	<h2>Housing Committee</h2> <h3>2<sup>nd</sup> February 2015</h3>
<b>Title</b>	<b>Review of Regulation of Houses in Multiple Occupation</b>
<b>Report of</b>	Cath Shaw: Commissioning Director – Growth and Development
<b>Wards</b>	All
<b>Status</b>	Public
<b>Enclosures</b>	<p>Appendix 1 - Legal Definition of an HMO</p> <p>Appendix 2 - Estimate of HMOs within the London Borough of Barnet</p> <p>Appendix 3 - How Could An Additional Licensing Scheme Work?</p> <p>Appendix 4 - Criteria to Consider Before Introducing An Additional Licensing Scheme.</p> <p>Appendix 5 - Fit and Proper Person Test</p> <p>Appendix 6 - Proposed Licensing Terms and Conditions</p> <p>Appendix 7 - Council’s Adopted Standards for Houses in Multiple Occupation</p>
<b>Officer Contact Details</b>	<p>Belinda Livesey – Group Manager (Private Sector Housing) 0208 359 7438 <a href="mailto:belinda.livesey@barnet.gov.uk">belinda.livesey@barnet.gov.uk</a></p> <p>Richard Pixner- Principal Environmental Health Officer 0208 359 7457 <a href="mailto:richard.pixner@barnet.gov.uk">richard.pixner@barnet.gov.uk</a></p>
<h2>Summary</h2>	
<p>Well managed houses in multiple occupation (hereinafter referred to as “HMOs” or “HMO”) play a key role in meeting the housing needs of residents in the borough. It is recognised that there are many good landlords working within Barnet. Unfortunately there are also those who do not maintain their properties, leaving tenants at risk and leading to nuisances which affect neighbouring premises.</p> <p>Enforcement action against HMOs is costly, resource intensive and complicated. The Environmental Health Service is currently only resourced to a level to deal on a reactive basis with the worst premises and those where there is a mandatory duty to licence or take enforcement action. This has led to a fragmented approach to enforcement in relation to</p>	

HMOs. This report considers the current situation in Barnet in relation to HMOs, the approach to dealing with them and reviews the options for dealing with this type of accommodation.

If an Additional Licensing scheme were introduced, the focus would be on enabling and supporting landlords who are or wish to be compliant, whilst targeting those landlords who do not wish to comply with the legislation for enforcement action.

## **Recommendations**

### **1. That the Committee note:**

- 1.1 The results of the evidence gathering exercise completed to date and that further evidence will be gathered.
- 1.2 The role that Additional Licensing could play in improving the current approach to HMO enforcement.
- 1.3 That a borough wide Additional Licensing scheme could complement the introduction of an Article 4 Direction under the Town and Country (General Permitted Development) Order 1995 in controlling the condition of existing houses in multiple occupation.

### **2. That the Committee authorise the Commissioning Director – Growth and Development:**

- 2.1 To carry out a public consultation on the introduction of an Additional Licensing Scheme based on the proposals outlined in section 1.11 of this report, over a minimum 10 week period.
- 2.2 That in the event that the borough wide consultation indicates that an area based scheme would be a more appropriate approach, a further public consultation exercise be undertaken in relation to an area based scheme.
- 2.3 To bring a further report to a future meeting of the Housing Committee, for the Committee to consider the findings of the public consultation(s) together with details of an evidence base, so that the Committee can determine whether an Additional Licensing Scheme (borough wide or area based) should be adopted in Barnet.

## **1. WHY THIS REPORT IS NEEDED**

- 1.1 Houses in multiple occupation are properties that are occupied by at least three different tenants, forming more than one household and the tenants share or lack a toilet, bathroom or kitchen facilities. The definition of an HMO includes bedsits, shared houses, lettings with their own facilities but which are not self-contained, and hostels. The definition also includes some types of poorly converted self-contained flats. The full legal definition is provided in Appendix 1 of this report. Where the properties are well

managed they have been recognised by the Council to provide a necessary part of the more affordable accommodation in the borough.

- 1.2 Having more than one household living in a property can increase the risk to the health, safety and welfare of the occupiers if the property is not properly managed.
- 1.3 It is recognised that there are many good landlords working within Barnet. Unfortunately there are also those who do not maintain their properties, leaving tenants at risk and leading to nuisances which affect neighbouring premises.
- 1.4 Enforcement action against HMOs is costly, resource intensive and complicated. The Environmental Health Service is only resourced to a level to deal on a reactive basis with the worst premises and those where there is a mandatory duty to licence or take enforcement action. This has led to a fragmented approach to enforcement in relation to HMOs. This report considers the current situation in Barnet in relation to HMOs, the approach to dealing with them and reviews the options for dealing with this type of accommodation.
- 1.5 Detailed below are the types of conditions found during inspections of HMOs in Barnet:
  - Overcrowding, where rooms are either too small for the number of residents or where there are insufficient amenities (for example kitchens), for the number of occupiers.
  - Being in a poor state of repair leading to problems such as dampness, mould growth, inadequate heating and draughts.
  - A serious hazard or hazards to the health and safety of the occupiers, such as broken, faulty or dangerous electrical installations or gas appliances, or the absence of smoke alarms, and fire doors.
  - Poor standards of management including inadequate maintenance, dirty and neglected facilities and problems with refuse and pests, which are not only a risk to tenants but which also have an effect on the local neighbourhood.
- 1.6 The problems associated with HMOs are well known to the Council and reports continue to be received about individual properties, from the occupiers or neighbours. It is also recognised that there are many HMOs that have as yet remained undetected, potentially leaving tenants at risk. Reasons for HMOs being undetected include:
  - a lack of mandatory licensing for all HMOs
  - tenants not being aware of the law and of the help available to them
  - landlords not being aware of their legal obligations
  - landlords ignoring their legal obligations
  - the vulnerability of the tenants

- fear of reprisals among the tenants including the loss of their home
- tenants not being able to afford a higher standard of accommodation

1.7 The Department of Communities and Local Government (DCLG) paper ‘Approval steps for additional and selective licensing designations in England’<sup>1</sup> acknowledges that “Houses in multiple occupation (HMOs) are amongst the more difficult to manage properties in the sector. In some HMOs the standards of management and living conditions can be poor. In particular they [local housing authorities] need to engage with the less responsible private landlords who do not proactively manage their properties, nor address the unacceptable behaviour of their tenants.” However, the Government recognises that problems of poor management and facilities in an HMO are not confined to the larger ones (subject to mandatory licensing). It also recognises that poor management and associated problems exist elsewhere in the private rented sector and are not simply a phenomenon of HMOs. For this reason the Housing Act 2004 gives Local Housing Authorities powers to require certain other private rented accommodation to be licensed in specified circumstances.

1.8 The Local Authority must be able to show that a significant proportion of HMOs in their area are considered to be managed sufficiently ineffectively as to give rise, or likely to give rise to one or more particular problems for those occupying HMOs or for members of the public. The DCLG paper ‘Approval Steps for additional and selective licensing designations in England’ gives examples of properties being managed sufficiently ineffectively and as a result having a detrimental effect on an area and these include: -

- Those whose external condition and curtilage adversely impact upon the general character and amenity of the area in which they are located.
- Those whose internal condition, such as poor amenities, overcrowding etc. adversely impact upon the health, safety and welfare of the occupiers and the landlords of these properties are failing to take appropriate steps to address the issues.
- Those where there is a significant and persistent problem of anti-social behaviour affecting other residents and/or the local community and the landlords of the HMOs are not taking reasonable and lawful steps to eliminate or reduce the problems.
- Those where the lack of management or poor management skills or practices are otherwise adversely impacting upon the health, safety or welfare of the residents and/or impacting upon the wider community.

The Local Authority are to have regard to any codes of practice approved under Section 233 of the Housing Act 2004 and consider what courses of action other than the introduction of Additional Licensing may be open to it.

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<sup>1</sup><http://webarchive.nationalarchives.gov.uk/20120919132719/http://www.communities.gov.uk/documents/housing/pdf/154091.pdf>

The DCLG's guidance 'Approval steps for additional and selective licensing designations in England' (Revised February 2010) has and will continue to be followed.

- 1.9 The current estimate of the number of HMOs in the borough is 5,093. Evidence of this is detailed in Appendix 2.

## **1.10 Existing Controls for HMOs**

### **1.10.1 Mandatory Licensing**

The Housing Act 2004 introduced a national mandatory licensing regime for larger HMO's which came into force in 2006. A larger HMO is defined as a property that is occupied by five or more persons comprising two or more households, living in a property of three or more storeys where the units of accommodation are not fully self-contained or the bathroom, toilet or kitchen is lacking or shared. A licence is issued (for a fee) with attached conditions linked to property improvement, where found to be appropriate, and consistent good property management. Barnet currently has around 139 licensed HMOs, but this figure is fluid with HMOs coming into and leaving the sector.

### **1.10.2 Landlord Accreditation**

Accreditation is a mechanism for helping landlords or agents to meet agreed standards of competence, skills and knowledge about the business of owning, managing or letting a private rented home, and a public recognition of having met that standard. In order to be awarded accredited status, landlords or their agents are required to undergo training and development. Barnet actively supports the enablement of landlords to run their businesses effectively without the need for Council intervention. As such the Council is a partner in the administration of the London Landlord Accreditation Scheme (LLAS) and actively encourages accreditation through promotion, a reduced HMO licence fee to accredited landlords and accreditation as an alternative to paying the standard fee for service of a notice under the Housing Act 2004. There are currently 477 accredited landlords in Barnet. This figure has increased by 29.4% since March 2011.

### **1.10.3 Landlords Forum**

The Landlords Forum is an open forum for landlords run by Barnet Homes. It is used to network and provide landlords with information and guidance in relation to key and current issues. It is held several times a year, and whilst it is well attended, it generally attracts the same body of professional landlords but does not unfortunately attract the non-compliant landlords.

### **1.10.4 Reactive Enforcement Action**

In addition to running the mandatory HMO licensing scheme for larger HMOs, the Council's Private Sector Housing Team (in the Environmental Health Department) has a direct response service to deal with service

requests from tenants who live in private rented housing, including HMOs. Referrals from neighbours and other agencies regarding housing conditions and/or nuisance complaints are also investigated. Any issues identified are dealt with in accordance with the relevant legal requirements, through advice and/or enforcement action, in line with the Development and Regulatory Services Enforcement Policy. Such action would include securing improvement through service of a statutory notice, and in some cases by prohibiting the use of a property due to poor conditions.

Other services and/or organisations such as the Council's Planning Service, Housing Benefit, Council Tax, London Fire and Emergency Planning Authority (LEFPA), Police and the UK Visa's and Immigration Service can also be involved.

#### 1.10.5 Planning and Building Control

The Private Sector Housing Team work closely with Planning and Building Control to ensure that HMOs as well as other private sector properties, are comprehensively and appropriately regulated. Planning and Building Control deal with the construction, extension and alteration of certain HMOs, whereas Environmental Health regulates the on-going maintenance and management of these properties.

### **1.11 Why Additional Licensing Should Be Considered**

1.11.1 As referred to above, the Housing Act 2004 contains provisions for local authorities to adopt Additional Licensing schemes, which require licensing of HMOs that fall outside the mandatory licensing regime. If Additional Licensing were adopted across the borough it would create a more level playing field for all landlords in relation to HMO standards. It would also discourage landlords who reduce their occupancy levels simply to avoid mandatory licensing.

1.11.2 HMO licensing places a legal responsibility on the landlord to identify themselves, the property and other key persons involved in running the property and other licensable properties in their portfolio. This would reduce the amount of Council resource required to identify these properties and ascertain ownership details etc. Where future service requests are received about any of these properties, the Council would be able to relatively easily contact the owner to investigate the issues reported and matters could be dealt with more promptly.

1.11.3 It is proposed that the introduction of a borough wide Additional Licensing scheme will be the best way to effectively regulate HMOs in the borough as it will:

- assist the Council in targeting scarce resources on properties of most concern;
- promote better and more widespread engagement with landlords, tenants, businesses and members of the public with an interest in HMOs;

- foster a situation in which poor conditions or detrimental impacts on the health, safety and welfare of the occupants and the local neighbourhood are prevented in the first instance thus reducing the need for the exercise of enforcement powers. These powers are often complicated, costly and time consuming to implement and can involve considerable cost further down the line for social care and health services;
- allow the Council to develop a comprehensive database of HMOs within the borough and promote a more coordinated approach with partners. This will allow us to share more and better intelligence with them;
- help the Council identify properties in the worst condition and with the poorest standards of management and to enable working with landlords to bring about necessary improvements, as well as to encourage behavioural change;
- enable local residents, occupiers or potential occupiers to inform the Council of any HMOs which they think need a licence but do not have one;
- enable the improvement of the health, safety and welfare of the occupying tenants;
- prevent overcrowding by setting limits as to the number of permitted occupiers;
- reduce any associated detrimental impact upon local neighbourhoods and reduce the number of complaints associated with HMOs and the Council resources used in dealing with those complaints;
- provide opportunities to further promote landlord accreditation and improve landlords knowledge and understanding of the problems and responsibilities related to HMOs of landlords in the Borough;
- ensure that rogue landlords are targeted and dealt with appropriately and to make certain that only those who are proven to be fit and proper persons can have control of an HMO;
- ensure that HMOs can take their proper place among other dwelling types in the housing market, that they are not a choice of last resort and play their part in relieving homelessness;

1.11.4 It should be emphasised that, if an Additional Licensing scheme were introduced, the focus would be on enabling and supporting landlords who are or wish to be compliant, whilst targeting those landlords who do not wish to comply with the legislation for enforcement action.

1.11.5 Details of the operation of a proposed Additional Licensing scheme are contained in Appendix 3.

1.11.6 Details of the Proposed Licensing Terms and Conditions are contained in Appendix 6. It is proposed that these would be used for all licensed HMOs regardless of if they fall under the Mandatory or Additional Licensing Scheme. All proposed variations on the current mandatory conditions are marked in italics.

1.11.7 The standards that are currently used in relation to houses in multiple occupation were originally based on the standards developed by the Chartered Institute of Environmental Health. They were adopted in 2003 and revised in 2006 as part of the implementation of the Additional Licensing Scheme. These have been reviewed and the updated version detailed in Appendix 7. The revised sections are detailed in italics.

1.11.8 It is acknowledged that the proposed inclusion of self-contained flats in an Additional Licensing scheme may be considered to be unnecessary and that the standards of these types of property should be controlled by Planning and Building Control. However, the self-contained flats that would be covered by the scheme are those which are poorly converted and as such present a higher risk and are specifically defined in section 257 of the Housing Act 2004. This section relates to "converted block of flats" which is a building (or part of a building) which has been converted into and consists of, self-contained flats and:

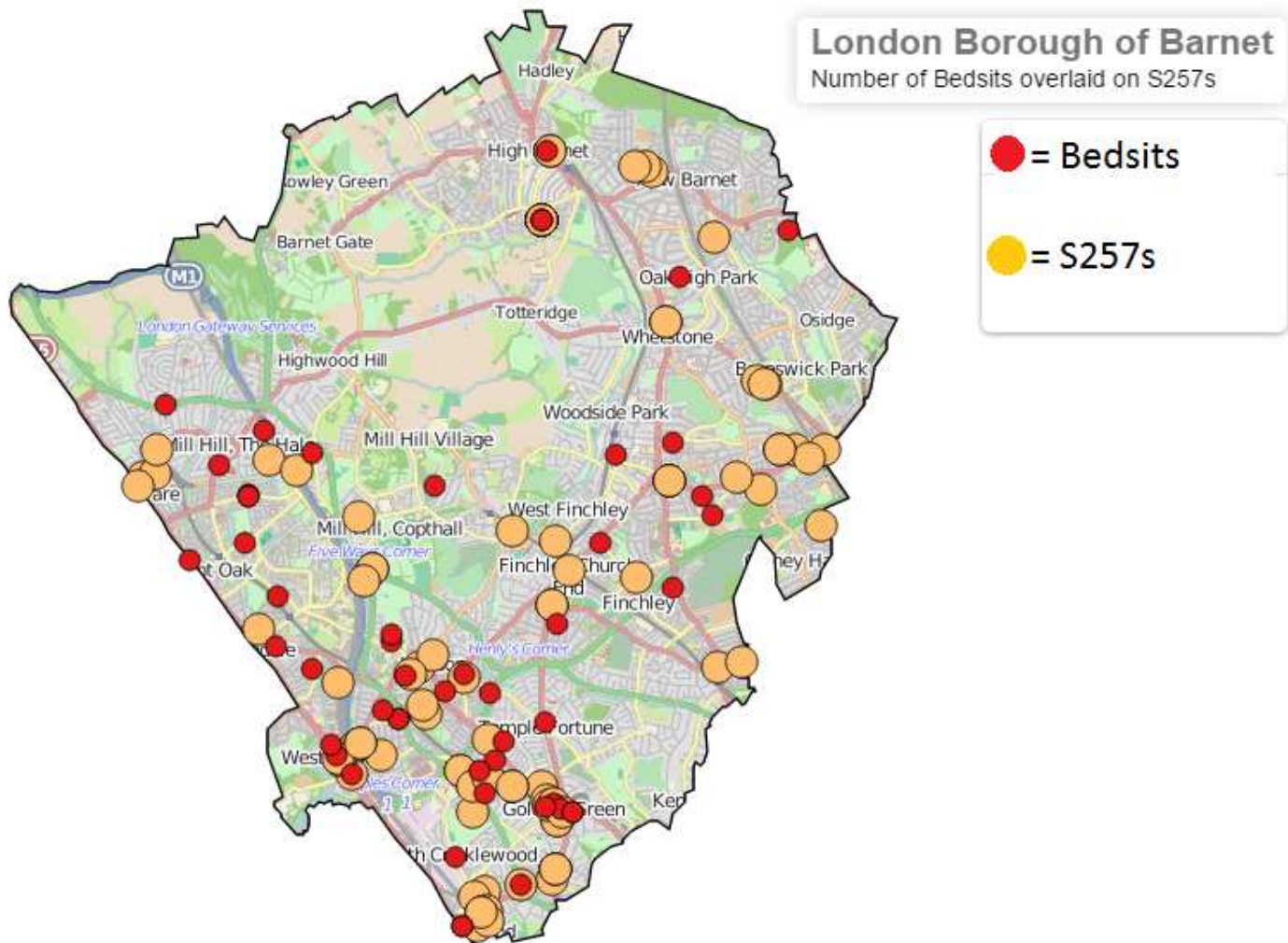
- the conversion work was not done in accordance with 'appropriate building standards' ('appropriate building standards' means the 1991 Building Regulations) and
- less than two-thirds of the self-contained flats are owner-occupied.

Many such properties were converted a number of years ago and as such, would not be dealt with through Planning or Building Control enforcement action. It is proposed that an Additional Licensing scheme would apply only to such buildings where all the flats are owned by the same person or organisation.

1.11.9 The review of HMO regulation is being completed with support from Barnet and Harrow Public Health Team. It is recognised that by reducing hazards in HMOs there will be significant financial savings for the NHS. In the past four years the Environmental Health Service have reduced category 1 hazards in 615 premises within the private rented sector (these are the most serious hazards under the Housing Act 2004). Of these, 25% have been in relation to an HMO of one type or another (34% of these being bedsits with the remaining 66% being Section 257 type HMOs (poorly converted flats) ).

1.11.10 The properties with category 1 hazards reduced have been mapped and can be seen below. Over the same period, category 1 hazards involving Excess Cold were reduced in 82 of the borough's HMOs. Prolonged exposure to excess cold lowers the body temperature; this can aggravate, or induce a number of issues such as pneumonia and other respiratory problems, cardiovascular and circulatory conditions including heart attacks. The costs to the NHS within the borough alone arising from exposure to excessively cold housing are estimated to be as much as 7.25 million pounds per year (calculated using the Building Research Establishment's HHSRS cost calculator). The estimated costs arising from a fatal heart attack, including interim care, amounts to £19,851 per person, or where related to a non-fatal heart attack with the associated care, £22,295 (*the Real Cost of Poor Housing BRE 2009 (Roys et al;. 2010)*).





### 1.12 Criteria to Consider Before Introducing an Additional Licensing Scheme.

In order to consider establishing an Additional Licensing scheme the Housing Act 2004 requires that certain criteria must be met. These criteria are set out in Appendix 4.

### 1.13 Combining Additional Licensing with an Article 4 Direction under the Town and Country Planning (General Permitted Development) Order 1995

1.13.1 In conjunction with Additional Licensing, the Council is currently also considering the case for an Article 4 Direction under the Town and Country Planning (General Permitted Development) Order 1995. An Article 4 Direction withdraws permitted development rights that would usually be relied upon in relation to some HMOs, so that planning permission would be required before a building could be used as an HMO. Currently planning permission is not required to convert a property to non-self-contained accommodation for 3-6 persons but would be required if an Article 4 Direction came into effect .

- 1.13.2 The two approaches would work in tandem and be complementary to each other as part of a more strategic approach to HMOs. Currently planning permission is required to allow a building to be run as an HMO but only where there are to be 7 or more persons in occupation. As such HMOs with fewer occupants do not require planning permission and are therefore unregulated in relation to planning requirements.
- 1.13.3 An Article 4 Direction would not apply to existing HMOs, only to new ones as part of the development process. It would also only control the setting up of the HMO but could not be to ensure on-going safe conditions within the HMO or comprehensive management as detailed by the Housing Act 2004 and the associated guidance and regulations.
- 1.13.4 An Article 4 Direction and an Additional Licensing scheme together would ensure that the concentration of HMOs is controlled within a particular area, relieving the stresses associated with public health and anti-social behaviour, whilst at the same time ensuring that the higher risk properties meet minimum standards and are comprehensively managed.

## **2 REASONS FOR RECOMMENDATIONS**

- 2.1 Enforcement action in relation to HMOs is costly, resource intensive and complex. The average cost to Barnet Council of prosecuting a non-compliant HMO landlord is £2,790. The courts do not necessarily award full costs to the Council, even when the defendant is convicted.
- 2.2 Barnet Council currently has a reactive approach to non-licensable HMOs (i.e. those that do not fall within the mandatory licensing requirements). As such, this approach deals with difficult situations after they have arisen, rather than at a time where more preferably, the problems are prevented from arising in the first place.
- 2.3 Reactive enforcement is a resource intensive approach to this area of work, as there is no onus on landlords to identify themselves or their properties to the Council. Compliance and improvement often requires extensive investigations to identify the owners, gain access to the premises and so on, and can ultimately lead to enforcement action. This situation also often recurs with the same landlord as they are under no obligation to advise the Council of any other HMOs that they have in the borough.
- 2.4 Landlord Accreditation and the Landlords Forum are useful tools which assist landlords to improve their current knowledge. However they do not really assist the Council in dealing with non-compliant landlords. They generally help the compliant landlords improve.
- 2.5 The mandatory statutory requirements in relation to HMOs are often confusing for landlords, as they are not uniform across all HMOs. There is often an understandable misperception among many landlords that if their HMO does

not require a mandatory licence, it is not an HMO by definition and so management regulations do not apply, which is not the case.

- 2.6 At a time when there is significant pressure on Council budgets and whilst it is recognised that there are limitations to Additional Licensing, it should be considered as an important tool for regulating the HMO sector in a uniform manner. It should be noted that licensing fees must be set at a level which recovers the cost of administering the scheme, although fees must not exceed the actual and direct costs of processing an application and the cost of monitoring compliance by landlords with the terms of their licences, but not the cost of enforcement. This is currently under review in the Supreme Court.
- 2.7 If an Additional Licensing scheme were implemented the Council would continue to undertake statutory enforcement action. In addition, Landlord Accreditation would continue to be promoted as the education of and joint working with landlords is seen as key to ensuring a good level of on-going property management.

### **3 ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 Consideration has been given to other options that the Council could pursue if the proposals in this report are not supported.

#### **Do Nothing**

- 3.1.1 Barnet could continue solely with the current enforcement regime, linked with more aggressive promotion of Accreditation.
- 3.1.2 This is not recommended due to the reasons detailed in 1.11.3 and 2.4 above.

#### **Expand the Current Enforcement Regime**

- 3.1.3 Given current resources, the Council has adopted a reactive enforcement approach in relation to HMOs, dealing with cases as they present. A more proactive approach could be taken to target the worst landlords. This would develop an outward facing image of enforcement in relation to rogue landlords.
- 3.1.4 To practically do this would involve the need to increase the resourcing allocated for Environmental Health Services by a minimum of two additional posts. The cost would be in the region of £80,400 per annum.
- 3.1.5 This is a more traditional enforcement approach and less of an enabling one than it is hoped Additional Licensing would bring.

#### **Area Based Additional Licensing Scheme**

- 3.1.6 Instead of consulting on a borough wide scheme an area based Additional Licensing scheme could be consulted on in the areas recognised as being most densely populated with HMOs; for example Childs Hill, Hendon, West Finchley, Finchley Church End and Golders Green.

- 3.1.7 This would further fragment the approach to the regulation of HMOs across the borough.
- 3.1.8 Given the high number of town centres in the borough, the location of Middlesex University, and the increasing dependency on the private rented sector, it is recognised that HMOs are spread across the borough. Although it is also recognised that there are some areas in which they occur in higher concentrations, an area based scheme would cause inconsistency in regulation and confusion amongst landlords and tenants.
- 3.1.9 In the event that the borough wide consultation exercise indicates that this would be a more appropriate approach a further consultation exercise will be undertaken in relation to an area based scheme.

## **4 POST DECISION IMPLEMENTATION**

- 4.1 If the recommendations in this report are approved by the Housing Committee a full consultation exercise will commence as soon as possible. The consultation will include:
- On line questionnaires
  - Use of Social Media
  - Emails/mailshots to estate agents, landlords and tenants known to the Council
  - Hard copy questionnaires in public buildings
  - Two landlord workshops
  - Emails/mailshot out to organisations with an interest in the private rented sector in Barnet including neighbouring local authorities
  - Consultation through the Council's on line General Consultation Portal
- 4.2 The proposed consultation will serve to provide further evidence about the way in which the private rented sector operates within the Borough. The consultation will also feed into the EQIA (Equality Impact Assessment).
- 4.3 Aims, objectives and targets will be agreed to measure the success of the scheme. A strategy will also be in place in the event that the targets are not met and include options for alternative approaches that might be adopted at the relevant time.
- 4.4 Some evidence in support of an Additional Licensing scheme is presented in Appendix 2. However this evidence base will be built upon and presented with the findings of the consultation to enable the Committee to consider whether to approve a scheme.

## **5 IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

The policy meets the Council's key Corporate Priorities detailed in the Barnet Corporate Plan 2013-2016 as follows:-

- Create the right environment to promote responsible growth, development and success across the borough:- Additional Licensing will improve the standard of accommodation provided by HMOs which will be beneficial to occupying tenants and the wider local community.
- Support families and individuals that need it, promoting independence, learning and well-being:- Increasing the available housing stock meeting minimum standards will help ensure that more families have access to accommodation which will enable stability in schooling, health care etc.
- Improve the satisfaction of residents and businesses with the London Borough of Barnet as a place to live, work and study. Additional Licensing will improve the standard of accommodation provided by HMOs whilst at the same time reducing any associated crime and/or fear of crime for local residents which will increase their satisfaction with the local community.

5.1.2 Barnet's Draft Housing Strategy 2010-2025 key objective is to increase the housing supply, including family sized homes, to improve the range of housing choices and opportunities available to residents. The proposal for a borough wide Additional Licensing scheme contributes to this through improving the condition and sustainability of the existing housing stock.

## **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.2 The cost of investigating the viability of additional licensing and completing a full consultation exercise will be borne by the Environmental Health Service provider Re, as the exercise was proposed by Capita as part of the Development and Regulatory Services contract with Barnet Council.

5.2.3 In the event that an Additional Licensing scheme is considered appropriate following consultation, a breakdown of the financial implications of introducing a borough wide Additional Licensing scheme will be presented to Committee to consider the viability of an Additional Licensing Scheme in conjunction with the consultation findings.

5.2.4 The indicative fees and charges on page 24 have been reviewed by finance and are believed to be accurate and cover all associated costs.

5.2.5 No additional IT or property will be required to investigate the case for Additional Licensing further.

5.2.6 There are no procurement issues to be considered in relation to this report

## **5.3 Legal and Constitutional References**

- 5.3.1 The Housing Act 2004 (section 56 and 57) provides Local Authorities with the power to designate areas within their district or borough as being subject to an Additional HMO Licensing Scheme in relation to some or all HMOs in that area which are not already covered by Mandatory HMO licensing. Section 56 of the Housing Act 2004 sets out further considerations that an authority needs to consider when making a designation of an area as subject to additional licensing. The outcome of any public consultation will assist in the authority considering these other factors and whether additional licensing is appropriate.
- 5.3.2 The scheme can be introduced for a period of up to 5 years to address problems that may exist in substandard converted self-contained flats or smaller HMOs not covered by the existing mandatory schemes.
- 5.3.3 Annex A To Responsibility for Functions - Membership and Terms of Reference of Committees and Partnership Boards” sets out the responsibilities of the Housing Committee which include “all matters relating to private sector housing; and housing licensing and housing enforcement.”

## **5.4 Risk Management**

- 5.4.1 Whilst additional licensing is likely to be welcomed by residents and tenants there is a risk that it will not be popular with some Landlords. Some Local Authorities have been subject to costly Judicial Review following the declaration of an Additional Licensing Scheme for example *R (on the application of Regas) v Enfield LBC* [2014] EWHC 4173 was in relation to inadequate consultation.
- 5.4.2 In order to minimise this risk, care is being taken to design a scheme that targets poor property management whilst using a lighter touch on the more compliant landlords.
- 5.4.3 If all neighbouring boroughs adopt an Additional Licensing Scheme there may be a reputational risk for Barnet in not doing so.

## **5.5 Equalities and Diversity**

- 5.5.1 Improving the standards in and management of HMOs within the borough will benefit all members of the Borough’s diverse communities.
- 5.5.2 Any regulatory activity will be carried out in accordance with the current Development and Regulatory Services Enforcement Policy to ensure the objective application of powers and responsibilities.
- 5.5.3 As part of the consideration of Additional Licensing, an Equalities Impact Assessment (EQIA) will be carried out, if following a screening exercise it is found to be necessary. The results of the consultation will feed into the EQIA.

## **5.6 Consultation and Engagement**

- 5.6.1 Please refer to 4.1

## 6 **BACKGROUND PAPERS**

6.1 R v London Borough of Enfield Case No: CO/3170/2014