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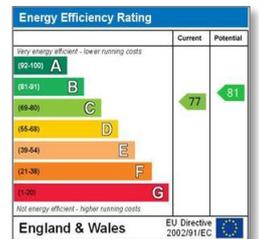


## London Borough of Enfield

## Licensing Proposals for the Private Rented Sector

## Executive Summary of Public and Stakeholder Consultation

**Opinion Research Services**  
Spin-out company of Swansea University





Opinion Research Services The Strand, Swansea SA1 1AF  
Enquiries: 01792 535300 · info@ors.org.uk · www.ors.org.uk

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# Executive Summary

## Introduction

- 1.1 Over the last decade or so the private rented sector (PRS) in Enfield and some other London boroughs has more than doubled in size – to about 28,000 homes, a fifth of Enfield’s total stock. In Enfield, information suggests that the availability of buy-to-let mortgages, low interest rates and the rapid change from owner-occupation to private renting has encouraged a significant number of single-property landlords, rather than large stock owners.
- 1.2 In this general context, the London Borough of Enfield (LBE) has concluded that persistent problems of anti-social behaviour (ASB) are associated with the PRS – so it is proposing the designation of Additional and Selective Licensing schemes across the Borough as a whole, in order to deal with ASB problems, particularly in the form of rowdy behaviour, rowdy neighbours, noise and malicious or nuisance behaviour.
- 1.3 After an initial listening and engagement phase towards the end of 2013, the LBE has formulated draft proposals for the designation of borough-wide additional and selective licensing schemes and undertaken a formal consultation between 2<sup>nd</sup> January and 28<sup>th</sup> February 2014.
- 1.4 The consultation programme sought to include and involve landlords, lettings agents, tenants, residents and representative organisations by a variety of methods, both deliberative and quantitative, including use of a consultation questionnaire (1,528 respondents), a household telephone survey (502 respondents), three deliberative forums with landlords and lettings agents (168 participants), three deliberative forums with residents (60 participants), written submissions (92) and an analysis of petitions received.
- 1.5 Most responses to the consultation questionnaire were from residents of Enfield (1,070) and private landlords (371), but there were also responses from letting and managing agents (48), other business managers/owners (28) and other organisations (41). With such a balance of respondents, the consultation questionnaire is not representative of the overall population – but it shows the opinions of different sub-groups who were motivated to participate. Therefore, ‘overall results have not calculated because doing so would put undue emphasis on the stakeholder groups with large numbers of responses – so our analysis gives results for each sub-group separately.
- 1.6 Consultations should promote accountability and assist decision making, but they are not referenda; and influencing public policy through consultation is not simply a ‘numbers game’ (‘popularity’ or ‘unpopularity contests’) in which the loudest voices or the greatest numbers automatically determine the outcomes.
- 1.7 Because the different consultation methods cannot be just combined to yield a single outcome that reconciles everyone’s differences about the proposals, there can be no single ‘right’ interpretation of all the consultation elements – it is for the LBE to take policy decisions based on the consultation outcomes and its assessment of the merits and cogency of the various points of view represented. The final decision will require both the executive and elected members of the Council to assess the merits of the draft proposals as the basis for public policy.
- 1.8 Opinion Research Services (ORS) was appointed by the LBE to advise on and facilitate key aspects of the listening and engagement and formal consultation processes, and to provide independent reports of

them both. This independent report brings together the feedback received during the formal consultation, but without making recommendations about policies the Council should pursue.

- 1.9 This executive summary reviews the opinions and arguments of the various stakeholder groups in turn: residents and other stakeholders; landlords and agents; and petitions. While this chapter presents a certain amount of illustrative detail and highlights some key issues, it cannot take the place fully of the more comprehensive detailed chapters coming later. So, while readers should use this chapter as an introductory guide to the range of opinions, we also encourage them to consult the detailed accounts of the consultation outcomes in the later chapters.
- 1.10 For clarity, this chapter summarises the views of key stakeholders in turn, including both the deliberative events and submissions alongside the quantitative results – that is, the findings of the open consultation questionnaire and the residents’ survey.
- 1.11 Following a summary of residents’ views, including a comparison of the consultation questionnaire and residents’ survey outcomes, and an overview of landlords’ and letting agents’ views, the executive summary ends by summarising the conclusions and outlining the council’s role.

## Residents’ Views

### Deliberative Forums: Residents

- 1.12 In the residents’ forums opinion was divided over whether there is a link between the PRS and ASB or whether problems were simply the result of an overall increase in population. All three groups had noticed a general decline in their neighbourhoods and cited a number of concerns. Several examples of extreme overcrowding were cited, with a number of people suggesting that overcrowded, multi-occupied dwellings were likely to give rise to ASB; and most participants also made a connection between short term, transient tenants and ASB.
- 1.13 Nonetheless, like the landlords, one group suggested that maps showing the correlation between ASB and social housing and owner occupied dwellings should be provided by the council for comparison with the PRS maps.
- 1.14 Participants cited areas in Enfield where ASB problems are prevalent – including parks, supermarkets, fast food outlets, and areas around schools, stations and shopping centres. Others added that the availability of alcohol was a factor, identifying corner shops and late-opening pubs.
- 1.15 In terms of the type of property most associated with ASB, participants mentioned high rise flats and council estates, underground parking, communal areas, hallways, parks, unpoliced areas and ‘trap houses’, noting the use of hallways and stairwells for activities connected with drugs. Other suggestions were hostels, HMOs and resettlement homes for people aged 16-25. There was also concern about transient people with no stake in the community.
- 1.16 Participants were mostly unaware of the Council’s role in dealing with ASB, seeing it primarily as a police matter; but they complained that the PCSOs have few powers.
- 1.17 There were also comments about the lack of information and facilities for the disposal of refuse, and suggestions that the removal of collection charges would reduce dumping of bulky waste.
- 1.18 Many saw ASB as a community responsibility, with suggestions that schools, youth centres and churches have a role in providing young people and parents with guidance on acceptable behaviour.

- <sup>1.19</sup> Opinion was divided on the benefits and drawbacks of selective licensing for tenants. Some participants thought tenants would benefit because maintenance standards would improve, properties would be checked, deposits would be refunded more quickly and tenants would have a 24/7 contact number for the landlord; but others were concerned that the cost of the scheme would be passed onto tenants in increased rents.
- <sup>1.20</sup> There were also concerns that landlords would withdraw from the market – so there would be fewer properties to rent and with higher rents – and that poor landlords would avoid regulation. Some thought landlords would get no real benefits and that licensing is a means for the council to raise money.
- <sup>1.21</sup> Some felt that there would be benefits for the community, with better looking gardens, houses properly maintained, less ASB and overcrowding, a better community atmosphere and a feeling of safety; but others feared that areas would deteriorate if good landlords pulled out and bad ones took over.
- <sup>1.22</sup> When considering the proposed licensing schemes, there were big differences between the three forums – for example:

The **first forum** supported measures to reduce ASB, but there was concern about how they would be enforced; some participants said the conditions to be attached to licences are already covered by existing regulations, but the council is ineffective in exercising control. There was more support for additional licensing than for selective licensing of family dwellings, but the majority were against licensing.

The **second forum** supported measures to reduce ASB, but was concerned about enforcement and also noted that many of the conditions attached to licences are already covered by existing regulation and tenancy agreements. Participants felt that selective licensing would enable the council to build a database of landlords/agents which would improve communication. There was clear support for additional licensing for smaller HMOs as a means of reducing ASB/neighbour nuisance; and just over half the forum supported both schemes.

The **third forum** supported measures which would raise standards, provide protection for tenants and reduce overcrowding, though it was suggested that measures to deal with overcrowding were already in place. Participants were concerned that additional costs incurred by the landlord would be passed on to tenants in increased rents. Overall, in the absence of data about other forms of tenure, participants were not convinced about the link between ASB and private rented accommodation. They were unwilling to commit to an opinion either for or against the proposals.

### **Residents' Survey and Open Questionnaire: Residents' Views**

- <sup>1.23</sup> Whereas residents were somewhat divided on the merits of licensing in the forums, in both the residents' survey and consultation questionnaire there was considerable support for the schemes. Indeed, a big majority of responses to the **open questionnaire** came from residents of Enfield who broadly favoured the council's draft proposals – for example:

Very large absolute majorities of residents (83%) and organisations (85%) supported the principle of borough-wide licensing

Similar proportions of residents (82%) and organisations (78%) agreed with borough-wide selective licensing

Even more residents (85%) and organisations (88%) agree with the proposal for additional licensing.

1.24 The representative **residents’ survey** Enfield residents (based on telephone interviews with 502 randomly selected people) also showed that residents of Enfield broadly favour the council’s draft proposals – for example:

Nearly eight-in-ten (78%) residents agreed with the general proposals for a licensing scheme in Enfield, with half strongly agreeing and 27% tending to agree

There was also considerable residents’ support for borough-wide selective licensing – with more than seven in ten agreeing (72%)

Three-quarters of residents (76%) agreed that licences should be required for privately rented properties classified as HMOs.

1.25 The views of residents as expressed in the forums have been reviewed in depth above; and their open text responses in the residents’ survey and open questionnaire are summarised in detail in chapter 4 (Quantitative Findings) of the report – so here is necessary only to add that the main considerations cited in the survey and open questionnaire were that:

1.26 Generally the **open text comments** by Enfield residents in the **open questionnaire** confirmed the general support for licensing – the main comments centred on:

General support for proposals – due mainly to the growing ASB problems in the area and landlords needing to be held more accountable for their tenants and properties

Suggestions that licensing should focus on specific issues, such as illegally converted and sub-let properties as well as over-crowding

Licensing should be managed efficiently in order to be effective – with prompt inspections, monitoring and enforcement of penalties.

1.27 However, there were also recurring critical comments that licensing amounts to a money-making scheme for the council, a tax on landlords that will bring revenue to the council.

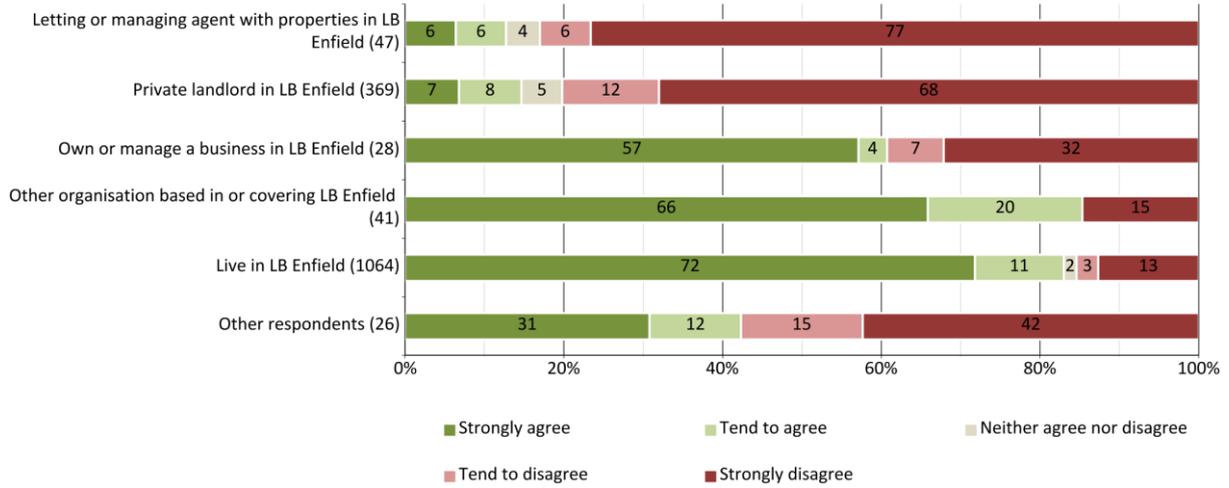
1.28 Generally the **open text comments** by Enfield residents in the **residents’ survey** confirmed the general support for licensing – the main comments being that licensing is necessary due to landlords not dealing with problem issues and bad housing conditions. However, there were also some clear concerns that licensing will increase PRS rents and that it is wrong to link ASB only to PRS properties. Some comments suggested that licensing fees are too high; while others said they are too low.

## Graphical Summary

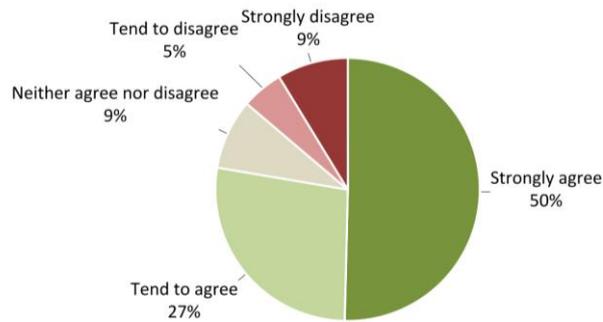
1.29 The results of the consultation questionnaire and residents’ survey are summarised in the graphics below. For each question asked, the open questionnaire outcomes are presented before the residents’ survey; and the responses in the former are shown by stakeholder sub-group (with the numbers of respondents in each shown in brackets cross). For example, the first table shows the responses from 1,064 residents and 369 private landlords as well as other smaller sub-groups.

## Agreement with the general proposals for a licensing scheme in Enfield

### Consultation Questionnaire

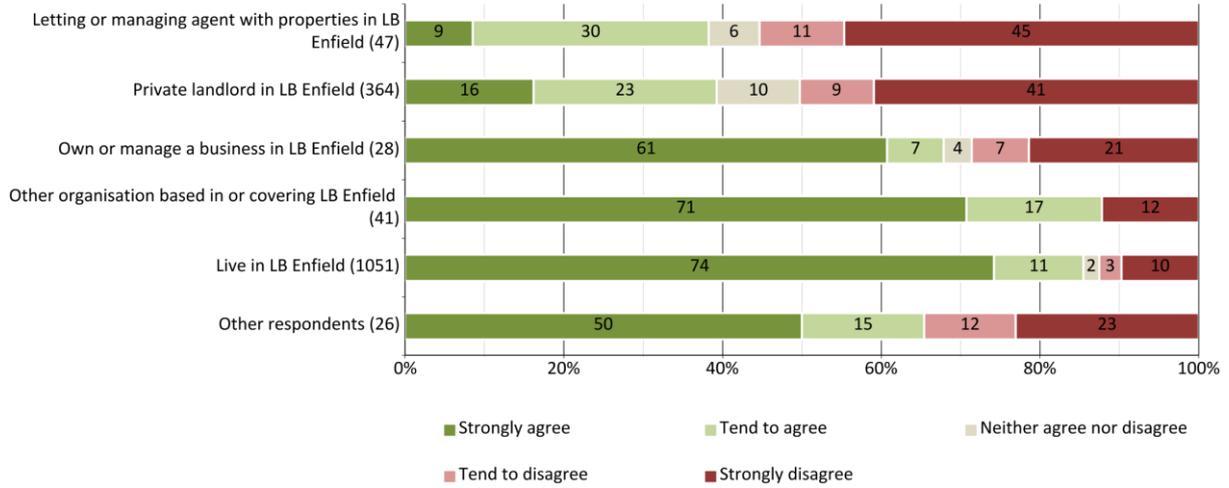


### Residents' Survey

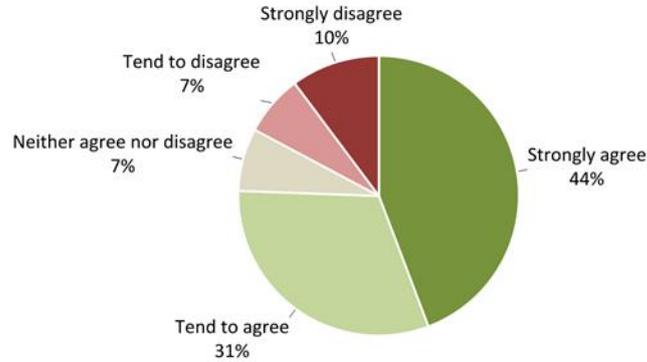


## Agreement with the Additional licensing proposal

### Consultation Questionnaire

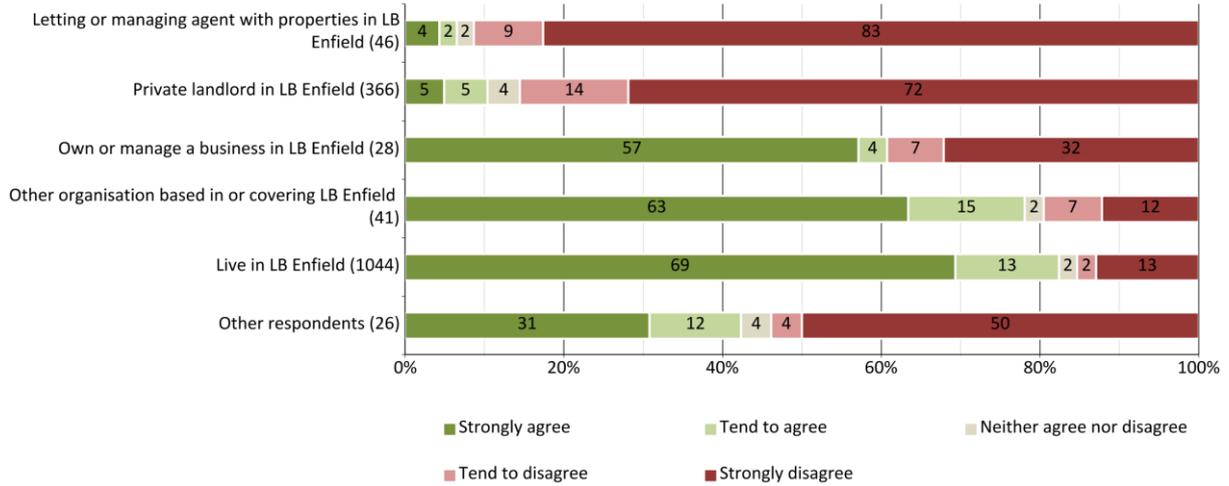


### Residents' Survey

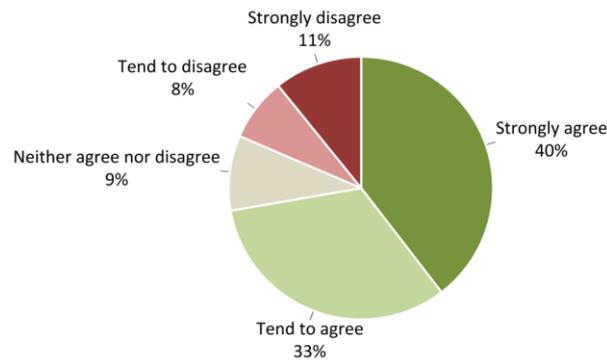


## Agreement with the Selective Licensing proposal

### Consultation Questionnaire

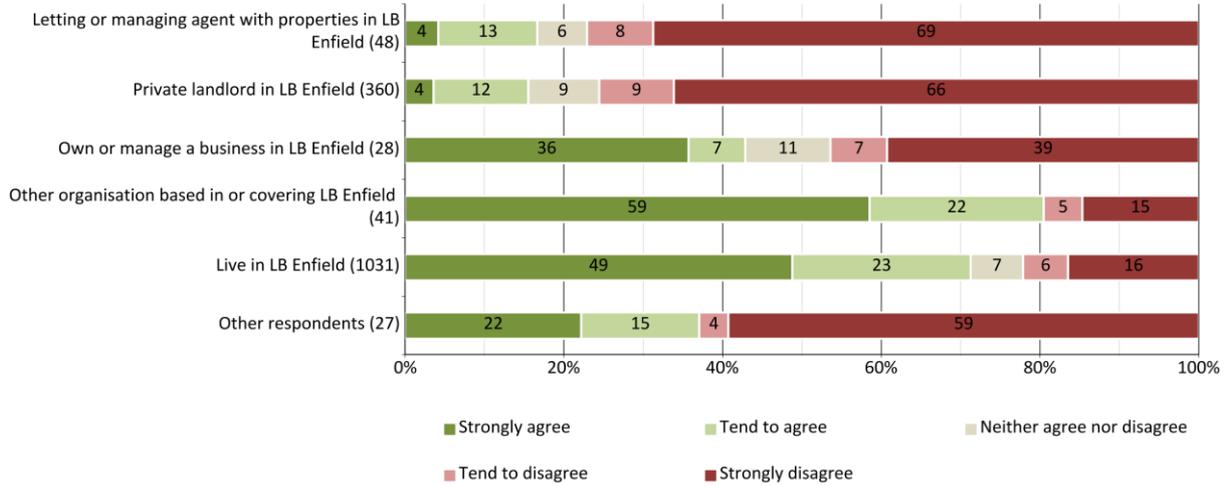


### Residents' Survey

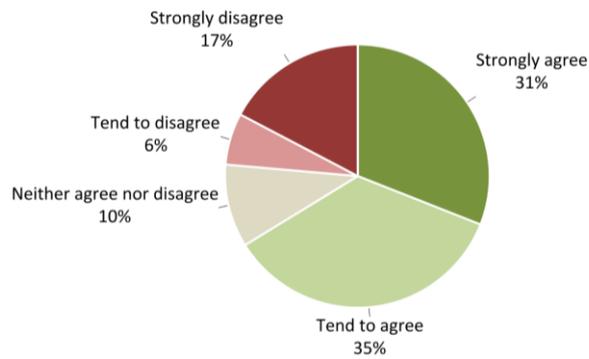


## Agreement with the proposal of £250 for a FIVE year licence

### Consultation Questionnaire

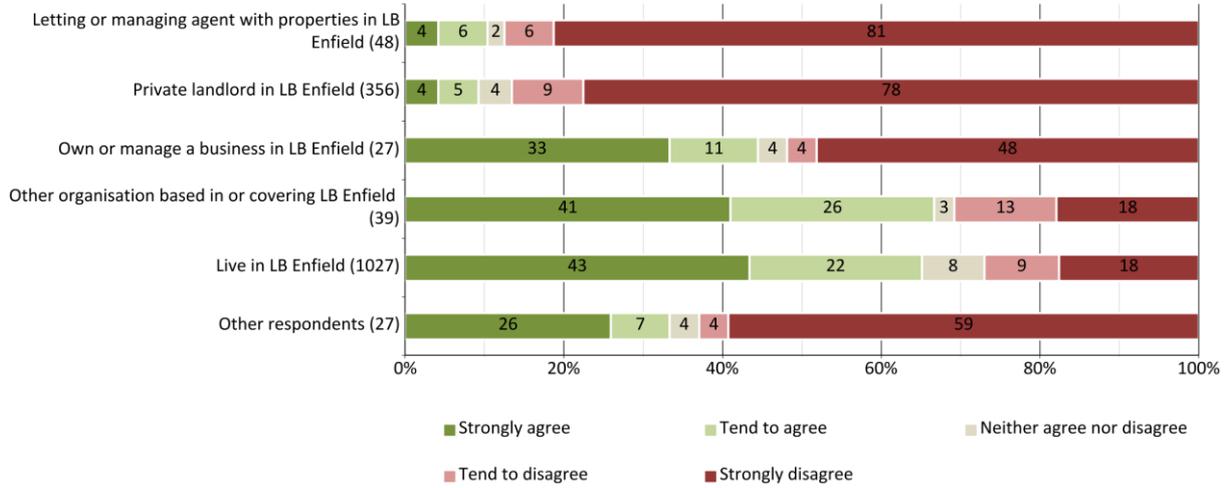


### Residents' Survey

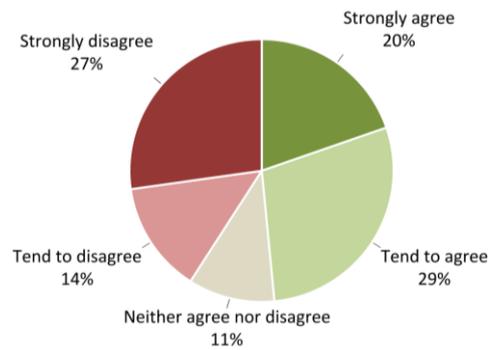


## Agreement with the proposal of £575 for a FIVE year licence

### Consultation Questionnaire

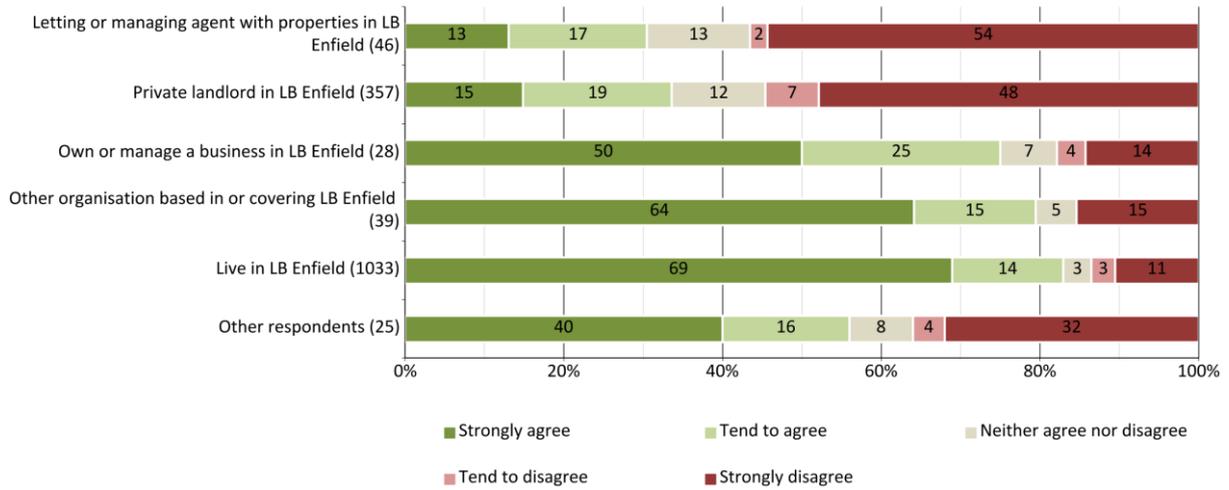


### Residents' Survey

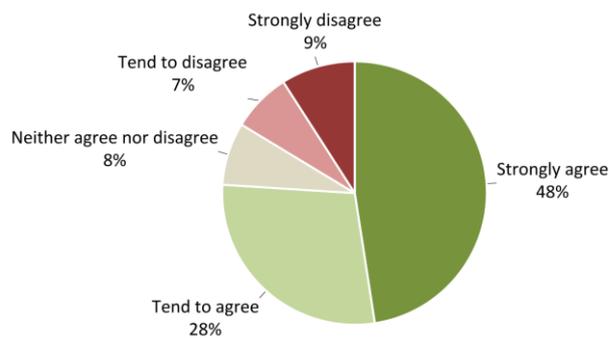


## Agreement with the proposal to issue shorter licences to landlords with previous management concerns

### Consultation Questionnaire

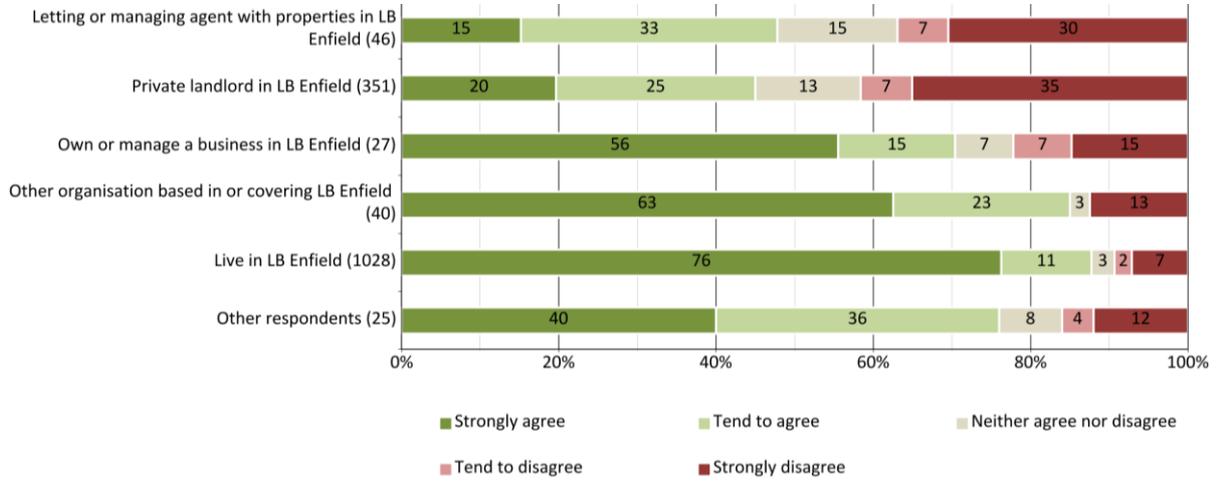


### Residents' Survey



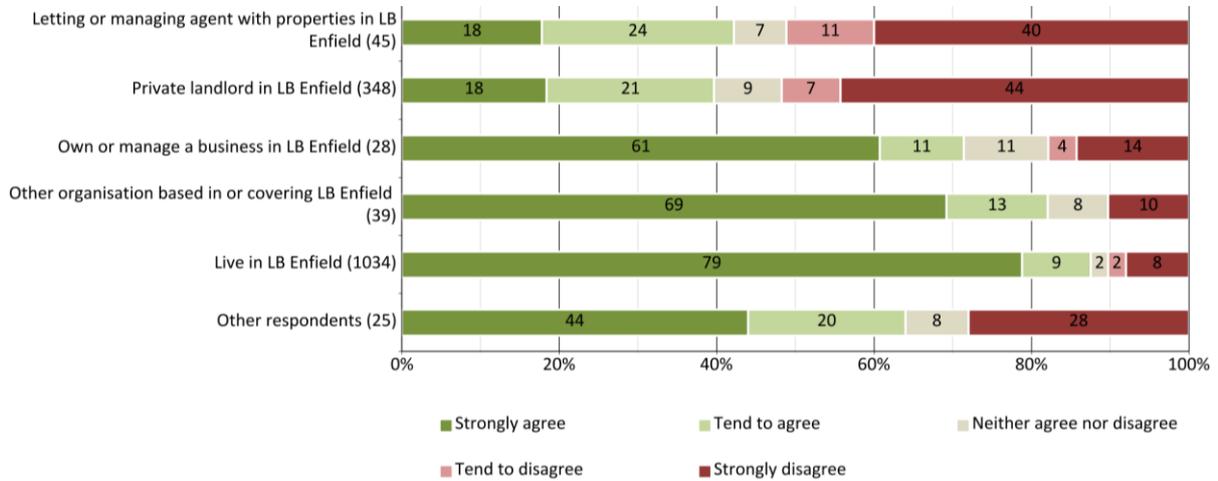
## Agreement with the proposed occupancy conditions

### Consultation Questionnaire



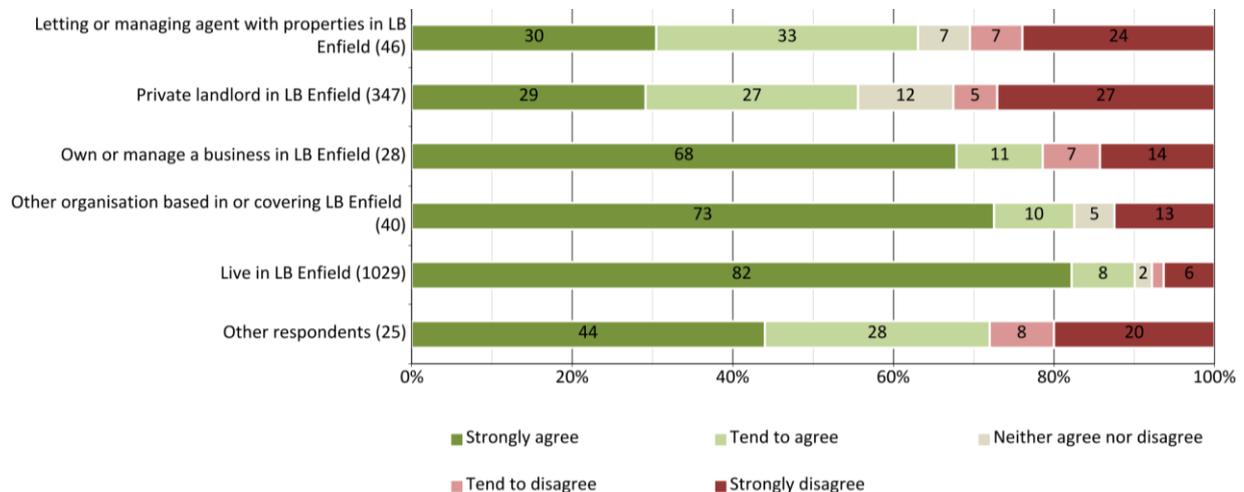
## Agreement with the proposed tenancy management conditions

### Consultation Questionnaire



## **Agreement with the proposed property management conditions**

### **Consultation Questionnaire**



## **Landlords' and Agents' Views**

### **Deliberative Forums: Landlords and Agents**

- 1.30 The three deliberative forums with landlords and their agents provide the most vivid and detailed guide to their opinions about licensing for the PRS, supplemented with the findings of the open questionnaire, submissions and petitions.
- 1.31 In the forums some landlords questioned the validity of the listening and engagement phase in November/December 2013 and said the timescale for the formal consultation was too short.
- 1.32 There was considerable scepticism about the overall purpose of the licensing proposals, with many suggesting that the Council's real purpose is to raise money to fund additional bureaucracy.
- 1.33 Many participants were concerned about the total amount payable for licence by landlords with large portfolios, saying that it would be more acceptable to issue licences per landlord rather than per property.
- 1.34 Many also said that licence fees and the expense of applying and complying with requirements would increase their costs and result in increased rents. Some suggested that landlords would withdraw from the market.
- 1.35 Many felt the proposed schemes would be unfair and penalise good landlords rather than tackling bad ones. Some participants said the Council seems to expect higher standards of the private rented sector than of its own housing.
- 1.36 There were concerns about how licensing requirements for occupancy rates and space standards would be calculated and enforced, with some landlords emphasising the need for the Council to exercise considerable discretion in order to avoid landlords needing to evict tenants who had had children or been joined by relatives.

- 1.37 Participants questioned the administrative practicality of the scheme, in particular the number of documents which would be required. In this context, some people suggested that licensing should be pilot-tested in some part of the borough prior to its general introduction.
- 1.38 There was considerable scepticism about the two maps presented by the Council to demonstrate the correlation and/or link between ASB: participants asked for similar maps to show the comparative degree of correlation of ASB with social housing and also with owner occupied dwellings, as well as with fast food outlets, night clubs and transport hubs.
- 1.39 Many said that “correlation is not the same as causation” and some argued that the Council’s evidence for a link between the PRS and ASB was too weak to justify the introduction of Additional and Selective Licensing. The Council was challenged to publish the academic report it commissioned.
- 1.40 Many landlords felt they had no effective powers (or even, in some cases, responsibility) to control tenants’ behaviour and several gave vivid examples of the problems they had faced with particular tenants. Some saw themselves as managing properties rather than tenants.
- 1.41 Some landlords and agents referred to the difficulty of dealing with third party behaviour, for example where rubbish is dumped on their property.
- 1.42 There was enthusiastic support for alternative approaches – such as licensing tenants and ‘insurance deposits’ for tenants.
- 1.43 Participants were in favour of a fast track court procedure and direct payment of Housing Benefit for landlords with licensed properties.
- 1.44 A number of participants said the Council should work more closely with landlords and suggested that there is no need for a licensing scheme and/or that there should be no licensing fees.
- 1.45 There were both positive and negative comments about experiences of working with different Council departments: the ASB team was said to be helpful but it was often difficult to contact the right person; the Housing department was said to encourage tenants being evicted to stay until the bailiff arrives; and it was suggested that bad tenants recirculate in the system.
- 1.46 Participants noted that the Council had identified fly-tipping as a particular problem and suggested that this should be tackled directly, for example, by use of cameras, or by providing more information for those needing to dispose of bulk refuse.
- 1.47 A number of landlords and agents were definitely keen for the Council to find and pursue ‘rogue’ landlords and they were unconvinced that it is currently difficult for the LBE to track them down; but the burdens, unfairness and harmful effects of licensing (in leading to reduced investment, increased rents, evictions and homelessness) remained the dominant theme of the landlords’ and agents’ forums.

## **Submissions and Petitions: Landlords and Agents**

- 1.48 Among the most important submissions received were those from the Residential Landlord Association, the National Landlords Association and the Pears Group, for they expressed in considered ways the views of many. Therefore, in this summary (given the detail about the forums included above), it is appropriate to only to summarise the most important points made by them.
- 1.49 Essentially, the landlords' associations argue that the LBE's draft proposals are unlawful for two main reasons – namely that the council plans to:
- Charge landlords licensing fees that exceed the actual costs of administering the licensing scheme
  - Offer discounts for early registration and to compliant landlords that are in effect disguised penalties for non-compliant landlords.
- 1.50 Based on recent legal precedents, the associations submit that EU rules forbid councils covering their enforcement and other costs from licensing fees and also that 'discounts' should be genuine reductions on the basic minimum licence rather than apparent reductions based on penalty fees charged for non-compliant landlords.
- 1.51 In relation to the lawfulness of the draft licensing schemes, the landlords' associations argue that the council's proposals are based on only flimsy and unclear evidence about the supposed link between the PRS and ASB. They question the council's apparent belief that ASB is more associated with the PRS than with social rented properties and the owner occupied sector.
- 1.52 Furthermore, the landlords' associations contend that the council's licensing proposals are:
- Misdirected – in seeking to make landlords responsible for tenants' behaviour which they are unable to control effectively
  - Unnecessary – insofar as the council already has extensive legal powers to deal effectively with ASB; and in this context they urge the council to exercise those powers in a more systematic and determined manner, in order to pursue rogue landlords
  - Counter-productive – in that licensing costs will raise rents, encourage landlords to use short-term leases, introduce delays while landlords try to obtain references for some tenants, and disadvantage those tenants unable to provide such references
  - Likely to be ineffective – because the big bureaucracy necessary for the administration of licensing will be no more effective in pursuing rogue landlords than council is currently.

<sup>1.53</sup> The Pears Group agrees with many of these points and also adds that

Some large main stream mortgage companies have already refused to grant buy-to-let mortgages in areas where licensing applies – so is the LBE not worried about this effect on landlords providing much needed PRS housing?

Larger landlord organisations are already highly compliant (for example, as members of ARLA, and the council’s accredited schemes) – so why introduce additional regulation, fees and penalties?

LBE should consider making certain larger more professional landlords exempt, which would also encourage investment

There are already enough tools to deal with problem landlords – the council should use them

Larger landlords work across different areas of the UK, but different councils are introducing different licensing schemes with varying conditions – so a common approach would be more manageable for large landlords

This additional regulation and bureaucracy conflicts with the government’s commitment to reducing red tape and allowing businesses to prosper

The Pears Group’s experience of licensing in Newham has not been encouraging: the scheme is bureaucratic – it is complex, slow and frustrating

Where landlords have many properties, it would be more sensible to let them apply for multiple licences in a single application, rather than filling in the lengthy on-line forms multiple times.

### **Consultation Questionnaire: Landlords and Agents**

<sup>1.54</sup> Most responses to the consultation questionnaire were from residents of Enfield (1,070) – who broadly supported the council’s proposals – but there were also critical responses from private landlords (371) and letting/managing agents (48); some other business managers/owners (28) and other organisations (41) also participated.

<sup>1.55</sup> This section highlights the views of landlords and agents. We have interpreted and reported their arguments above, but in addition it should be recognised that in the consultation questionnaire:

At least eight-in-ten landlords (80%) and agents (83%) opposed the principle of borough-wide licensing

Even larger proportions of landlords (86%) and agents (91%) disagreed with borough-wide selective licensing

Opinion was more divided on additional licensing: 50% of landlords and 55% of agents disagreed with the proposal, but around two fifths of both stakeholder groups agreed with it.

## Overall Conclusions

### Range of Opinions

- 1.56 A wide range of views were expressed in the consultation exercise and there was no overall consensus about ASB and licensing or its likely effects. Nonetheless, as the previous graphical summaries clearly demonstrate, both the open questionnaire and residents' survey show clearly that big majorities of Enfield residents broadly support the council's proposals.
- 1.57 Their support contrasts with the very strong opposition of the private landlords, letting agents and landlords' associations. Those critical of licensing in principle also questioned the legality of the council's licensing fees and proposals, and whether the council's data really shows a causal link between the PRS and ASB.
- 1.58 In relation to the data and any connection between tenure and ASB, much obviously depends on how widely or narrowly ASB is interpreted. Interpreted narrowly, it may mean only overt disorderly conduct; but when interpreted more widely it may mean anything that significantly reduces the quality of life in neighbourhoods.
- 1.59 Many residents commented on the decline of some areas, with references to untidy gardens, rubbish dumping and overcrowding, as well as more serious forms of ASB. Some residents linked these characteristics to an increase in the number of private rentals.
- 1.60 In relation to such problems, landlords and agents felt they should not be held responsible for the actions of tenants, because they were unable to control their behaviour. They also mentioned the length and cost of legal action and suggested that currently the authorities automatically take the tenants' side.
- 1.61 Residents were concerned about landlords and agents who do not manage their properties properly. Many felt that the council and other bodies should take more action to deal with ASB by applying existing laws more strictly; overall, residents supported licensing as a way of addressing ASB, improving the housing stock and protecting PRS tenants; but there were also concerns about the credibility of the council enforcing any scheme effectively.
- 1.62 It is unsurprising that no overall consensus about ASB and licensing emerged in the consultation, but it has identified key issues for the council to consider, including the lawfulness of the draft proposals and associated charges, the evidence base, and ways to support landlords and agents more effectively. Local landlords criticise the costs and the unfairness of charging good landlords as well as bad; and many are suspicious that licensing is a money raising exercise for the council.
- 1.63 The representative residents' survey and the open questionnaire demonstrate most residents' clear support for the LBE's licensing proposals. Essentially, while the landlords, agents and associations strongly oppose licensing schemes, other groups in the borough broadly support it – even if they have doubts about the capacity of the council to enforce the scheme effectively. The forums, submissions and textual responses to the open questionnaire and residents' survey all make important contributions to the debate about the merits of licensing and the quality of the council's evidence for a link between the PRS and ASB.
- 1.64 Important submissions from the RLA and the NLA focus on the legality of the licensing proposals – by raising issues about: what license fees may legitimately be spent on; the basis on which fees may be discounted; and the reality of the council's ASB evidence. These are clearly important issues for the council to consider.

## **Role of the Council**

- <sup>1.65</sup> The population of Enfield residents (who largely support licensing) is obviously bigger than the landlords and agents (who oppose it); but such facts are not compelling in themselves. Consultations are not numbers games (popularity/unpopularity contests) in which majorities should determine the outcomes: the critical considerations are not numbers but the strength of the arguments and evidence adduced by supporters and critics for their respective positions. That is why we have elaborated the residents' and landlords' and agents' and associations' arguments in such detail – because the proper focus of consultation should be the merits or demerits of licensing, the balance of advantages and disadvantages associated with such schemes.
- <sup>1.66</sup> Opposing opinions on licensing cannot be reconciled in a policy that is equally acceptable to all, for different groups have different perspectives – so ORS's role is to analyse and explain the opinions and cases of the participants, but not to recommend any option or variant.
- <sup>1.67</sup> Ultimately, it is for the LBE to take policy decisions based on its understanding of the law, the cogency of the arguments, and the strength of evidence about ASB and the PRS. Officers and elected members will review the considerations emerging in the consultation while taking account of other relevant evidence; and their final decision will depend on their assessments of the merits of licensing as public policy.