

**For General Release**

<b>REPORT TO:</b>	<b>CABINET 16 August 2021</b>
<b>SUBJECT:</b>	<b>Tackling problems in the borough’s private rented sector and helping make Croydon a ‘Better Place to Rent’.</b>
<b>LEAD OFFICER:</b>	<b>Sarah Hayward Interim Executive Director of Place Steve Iles Director of Public Realm</b>
<b>CABINET MEMBER:</b>	<b>Councillor Patricia Hay-Justice, Cabinet Member for Homes</b>
<b>WARDS:</b>	<b>All wards</b>
<b>COUNCIL PRIORITIES 2020-2024</b> The private rented sector provides homes for one third of the households in the borough of Croydon. Croydon Council aspires to making Croydon a ‘Better Place to Rent’. The provision of a decent home being protected by a well-managed tenancy is a right for all with responsibility falling to the council to provide intervention through proportionate regulation, a which service forms part of the boroughs current priorities: <ul style="list-style-type: none"><li>• We will live within our means, balance the books and provide value for money for our residents.</li><li>• We will focus on tackling ingrained inequality and poverty in the borough. We will follow the evidence to tackle the underlying causes of inequality and hardship, like structural racism, environmental injustice and economic injustice.</li><li>• We will focus on providing the best quality core service we can afford. First and foremost, providing social care services that keep our most vulnerable residents safe and healthy. And to keep our streets clean and safe. To ensure we get full benefit from every pound we spend, other services in these areas will only be provided where they can be shown to have a direct benefit in keeping people safe and reducing demand.</li></ul>	
<b>FINANCIAL IMPACT</b> The decision to refuse the selective licensing schemes impacts on projected income targets. The costs of data collection can be met through current budgets.	
<b>FORWARD PLAN KEY DECISION REFERENCE NO: N/A</b>	

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 Note the content of the letter from the Secretary of State at Ministry for Housing Communities and Local Government, dated 7 June 2021, at Appendix A, which sets out the decision to refuse the application submitted by the Council on 20 July 2020 for confirmation of two selective licensing schemes in the Borough.
- 1.2 Note that as a consequence of the refusal decision in 1.1, that the two selective licensing designations made by Cabinet on the 11<sup>th</sup> May 2020 do not come into force.
- 1.3 To agree that the council takes steps to review its position to the known issues in respect of conditions and anti-social behaviour in the borough's private rented sector as detailed in section 5 and to thereafter present proposals for Members' further consideration.
- 1.4 Note the proposed timescales for data gathering and forming of options as detailed in section 6.

## **2. EXECUTIVE SUMMARY**

- 2.1 The previous borough wide selective licensing scheme ran from 1<sup>st</sup> October 2015 to 30<sup>th</sup> September 2020. It was locally referred to as the Croydon Private Rented Property Licensing Scheme ("CPRPL 2015").
- 2.2 On the 11<sup>th</sup> May 2020, under section 80 of the Housing Act 2004 ("2004 Act"), Cabinet resolved to make a designation of 22 wards, called area A (predominately in north Croydon), as a selective licensing area. Separately, but coincident, Cabinet resolved to make a designation of 6 wards, called area B (in south Croydon). The two designations together covered the full borough; (locally referred to as "CPRPL 2020").
- 2.3 As the proposed designation(s) covered either 20% of the total geographic area of the authority or 20% of the total privately rented stock, an application for approval was made on the 20<sup>th</sup> July 2020 to the Secretary of State at Ministry for Housing Communities and Local Government ("MHCLG"). On the 8<sup>th</sup> June 2021, after 10 months, the council was notified of the refusal to introduce the two designations.
- 2.4 To evidence the proposed selective licensing schemes a Private Rented Sector: Housing Stock Condition and Stressors Report was commissioned from Metastreet ["Stock Condition Report"]. The stock condition report was published in September 2019. It identified that the private rented sector ("PRS") housing

stock in the whole borough suffers from poor property condition, a significant and persistent anti-social behavioural problem and is often associated with areas of deprivation. The data found that; over 23% of PRS properties contain a significant property hazard, 12.4% of PRS properties have had a reported issue of anti-social behaviour (“ASB”) investigated, 268 ASB incidents occurred per 1,000 PRS properties and deprivation is a feature across a number of areas in the borough with 11 of the 28 wards in the worst 30-40 IMD percentile nationally.

- 2.5 A mandatory houses in multiple occupation licensing scheme is currently the only active property licensing scheme in operation in Croydon. At this stage, the Council strongly believes that further steps are required to secure the improvements that are needed to help improve the Private Rented Sector in the borough and make ‘Croydon the Better Place to Rent’.

### **3. THE DECISION FROM THE SECRETARY OF STATE.**

- 3.1 The decision of the Secretary of State for Housing Communities and Local Government to refuse the applications is attached at Appendix 1 to this report.
- 3.2 Section 81(2) of the 2004 Act looks for the Council (acting as the “local housing authority or LHA”) to ensure that any exercise of the power to designate an area for selective licensing is consistent with the council’s overall housing strategy. Section 81(4)(b) states that the council must not make a particular designation under section 80 unless 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) the scheme is set out to achieve.
- 3.3 The statutory power for the Secretary of State to require a council in England to prepare a housing strategy was removed by section 29 of the Deregulation Act 2015 which amended section 87 of the Local Government Act 2003. However, the changes in the Deregulation Act did not remove or amend the requirement, in Section 81(2) of the 2004 Act, which provides that the authority must ensure that any exercise of the power in Section 81 is consistent with the authority’s overall housing strategy. In addition, Section 333D (1) of the Greater London Authority Act 1999 (“the 1999 Act”) requires that in exercising any function relating to housing, a council in London must have regard to the London Housing Strategy. Section 333D (2) of the 1999 Act requires that a housing strategy prepared by a London Borough must be in general conformity with the London housing strategy.
- 3.4 Section 81(3) of the 2004 Act further requires that an authority must seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour - (a) as regards combining licensing under that Part of the 2004 Act with other courses of action available to them, and (b) as regards combining such licensing with measures taken by other persons.

#### **4. LEARNING FROM THE SECRETARY OF STATE'S REFUSAL DECISION AND ASSESSMENT.**

- 4.1 The council is continuing to review the basis of the Secretary of States refusal to help inform future decisions that form the options for tackling the known problems in the PRS in the borough.

#### **5. TACKLING PROBLEMS IN THE BOROUGH'S PRIVATE RENTED SECTOR.**

- 5.1 The stock condition report outlined the problems in Croydon's PRS, one of the largest in England and one that has grown rapidly in recent years, from 16% (2006) to 35.6% (2019) of all properties.
- There are 164,378 residential properties in Croydon, 58,585 (35.6%) are PRS properties, 81,300 (49.5%) are owner occupied and 24,493 (14.9%) socially rented.
  - Poor housing conditions are prevalent in the PRS. 13,896 PRS properties are predicted to have at least 1 serious or category 1 hazard. This represents 23.7% of the PRS stock.
  - There are significant levels of ASB linked to PRS properties across the borough
  - In the 4 years to the 31.3.19, 7,285 PRS properties have been subject to one or more ASB investigations.
  - Over the same period, a total of 15,746 ASB investigations have been carried out in PRS properties.
  - Croydon faces challenges relating to the Index of Multiple Deprivation ("IMD") Barriers to Housing and Services index. All wards are worse than the national average.
  - 39 the 220 lower super output areas in Croydon fall in IMD Decile 1 or 2 (worst 10% or 20% in the country).
  - 27% of PRS properties in Croydon have an energy performance rating ("EPC") of E, F, or G. 5.5% of PRS properties have an F or G rating
  - At 25,000, Croydon has more fuel poor households than any other London borough.
- 5.2 Energy emissions from domestic properties are included in the Croydon Climate Crisis Commission Draft Recommendations presented at Cabinet on 7 June 2021. The report looked to "provide practical recommendations for delivering a step change in Croydon's transition to net zero by 2030". The residential environment was central to the campaign with domestic emission sources, notably heating and powering homes, still making up approximately 46% of CO<sub>2</sub> emissions in Croydon. Latest data from the Department for Business, Energy and Industrial Strategy ("BEIS") stated that the domestic share of CO<sub>2</sub> emissions in Croydon is now 49%. Without action, pre-existing industry trends are expected to increase the share of Croydon's emissions associated with domestic activities to 60% by 2050, underscoring the importance of catalysing change in the residential sector.
- 5.3 As part of formulating the two recent designations officers pulled together a range of options that individually or collectively could assist the council in tackling the borough PRS problems. The council needs to consider whether any alternative approaches could be as effective in addressing the problems

identified in the PRS. In October 2019 the alternative options were to:

- Use of Part 1 Housing Act 2004 enforcement powers [housing health and safety rating system] and Public Health powers
- Voluntary Accreditation schemes to facilitate improvement in management practices and standards.
- Rely on prosecutions and civil penalties for housing offences.
- Improvement grants to improve sub-standard properties.
- Enforcement powers to address anti-social behaviour
- Do nothing.

5.4 To seek views on the proposal to introduce selective licensing a statutory public consultation ran for 12 weeks from December 16<sup>th</sup> 2019. The consultation responses proposed wider alternatives which the council then reviewed. The responses proposed the alternative where no scheme is introduced, others propose voluntary schemes such as accreditation, registration, pre-letting compliance inspections and wider education programmes. The consultation responses proposed alternative schemes including a variety of part-borough licensing schemes where the suggested focus is the tenant, landlord (without property), size and/or age of property, property condition, level of overcrowding or deprivation, the PRS in chosen wards, property EPC rating and/or council tax banding.

5.5 In the Cabinet report of May 11<sup>th</sup> 2020, council officers explained that they were of a strong belief that the best approach for achieving the proposed scheme objectives was with the introduction of a full borough scheme and it believed that the evidence base was there to successfully support this.

5.6 Over the next few months the Council must conduct a further review of options to decide the council's approach to tackle the problems identified in the PRS (paragraphs 5.1 and 5.2). To enable this further data will need to be gathered in relation to the last selective licensing designation and current housing condition and stressors. The additional data will support due consideration of how steps can be taken support the Council's housing outcomes in the private rented sector, including in relation to such matters as the Housing Improvement Plan and associated Housing plans, policies and strategies. Thereafter, the Council will generate options that will help achieve these objective(s) of reducing problems relating to the private rented sector, including for example; poor housing conditions and ongoing anti-social behaviour.

5.7 As with CPRPL 2020 the council will need to comply with the statutory requirements laid out in Section 81(4) of the 2004 Act.

s81 (4) The authority must not make a particular designation under s80 unless—

- (a) they 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).

5.8 The report proposes that the council takes further steps to gather further

information, including in relation to the now concluded CPRPL 2015 outcomes and to allow the formulation and review of options to tackle the problems within the PRS.

- 5.9 Potential options are the introduction of discretionary licensing schemes relating to additional houses in multiple occupation licensing and selective licensing scheme. Further information is provided in Appendix B.

## 6. GUIDE TIMESCALES TO REVIEW OPTIONS

- 6.1 Table 1 provides a draft timetable for forming future options. These will need to be supported by the housing approach (housing improvement plan) going forward, which is to be developed by the Housing Improvement Board.

**Table 1 – Time periods to formulate substantive new options.**

<b>Stages</b>	<b>Timescales (2021)</b>
Collect further evidence in relation to the PRS in Croydon and outcomes of CPRPL 2015.	from 11 <sup>th</sup> August
Cabinet Report Tackling problems in the borough's private rented sector and helping make Croydon the 'Better Place to Rent'.	16 <sup>th</sup> August
Metastreet analyse data sources to allow a further review including a subsidiary report on houses in multiple occupation	from 23 <sup>rd</sup> August
Analyse data and housing conditions reports to generate options for next steps	from 6 <sup>th</sup> September
Identify and provide brief on preferred options	22 <sup>nd</sup> September
Review of Secretary of State decision and assessment of how options tie in with proposals in the Housing Improvement Plan and revisions to housing policies.	by 1 <sup>st</sup> October

## 7. CONSULTATION

- 7.1 This report seeks Cabinet approval for the Council to move forward to take steps to review the data relating to problems in the PRS and to formulate options with objectives that allow the council to take steps to tackle them.
- 7.2 At this stage there is no merit in a consultation exercise until the data analysis permits options to be formulated for consideration in light of the ongoing problems in the PRS and the Secretary of State refusal.
- 7.3 If the Council again decides to introduce one or more discretionary licensing schemes there is a statutory requirement to consult persons who are likely to be affected by the designation and consider any representations made. In addition, depending on the options for consideration, some of these may require specific consultation – statutory or otherwise.

7.4 The process to make the two selective licensing designations [CPRPL 2020] incorporated a significant consultation exercise that achieved approximately 2,000 responses. The consultation was undertaken by Opinion Research Services on behalf of the Council.

## 8 PRE-DECISION SCRUTINY

8.1 Over the next couple of months the council will assess data and other work ongoing within the area of housing with a view to formulating options to deal with the problems identified in the borough's PRS.

8.2 Before any formal decisions are made, any proposals will need to go before the Council's Scrutiny Streets, Environment & Homes Sub-Committee.

## 9 FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS

9.1 Revenue and Capital consequences of report recommendations

	Current year	Medium Term Financial Strategy – 3 year forecast		
	2021/22 £'000	2022/23 £'000	2023/24 £'000	2024/25 £'000
<b>Revenue Budget available</b>				
Expenditure	2,253	4,553	4,553	4,553
Income	(2,253)	(4,453)	(4,453)	(4,453)
<b>Effect of decision from report</b>				
Expenditure	0	0	0	0
Income	0	0	0	0
<b>Remaining budget</b>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<b>Capital Budget available</b>				
Expenditure	0	0	0	0
<b>Effect of decision from report</b>				
Expenditure	0	0	0	0
<b>Remaining budget</b>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

9.2 **The effect of the decision**

Should the recommendation in this report be approved there will be a small amount of expenditure (circa £3k) incurred to assist in the gathering of additional data but this can be contained within existing budgets.

Although this report recommendations does not directly affect the current HMO and selective licensing budgets there is a current pressure on budgets as a result of the Secretary of State's decision not to approve the original submission

as shown in Quarter 1's financial monitoring position.

### **9.3 Risks**

There is a consequential risk to budgets due to the Secretary of State's determination to reject the original proposals for landlord licensing. Budgets were approved by Cabinet 8<sup>th</sup> March 2021 based on the assumption that the full scheme would be approved and the subsequent decision has resulted in current and continuing pressures in these areas budgets.

### **9.4 Options**

The approval of the recommendations in this report will shape the future direction of landlord licensing in the borough to ensure the council meets statutory duties and will also mitigate budgetary pressures. Should approval not be given then a review of the financial position will need to be undertaken along with a review of the structure within Private Sector Housing to minimise any effect on statutory duties and the council's budgets. It should be noted that under current legislation any landlord licensing scheme must use any income through fees only to pay for associated costs of implementing and enforcement of the scheme.

### **9.5 Future savings/efficiencies**

As the original scheme was not approved by the Secretary of State there will be an associated budget pressure in connection with the decision. Although the recommendations in this report do not directly affect those budgets should approval be given it will establish the best way to manage and mitigate any pressures both financially and to uphold the councils statutory duties. Following the ending of the last scheme in 2020, mitigation measures have already been put in place and savings on staffing costs have recently been made.

Approved by: Matthew Davies Deputy section 151 officer, Financial Investment and Risk.

## **10. LEGAL CONSIDERATIONS**

- 10.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Law and Governance that there are no direct legal implications arising from the recommendations in this report, however specific legal advice will be required in relation to the developing of options and depending on the option/s considered appropriate, different consultation, publication and notification requirements will need to be met.

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



## **11. HUMAN RESOURCES IMPACT**

- 11.1 There is no immediate HR issues arising from this report, if any should arise these will be managed under the council's policies and procedures.

Approved by: Jennifer Sankar, Head of HR Place & Housing for and on behalf of Sue Moorman, the Director of Human Resources.

## **12. EQUALITIES IMPACT**

- 12.1 At this stage, where the council seeks approval to take steps to move forward to formulate options an Equalities Analysis has not been completed. Future decisions will require the council to consider whether any decisions will have a disproportionate impact on people sharing one or more protected characteristics. This will be achieved through an Equalities Analysis assessment.

- 12.2 Generally, steps taken to tackle the problems identified in the PRS, be it property condition, ASB, tenancy conditions or property management result in a positive impact relevant to all protected characteristic groups. Work by officers in this sector help; protect tenants from unlawful discrimination, improve living and environmental conditions, provide enhanced protection against retaliatory eviction, by signposting to other services and through joint working with other enforcement agencies to deal with crime and anti-social behaviour.

Approved by: Gavin Handford Director of Policy and Partnership

## **13. ENVIRONMENTAL IMPACT**

- 13.1 This report asks for agreement from Members for the council to take steps to generate options to tackle the problems in the borough's PRS. Property condition improvements are likely to be central and as such future actions will seek to have a positive impact on energy use and energy efficiency. At this stage the preferred options are not known and so it is not possible to provide much detail. Options are also likely to seek to require the improvement in property standards that may include a requirement for landlords to improve the energy rating of their properties.

## **14. CRIME AND DISORDER REDUCTION IMPACT**

- 14.1 The recommendations do not impact on this objective.

## **15. REASONS FOR RECOMMENDATIONS/PROPOSED DECISION**

- 15.1 The stock condition report identifies significant problems in the boroughs PRS; see paragraph 5.1. The proposed designations made by Cabinet on the 11<sup>th</sup> May 2020 will not go ahead as they were not confirmed by the Secretary of State. In addition to updating Cabinet on the Secretary of State's decision, this

paper seeks agreement for the council to take steps to identify options whose objectives look to tackle the problems so identified.

## **16. OPTIONS CONSIDERED AND REJECTED**

- 16.1 Following the decision by the Secretary of State to refuse the designations the Council needs to decide what options are available to allow it to tackle the problems in the private rented sector.
- 16.2 Following the Secretary of State's decision an option could have been to do nothing and not look to generate future options. A consequence of this would be to leave one third of the borough's properties inadequately regulated and many tenants and indeed landlords insufficiently supported with the aims of improving property standards, reducing ASB and making Croydon a "Better Place to Rent".
- 16.4 This report recommends to Cabinet that officers should go back and review the existing evidence, build up further evidence, create options and come back to present those at a later Cabinet to decide the best way forward.

## **17. DATA PROTECTION IMPLICATIONS**

### **17.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

**NO**

### **17.2 HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

**NO**

No Data Protection Impact Assessment has been completed for this report as the recommendations do not result in the processing of personal data.

Approved by: Steve Iles Director of Public Realm

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### **APPENDICES TO THIS REPORT**

Appendix A - Letter from the Secretary of State refusing the application for confirmation of two selective licensing schemes. Date of letter: 8<sup>th</sup> June 2021.

Appendix B – Further information on discretionary licensing.

### **BACKGROUND PAPERS:**

None