

Report to Cabinet

Subject: Selective Licensing Phase 2 Consultation

Date: 8th October 2020

Author: Food, Health and Housing Manager

Wards Affected

Carlton Hill, Colwick, Daybrook, Newstead Abbey

Purpose

To advise Cabinet of the implications and procedure required for a selective licensing scheme.

To obtain Member approval for the Proposal to Declare a Selective Licensing Designation within the Private Rented Sector – Phase 2 contained at appendix 1 of the report to be issued for a 12 week public consultation.

To seek Member support of the proposed fees and resource requirements outlined in the financial implications section of this report, subject to the result of the public consultation.

Key Decision

Not a key decision.

Recommendation(s)

THAT Cabinet:

- 1) note the scheme of Selective Licensing as outlined in the Proposal to Declare a Selective Licensing Designation within the Private Rented Sector – Phase 2 (appendix 1).
- 2) approve the Proposal to Declare a Selective Licensing Designation within the Private Rented Sector contained at appendix 1 to be issued for a 12 week public consultation.
- 3) note the proposed budget and resource requirements outlined in the financial implications section of this report.

1 Background

- 1.1 Section 80 of the Housing Act 2004 allows local authorities to introduce selective licensing of private rented properties in a designated area. Selective licensing requires landlords of private rented properties within a designated area, to apply to the local authority for a licence. The Secretary of State's guidance for local authorities issued by the Department of Communities and Local Government in 2015 requires that a designated area for selective licensing must have a high proportion of private rented accommodation (over 19%). Where the designated area covers over 20% of the local authority total area, or more than 20% of the total private rented housing stock within the authority's area the authority to designate must be granted from the Secretary of State, (below this threshold the local authority has the power to designate the area).
- 1.2 The Secretary of State's guidance describes that a local authority can designate an area for selective licensing where one or more of the following conditions exist in the area:
- I. low housing demand (or is likely to become such an area)
 - II. a significant and persistent problem caused by anti-social behaviour
 - III. poor property conditions
 - IV. high levels of migration
 - V. high levels of deprivation
 - VI. high levels of crime
- 1.3 The purpose of local authorities licensing all private landlords in a designated area is to ensure that a minimum standard of property management is achieved. The explanatory notes to Part 3 of the Housing Act 2004 makes it clear that selective licensing is strongly linked into the Government's anti-social behaviour agenda. Registered Social Landlords and their properties are exempt from selective licensing.
- 1.4 Prior to designating an area for selective licensing the local authority must have conducted a public consultation for a minimum period of 10 weeks.
- 1.5 On 8th March 2018 following a 12 week public consultation Cabinet Designated the Netherfield ward a Selective Licensing scheme for up to 5

years. See background paper for report to Cabinet for information.

1.6 Phase 1

The implementation of the scheme in Netherfield is considered a success. 662 landlords have applied for a licence. During proactive inspections through the scheme the council has found 86% of properties inspected have contained hazards requiring remedial action to protect tenant's health and safety. The hazards identified during inspections are as a direct result of the scheme and without the need for the tenants to report concerns to the council. The council has worked with landlords and agents to bring about improvements to properties where hazards have been found to improve housing conditions for the benefit of their tenants. 32 properties were found to have 'imminent' health and safety hazards requiring immediate action to protect tenant's safety. Often the 'imminent' issues have resulted around fire safety and inadequate fire protection/detection and/or inadequate means of escape in the event of a fire. Addressing the hazards protects both tenants but also reduces avoidable demand on public sector partners such as Fire, NHS, and Police as a result of accident avoidance or early warning in the event of a fire.

- 1.7 The scheme has also led to improved partnership working with Police colleagues with meetings every 2 weeks to discuss crime and ASB issues in the ward and proactively plan interventions. A number of Police warrants have been carried out in the ward associated with criminal activity and improved sharing of information and intelligence received via the Public Protection Service. Two civil penalty notices have been served on landlords and agents who have failed to apply for licences. Investigations are continuing with other cases of landlords who have failed to apply for a licence

1.8 Phase 2

Research has been carried out to establish if circumstances exist elsewhere in the borough to designate a further scheme to ensure other communities experience the same improvements delivered through the Netherfield scheme. Analysis has been conducted at ward level where communities are based and where data is available at street level. Careful analysis has been carried out to compare different datasets showing crime, antisocial behaviour, housing conditions, empty properties and deprivation statistics which are key criteria outlined by the Secretary of State when considering a selective licensing scheme. The findings of the analysis are presented in the Proposal to Declare a Selective Licensing Designation within the Private Rented Sector – Phase 2 attached at appendix 1 of this report. The Phase 2 Proposal identifies 4 areas of the borough that satisfy the Secretary of State's

guidance for introducing a selective licensing scheme these are parts of the following wards (not the whole ward) as summarised in table 1 below:

Area	Conditions	Satisfied
Carlton Hill	A significant and persistent problem caused by antisocial behaviour	✓
	Poor property conditions	✓
Colwick	A significant and persistent problem caused by antisocial behaviour	✓
	Concentrations of high levels of crime	✓
Daybrook	A significant and persistent problem caused by antisocial behaviour	✓
	Poor property conditions	✓
	Concentrations of high levels of crime	✓
Newstead Abbey (Newstead Village)	A significant and persistent problem caused by antisocial behaviour	✓
	Poor property conditions	✓
	Concentrations of high levels of crime	✓

- 1.9 The total number of private rented homes within all 4 areas proposed for phase 2 of Selective Licensing Scheme totals 664 properties. When combined with phase 1 the total number of properties proposed to be covered by Selective Licensing schemes would not exceed 20% of the total private rented sector of the Borough, nor would the designated area cover more than 20% of the council's geographic area. For schemes that cover over 20% of either category, approval would need to be sought from the Secretary of State.

2 Proposal

- 2.1 That members note the scheme of selective licensing as outlined in the Proposal to Declare a Selective Licensing Designation within the Private Rented Sector – Phase 2 (appendix 1). This is to ensure that vulnerable

households are able to access safe and suitable accommodation in the private rented sector within Gedling.

- 2.2 To obtain Member approval that the Proposal to Declare a Selective Licensing Designation within the Private Rented Sector (appendix 1) is circulated for a 12 week public consultation between Monday 12th October 2020 and Monday 4th January 2021 in the manner detailed in para 6.4-6.5. This is to consider views on the potential introduction of a phase 2 Selective Licensing Scheme of private landlords with properties in parts of the Carlton Hill, Colwick, Daybrook and Newstead Abbey wards.
- 2.3 That Members note the proposed budget and resource requirements outlined in financial implications section of this report, which will be subject to a separate approvals process depending on the outcome of the consultation and any final decision to designate a scheme.
- 2.4 That officers bring back the findings of the public consultation to a future Cabinet meeting to consider and determine whether the proposed scheme should be designated.

3 Alternative Options

- 3.1 Officers have considered introducing a district-wide scheme but this was not taken forward because the evidence to demonstrate that the criteria for selective licensing applies across the district has not been established. Approval would need to be sought from the Secretary of State to designate more than 20% of the Council's area and it is unlikely that a borough wide designation would be supported.
- 3.2 Officers have reviewed all available evidence to consider if other areas of the borough would be appropriate for a designation. Based on the evidence outlined in the Proposal to Declare a Selective Licensing Designation within the private rented sector – Phase 2 (Appendix 1) other areas of the borough do not currently demonstrate sufficient levels of need for a Selective Licensing scheme at this stage. This will be kept under review as the Netherfield scheme continues and if the Phase 2 Proposal outlined in appendix 1 is designated.

4 Financial Implications

- 4.1 The costs associated with conducting a public consultation to consider whether to proceed to designating a phase 2 selective licensing scheme are minimal and will be absorbed within existing resources. Authorising a public consultation on selective licensing does not commit the Council to proceeding with a scheme but this section of the report will outline the wider financial implications that should be considered if the proposed selective licensing designation is made.
- 4.2 The licence fees included within the proposed scheme have been calculated to ensure the costs of the scheme, including setup, staffing resource and IT resources are covered by the licence fees. Individual licences issued through the scheme will last for the duration of the selective licensing designation which is a maximum period of 5 years and costs have been projected over the 5 year duration of the proposed scheme.
- 4.3 It is proposed that the licence fees for phase 2 are 19% higher than the fees currently in place for the Netherfield Scheme and are set at £585 for accredited landlords and 9% higher than the Netherfield Scheme at £700 for non-accredited Landlords. An increase to the Netherfield Scheme fees will be subject to separate approval but the higher rates proposed in this consultation are due to increased costs of providing the service. This compares to the neighbouring Nottingham City Council fees of £670 for accredited landlords and £890 for non-accredited landlords.
- 4.4 The council's experience of processing accredited landlords licence applications in Netherfield compared to non-accredited landlords has not led to the reductions in processing time or cost savings that was envisaged prior to introducing the scheme. Accredited landlords are often viewed within the sector as professional landlords who proactively seek out training and a network to assist with meeting their legal obligations, leading to improved compliance and property management. When the Netherfield scheme was launched landlord Accreditation was available for free via our accreditation partner DASH Services. There is evidence that some landlords joined DASH motivated by the licence fee discount but this did not immediately result in improvements in housing conditions and reduced processing costs for administration of licence applications. The council is still keen to encourage landlord accreditation as a way of professionalising the sector and providing access to training and a support network and it is envisaged over time the increase in uptake of accreditation from selective licensing will improve housing conditions and property management. However the local experience from Netherfield shows it is still necessary for the council to inspect accredited landlord

properties and identify areas of non-compliance and defects in order for property improvements to be achieved.

- 4.5 A resource development bid for Phase 2 of the Selective Licencing Scheme was presented and approved as part of the 2020/21 budget process. The financial modelling at that point was based on phase 1 costs, which have since been revised to reflect the new charges states above. The financial modelling demonstrates that based on achieving the forecast number of households applying for licences, phase 2 of the scheme should cover its own costs.

The table below shows that the scheme could make a small surplus of £23.5k over the five years, this projected surplus will help to mitigate the risk of a lower take up of licences than initially forecast.

Selective Licencing Phase 2 Proposal		
	5 Year Projection £	Staffing Proposal
Income	(428,115)	1 x Senior EHO Band 10 incremental cost 1 x Housing Improvement Officer Band 7/8 2 x Housing Improvement Officer Band 7/8 (temp 2 x 12 month fixed term contracts) 1 x Admin Apprentice (temp 1 x 24 months fixed term)
Staffing Costs	350,089	
IT Costs	36,430	
Overheads	18,045	
Forecast Surplus	(23,551)	

- 4.6 The above table 2 outlines the resources required to implement a phase 2 selective licensing scheme, a separate approval will be required should the phase 2 scheme be designated which will address ongoing staffing commitment and how the scheme is to be funded. Any approval of the scheme following consultation will be subject to separate budget approval.
- 4.7 Any decision to introduce a phase 2 Selective Licensing scheme as per the proposal in appendix 1 should be based on its own merits. However, it should be noted that the current Selective Licensing staff employed in phase 1 are on a temporary basis which could be extended to become the phase 2 resource. If phase 2 is not implemented there would not be sufficient finances to extend the temporary staff contracts and the remaining 3 years of phase 1 Netherfield scheme would need to be managed using existing resources from the Public Protection Service which may mean assessing competing priorities.

5 Legal Implications

- 5.1 Selective licensing is a regulatory tool provided by the Housing Act 2004. Part 3 of the Housing Act 2004 (the Act) sets out the scheme for licensing private rented properties in a local housing authority area. Under section 80 of the Act a local housing authority can designate the whole or any part or parts of its area as subject to selective licensing. Where a selective licensing designation is made it applies to all privately rented property in the area. The Proposal in Appendix 1 outlines the case for selective licensing in accordance with the secretary of state's guidance and above mentioned legal powers made available to the council by Government.
- 5.2 This report seeks approval to conduct a 12 week public consultation which is formally required by the Secretary of State's guidance when considering whether to introduce a scheme. Any consultation responses should be taken into account before any final designation is made.
- 5.3 In order to designate an area for selective licensing the council must show the area is experiencing one of the six conditions listed in paragraph 1.2 of this report. The table presented in paragraph 1.7 of this report summarises the statutory conditions that are evidenced in the proposal document and shows Colwick satisfies two conditions and Carlton Hill, Daybrook and Newstead Village each satisfy three of the six conditions. This shows the case for phase 2 of selective licensing meets the secretary of state's guidance and legal standards that must be demonstrated before a scheme can be considered and introduced.

6 Equalities Implications

- 6.1 The equalities considerations of the decision to hold a public consultation and how the consultation will be completed are outlined in this section of the report.
- 6.2 It is not considered that any of the protected characteristics outlined in the Equalities Act would be adversely impacted by making a decision to hold a public consultation. The consultation will allow individuals to express their views on the proposal in order for them to be considered by the council. With respect to this section of the report it is relevant to explain how the consultation will be conducted to ensure all affected members of the community have opportunity to participate in the consultation.
- 6.3 The secretary of state's guidance (see background paper) explains that when considering designating a selective licensing area the local housing authority must:
- Take reasonable steps to consult persons who are likely to be

affected by the designation, and

- Consider any representations in accordance with the consultation

It is proposed that the consultation will be hosted on the council's website 'Have your say' webpage which is readily accessible and an accepted approach for collating consultation representations in a timely and efficient manner. Contact details will be made available should members of the public wish to speak to an officer's to find out more about the consultation and how to submit representations.

- 6.4 In view of the coronavirus pandemic and government guidance it is unlikely the council will be able to hold public meetings to raise awareness of the proposal. Instead pre-recorded presentations will be uploaded to the council's website together with press releases and social media posts to raise awareness of the consultation. An article is also proposed for the next edition of the Contacts magazine to be delivered to every household in the borough. Officers intend to produce a leaflet about the scheme to be hand delivered to every household in the proposed selective licensing areas.
- 6.5 Council officers will engage with representatives from landlord associations to seek their views and request they also raise awareness with their members. Council officers plan to host a number of mini focus groups to seek views from landlords and tenants to inform the consultation process.

7 Carbon Reduction/Environmental Sustainability Implications

- 7.1 Holding a public consultation to introduce Selective Licensing will not have an adverse impact on carbon reduction or environmental sustainability.
- 7.2 Should a phase 2 Selective Licensing scheme be implemented it has the potential to have a far reaching positive impact on carbon reduction and environmental sustainability. The council has seen through the Netherfield scheme a substantial number of properties have been improved including measures such as additional insulation and new heating systems to address excess cold hazards but can also reduce carbon emissions.
- 7.3 The requirement for landlords to apply for a licence provides the council with up to date information on private rented homes in an area which can assist with targeting local fuel poverty and carbon saving schemes interventions as they arise. Added to this the council is able to target enforcement action at private rented homes that fall below minimum energy performance standards.

8 Appendices

- 8.1 Appendix 1 - Proposal to Declare a Selective Licensing Designation within the private rented sector – Phase 2

9 Background Papers

- 9.1 Secretary of State's Guidance "*Selective Licensing in the private rented sector: A Guide for local authorities*"
- 9.2 8th March 2018 – Cabinet Report Implementation of Selective Licensing in Netherfield

10 Reasons for Recommendations

- 10.1 To gain Cabinet approval to conduct a public consultation to consider whether to declare parts of the Carlton Hill, Colwick, Daybrook and Newstead Abbey wards for selective licensing.
- 10.2 To gain Cabinet support for the proposed fees and to retain the established staffing structure required to implement the selective licensing scheme.
- 10.3 To gain information through the public consultation to develop a scheme to contribute to the following corporate priorities;
- To improve health and wellbeing and reduce inequalities, and
 - Reduce anti-social behaviour, crime and the fear of crime.

Statutory Officer approval

Approved by:

Date: 22/9/20

On behalf of the Chief Financial Officer

Approved by:
Date: 22/9/20
On behalf of the Monitoring Officer