

**Report Title:** Investigation of measures that could be introduced as part of the Selective and Additional (HMO) Licensing Schemes to compel landlords to have a level of control over their tenants to alleviate the anti-social actions of littering and dumping rubbish in rear entries

Date of meeting:	25 November 2024		
Report to:	Overview and Scrutiny Committee (Regeneration and Skills)		
Report of:	Assistant Director Economic Growth and Housing		
Portfolio:	Cllr Daren Veidman – Highways and Housing		
Wards affected:	Linacre, Derby, Litherland, Cambridge, Dukes, Kew, Church, Victoria, Blundellsands		
Is this a key decision:	No	Included in Forward Plan:	No
Exempt/confidential report:	No		

**Summary:** The council currently operates a Selective Landlord Licencing scheme in Bootle and Additional (HMO) licencing schemes in Seaforth, Waterloo and Southport. These scheme place obligations on the landlords to ensure that their tenants are aware of how to properly dispose of refuse from the property. However, committee wish to explore whether additional licencing conditions can be placed on the landlord to prevent fly-tipping in rear entries by their tenants and this paper considers options to do so.

**Recommendation(s):**

Overview and Scrutiny Committee (Regeneration & Skill) is recommended to:

- (1) Note the contents of this report.

**1. The Rationale and Evidence for the Recommendations**

**Background/Introduction**

- 1.1 Section 80 of the Housing Act 2004 allows local authorities to apply for selective licensing of privately rented properties in the whole of their district or in an area of their district. The main provisions in respect of selective licensing came into force in April 2006.
- 1.2 The Act provides a discretionary power, subject to carrying out consultation and to the approval of the appropriate national authority (Secretary of State for Communities and Local Government), for Local Housing Authorities to license all private landlords in a

designated area with the intention of ensuring that a minimum standard of management is met.

- 1.3 Additional Licensing under section 56 of the Housing Act 2004 allows the local authority to designate either the whole of their district or an area within their district as subject to an additional (HMO) licensing scheme. A local authority must consider that a significant proportion of the HMOs of a defined description, in either a designated area or across the whole of the borough are being managed insufficiently enough to give rise to one or more particular problems either for those occupying the property or for members of the public.
- 1.4 Between 2018 and 2023 the council operated a Selective Landlord Licencing scheme in Bootle, and Additional (HMO) Licencing in Waterloo, Seaforth and Southport.
- 1.5 In December 2021 Cabinet approved the redesignation of these schemes subject to consultation from March 2023 until February 2028.

### **Selective licensing**

- 1.6 Selective Licensing is compulsory and applies to all private rented properties in a designated selective licensing area (Appendix I) with the exception of those already subject to Mandatory HMO Licensing or those exempt from licensing. In the areas where selective licensing applies, all landlords will be required to hold a license in order to rent out a property.
- 1.7 During the term of a licence a landlord must be able to demonstrate that they are acting within the law and taking adequate steps to manage their properties and keep them safe. During the 5-year licence period a compliance inspection will be carried out on the majority of properties to ensure they meet the required standards for residential accommodation. In addition, a 'fit and proper' person test will be applied to test the landlord's suitability to manage a tenancy.

### **Additional (HMO) Licensing**

- 1.8 Additional (HMO) Licensing operates in the same way and alongside the existing Mandatory HMO Licensing scheme that operates across the Borough. Mandatory licensing requires that a certain type of HMO must have a licence. These are those that house 5 or more people who form 2 or more households and do not have all facilities within a self-contained unit, i.e. bathroom or kitchen. The same process will be followed, with the same legal obligations and penalties for failing to comply with the requirements.
- 1.9 Additional Licensing will require **all** privately rented HMOs of any description, which are located within designated areas, to be licensed. Sefton proposes to implement Additional licensing in parts of Southport and Waterloo/Seaforth/Brighton Le Sands (Appendix I).

### **Licencing Requirements – External Areas and Refuse**

- 1.10 Holders of both Selective and Additional (HMO) licences must ensure that:
  - (a) The exterior of the property is maintained in a reasonable decorative order and state of repair;
  - (b) At the commencement of a new tenancy any gardens, yards and other external areas within the curtilage of the house must be in a reasonably clean and tidy condition and free from rodent infestation, and

(c) Suitable and adequate provision is made for storage of refuse generated in the property and that occupants use receptacles provided by Sefton Council for storage prior to collection (wheeled bins or refuse sacks).

(d) The tenants are adequately informed of their duty with regards to refuse collection particularly that the wheeled bins or plastic refuse sacks (if wheeled bins are not provided) must not be presented for collection for a period of more than 12 hours prior to collection.

(e) Any new occupant of the building is notified of the date of collection for the wheeled bins/refuse sacks.

1.11 As committee can see licencing requirements are already in place relating the external areas and refuse. The committee wishes to explore whether the licencing schemes can be used to compel landlords to have control over their tenants but there are several things to be considered:

- In order for action to be taken against private tenants who dump rubbish in a rear entry, or even within the curtilage of their own property, robust proof is required, such as personal information linking the tenant to the rubbish, evidence of them dumping the rubbish such as CCTV, or witnesses to the event who are willing to make a formal statement.

It is rarely the case that the kinds of robust proof required to take action can be secured. If such proof existed in a particular case it would be for the council's Environmental Protection Department to take appropriate action, *not the landlord*;

- In many cases fly tipping occurs when a tenant leaves a property. The current licencing conditions requires a landlord to ensure that the exterior of the property is in a clean and tidy condition. However, there is a limit to how far this can be enforced by the council. Landlords are required to apply for the correct licence at the start of the relevant licencing period, not when the property is re-let, and therefore even where inspections are made of licenced properties it is likely that the tenant has been resident for some time. In some cases fly-tipping in rear entries related to a change of tenancy could be actions of a rogue landlord, or associates of the landlord, who are clearing the property of items left by the previous tenant.

However, even in these cases the limitations outlined above in terms of having robust proof of these actions would also apply. The council does not know when a property is relet, and even if this were the case we do not have sufficient resources to inspect properties prior to a new tenant moving in;

We are currently 20 months into a 5-year Licencing scheme and therefore we are now unable to add additional licencing requirements to the current scheme. We are able to additional requirements to specific properties of concern, however, blanked changes to licencing condition cannot until 2028 when the current scheme ends.

### **Poet Streets – Linacre Ward**

1.12 The Housing and Investment team is currently working with several Registered Social Housing providers who own properties in the 'Poet Streets' area of the Linacre Ward (streets off Marsh Lane and Knowsley Road). The social landlords in the area have been working in a coordinated way along with the Housing and Investment team to look at issues relating to fly-tipping in rear entries.

1.13 Regular joint inspections of the area have recently re-started to identify fly-tipping issues and ensure that this is cleared up as soon as possible, and that where evidence exists that is sufficient to take action against perpetrators that this happens. It is hoped that this approach can be rolled out in other fly-tipping 'hotspot' areas.

**2. Financial Implications**

There are no financial implications arising from this report.

**3. Legal Implications**

There are no legal implication arising from this report.

**4. Risk Implications**

There are no risk implications arising from this report.

**5 Staffing HR Implications**

There are no staffing implications arising from this report.

**6 Conclusion**

Under the current licences issued to landlords they are required to taken action to ensure that tenants are aware of the proper arrangements to collect refuse from the property in an effort to minimise fly-tipping. It is difficult to see what additional requirements can be added to this that a landlord can practically enforce.

For a landlord to take action against a tenant proof would be required that their tenant was responsible for it, and if this proof existed there is no requirement for the landlord to intervene as the council could take action against the tenant.

**Alternative Options Considered and Rejected**

N/A

<p><b>Equality Implications:</b></p> <p>There are no equality implications.</p>
<p><b>Impact on Children and Young People:</b></p> <p>The are no impacts on Children and Young People.</p>
<p><b>Climate Emergency Implications:</b></p> <p>The recommendations within this report will have a Neutral impact.</p>

**What consultations have taken place on the proposals and when?**

None

**(A) Internal Consultations**

The Executive Director of Corporate Services & Commercial (FD.7805/24.) and the Chief Legal and Democratic Officer (LD.5905/24) have been consulted and any comments have been incorporated into the report.

## **(B) External Consultations**

Not applicable

### **Implementation Date for the Decision :**

Following the expiry of the “call-in” period for the Cabinet decision.

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### **Appendices:**

The following appendices are attached to this report:

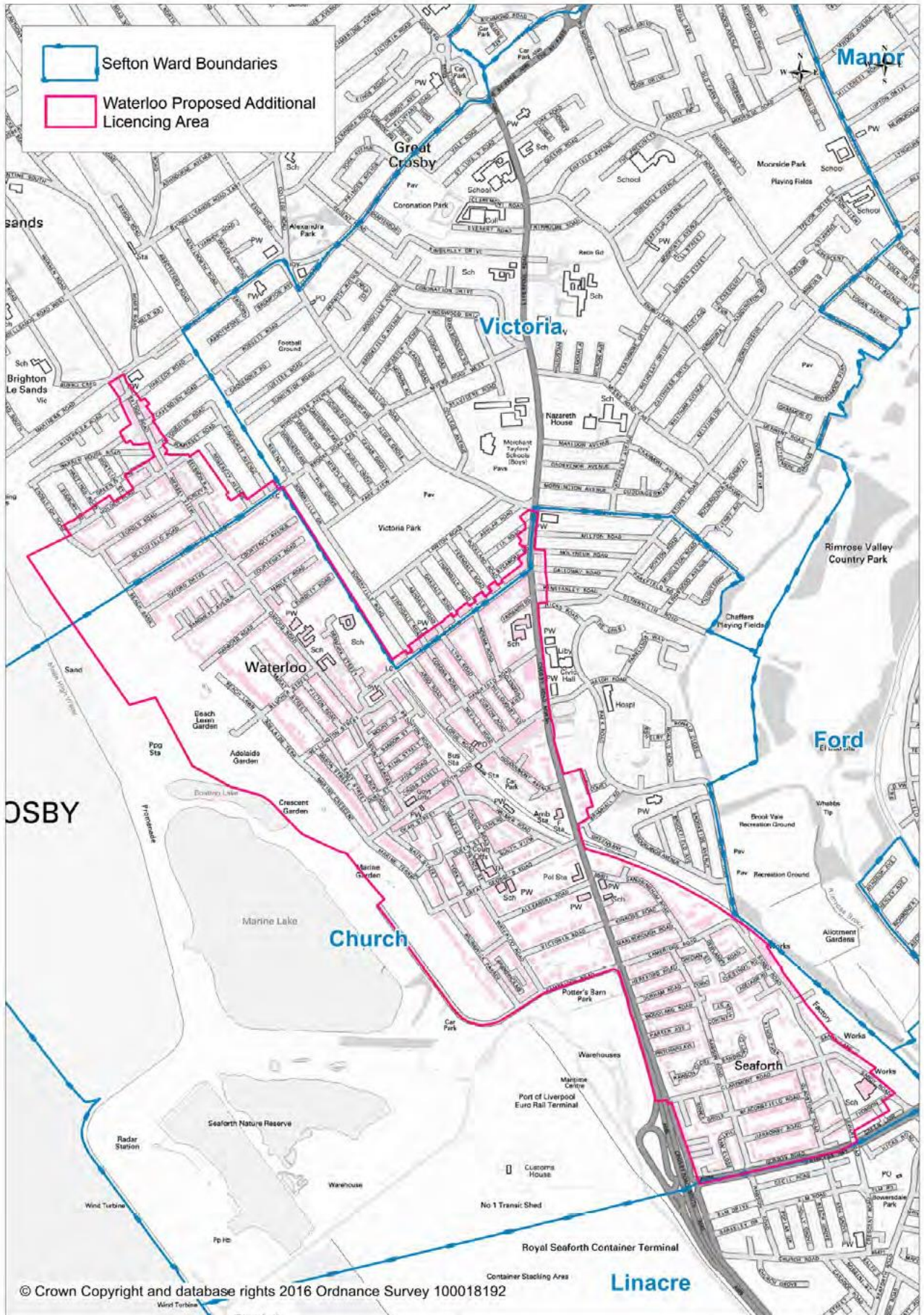
Appendix I – Licencing Boundary Maps

### **Background Papers:**

None

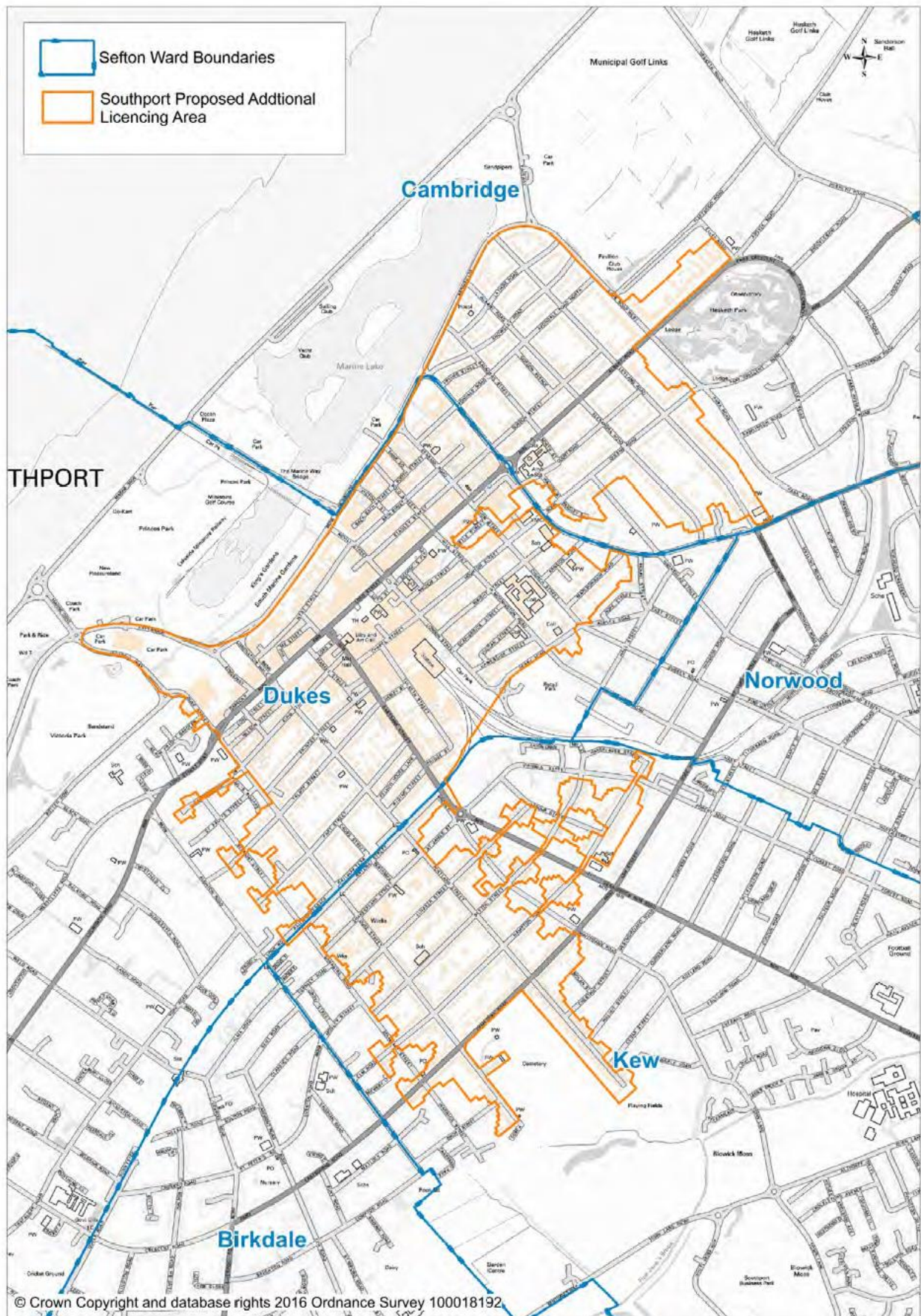


# Appendix I – Additional (HMO) Licencing Boundary – Seaforth/Waterloo





# Additional (HMO) Licencing Boundary - Southport





# Selective Licencing Boundary – Bootle/Litherland

