property is a House in Multiple Occupation and is required to be licensed under Part 2 of the Act .

What area can be designated

- 1.4 Part 3 of the Housing Act 2004 allows Local Authorities to introduce a Selective Licensing Scheme if certain conditions are met for the area. The Department for Communities and Local Government "Selective Licensing in the Private Rented Sector" Guide for Local Authorities states that the area must have one or more of the following conditions being experienced in order for a selective licensing designation to be made:
- i. low housing demand (not applicable in Wealdstone),
 - ii. significant and persistent problem caused by anti-social behaviour (ASB),
 - iii. poor property conditions,
 - iv. high levels of migration,
 - v. high level of deprivation
 - vi. high levels of crime
- 1.5 Any such designation lasts for a maximum 5 years before it is ended or goes through further consultation to be renewed. The Government Guidance around this can be found at [Selective licensing in the private rented sector: a guide for local authorities - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/272222/Selectivelicensingguideforlocalauthorities.pdf).

What areas have been designated in Harrow

- 1.6 A project was set up in 2012-13 to identify areas within the Borough that were suffering from high levels of anti-social behaviour and environmental issues. This included using data held on the private rented sector, including council tax data.
- 1.7 As a result, three areas were identified that suffered from a high levels of issues, which included Wealdstone, which showed above Borough average rates for serious crime and ASB, high levels of fly-tipping and a large volume of noise nuisance (especially from private rented properties). Therefore in 2016, after consultation and approval by the Council, the ward of Wealdstone became a designated area.
- 1.8 Data for the period 2012-13 and addresses were cross-referenced with council tax data to determined 53% of ASB and housing related complaints related to private rented properties in Wealdstone. Government census data shows Wealdstone to have 3882 households of which 26.92% are private rented. This is above the average for Harrow (21.74%). One of the requirements of the DCLG guidance on Selective Licensing is to show an area has a high proportion of private rented sector, with anything above the national average of 19% meeting this criterion.

What has happened since Selective Licensing was Introduced in Wealdstone

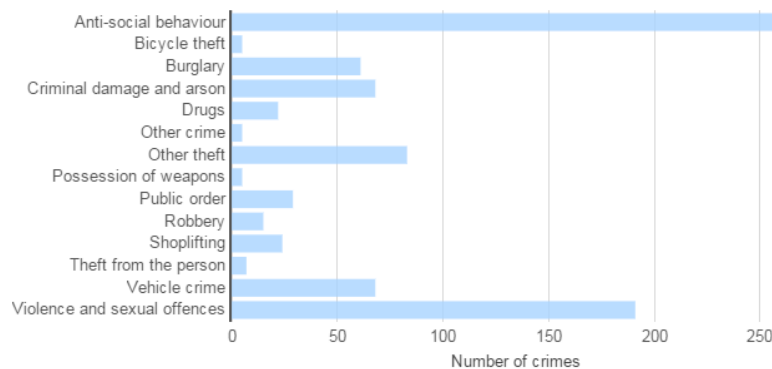
- 1.9 Since June 2016, the Council has sought to licence all rented accommodation in the designated area to ensure they are all subject to conditions specific to ensuring safety, addressing the issues found in the area (e.g. waste disposal condition aimed at reducing fly tipping) and carrying out inspections to ensure the premises are fit for habitation and safe.
- 1.10 As mentioned above, there are exemptions to premises that must be licensed pursuant to selective licensing, including those owned by Housing Associations. To give a context as to the number of properties licensed in this period, the 2013 census of Wealdstone showed there were 1045 rented premises in the ward. Since 2016, 774 (74%) rented premises have been licensed under the Selective Licensing Scheme, and 331 (31%) Houses in Multiple Occupation (HMO) under appropriate scheme for those premises. In total 1105 premises have been licensed. This is 60 (5%) more premises than were captured in the original census, and is a result of premises changing use as well as some premises moving from a selective licence requirement (e.g. a single family rented property) to a HMO requirement (e.g. multiple households moving in).

What has been the effect?

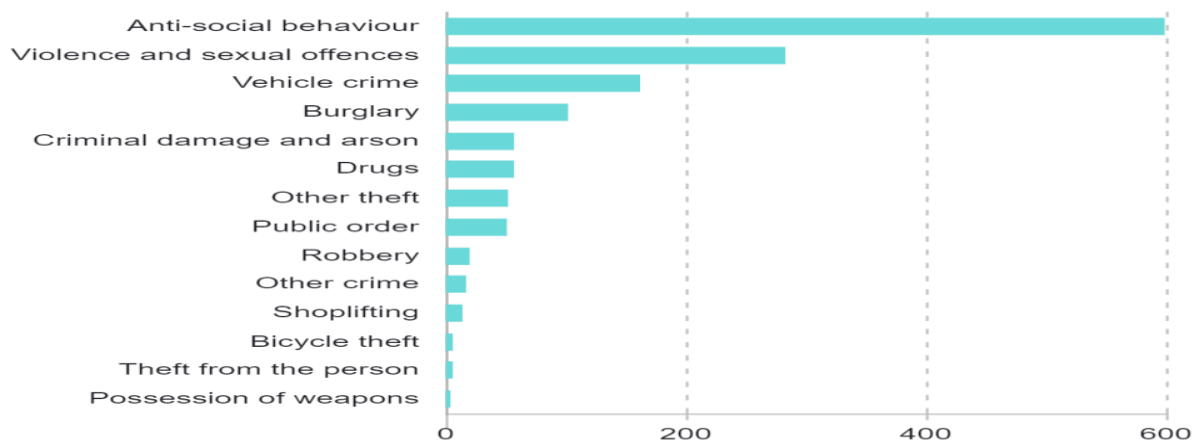
Anti-Social Behaviour and Crime

1.11 In 2015, Wealdstone Ward has had Anti-Social Behaviour designated as a priority¹ due to it being the biggest crime issue for the Ward as can be seen in the table below:

Comparison of crime types in this area between November 2014 and October 2015



From December 2019 to November 2020, these figures are now:



1.11 Anti-Social Behaviour accounted for 31.57% of all crime types in the Wealdstone ward over the period November 2014 to October 2015. From December 2019 to November 2020 ASB accounted for 41.6% of all crime types in Wealdstone Ward. Unfortunately, while ASB therefore remains a big concern in Wealdstone, these figures do not give a true reflection of the situation due to the covid-19 pandemic. This has led to gatherings, lack of social distancing and people refusing to comply with the covid-19 requirements being reported as ASB. This has caused what appears to be a large increase in ASB within the ward.

1.12 This covid related increased is also evidenced in neighbouring wards including Marlborough (28.29% in 2015 to 48.8% now), and Harrow Weald (27.33% to 30.6%).

¹ Police.uk

- 1.13 But the vitality profile for wards from 2015-2017 show that Wealdstone was improving across key areas such as burglaries, deliberate fires and general crime².
- 1.14 And across key aspects selective licensing addresses, or seeks to address, being fly tipping and noise, Wealdstone has seen gradual improvements. The 2019 vitality profile³ shows a clear reduction of these areas with fly tipping clearly reduced in Edgware (Selective Licensing introduced in 2015) and Wealdstone (2016).

Migration and Deprivation

- 1.15 Government census data⁴ also shows that Wealdstone Ward has a high level of migrant population, accounting for 46.86% of the population. This includes high levels of transient population in the ward, which can have a direct effect on the economic stability of an area. This is recognised in the DCLG Guidance.
- 1.16 At the time of selective being introduced in Wealdstone Ward is one of the smallest wards in Harrow, but is the densest in terms of population, with 96 persons per hectare compared to a Harrow average of 47.4pph. The population of Wealdstone Ward has increased by 27.1% in the last 10 years which has added to this issue. This is compared to around 13% increase in population in Greater London in the same period.
- 1.17 The average household size in Wealdstone is 2.93 compared to a Harrow Borough average of 2.81. Due to the increase in size of population and relatively high level of occupancy levels, there are tangible concerns over properties becoming overcrowded. This is a consideration under the DCLG Guidance.
- 1.18 In 2015, the CLG indices of deprivation show that Wealdstone is the Ward with the highest level of multiple deprivation, followed by Roxbourne, Greenhill and Marlborough.⁵ It has the highest levels deprivation of the Borough around income, education, skills, training and employment. In terms of Income Deprivation Domain, being the proportion of people aged under 60 in an area that are living in low income households and claiming certain out-of-work means tested benefits, Wealdstone Ward is the most deprived Ward in the Borough.
- 1.19 In 2019, Wealdstone remains the ward with the highest level of multiple deprivation, followed by Roxbourne, Greenhill and Marlborough⁶ But it did witness improvements to income deprivation (0.2 to 0.16), Income deprivation of children (0.28 to 0.18) and employment deprivation (0.12 to 0.09). Overall this indicates that the area is improving in terms of

² [crime \(harrow.gov.uk\)](http://www.harrow.gov.uk/crime)

³ [environment \(harrow.gov.uk\)](http://www.harrow.gov.uk/environment)

⁴ http://www.harrow.gov.uk/download/downloads/id/2017/2011_census_briefing_note_13

⁵ http://www.harrow.gov.uk/download/downloads/id/3791/2011_2013_deprivation

⁶ [deprivation \(harrow.gov.uk\)](http://www.harrow.gov.uk/deprivation)

being less deprived, though obviously more work is needed as it continues to be at the, or near the, bottom of the deprivation indices.

Consistent with Housing Strategy

- 1.20 Selective Licensing ties in with the Council's Private Sector Housing Strategy for **2019-2024**, using additional powers to address areas where private sector housing can be seen to contribute to issues faced in the community and need addressing. It is to work with good landlords to provide them the environment where these properties will be successful and can be managed successfully.

Co-ordinated Approach

- 1.21 Government Guidance clearly sets out that "Selective licensing is not a tool that can be used in isolation. The local housing authority will have to show how such a designation will be part of the overall strategic borough wide approach".

ASB

- 1.22 The aspect of Selective Licensing is just one aspect of the Public Protection Service, who also oversees the Anti-Social Behaviour Team, inspection of private rented accommodation and enforcement of environmental issues (e.g. fly tipping caused by persons including tenants). This team also liaises with the Council Housing Anti-Social Behaviour element to ensure a consistent approach to issues.
- 1.23 The Anti-Social Behaviour, Crime and Policing Act 2014 introduced new powers that can be used to address issues of ASB, including absolute grounds for possession as well as conduct causing nuisance to landlord etc. These powers, as well as those considered under Section 2 (Options considered) will be used in parallel with any Selective Licensing Scheme to improve an area.
- 1.24 Since 2015, the Council has introduced Public Spaces Protection Orders to address street drinking as well as other anti-social activity that blights Wealdstone in particular. It has carried out numerous days of action between Council enforcement and Police, as well as put in place a Wealdstone Action Group to get the community involved in improving the area, with regular community meetings.

Homelessness and Property Standards

- 1.25 By having a well-managed private rented sector, it is more likely to have increased residential stock of suitable standard for the purposes of addressing homelessness and emergency accommodation. The improvement of this sector is also likely to increase demand of housing and attract good landlords to an area, which will hopefully encourage the bringing back into use of any empty homes.
- 1.26 Harrow has endeavoured to inspect all premises that fall under the Selective Licensing scheme to assess them under the Housing Health

and Safety Rating Scheme, to ensure they are safe for habitation and meet at the very least basic needs.

So has the scheme been successful and why should it be renewed

1.27 In 2015, the Council set out some key aims it hoped to achieve under the Selective Licensing scheme being a reduction of

1. Accumulation of waste
2. Drug and alcohol related crime
3. Gang nuisance
4. Illegal conversions
5. Negativity due to badly managed and poorly maintained properties
6. Overcrowding
7. Sub-letting
8. Vandalism
9. Transient population, leading to a more stable community

1.28 In simple numbers, the scheme has been a success in terms of premises licensed and, as a result of that, being raised in terms of management and standards based on inspections conducted and conditions imposed.

1.29 An analysis of enforcement cases since 2015 also shows the issues occurring in Wealdstone:

Description	2015	2016	2017	2018	2019	2020	Change
Abandoned vehicle report	55	125	81	88	29	29	↓
Drug substance misuse dealing	2	3	3	3	7	8	↑
Flytip small - council	70	66	83	129	20	22	↓
Housing Dampness	5	8	12	12	2	2	↓
Housing Disrepair	14	18	25	49	9	10	↓
Housing Overcrowding	3	2	4	13	1	1	↓
Intimidation or harassment	1		2	3	2	2	↑
Noise	39	57	58	101	29	31	↓
Nuisance behaviour	3	7	10	12	16	17	↑
Vehicle noise or use (ASB)	1	2	4	3	3	3	↑

1.30 What this shows is that when the scheme came in numbers across all areas started to increase as awareness and a proactive approach was taken to the area, but then in the main start to fall as the scheme embeds in the area especially those linked to accommodation and people within (noise, fly tip waste, disrepair, dampness, overcrowding).

1.31 The evidence does show that Wealdstone is getting better in the areas that Selective Licensing directly impacts. But it also shows that, combined with the deprivation and ASB aspects, there is still more work to be done. And it is likely that this is more around those premises that have remained under the radar and now need to be tackled directly. Over the last 5 years, there have been 126 reports of premises that should be subject to selective licensing in Wealdstone,

with 101 of these in the last 2 years as awareness increases including the register of licensed premises on the Council's website.

- 1.32 It should also be noted that fly tipping has reduced on council (public) land but does not take into account the issues still faced on private or orphaned land. An example is the service road stretching behind Costa Coffee to Mir Supermarket, which continues to be plagued by waste from both the rented flats above the premises and others but unfortunately the land is orphaned (no owner). It is these areas that Selective must do more now to address.

2. Options considered

- 2.1 Section 81(4) of the Housing Act 2004 sets out the requirement that Councils must have considered other potential courses of action available to provide an effective method of achieving the objective or objectives that the designation would intend to achieve, and that making the designation will significantly assist them to achieve the objective(s).
- 2.2 All options were considered and for some, such as the additional and mandatory HMO licensing schemes, these are already in place.

Do Nothing

- 2.3 The evidence has shown that the area is subject to conditions that require intervention, for the purpose of helping the community.
- 2.4 The consultation which took place between 5th June 2020 to 14th August 2020 show that the issues have remained in place despite other forms of intervention taking place. This includes aspects of noise, which is mentioned in 1.15 above, as well as refuse storage especially in hot spot areas such as Park Way (more related to lack of storage rather than previously related to fly tipping).
- 2.5 In line with Council commitments and requirements of putting the community first, the option of doing nothing is not an option. If no action is taken the problems experienced in the ward are likely to continue.

HMO Licensing

- 2.6 HMO licensing refers to the licensing of Houses in Multiple Occupation (HMO) where the premises is occupied two or more households. This licensing regime has been in place in Harrow since 2006, and certain discretionary aspects will continued to be renewed where there is evidence of need.
- 2.7 This approach is still being taken, but as can be seen this only accounts for about 1 in 3 rented premises in Wealdstone.

Borough Wide Designation under Selective Licensing

- 2.8 Some councils have adopted Borough Wide schemes, such as seen in Newham, but Harrow has been keen to ensure that such a scheme is used only where it is required for a targeted approach, and in line with legal requirements. Additionally, it is important that there is a clear evidence base to support any scheme, and for the areas proposed, which is established for Wealdstone but is currently not in place for the whole Borough.

Accredited Landlord Scheme

- 2.9 There are accredited landlord schemes in operation that put in place a consistent standard and lead to improved standards of accommodation, but not necessarily matters of ASB. While such schemes are valuable, it is imperative that all landlords in an area engage in improving it. Such a scheme is voluntary and so take up is variable. Therefore it is felt that a more intensive intervention is required, making it mandatory on all landlords to comply with conditions in order to address the problems being experienced in the area. This option is already in place, but merely complements licensing and does not address the wider issues that selective licensing is expected to help with.

Action against Individual Cases

- 2.10 Legislation allows enforcement action to be taken against cases of nuisance and fly tipping (Environmental Protection Act 1990), Anti-Social Behaviour (ASB, Crime and Policing Act 2014) and other related matters.
- 2.11 The Council has introduced Fixed Penalty Notices for environmental issues, such as littering across the Borough.
- 2.12 The Anti-Social Behaviour, Crime and Policing Act 2014 also introduced additional powers to local housing authorities by way of absolute grounds for possession in housing cases where certain conditions are met, although this will only assist with council tenancies.
- 2.13 But these only address a problem at a time rather than addressing the bigger issues in an area and fundamentally changing culture and behaviours. Where individuals do warrant it, the Council will take action using all tools available.

Special Interim Management Order

- 2.14 A Special Interim Management Order transfers the management of a residential property to the local housing authority for a period of up to 12 months and can only be made if approved by a residential property tribunal.
- 2.15 These orders are used to address matters of anti-social behaviour emanating from a property that the landlord is failing to take

appropriate action to deal with. The order is then made to protect the health, safety or welfare of persons occupying, visiting or engaged in lawful activities in the locality of the house.

- 2.16 These are strong powers to deal with isolated individual problems of individual anti-social behaviour which nevertheless seriously impact upon the community.
- 2.17 This option is already in place, but has localised effect on its own and can be used where a focused approach is needed.

Part 1 of the Housing Act 2004

- 2.18 These enforcement powers are designed to effectively deal with hazards within a property and though effective at getting landlords to remedy such hazards, Part 1 of the Act does not offer a wider strategic procedure to improve a designated area.

Empty Property Strategy

- 2.19 The council already has an intervention team dedicated to bringing long-term empty dwellings back into use but this initiative is only restricted to empty homes and cannot deal with poorly managed private rented accommodation.

Designation of the Wealdstone Ward for Selective Licensing

- 2.20 Selective licensing applies to privately rented homes which are not HMOs.
- 2.21 In light of the consultation outcome and feedback, and in conjunction with the evidential reports within the appendices, it appears that a Selective Licensing scheme designation for the Wealdstone Ward would continue to help to tackle the issues identified.
- 2.22 The renewal of such a designation would allow a consistent approach across the Ward that works in conjunction with the Mandatory and Additional Licensing Schemes, as well as enforcement powers, to address the issues highlighted in the area.
- 2.23 It should be noted that a premise that is subject to Mandatory or Additional Licensing would not also need to apply for a Selective License.
- 2.24 This option is recommended to Cabinet to put in place a Ward wide approach to issues.

3. Community Consultation

- 3.1 The Department of Communities and Local Government Selective Licensing Guidance recommends that any consultation on a scheme is for a minimum 10 weeks.

- 3.2 The consultation on the renewal of a Selective Licensing Scheme in the ward of Wealdstone ran from **25th January 2021** to **5th April 2021**. The aim of the consultation was to seek the views of residents, landlords, local businesses and other stakeholders in the area and neighbouring boroughs about the issues in the Ward and the potential introduction of the selective licensing scheme.
- 3.3 The consultation was both online and available in hard copy. Copies of the form are attached in **Appendix B**.
- 3.4 Consultation was also conducted with neighbouring Boroughs due to potential concerns over displacement of issues. No responses were received for or against the proposed scheme.
- 3.5 Consultation also included writing to all landlords, managing agents and letting agents known as well as placement of consultation posters around Wealdstone and neighbouring wards giving details of the proposals as well as means to comment.
- 3.6 Feedback from the consultation is contained in **Appendix A**, with a summary below.
- 3.7 Formal consultation also took place with other relevant partners, including Housing Needs, due to the need to ensure a tie in with any approach addressing homelessness and empty homes.
- 3.8 On contacting other Councils who have introduced a Selective Licensing scheme, there appears to be no evidence to suggest an increase in homelessness as a result. This would tie in with the lack of evidence as a result of introducing additional and mandatory HMO licensing in the Borough.

Summary of Consultation

- 3.9 Overall 46 people responded to the consultation, including 13 people identifying as living in Wealdstone and 7 landlords with properties in Wealdstone.
- 3.10 33% of people responding agreed with the scheme proposal, going up to 37% wanting it implemented. This compares to 17% and 20% against.
- 3.11 Of 20 tenants who responded overall (13 inside Wealdstone), 30% stated that their landlords were not meeting legal requirements around references and checks. This also coincides with 30% of overall respondents feeling that landlords were not doing enough to tackle tenants ASB and nuisance. Partners (Police and Council) were also seen as needing to do more around this area.
- 3.12 The comments made, and the replies, can be found in **Appendix A**, but has a range of responses indicating clearly responsible landlords to those that face criticism for not taking action. This includes “Frequent

noise pollution, urinating on my property, poor maintenance on property, fighting from tenants, rubbish dumped frequently, multi-tenant house frequent change of individuals, not following COVID guidance.”

- 3.13 This sums up the issues facing Wealdstone still, around fly tipping, asb from tenants and general inconsistency of approach across the private rented sector.
- 3.14 The consultation was responded to by 12 landlords and 1 letting / managing agent (28% of respondents), yet only 17% (8) respondents overall felt such a scheme would not be needed to address matters of ASB, Crime and Environmental issues.
- 3.15 The comments section of the consultation highlighted a lot of good work being done by landlords, but also inconsistency in this across the area with a lot of people still reporting problems. There are quite a few comments relating to the feeling that the Local Authority should target tenants more, but this is indirectly done through the requirements of the scheme. For example, the requirement of an ASB action plan clearly sets out the consequences of tenants if they do not adhere to the rules.
- 3.16 Of the 22 people responding around the fees aspects in either a positive or negative manner, 55% (12) were against the proposed fee and 45% for.
- 3.17 Assessing the consultation comments, the main criticism is the view that such a scheme is put in place as a money making process. As can be seen by the fee structure for Selective Licensing, the fee is set to recover costs and not to make profit, in line with legislative and guidance requirements. It is understood though how, particularly for landlords, another fee is see as a burden though its impact is limited (£550 per 5 years in the main, £110 per year, less than £10 per month).

4. Licensing Conditions

- 4.1 Under the Housing Act 2004, Selective Licensing is subject to certain mandatory conditions that would be applied to all licences.
- 4.2 Further, discretionary conditions can also be applied in relation to certain aspects; it is proposed to include these to directly address elements of anti-social behaviour, including environmental impact. All proposed conditions, together with the mandatory ones, are shown in **Appendix D**.
- 4.3 The discretionary conditions are linked to the management of the premise and the tenancy use and are aimed not to put any further financial burden on any party. Additionally, it includes the requirement to inform the Authority of any material change to the premise or any legal action / convictions that occur. This is aimed to maintain

confidence in the licensing scheme and ensure statutory requirements are met.

- 4.4 Any condition must link to “*management, use or occupation of the house concerned*” and does not include in the main any structural aspect. In terms of items it refers to, these are those that are provided within either as a condition on a licence or a requirement of the law, which Schedule 4 of the Act provides mandatory ones being those around gas and electrical certificates, smoke and carbon monoxide detectors and terms of occupation. None of these technically are related to the standard of the building in terms of structure, damp, energy etc, and the reason being that other legislation is in place to regulate.
- 4.5 Therefore in setting conditions it must be ensured that they do not vary from conditions that are allowed to those that step outside management and occupation, as there is case law around this making it clear selective licensing can only regulate management and occupation, not conditions or contents which can be done under HMO licensing⁷.
- 4.6 The original assessment of a Selective Licensing Scheme addressed the conditions that would be applicable, and these formed the basis of those previously imposed and subject to discussion during consultation.
- 4.7 The conditions have also been set in line with those applied by neighbouring boroughs, to ensure consistency of approach as landlords and tenants operate across boundaries, and therefore trying to minimise the burden on landlords by minimising conflicting or additional burdens and to minimise displacing any issues.
- 4.8 The fee set on application covers the reasonable monitoring of these conditions to ensure compliance, with the majority expected to be in place at the application and approval stages. These fees are set as part of the annual Council fee setting process.

5. Designation

- 5.1 Should Cabinet agree to the renewal of a Selective Licensing Scheme, a Designation Notice must be issued which gives formal notification of the scheme. This Designation Notice must comply with the requirements set out in Section 83 of the Housing Act 2004, including the proper publication of it.
- 5.2 A period of no less than three (3) months (from the designation being made) must pass before the scheme then comes into force. This period is to be used to advertise the scheme, work with landlords and ensure the successful implementation.

⁷ [Brown v Hyndburn Borough Council \[2018\] EWCA Civ 242 \(21 February 2018\) \(bailii.org\)](#)

- 5.3 Based on the above, it is proposed that the designation of the scheme comes into force on **2nd September 2021**, which meets the 3 month period and allows for the call in period.

6. Implications of the Recommendation

Resources

- 6.1 The administration of the Mandatory and Additional Licensing of Houses in Multiple Occupation schemes is currently managed by the Residential Licensing Team, with one specific officer involved. Compliance visits to, and enforcement of, Houses in Multiple Occupation is conducted by the Residential Licensing Team and assisted by colleagues from the Domestic Environmental Health Team who are also responsible for all other private sector housing enforcement and environmental protection matters.
- 6.2 If the scheme is re-introduced, we expect an increase in applications as the scheme is publicised, especially in the first few months of the renewal. As well as initial licensing and compliance visits, further staffing resources will be required. Detailed staffing and resources plans will be developed and will be subject to any necessary consultation with staff. The costs of additional staffing will be met by the selective licensing fee.

Performance Issues

- 6.3 Continuing to improve the private rented sector in Wealdstone will have a positive impact on helping make a difference to families, businesses and communities. It fits in with Harrow's Housing Strategy to provide good quality private sector housing locally, which recognises the contribution that a healthy private rented sector can make to the provision of housing solutions for those who cannot access home ownership or affordable housing.
- 6.4 The process to consult with and continue the selective licensing scheme has also enabled the identification of empty properties. The Council can enable and encourage property owners by offering a range of grants, funded with both external and council resources, to bring properties up to a standard suitable for letting. Selective Licensing will enable the environment that encourages the right responsible landlords, but with assistance to them to help with tenancies, to contribute to the area.
- 6.5 By continuing the scheme, with clear conditions that must be met, the Council can assist and enable landlords and owners to achieve good standards, but recognising that it will be easier to target and achieve compliance with those landlords who seek to provide sub-standard accommodation. This will hopefully provide more suitable

accommodation that the Council could also use for the purpose of housing homeless, knowing that minimum standards are ensured.

- 6.6 The continuation of Selective Licensing also ties in with the Council's Private Sector Housing Strategy for **2019-2024**, using additional powers to address areas where private sector housing can be seen to contribute to issues faced in the community and need addressing. It is to work with good landlords to provide them the environment where these properties will be successful and can be managed successfully.
- 6.7 With strategy and with the continuation of such scheme, Harrow Council believes that, through investment in private sector housing and by ensuring that good standards are maintained, wider benefits for the residents of Harrow will be delivered.
- 6.8 In view of the Council's limited resources, the Private Sector Housing Strategy focuses on what can be done to encourage and facilitate the continued provision of a good quality private housing sector, including private rented housing. This will be achieved by working in partnership with other boroughs, landlords, developers and private tenants and residents, whilst using available enforcement resources to tackle the worst conditions in the sector. Selective Licensing builds on and encourages this process and allow a sustainable approach.
- 6.9 The continuation of Selective Licensing Scheme will make a difference to the community within Wealdstone, by directly influencing the ASB, property standards and environmental issues affecting the area. It will introduce new conditions that the private rented sector will have to meet to ensure that their properties are maintained and managed properly. This will encourage a sustainable private rented sector market.
- 6.10 If the scheme is not renewed, then it will limit the options the Council has to make change across an area, with resources being focused on individual problem premises and people and not being able addressing the wider issues.

Environmental Implications

- 6.11 The renewal of the scheme allows conditions to be put against rented accommodation in a designated area. These conditions include those that directly relate to environmental matters, for instance in the aspect of refuse storage, and ensure that all parties connected to private residential properties play their part in improving the area they reside in.
- 6.12 Therefore, such a scheme will aid in protecting the environment and having a positive impact.

Risk Management Implications

- 6.13 Risks included on corporate or directorate risk register? **No**
- 6.14 Separate risk register in place? **No**
- 6.15 The relevant risks from the risk register are attached/summarised below. **N/A**
- 6.16 The following key risks should be taken onto account when agreeing the recommendations in this report:

Risk Description	Mitigations	RAG Status
Bad publicity due to being seen as a tax on landlords	<ul style="list-style-type: none"> ▪ Evidence based approach to show need in this area, directly linked to conditions placed on the licence ▪ Consultation process allowing input from all to understand any concerns ▪ Scheme been in place for the last 5 years so is known 	
Poor compliance, including take up of the scheme	<ul style="list-style-type: none"> ▪ Work over the last 5 years has identified and licensed the majority of premises in the area, so details known ▪ Publicity, including 3 months advertising as per legislation, to take place to push scheme ▪ Better understanding of area from the last 5 years 	
Lack of benefit from the scheme	<ul style="list-style-type: none"> ▪ Evidence shows reduction in main issues, such as fly tipping, in area since scheme was originally introduced ▪ Inspections of premises as part of the licensing scheme means all premises do gain a proper inspection and follow up ▪ Monitoring of progress conducted to show effective, including conditions applied 	
Judicial review of the scheme by a landlord / representative	<ul style="list-style-type: none"> ▪ Evidence base to show justification for renewing ▪ Meet the legislation in terms of consultation, advertising and implementation ▪ Address any concerns raised directly to prevent need for a judicial review 	
Lack of resources to implement properly	<ul style="list-style-type: none"> ▪ Residential Licensing team in place to oversee, with additional officers introduced to assist ▪ Better on line applications and payments scheme, with further work taking place 	
Requirement for income outweighs main outcomes of the scheme	<ul style="list-style-type: none"> ▪ Income target assigned to scheme lessened, to better represent cost of scheme 	

7. Legal Implications

Selective Licensing designations

7.1 Sections 80 to 84 of the Housing Act 2004 (hereinafter referred to as 'the Act'), specifically covers the designation of selective licensing areas. Section 80(1) allows a local housing authority (the council) to designate either the whole of its area or an area within it to be subject to selective licensing.

7.2 However, under section 80(2) of the Act, before introducing a selective licensing scheme, the Council must consider that:

- a) the first or second set of general conditions mentioned in section 80(3) or (6) of the Act; or
- b) any conditions specified in an order under section 80(7) of the Act as an additional set of conditions are satisfied in relation to the area

7.3 Section 80(3) of the Act states:

“(3) The first set of general conditions are—

(a) that the area is, or is likely to become, an area of low housing demand; and

(b) that making a designation will, when combined with other measures taken in the area by the local housing authority, or by other persons together with the local housing authority, contribute to the improvement of the social or economic conditions in the area.”

7.4 Section 80(6) of the Act states:

“(6) The second set of general conditions are—

(a) that the area is experiencing a significant and persistent problem caused by anti-social behaviour;

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

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

“Private sector landlord” does not include [a non-profit registered provider of social housing or] a registered social landlord within the meaning of Part 1 of the Housing Act 1996 (c 52).”

7.5 Section 57(5) of the Act sets out the definition of “anti-social behaviour”.

Consultation, other requirements and options

7.6 Before making a (selective licensing) designation, the local housing authority is required by section 80(9) of the Act, to:

“(a) take reasonable steps to consult persons who are likely to be affected by the designation; and

(b) consider any representations made in accordance with the consultation and not withdrawn.”

7.7 The consultation should run for at least 10 weeks. As noted, at 3.2 in this report the consultation for the proposed Wealdstone ward scheme ran for 10 weeks. Details of the consultation carried out to meet this requirement are set out in **Appendix B**.

7.8 Section 81(2) of the Act requires the local housing authority to *“ensure that any exercise of the power (selective licensing designation) is consistent with the authority’s overall housing strategy.”* Section 81(3) of the Act goes on to require that the authority seeks to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour.

7.9 Section 81(4) of the Act states that a designation should not be made unless the authority:

“(a) ...have considered whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of achieving the objective or objectives that the designation would be intended to achieve, and

(b) they consider that making the designation will significantly assist them to achieve the objective or objectives (whether or not they take any other course of action as well).”

7.10 In addition, under the Selective Licensing of Housing (Additional Conditions) (England) Order 2015, article 3 requires:

“(1) The following conditions are specified as additional conditions for the purposes of section 80(2)(b) of the 2004 Act, which a local housing authority must consider are satisfied in relation to the area before making a selective licensing designation under this provision—

(a) that the area contains a high proportion of properties in the private rented sector, in relation to the total number of properties in the area;

(b) that the properties referred to in sub-paragraph (a) are occupied either under assured tenancies or licences to occupy; and

(c) that one or more of the sets of conditions in articles 4 to 7 is satisfied.

(2) For the purposes of this article, a property shall not be regarded as being in the private rented sector where the landlord is a private registered provider of social housing, as defined by section 80 of the Housing and Regeneration Act 2008.”

7.11 Articles 4-7 cover conditions relating to housing conditions, migration, deprivation, and crime. From 1 April 2015, a local housing authority will need to apply to the Secretary of State for Communities and Local Government for confirmation of any scheme which would cover more than 20% of its geographical area or that would affect more than 20% of privately rented homes in their area. The proposed designation in this case will not require Secretary of State confirmation.

Commencement, duration and notification

7.12 Under section 82 of the Act, a designation cannot come in to force earlier than 3 months after the date on which the designation is made. Any designation cannot be for no longer than a 5 year period and the local housing authority is expected to review the operation of the designation from time to time, and can revoke it if appropriate (section 84).

7.13 As soon as a designation is made, the authority is required to publicise this in accordance with the requirements of section 83 of the Act.

Conditions

7.13 Section 90 of the Housing Act 2004 states that a licence can include such conditions as the local housing authority consider appropriate for regulating the management, use or occupation of the house concerned, and section 90(4) of the Act sets out mandatory conditions that apply to all licences. These are set out as conditions to the licence as seen in Appendix D.

7.14 Section 90(5)(a) provides that, as regards the relationship between the authority's power to impose licence conditions and their Part 1, 2004 Act functions (Housing Health and Safety Rating System), the authority must proceed on the basis that, in general, they should seek to identify, remove or reduce “hazards” in the house by means of Part 1 functions and not by means of licence conditions.

7.15 There are procedures under the Act relating to appeals against decisions relating to licences, and the Act also sets out offences (and other consequences) relating to licensing requirements.

Relevant case law

7.16 Recent case law on the subject of selective licensing schemes has raised challenges against local authorities on issues such as:

- compliance with the consultation requirements (adequacy of consultation, length of it, who was consulted and how long before the designation it was obtained);
- the level of evidence to support a selective licensing scheme; and
- inadequate consideration of alternative options to a selective licensing scheme.

8. Financial Implications

8.1 Section 87(7) of the Housing Act 2004 states that “*when fixing fees under this section, the local housing association may (subject to any regulations made under subsection (5)) take into account:*

- (a) *all costs incurred by the authority in carrying out their functions under this Part [i.e. Part 3 of the HA 2004 relating to selective licensing], and*
- (b) *all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 in relation to Part 3 houses (so far as they are not recoverable under or by virtue of any provision of that Chapter)”.*

8.2 However, the EU Directive and the Provision of Services Regulations 2009 which was subsequently passed states, at Regulation 18(4):

“Any charges provided for or by a competent authority which applicants may incur under an authorisation scheme must be reasonable and proportionate to the cost of the procedures and formalities under the scheme and must not exceed the cost of those procedures and formalities.”

8.3 In line with *Hemming v Westminster City Council*, the fee is split into an administrative part and a management part.

8.4 Once fees are set, the Council is expected to review its fees and adjust them where necessary to reflect previous deficits or surpluses. It can take into account the cost of administering the licence over a 5 year period.

8.5 Based on the scheme intending to be self-financing, for the life of the licensing period (5 years), a fee is set at a level where the total revenue from the fee is intended to cover the costs as stated above.

8.6 An initial discount of £75 is proposed for landlords who are a member of an accredited landlord scheme. This is in line with recognising the DCLG guidance that Selective Licensing is to be used in conjunction with other action to improve the private rented sector. Ultimately, the ideal would be for the private sector to manage itself, addressing the issues, and the recognition of accredited schemes assists in encouraging this.

- 8.7 A licence will not be issued until a complete application and full payment has been received by the Local Authority, to ensure that costs are covered.
- 8.8 It is not the intention of the Authority to look to licence the whole Borough, but only where the evidence justifies it, within the limits of the DCLG requirements.
- 8.9 The continuation of Selective Licensing will reduce the service costs of Public Protection in line with making it self-financing.
- 8.10 Further, in line with good practice, the fee is constantly benchmarked to ensure that it does not provide additional burdens or step outside what is seen across London. This includes London Wide benchmarking, including sites such as <https://www.hmoserviceslondon.com/hmo-licensing-cost/> .

9. Equalities implications / Public Sector Equality Duty

- 9.1 The Council must pursuant to section 149 of the Equality Act 2010 (“the Act”), the council, in the exercise of its functions, has to have ‘due regard’ to (i) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; (ii) advancing equality of opportunity between those with a relevant protected characteristic and those without; and (iii) fostering good relations between those who have a relevant protected characteristic and those without. It is not an absolute requirement to eliminate unlawful discrimination, harassment, victimisation or other prohibited conduct, or to promote equality of opportunity or foster good relations between persons who share a protected characteristic and those who do not. It is a duty to have due regard to the need to achieve the goals listed above.
- 9.2 The relevant protected characteristics are age, race, disability, gender reassignment, pregnancy and maternity, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnership, but to a limited extent.
- 9.3 In line with this, an Equalities Impact Assessment (EqIA) has been conducted and took into account the consultation feedback. The EqIA can be found in **Appendix E**, and to summarise, found that no group would be adversely impacted by the introduction of this scheme.
- 9.4 Additionally, the policies and procedures governing, that oversee the licensing process and enforcement, address equalities and ensure a fair, balanced approach in line with statutory requirements and guidance.

10. Procurement

There are no procurement implications.

11. Council Priorities

The introduction of selective licensing in Wealdstone aids in meeting all the priorities of the Council being:

- 1. Improving the environment and addressing climate change**
- 2. Tackling poverty and inequality**
- 3. Building homes and infrastructure**
- 4. Addressing health and social care inequality**
- 5. Thriving economy**

Section 3 - Statutory Officer Clearance

Statutory Officer: Jessie Man

Signed on *behalf of the Chief Financial Officer

Date: 7th May 2021

Statutory Officer: Andrew Lucas

Signed on *behalf of the Monitoring Officer

Date: 5th May 2021

Statutory Officer: Nimesh Mehta

Signed on by the Head of Procurement

Date: 6th May 2021

Statutory Officer: Mark Billington

Signed by the Corporate Director

Date: 18th May 2021

Statutory Officer: Susan Dixon

Signed on by the Head of Internal Audit

Date: 28th April 2021

Mandatory Checks

Ward Councillors notified: No as Borough Wide

EqIA carried out: YES

EqIA cleared by: D Corby

Section 4 - Contact Details and Background Papers

Contact: Richard Le-Brun, Head of Community and Public Protection, 020 8424 6267, Richard.lebrun@harrow.gov.uk

Background Papers: Briefing Note – Wealdstone Selective Licensing Renewal

Call-in waived by the Chair of Overview and Scrutiny Committee

NO