

Report to:	Cabinet	Date of Meeting:	Thursday 1 December 2016
Subject:	Private Rented Sector Housing Licensing Schemes	Wards Affected:	Blundellsands; Cambridge; Church; Derby; Dukes; Kew; Linacre; Litherland; Victoria;
Report of:	Head of Regeneration and Housing		
Is this a Key Decision?	Yes	Is it included in the Forward Plan?	Yes/No
Exempt/Confidential	No		

Purpose/Summary

To consider the need to introduce both a Selective licensing scheme and 2 Additional HMO licensing schemes in designated areas of the borough and introduce the Business case to support the introduction of the schemes.

To consider the implementation of a 12 week consultation in relation to the introduction of a selective licensing scheme and 2 additional licensing schemes.

Recommendation(s)

That Cabinet agree:

- (1) To approve in principle the Business Case for the introduction of a selective licensing scheme in the Bootle area and 2 additional HMO licensing schemes in central Southport and areas of Waterloo/Seaforth.
- (2) To agree to a 12 week public consultation on the proposals for the implementation of the schemes
- (3) To give authority to the Head of Regeneration and Housing, in consultation with the Cabinet Member for Communities and Housing, to;
 - (i) procure and appoint consultants to undertake the required public consultation on the 3 proposed schemes, and
 - (ii) agree any minor/technical changes to the Business Case in advance of the formal consultations.
- (4) To approve in principal the draft licencing conditions.

How does the decision contribute to the Council's Corporate Objectives?

	<u>Corporate Objective</u>	<u>Positive Impact</u>	<u>Neutral Impact</u>	<u>Negative Impact</u>
1	Creating a Learning Community		X	
2	Jobs and Prosperity		X	
3	Environmental Sustainability	X		
4	Health and Well-Being	X		
5	Children and Young People		X	
6	Creating Safe Communities	X		
7	Creating Inclusive Communities		X	
8	Improving the Quality of Council Services and Strengthening Local Democracy	X		

Reasons for the Recommendation:

Cabinet authority is required for the introduction of a selective licensing scheme and 2 additional licensing schemes within the Borough. Authority is also required to procure and appoint consultants, carry out a public consultation and to approve in principle the draft licence conditions.

Alternative Options Considered and Rejected:

Do nothing

Sefton could continue solely with the current enforcement regime, linked with more aggressive promotion of Accreditation. This option is unlikely to have significant impact due to Accreditation being a voluntary scheme, with only the better landlords usually obtaining accreditation status.

Expand the Current Enforcement Regime

The Council currently has a reactive enforcement approach in relation to privately rented properties, dealing with cases as they present themselves. 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.

To practically do this would involve the need to increase the resourcing allocated to the Housing standards Team by a minimum of 3 additional posts. This cost could be up to £135,711 per annum.

This is a more traditional enforcement approach and less of an enabling one than licensing would bring.

Introduce a borough wide Selective Licensing Scheme

Officers also considered introducing a district-wide scheme but this was not taken forward because the evidence is not yet sufficient to introduce the whole district and

therefore such an application is unlikely to be supported by the Secretary of State (who has to agree to the implementation of such a scheme). A consideration when determining an area for selective licensing is a requirement set out in the Government Guidance, which states that any area considered for selective licensing must have a high proportion of property in the private rented sector, which is more than the national average. Nationally the private rented sector currently makes up 19.6% of the total housing stock in England. The proportion for the borough of Sefton is 13% (2011 census). Therefore a borough wide scheme would fail this test.

What will it cost and how will it be financed?

(A) Revenue Costs

Additional resources will be required to operate the schemes. The schemes have been costed and the licence fees set to make the schemes self-financing.

(B) Capital Costs

None

Implications:

The following implications of this proposal have been considered and where there are specific implications, these are set out below:

Financial		
The schemes have been costed and proposed licence fees should cover the costs of the operation of the scheme over the 5 year life of the schemes. The schemes should be cost neutral and self-financing.		
Legal		
Part 2 & 3 of the Housing Act 2004 sets out the legislative framework for Selective and Additional (HMO) Licensing. Section 80 of the Housing Act 2004 allows the local authority to designate the area of their district or an area in their district as subject to selective licensing. Section 56 of the Housing Act 2004 allows the local authority to designate the area of their district or an area in their district as subject to additional licensing.		
Human Resources		
Additional staff resources will be required to operate the scheme over the 5 year period. The cost of these staff has been incorporated in the setting of licence fees.		
Equality		
1.	No Equality Implication	<input checked="" type="checkbox"/>
2.	Equality Implications identified and mitigated	<input type="checkbox"/>
3.	Equality Implication identified and risk remains	<input type="checkbox"/>

Impact of the Proposals on Service Delivery:

Selective & Additional (HMO) Licensing schemes are new areas of work. The introduction of the schemes would introduce more proactive engagement with private landlords rather than the traditional reactive way of working. The schemes will create an increased level of work for the Council's Housing Standards Team.

What consultations have taken place on the proposals and when?

The Head of Corporate Resources (FD4386/16) and the Head of Regulation and Compliance (LD 3667/16) have been consulted and any comments have been incorporated into the report.

Overview and Scrutiny Committee (Regeneration & Skills) considered this subject at their meeting of the 8th of November 2016 and supported the proposals and approach being taken.

The proposals will be the subject of an extensive public consultation exercise in 2017.

Implementation Date for the Decision

Following the expiry of the "call-in" period for the Minutes of the Cabinet Meeting

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Background Papers:

The following background papers are available for inspection:

Background documents

- | | |
|--------------|---|
| Background 1 | Maps and Address List of Proposed Selective Licensing Designated Area |
| Background 2 | Maps and Address List of Proposed Additional (HMO) Licensing Designated Areas |
| Background 3 | Risk Analysis |
| Background 4 | Requirements for the Designation of an Area for Selective Licensing |

Introduction/ Legislative Background

- 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 sufficiently ineffectively as to give rise to one or more particular problems either for those occupying the property or for members of the public.
- 1.4 Prior to April 2015, local authorities had powers to introduce selective licensing of privately rented homes in order to tackle problems caused by either:
 - (i) low housing demand
 - (ii) significant anti-social behaviour.

With effect from 1 April 2015, a new Government General Approval came into force. Local authorities are required to obtain confirmation from the Secretary of State for any *selective licensing scheme* which would cover more than 20% of their geographical area or would affect more than 20% of privately rented homes in the local authority area.

- 1.5 If the local authority makes two or more designations at the same time, each of which account for less than 20% of the area or private rented stock, but cumulatively account for more than 20% of either, all of the schemes will need to be submitted to the Secretary of State for confirmation.
- 1.6 As well as the 2 existing criteria, additional criteria for making a scheme are also now in force. A designation may be made to combat problems in an area also experiencing:
 - poor property conditions,
 - an influx of migration,
 - a high level of deprivation or
 - high levels of crime.
- 1.7 A consideration when determining an area for selective licensing, is contained in the following requirement, as set out in the recent Government Guidance (April 2015):

In considering whether to designate an area for selective licensing (on 1 of the 4 new grounds)..... the local housing authority may only make a designation if the

area has a high proportion of property in the private rented sector. Nationally the private rented sector currently makes up 19.6% of the total housing stock in England. The actual number of privately rented properties in a given area may be more or less than this, and if it is more than 19.6%, the area can be considered as having a high proportion of privately rented properties.

The proposed area, Bootle, for selective licensing is estimated to contain 25.5% of private rented sector housing.

- 1.8 **Appendix 1** of this report presents the Business Case required to justify the introduction of a Selective Licensing Scheme in Bootle and 2 Additional (HMO) Licensing Schemes in central Southport and Waterloo/Seaforth, in Sefton. The business case to justify the proposed selective licensing scheme for Bootle is made on 4 of the available criteria, though only one is required to be proven.

2. Sefton Context

- 2.1 Sefton's private rented sector (PRS) has increased by 64.4% between 2001 and 2011. This shows a significant and continuing growth. The total level of private rented housing stock across Sefton is 13%. In 6 wards located in Southport (4), Waterloo (1) and Bootle (1) the PRS exceeds the national average of 19.6% [2011 census]. A well-managed PRS plays an important role in meeting the Borough's housing needs. However, the short-term nature of tenancies brings it challenges especially when those properties are not well managed. Increased anti-social behaviour and poor property condition are a growing concern. The latest house condition survey found that 24.4% of privately rented property failed to meet the decent homes standard, compared to 15.8% of all private properties in Sefton. This is largely due to the fact that the PRS is generally unregulated.

3. Selective licensing

- 3.1 Selective Licensing will be compulsory and applies to all private rented properties in a designated selective licensing area with the exception of those already subject to mandatory HMO Licensing or those exempt from licensing. In the areas where selective licensing would be applied, all landlords will be required to hold a licence in order to rent out a property. The licence lasts for the duration of the 5 year scheme.
- 3.2 To qualify for 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 full Housing Health and Safety Rating System (HHSRS) inspection will be carried out by officers as a legal requirement for the licence to ensure the property is in compliance with 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.
- 3.3 The Business Case (appended) demonstrates that the Bootle area proposed for a selective licensing designation meets four of the six legal tests set out in the Housing Act 2004. The area also contains an estimated 25.5% private rented housing stock. The designation for Bootle is proposed on the basis of four of the available criteria; anti-social behaviour, housing conditions, deprivation, and crime. A designation based on migration or low demand is not proposed. Only one test needs to be proved to make a designation lawful.

4. Additional HMO Licensing

- 4.1 Additional (HMO) Licensing will operate 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 comprise 3 storeys or more, 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 Government is currently consulting on extending the scope of Mandatory licensing, but there are no proposals at present to include poorly converted blocks of flats (Section 257 HMOs), of which Sefton has many). The same process will be followed for the Additional HMO scheme as with the existing Mandatory scheme, with the same legal obligations and penalties for failing to comply with the requirements.
- 4.2 Additional Licensing will require **all** privately rented HMOs, which are located within designated areas, to be licensed. Sefton proposes to implement additional HMO licensing in central Southport and parts of Waterloo.
- 4.3 Before making an additional HMO licensing designation for a particular area, a local authority must consider that a significant proportion of the HMOs of that description in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.
- 4.4 The Business Case (appended) demonstrates that the 2 proposed areas for an additional HMO licensing designation meet the criteria.

5. Fees

- 5.1 The proposed licence fees below have been based on an estimate of the number of properties that will require a licence. This calculated income stream cannot be guaranteed at this stage as it is dependent upon the actual number of applications received when the scheme is launched and reactively from then onwards. The fees are subject to annual review to ensure recovery of all relevant costs to operate the schemes.

Selective Licensing	£	Annual Equiv.	Weekly Equiv.
Full Fee	695	139	2.67
Accreditation	545	109	2.10
Early Bird	620	124	2.38
In addition :			
7-12 units	150		
13-20 units	250		
21+ units	350		

Additional (HMO) Licensing	£	Annual Equiv.	Weekly Equiv.
Full Fee	850	170	3.27
Accreditation	700	140	2.69
Early Bird	800	160	3.08
In addition :			
7-12 units	150		
13-20 units	250		
21+ units	350		

- 5.2 A review of fees will be undertaken annually and will be adjusted to reflect changes in costs. The fees will also be reviewed in line with the findings of the pending decision of Hemming v Westminster City Council which has been referred to the European Court of Justice. Fees may also need to reflect any possible pending legislative changes to Mandatory HMO licence fees.

6. Resources

- 6.1 The proposed schemes will generate a high level of additional work and needs to be resourced accordingly. It is estimated that a team of 9 new staff will be required to manage the workload. It is intended that the team will be staffed sufficiently to process around 2800 Selective and 200 Additional (HMO) applications in total. The total cost of the staff would be in the region of £1,800,000 over the 5 year programme.

The team will comprise of:-

- Licensing Manager
- 3 x Compliance Officers (fixed term)
- 5 x Admin Support (fixed term), but numbers subject to review over the life of the scheme.

In addition, 5 existing staff currently working on a range of private sector housing issues will be utilised to compliment the licensing team. The cost of these staff has been incorporated in the setting of licence fees, based on the estimated proportion of their time which will be spent supporting licensing work.

- 6.2. Running concurrently with the consultation a detailed financial analysis will be undertaken to evaluate the cost and income forecasts, cash flow and an appropriate financial risk analysis. This will form part of the final proposals to be presented to Cabinet.

7. Consultation

- 7.1 Consultation is a key feature of the development of the proposals. Section 56 (3) & Section 80 (9) of the Housing Act 2004 requires that before making a designation, the local authority is required to undertake a formal consultation process on the proposed implementation of the selective and additional licensing designations and take reasonable steps to consult with persons likely to be affected. This should include local residents, including tenants, landlords, managing agents and other members of the community who live or operate

businesses or provide services within the proposed designation and neighbouring areas that may be affected, including neighbouring local authorities.

- 7.2 Government guidance states there should be a minimum 10 week consultation period. In line with Sefton's approved approach to engagement and consultation, it is proposed that we adopt a consultation period process which will last for a period of 12 weeks, which is scheduled to commence, subject to Cabinet Approval, in April 2017.
- 7.3 To provide an impartial and thorough consultation, it is recommended that we commission an external consultant to undertake the consultation process.
- 7.4 The appointed consultation consultant will be required to agree the consultation methodology with Sefton's Consultation & Engagement Panel. When the consultation is actually due to begin further information about the consultation process will be advertised and promoted including how to get involved. Information will be provided on Sefton's website and everyone who is likely to be directly affected by the proposals will be contacted and invited to participate in the consultation.

8. Licence conditions

- 8.1 Licence holder will be required to comply with conditions on their licence. Some of these conditions are mandatory and have to be applied to each licence, as defined in the Housing Act 2004. Each licence will also have a further set of conditions that are specific to Sefton. The draft Selective licensing conditions are in **Appendix 1 of the Business Case**. The draft Additional (HMO) Licensing conditions are attached in **Appendix 2 of the Business Case**.

9. Areas

- 9.1 Selective licensing is proposed to be introduced in an area of Bootle.
- 9.2 Additional (HMO) Licensing is proposed in 2 areas of the Borough. One in central Southport and one in the Waterloo/Seaforth area.

10. Next steps

- 10.1 Assuming Cabinet approve the recommendations in this report, the next steps will include:
- procurement and appointment of consultation consultants
 - agreement to a consultation methodology with the Council's Consultation & Engagement Panel
 - undertake the formal 12 week consultation exercise
 - review the results of the consultation
 - present final proposals to Cabinet for consideration, which will probably be circa September 2017.