

**MINUTES OF THE MEETING OF THE OVERVIEW & SCRUTINY COMMITTEE
HELD ON MONDAY, 15 JULY 2019**

COUNCILLORS

PRESENT Tolga Aramaz, Sinan Boztas, Achilleas Georgiou, Edward Smith and Lee David-Sanders

ABSENT Susan Erbil, Guner Aydin and Bernadette Lappage

STATUTORY CO-OPTees: *1 vacancy (Church of England diocese representative), Mr Simon Goulden (other faiths/denominations representative), Mr Tony Murphy (Catholic diocese representative), Alicia Meniru & 1 vacancy (Parent Governor representative) - Italics Denotes absence*

OFFICERS: Doug Wilkinson, Director of Environment & Operational Services
Sue McDaid, Head of Regulatory Services
Susan O'Connell, Governance & Scrutiny Officer
Stacey Gilmour, Governance & Scrutiny Secretary

Also Attending: Councillor George Savva MBE, Cabinet Member for Licensing & Regulatory Services

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WELCOME & APOLOGIES

Apologies for absence were received from Councillors Erbil, Lappage and Aydin.

In the absence of Councillor Susan Erbil, the Vice-Chair, Councillor Achilleas Georgiou chaired the meeting.

Councillor Hass Yusef was substituting for Councillor Susan Erbil.

Apologies had also been received from Councillor Vicki Pite (who had intended substitute for Councillor Lappage) and Councillor James Hockney (who had intended to substitute for Councillor Smith as he was leading on tonight's Call-In)

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DECLARATIONS OF INTEREST

There were no declarations of interest.

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**CALL IN: REVIEW OF THE PRIVATE RENTED SECTOR IN ENFIELD AND
PROPOSAL TO GO TO PUBLIC CONSULTATION ON THE**

INTRODUCTION OF A BOROUGH-WIDE ADDITIONAL LICENSING SCHEME AND A SELECTIVE LICENSING SCHEME

The Committee received a report from the Director of Law and Governance outlining details of a call-in received on the Portfolio Decision taken on Review of the private rented sector in Enfield and proposal to go to public consultation on the introduction of a borough wide additional licensing scheme and a selective licensing scheme in 14 wards (Report No. 60)

The Chair advised that he had yesterday received a letter from Mr Tacagni from London Property Licensing sent for the purpose of this meeting. The Chair had sought advice from Jeremy Chambers, Director, Law & Governance and with his agreeance it had been decided that it was not appropriate to review the letter this evening as it does not form part of the Call-In. However, it can form part of the consultation process and therefore will be forwarded to the appropriate Officers and Councillor George Savva MBE, Cabinet Member, Licensing and Regulatory Services to deal with accordingly.

Action: Doug Wilkinson/Sue McDaid/Councillor Savva

The Chair invited Councillor Smith to outline the reasons for call-in.

NOTED

1. Councillor Smith set out the reasons for calling in the decision:
 - The report (Key Decision 4870) reviewing the private rented sector in Enfield and proposing to go out to public consultation on a licensing scheme is being called in because the evidence base does not justify the scope of the proposals. The proposed extent of (i) the selective system, which would cover the majority of the wards in Enfield or (ii) in the case of HMOs the whole borough, is unfair to the many private landlords who comply with their legal obligations.
 - The report states (para 5.5) that one of the benefits of the proposals is that the high level of evictions from PRS in Enfield will be reduced because landlords of licensed properties cannot use section 21 of the Housing Act 1988. No mention is made in the report that earlier this year, Government announced that s.21 notices would be abolished, and landlords will no longer be able to evict tenants unless a breach of tenancy agreement has been demonstrated.
 - The proposed licensing fee (£120pa for selective and £180pa for additional) will be passed onto tenants and there are no guarantees that the licence fee would not be raised further in the future.
 - The Council already has powers under a wide range of legislation to take enforcement action against rogue landlords for sub-standard property conditions, overcrowding, harassment, etc. Enfield CAB estimates that it receives over 1000 complaints from tenants each year. A report last year in the Guardian Newspaper identified 53 councils, including Enfield, who had

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failed to prosecute any private landlords following complaints from tenants between 2015 and 2017,

- The licensing fee is legally required solely to cover the cost of administration, i.e. the salaries, etc. of the 30 or so inspectors (according to officers) who would be employed by the Council. No information is provided in the report about the current cost of enforcement and whether the Council is sufficiently resourced to actually enforce breaches of the proposed licensing conditions for private landlords. The evidence from the Guardian and others is that enforcement in Enfield is weak or non-existent and a licensing scheme will not change that in any material way.
- The new criteria for licensing schemes required by Government is indicative only. Rogue landlords are more likely to operate in areas where levels of poverty, poor housing quality and anti-social behaviour are most acute. Depending on local circumstances, many London councils who have introduced licensing schemes have restricted them to either selective schemes or to additional schemes. Also, in the case of selective schemes (which cover all private rented properties), the designated areas are often restricted to individual streets or neighbourhoods. The evidence in the report does not support the blanket approach proposed.

In conclusion, Councillor Smith was of the opinion, that the licensing scheme should either be abandoned or greatly restricted in scope to areas of the greatest deprivation. The Cabinet member should focus more attention and resources on the lack of enforcement under existing legislation to curb the activities of rogue landlords in the borough. He therefore thought the decision should be referred, back to Cabinet for reconsideration and the consultation process halted.

2. Councillor Savva MBE, Cabinet Member for Licensing and Regulatory Services and officers, Doug Wilkinson (Director of Housing & Regeneration) and Garry Knights (Head of Housing Property Services) also provided information in support of the decision as follows:
 - In any area of significant numbers of private rented accommodation, there are landlords that comply and those that do not. Licensing (parts 2 & 3 of the Housing Act 2004) is concerned with areas rather than individuals.
 - The proposed schemes are supported by body of evidence found in the review which meets the legal requirements, case law and guidance.
 - All wards met criteria for poor property conditions, but a more targeted approach was taken by examining deprivation and ASB also, which identified 14 wards for proposed selective licensing.
 - HMOs are spread throughout the borough, have high levels of poor housing conditions, ASB and are poorly managed.
 - The report acknowledges both the high threshold of evidence and approval of the Secretary of state is needed.

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- The evidence has been independently analysed and quality assured, and Counsel is satisfied the legal thresholds have been met.
- The Government recently announced on the 15th April its intention to consult on abolishing s.21 “no fault” evictions due to concerns about homelessness. However, at present it is not known if or when these measures will be implemented, and therefore wrong for the report to proceed on this basis. The Council will monitor the position and act in accordance with any changes to the law.
- The proposed £600 fee (selective) and £900 fee (additional) are for the full 5-year lifespan of the schemes and amounts to £10 and £15 respectively per month.
- The report explains that the fee setting was undertaken in accordance with the law which requires the fee to be ‘reasonable and proportionate’ to the cost of the licensing procedure and must not exceed the cost. Like other aspects fees will be reviewed to ensure they remain reasonable and proportionate.
- Despite 2015 DCLG guidance, the recently published Government review of selective licensing schemes (25 June 2019) found no evidence of costs being passed onto tenants, and that increased rents were due to market conditions.
- The report acknowledges that the Council already has wide ranging powers to take enforcement action and that they are indeed used. The Guardian Newspaper article acknowledged the Council has served an unprecedented number of notices since 2015. The article did not quote however the 3 prosecutions in 2018 for unlicensed HMOs and sub-standard accommodation, which had resulted in over £34k in fines.
- Despite unprecedented levels of enforcement, licensing is also needed to ensure the large-scale improvement that is needed.
- The law is clear, and the report acknowledges, that licensing can be introduced where existing measures (powers) are insufficient on their own to tackle the underlying housing issues.
- Legislation (and case law) allows for fees for additional and selective licensing to lawfully include costs of enforcing compliance. It is important not to understate the value of inspections in achieving compliance and it is anticipated that enforcement will be adequately resourced going forward.
- This is not a Council that is weak on enforcement as the report acknowledges. Between 2015-2017, the Council served 345% more notices on private rented properties than the preceding
- 3- year period.
- The new criteria for selective licensing schemes are prescribed in legislation. The report shows that far from adopting a blanket approach, the proposed areas are where there is sufficient evidence of: poor housing conditions not effectively managed, high levels of deprivation and ASB

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- 40% (13 of 32) of London Boroughs have selective licensing schemes and 66% of London Boroughs (21 of the 32) currently have additional licensing schemes.
 - 3 London boroughs are currently in consultation to increase (or implement new) selective licensing schemes and 1 London Borough is consulting on increasing their additional scheme (6 extra wards).
 - Comparison with outer boroughs is appropriate but not conclusive as each have their own considerations and challenges. For example Enfield has nationally high levels of evictions and nationally high levels of private renters on Housing Benefit.
3. Other issues raised by members and responded to by officers as follows:
- The report states that there are poor property conditions in all wards but where is the evidence to support this? If this is the case, why is a borough wide licensing scheme not being consulted on?
 - We could have looked at a borough wide scheme as all wards meet the criteria for property conditions. However, we have used the data to look at what is happening in the wards and what intervention procedures are in place. This has enabled a proportionate and targeted approach to be taken therefore the 14 wards chosen are the ones that the Council spends the most resource/intervention on. This means we are not taking a blanket approach and over regulating matters.
 - Evidence and statistics on poor housing conditions are available. However, the actual data is just the tip of the iceberg as many tenants do not come forward to complain. Therefore, if we only looked at the complaints it would not address the actual problems that are predicted to be out there in the borough.
 - With regards to the wards you have selected what modelling have you undertaken to ensure that this is not going to drive unscrupulous landlords into other wards?
There is a possibility of displacement, but it is not a criteria that can be considered when looking at Selected Licensing Schemes. Going forward monitoring will still take place in the wards where Selective Licensing does not apply. If there is evidence in due course that there are issues meeting the selective licensing criteria, these other areas can be considered for a licensing scheme.
 - The report needs to include financial implications e.g. income versus expenditure. Officers confirmed that these figures are available and will form part of the consultation documents.
 - Discussions took place on the enforcement work that had taken place to date and the successes that had been seen as a result of this action. A lot of work has taken place with a very small team (10 officers). Prosecutions have been reactive and are the end of the process with other enforcement options available

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also. With additional officers in post it was hoped that more proactive work could be implemented. Figures are available on the numbers of notices served. If people comply the hope is that there is less need for prosecutions.

- In response to a question regarding the addition of 30 extra officers, Doug said that this figure is the best prediction based on the numbers of properties and their issues as well as looking at neighbouring boroughs. He felt that we have resourced adequately in terms of the finances and people.
- As part of the staffing structure there will be a compliance team to look for those properties that landlords do not apply to licence, and it was therefore hoped that this scheme would tackle the bad landlords.
- In a question responding to listening to views from the consultation Doug explained that the consultation will be Borough wide and will also take in neighbouring boroughs. Consultation has been developed over the past year and Enfield is very good at reaching and engaging with hard to reach groups/communities. We will continue this approach to ensure that a representative response is reflected in our final report to the Secretary of State.
- With regards to possible future judicial reviews, Doug said that Enfield Council is absolutely building on lessons learnt from previous experiences to put itself in a very strong position should there be any challenge in the future.
- It was felt that what people will object to is that this proposed scheme is so broad brushed and a much more micro, street by street scheme would be preferable.
- The evidence data has demonstrated that the scale of the issue is much broader than street by street. By using the evidence available we can ensure that the scheme being applied for is the most appropriate. Schemes are for five years for a reason- to review again in five years. Hopefully things will have improved so there won't be the need for such a wide scheme going forward. The evidence available now shows that currently this is the best scheme.
- The scheme will take into account the proposed ward boundary changes.

4. The summing up by Councillor Smith that:

- The original consultation had proven most controversial resulting in it being withdrawn due to the lack of evidence/data. It was therefore important not to underestimate the response to this proposed scheme/consultation and imperative to ensure that the evidence base was clearly documented as part of the consultation.
- It is an assumption to state that the current level of complaints is an underestimation as is it also an assumption to say that the proposed scheme will make it easier to identify rogue landlords

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as these are the sort of people who will run away from such schemes. The scheme is hugely optimistic, and he felt that it was going to do nothing but annoy a high level of good landlords.

- The resource required should be defined to the problems you know about and not the problems you ‘think’ are out there.
 - In conclusion Councillor Smith felt that a more focused and granular approach would address the problems more effectively.
5. Councillor Savva MBE, Cabinet Member for Licensing and Regulatory Services responded by saying that this scheme will protect the good landlords and prosecute the bad ones where necessary. He felt that tonight’s discussions had demonstrated why we should now proceed to consultation on the proposed Licensing Schemes. It was time to stop looking in the past and to now move forward.
 6. The Cabinet Member was asked by the committee that in the consultation, a question is asked on having a borough wide scheme and that financial information on the scheme is included.
 7. Overview and Scrutiny Committee considered the reasons provided for call-in and responses provided. Having considered the information provided, the Committee **AGREED** to confirm the original Portfolio decision.

Councillors Aramaz, Boztas, Georgiou and Yusef voted in favour of the above decision. Councillor David-Sanders voted against. The original Portfolio decision was therefore agreed.

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DATES OF FUTURE MEETINGS

NOTED the dates of future meetings as follows:

Provisional Call-Ins

Thursday 8 August, 2019
Thursday 19 September, 2019
Thursday 31 October, 2019
Thursday 28 November, 2019
Thursday 19 December, 2019
Thursday 30 January, 2020
Thursday 6 February, 2020
Wednesday 4 March, 2020
Thursday 26 March, 2020
Tuesday 28 April, 2020

NOTED the business meetings of the Overview & Scrutiny Committee will be held on:

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Tuesday 23 July, 2019
Wednesday 4 September, 2019
Thursday 7 November, 2019
Thursday 13 February, 2020
Thursday 2 April, 2020

The Overview & Scrutiny Budget Meeting will be held on:

Wednesday 15 January 2020