

Report to Cabinet

Subject: Selective Licensing outcome of phase 2 public consultation

Date: 6th July 2022

Author: Food, Health and Housing Manager

Wards Affected

Carlton Hill, Colwick, Daybrook and Newstead Abbey wards

Purpose

To consider the results of the 12 week public consultation from 8 October 2020 to 4 January 2021 and the 4 week re-opened consultation from 25 April 2022 to 23 May 2022 in relation to a proposal to designate the phase 2 Selective Licensing scheme for a period of 5 years.

To approve the designation of the phase 2 shown outlined in red at Appendix 1 to this report as being subject to Selective Licensing with effect from 1 November 2022.

To approve the licence conditions to be attached to licences issued under the Selective Licensing Scheme as set out at Appendix 2 to this report.

To authorise the Corporate Director of Environment, Communities and Leisure to publish a Notice of Designation in accordance with the Housing Act 2004

To approve the licensing fees as set out in Table 1 of paragraph 4.2 of this report.

To authorise a review of the scheme in 18 months, the outcome of the review will be reported back to Cabinet.

To note the financial implications of implementing a selective licensing scheme including the operational staff structure.

Key Decision

This is a key decision because it is likely to have a significant impact on the Carlton Hill, Colwick, Daybrook and Newstead Abbey wards and has potential

implications for landlords living inside and outside the Borough who hold properties in the phase 2 areas.

Recommendation(s)

THAT Cabinet:

- 1) Approve the designation of the Phase 2 Selective Licensing area shown outlined in red at Appendix 1 to this report as being subject to Selective Licensing with effect from 1 November 2022
- 2) Approve the licence conditions to be attached to licences issued under the Selective Licensing Scheme as set out at Appendix 2 to this report.
- 3) Authorise the Corporate Director of Environment, Communities and Leisure to publish a Notice of Designation in accordance with the Housing Act 2004
- 4) Approve the licensing fees as set out in Table 1 of paragraph 4.2 of this report
- 5) Authorise a review of the scheme in 18 months, the outcome of the review will be reported back to Cabinet
- 6) Note the financial and staffing implications associated with the Selective Licensing scheme

1 Background

1.1 Netherfield Selective Licensing update (Phase 1)

The council has successfully implemented a selective licensing scheme in the Netherfield ward since 1 October 2018. The scheme requires all private rented properties in the ward to be licensed by the council. Landlords must apply to the council for a licence which is subject to a two part fee, and council will issue a licence imposing conditions on the person having control of the property. The council also aims to inspect the property to ensure compliance with the conditions and legal minimum standards are achieved.

To date 747 license applications have been received since the start of the scheme with 51 subsequently withdrawn, leaving 696 valid applications out of a projected 635 licenced properties in the area. So far the council have issued 595 licences and completed over 400 property inspections. The property inspections have been significantly hampered by the coronavirus pandemic which has restricted access to properties due restrictions and when tenants or staff have been isolating. 78% of properties inspected have been found to contain health and safety

hazards below the minimum legal standard and 40 of those homes had hazards which presented imminent risk to the occupants. In all cases the council worked with licence holders and agents to remove the imminent risk and protect those tenants. 7 civil penalties totalling over £18,000 in fines have been served for offences associated with the scheme – the majority were for failure to licence.

The implementation of the scheme has been successful in terms of achieving compliance, introducing minimum property management standards and improving housing conditions for those living in the Netherfield ward.

To build on the success of the Netherfield scheme the council leadership were keen to extend the benefits to other areas and authorise a public consultation to consult on a Phase 2 Selective Licensing proposal.

1.2 Legislative background

Section 80 of the Housing Act 2004 allows local authorities to introduce selective licensing of private rented properties in a designated area. 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 area or over 20% of the housing stock in the local authority area, the authority to designate must be granted from the Secretary of State. Below the 20% threshold the local authority has the power to designate the area. The areas proposed for designation under Phase 2 of the Selective Licensing Scheme fall below the 20% threshold which would require Secretary of State approval. The areas proposed do have over 19% of accommodation falling within the private rented category.

1.3 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:

- 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

In order for the Council to make a designation it must:-

- a) be satisfied that one or more of the statutory grounds for making a scheme are met
- b) have taken reasonable steps to consult persons likely to be affected by the designation and have considered any representations
- c) ensure that any exercise of the power is consistent with the authority's overall housing strategy
- d) seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour both as regards combining selective licensing with other courses of action available to them and measures taken by other persons

The Council must not make a designation unless:-

- it has considered whether there are any other courses of action available to it that might provide an effective method of achieving the objective(s) that the designation would be intended to achieve, and;

it considers that making the designation will significantly assist it to achieve that/those objective(s)

- 1.4 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
- 1.5 Prior to designating an area for selective licensing the local authority must have conducted a public consultation for a minimum period of 10 weeks.
- 1.6 In areas designated for Selective licensing all rented properties must be licensed by the council with the exception of those already subject to mandatory HMO licensing or those managed or owned by Registered Social Landlords. All private landlords will be required to hold a licence in order to rent out a property. The licence last for up to five years.

- 1.7 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. Prior to issuing a licence, council officers will inspect every private rented property to ensure they meet minimum standards and will comply with the licence conditions. In addition, a 'fit and proper' person test will be applied to test the landlord's suitability to manage the tenancy.
- 1.8 If a decision is made to approve the designation, a public notification period of 3 months is required before implementation of the scheme in order to communicate the decision to consultees and the public.
- 1.9 At its meeting of 8 October 2020 Cabinet noted the scheme of Selective Licensing as outlined in the 'Proposal to Declare a Selective Licensing within the Private Rented Sector – Phase 2' ("the Proposal") and gave approval for a 12 week consultation on the scheme to be carried out. The report including the draft "Proposal" are available via the council's webpage or clicking [here](#). The Proposal document sets out the statutory basis and evidence to support the proposed designation of areas under Phase 2. It also highlights which conditions (referenced in para 1.3 above) are satisfied in respect of each area.
- 1.10 The consultation closed on the 4th January 2021 at which point the country was heavily involved in responding to the global coronavirus pandemic. The council listened to responses raised during the public consultation and delayed reaching a decision on the draft Proposal and public consultation whilst resources were on responding to the pandemic. On 19 April 2022 the Public Protection Portfolio Holder approved to extend the selective licensing public consultation a further 4 weeks to enable opportunity for any new stakeholders who did not have opportunity to respond to the initial consultation to do so. A copy of the decision can be viewed on the council webpage or by clicking [here](#).

1.11 Consultation Process

The public consultation on phase 2 in selective licensing was held for 12 weeks between 12 October 2020 to 4 January 2021 and for a further 4 weeks between 25 April and 23 May 2022. To bring the consultation to the attention of stakeholders and seek their views the council used the following methods:

- An article in the council Contacts Magazine delivered to all households in the borough.
- 2 rounds of leaflet drops to every household within the phase 2

proposed areas and a further leaflet drop in the 4 week extended consultation.

- Press release and articles in local media including Nottingham Post and Gedling Eye
- An email circulation to over 130 landlords and agents on the council mailing list to keep up to date with news since selective licensing began in Netherfield for both consultations
- Circulation to via the localities co-ordinators to the Newstead and Netherfield steering groups networks and social media pages.
- 2 public notices in a the Nottingham Post
- social media posts on the council Facebook and Twitter pages
- Targeted social media adverts in the geographic areas most affected by the Proposal
- A live public online consultation event for residents held Thursday 19 November, subsequently viewed 93 times on the council YouTube page.
- A live public online consultation event for landlords and agents Wednesday 25 November, subsequently viewed 97 times on the council YouTube page.

1.12 Online Consultation Responses

Overall for the 12 week consultation there were 102 responses to the questionnaire which included 10 questions where written responses could be provided and over 450 written comments were received. For the extended 4 week consultation there were 106 responses. The council has spent many officer hours going through each comment individually and providing a response to the issues raised, a summaries are attached in Appendices 3, 4 and 5.

1.13 Headline statistics for 12 week consultation:

The following statistics are presented from the results of the 12 week consultation:

- 62% of private landlords and 50% of letting agents owned or managed properties within the proposed phase 2 selective licensing areas.

- 80% of private rented tenants and 65% of owner occupiers who responded lived in the proposed phase 2 selective licensing areas.
- 76% of landlords disagreed that the proposed licence conditions will improve the standard of private rented properties
- 25% of tenants and 72% of owner occupiers believe the licence conditions will improve the standard of privately rented properties
- 82% of private landlords and 99% of managing agents disagreed the proposed licensing conditions will reduce crime and antisocial behaviour
- 5% of private rented tenants and 29% of owner occupiers agreed the licence conditions will reduce antisocial behaviour and crime and disorder
- 85% of landlords and 100% of managing agents disagreed with the proposed licence fees
- 15% of private rented tenants and 57% of owner occupiers agreed with the proposed licence fees.
- 34% of landlords and 25% of tenants and 38% of owner occupiers agreed with the proposed discount for accredited landlords
- 15% of private rented tenants and 48% of owner occupiers agreed with proposed area in the Carlton Hill ward
- 21% of private rented tenants and 45% of owner occupiers agreed with the proposed area in the Colwick ward.
- 5% of private rented tenants strongly agreed and 33% of owner occupiers agreed with the proposed area in Daybrook. 35% of private tenants did not know and 25% neither agreed nor disagreed with the proposed area in Daybrook.
- 5% of private rented tenants and 33% of owner occupiers agreed with the proposed area in Newstead Village. 45% of tenants did not know and 30% of tenants neither agree nor disagreed with the proposed area in Newstead village.

Overall 40% of private rented tenants and 60% of owner occupiers agreed with the council's proposal to introduce the phase 2 selective licensing scheme. 90% of private landlords and 75% of managing agents

disagreed with the council's phase 2 selective licensing proposal.

1.15 Headline statistics from 4 week extended consultation

For the 4 week extended consultation the council also utilised targeted Facebook ads in Carlton, Colwick, Daybrook and Newstead Village. Each advert ran for 10 days in total from 8th May. In total there were 398 clicks on the adverts taking the recipients to the selective licensing consultation. Approximately 15,356 people were reached by the adverts.

The following statistics were obtained from the 4 week (extended) consultation:

- 107 responses were received
- 69% of respondents owned, lived, or managed a home in the proposed phase 2 areas
- 35% of respondents agreed with the conditions with 53% disagreeing and 11% neither agreeing nor disagreeing or did not know.
- 27% agreed with the propose licence fee to be paid in 2 parts, with 11% neither agreeing nor disagreeing or did not know and 62% disagreeing.
- 37% agreed with the £115 fee reduction for accredited landlords and 27% neither agreeing or disagreeing or did not know and 36% disagreeing
- Overall 30% agreed with the council's proposal to introduce selective licensing in the phase 2 areas, with 9% neither agreeing or disagreeing or did not know and 65% disagreeing.

1.14 Comments received during the consultation

In terms of those who were less supportive of the council's proposal, many of the comments were received criticising the Proposal as being 'a *tax on landlords*', a '*paper exercise*' that will do little to '*tackle bad landlords*', '*the costs will be passed onto the tenants who are already under pressure and with the rising cost of living*'. Other comments received include "*although this is a good idea I believe it should be delayed this is not the right time to put extra costs on landlords due to COVID*".

- 1.15 However there were also comments which indicate a support for the proposed areas and the scheme '*should cover Carlton Hill ward reflects high levels of tenanted properties and therefore should prove effective in improving living standards and health and safety for all residents in the area*'. Another comment read "*In Newstead there is an immense landlord who half the time don't care who rents them, only interested in the rent.*"
- 1.16 Some responses suggested the council should impose a broader scheme with '*I would like to see a licensing scheme for all rented homes in the borough not just selected areas. These schemes protect tenants from bad landlords and improve the standard of rented homes*'
- 1.17 In the Colwick ward a Facebook group "*Say no to Selective Licensing*" has been set up with posters in the windows of a small number of households in the ward. There are 10 members of the Facebook group which has not generated significant media or community interest. A direct letter was also received from this group and the issues raised during the consultation are summarised in Appendix 3.
- 1.18 A summary of the issues raised in the 12 week consultation are attached in Appendix 3. A summary of the issues raised in the 4 week consultation are attached in appendix 4.
- 1.19 Responses from Landlord associations and representative groups:
The council received 4 directly addressed letters from landlord associations and representative groups include East Midlands Property Owners (EMPO), National Residential Landlords Association (NRLA), ARLA Propertymark and Safeagent. A summary of the issues raised are included in Appendix 5.
- 1.20 A common theme raised by EMPO, ARLA Propertymark and Safeagent was the timing of the consultation with the ongoing coronavirus pandemic. The council listened to the concerns raised about the timing of the consultation and has delayed reaching a decision on the consultation until now when the vaccine roll out has been considered a success, restrictions have been removed, and hospitalisations are below peak levels.
- 1.21 Nottinghamshire Police response:
The Nottinghamshire Local Policing Inspector also submitted a letter supporting the council's proposal to extend the phase 2 selective

licensing scheme. The Police Inspector is fully supportive of the council's proposal to extend the selective licensing scheme and highlights numerous benefits including '*enhancing partnership working between Nottinghamshire Police, Gedling Borough Council and private landlords*'. The scheme enables the sharing of information leading to '*safer communities*', '*safeguarding of vulnerable people*' and '*reducing crime and anti-social behaviour in the community*'.

'The Selective Licensing scheme provides a unique way of tackling anti-social behaviour, drug use and other crime types by providing a "joined up" approach where private landlords are encouraged and supported by both Gedling Borough Council and Nottinghamshire Police to effectively manage tenants that are causing problems within the locality. This ensures that the right people are involved at the right time and that landlords are supported in taking positive action where necessary. The introduction of a Selective Licensing scheme in a locality provides a framework for the police and partners such as Gedling Borough Council to work together with landlords and tenants.'

'This has been proven to be a useful and successful tool in other areas across the country. An example is South Yorkshire Police and Rotherham Metropolitan Borough Council, who used Selective Licensing to manage anti-social behaviour from children who were under the age of criminal responsibility. Working collaboratively they successfully engaged with landlords and parents and significantly reduced ASB problems associated with fly-tipping and criminal damage.'

'Since the introduction of the scheme in Netherfield the Police and Council licensing officers have met every two weeks to share intelligence and target interventions to reduce crime and anti-social behaviour in the area'

'Nottinghamshire Police are supportive extending the selective licensing scheme to Carlton Hill, Colwick, Daybrook and Newstead Village as these areas have a high proportion of private rented homes and are priority areas for tackling crime and anti-social behaviour in partnership with the council, community other organisations.'

1.22 Generation Rent Private Rented Sector Engagement Project

Whilst the council was considering what action to take following the initial selective licensing phase 2 public consultation the council volunteered as 1 of 6 councils nationally to work with Generation Rent to survey private rented sector tenants. The pilot survey was targeted in Killisick, Netherfield, Colwick and Newstead between 10 May and 9 July 2021. 63 responses were received to the survey with 33 people signed up for further engagement. 2 focus groups were arranged but these were not

well attended with only 4 tenants participating.

- 1.23 3 out of 4 areas subject to the survey included the areas proposed for the phase 2 selective licensing scheme. Killisick was included for the survey as this is an area covered by the locality co-ordinator but there is not currently the evidence to consider this for selective licensing largely due to the high proportion of social housing as opposed to private rented.
- 1.24 Summary of key survey findings from private rented tenants:
- 49% of respondents stated they had experienced problems with mould or damp.
 - 34% had dealt with leaks or draughts
 - 26% had faced problems with electrical and gas equipment – not working and/or possibly unsafe
 - 70% of respondents were unaware that the council can help them with problems relating to their landlord, letting agent or home
 - 85% of respondents had never contacted the council about an issue relating to their landlord, letting agent or home
- 1.25 The above survey findings illustrate some of the issues local private rented tenants experience with their housing conditions and also suggests a lack of awareness of tenant's rights and suggests there may be under reporting to the council of housing disrepair. These findings reflect the evidence the council has found of housing disrepair through the pilot selective licensing scheme in Netherfield.
- 1.26 Following the survey and corporate restructure a Tenancy Liaison Officer was created in early 2022 to support tenants in temporary accommodation and work with Housing Needs officers to find longer term tenancies which can be in the private sector. The post has not yet be advertised for recruitment.
- 1.27 The council also commissions the 'Call Before You Serve' partnership scheme hosted by Derby City Council Decent and Safe Homes and has agreed to subscribe to the services for 2022/23. The scheme helps tenants and landlords to resolve disputes with the aim of reducing evictions.
- 1.28 The Council has fully considered all consultation responses, and whilst it is recognised that the majority of Landlords are not supportive of the scheme, officers have provided detailed responses to the concerns

raised and still recommend for the reasons set out in this report and appendices that the Selective Licensing Scheme – Phase 2 should be implemented.

2 Proposal

- 2.1 It is proposed that Cabinet approve the Phase 2 designation shown outlined in red at Appendix 1 to this report as being subject to Selective Licensing with effect from 1 November 2022.
- 2.2 It is proposed that Cabinet approve the licence conditions to be attached to licences issued under the Selective Licensing Scheme as set out at Appendix 2 to this report.
- 2.3 It is proposed that Cabinet authorise the Corporate Director of Environment, Communities and Leisure to publish a Notice of Designation in accordance with the Housing Act 2004.
- 2.4 It is proposed that Cabinet approve the licensing fees as set out in Table 1 of paragraph 4.2 of this report.
- 2.5 It is proposed that Cabinet authorise a review of the scheme in 18 months, the outcome of the review will be reported back to Cabinet
- 2.6 It is proposed that Cabinet note the financial and staffing implications associated with the Selective Licensing Scheme.

3 Alternative Options

- 3.1 Legally, it is required that Councils, before they implement any selective licensing scheme, must have considered any other course of action that might provide an effective method of achieving the objectives that such a scheme would bring.
- 3.2 This may include voluntary measures such as accreditation and giving the opportunity for local landlords to prove that they are committed to ensuring the quality of the private rented sector. Such a voluntary scheme does bring a set of standards relating to management or physical condition of privately rented accommodation and, in that, it does recognise and rewards landlords who manage their properties to a good standard. It does not, however, bring a *mandatory* test of a landlord being a fit and proper person to be the licence holder or a *mandatory* requirement to comply with licence conditions.
- 3.3 Officers also considered not seeking a phase 2 scheme for selective licensing in the district but this was not pursued as it would not ensure other areas of the borough achieve the same improved standards in the private rented sector nor improve property management and address

crime and antisocial behaviour in the proposed areas.

- 3.4 Officers also considered introducing a district-wide scheme but this was not taken forward at this stage because the evidence is not yet sufficient to consider 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 a significantly larger scheme). However it is the Council's intention to collect data and review this position once the proposed designated scheme can be evaluated, it may also consider other ward based or smaller areas for selective licensing.

4 Financial Implications

- 4.1 Under s.87 of the Housing Act 2004, an authority may charge a fee in relation to selective licensing which takes into account all costs associated with carrying out the functions under this part of the Act. As outlined in the results of the consultation detailed in the background section of this report, concerns were raised through the consultation about the level of fees and the costs being passed onto tenants. Suggestions were also put forward to pay the licence fees by instalments. Guidance issued by the Local Government Association in 2017 recommends recovery of licence fees in two parts; the first part is associated with processing the licence application and the second part is charged only to those applicants who receive a licence and covers the costs associated with compliance and enforcement of the licence.

The introduction of 2 part fees will go some way to addressing the concerns raised in the consultation about meeting the fee costs and will spread the costs for landlords. The part 2 fee will need to be paid once the Council has processed the application and is ready to issue the licence. Issuing the licence will be conditional to the applicant paying both parts of the fee, without which they will be operating without a licence which is a criminal offence.

It is not recommended for this scheme to introduce payment by annual instalments for the following reasons:

- it will introduce confusion for landlords over the correct fee due to the variety of fee levels that would be required for Accredited and Non-Accredited landlords and the 2 part fee system as recommended by the LGA.
- It will place additional burden and costs on the council to manage payment plans and direct debits and continually check the income receive throughout the 5 year period of the scheme
- It will increase the risk for the council of not collecting the full level

of income required to provide the service. Landlords could cancel their direct debit arrangements or not pay future instalments and the Council would then need to carry out enforcement to recover the costs.

- It will not be consistent with the approach implemented in the phase 1 scheme in Netherfield.

This recommendation is consistent with the Council’s Financial Regulations 6.7.2 which recommend collection of income in advance to avoid the time and cost of administering debts.

4.2 The following tables show the various elements required in order to run the scheme:

Table 1 Income Analysis

Table 2 Staffing Analysis

Table 3 Other Costs Analysis

Table 4 Financial Model Split (%) over the duration of Phase 2 scheme

Table 5 Financial Model Split (£) over the duration of Scheme 2 scheme

Table 1 – Income Analysis

<u>Landlord type</u>	Part 1 fee	Part 2 fee	Total	Number of Properties	Five Year Income (£)
Accredited Landlords (estimated 48%)	£430	£155	£585	319	£-186,615
Non Accredited Landlords (estimated 52%)	£520	£180	£700	345	£-241,500
			Total Income	664	£-428,115

4.3 **Table 2 – Staffing Analysis**

Proposed Staff structure following consultation	Five Year Costing (£)
Establish Senior EHO position through an honorarium to an existing EHO for 5 year period	£25,000
One permanent Housing Improvement & Enforcement Officer Band 8 for 5 year period	£204,425
One temporary Housing Improvement and Enforcement Officer Band 8 (2yr)	£81,770
One temporary Housing Improvement and Enforcement Officer Band 8 (1yr)	£40,885
One Apprentice 1 (2yr)	£20,064
Total Staffing Costs	£372,144

4.4 **Table 3 – Other Costs Analysis**

Breakdown of the Other Costs	Five Year Costing (£)
DASH Membership Fees professional membership in relation to selective licensing scheme	£26,250
IT Costs – cost IT hardware and licensing application system	£20,400
Other Expenses	£9,300
Total Other Costs	£55,950

4.5 **Table 4 – Financial Model split (%) over the duration of Phase 2 scheme**

	Selective Licencing Phase 2 – Schedule of % Split of Costs and Income					
	Year 1 (£)	Year 2 (£)	Year 3 (£)	Year 4 (£)	Year 5 (£)	Total (£)
Staffing	39%	28%	14%	15%	4%	100%
Other Costs	13%	48% IT cost for licence application system	13%	13%	13%	100%
Income	-64%	-26%	-10%	-0%	-0%	-100%

4.6

Table 5 – Financial Model split (£) over the duration of Phase 2 scheme

	Selective Licencing Phase 2 – Schedule of % Split of Costs and Income					
	Year 1 (£)	Year 2 (£)	Year 3 (£)	Year 4 (£)	Year 5 (£)	Total (£)
Staffing	£144,305	£105,619	£53,603	£54,675	£13,942	£372,144
Other Costs	£7,273	£26,856	£7,274	£7,273	£7,274	£55,950
Total Costs	£151,578	£132,475	£60,877	£61,948	£21,216	£428,094
Income	£-273,994	£-111,310	£-42,811	£0	£0	£-428,115
In Year Net Position	£-122,416	£21,165	£18,066	£61,948	£21,216	£-21
Scheme Net Position	£-122,416	£-101,251	£-83,185	£-21,237	£-21	£-21

4.7 It should be noted that the number of properties used to calculate income has been based on the most current information possible. There is a risk that the number of properties, and therefore income, may be lower than expected, however scheme costs will be managed to match the demand for the service ensuring no adverse financial impact to the Council.

4.8 The previous tables show how the scheme is expected to perform over a five year period, the years shown do not currently reflect financial years. If this report is supported the scheme is proposed to start from 1st October 2022 however the years of the scheme stated in the table will cross over 2 financial years. Budgets will be adjusted once we have a greater understanding of when income is expected to be received and in which financial years.

4.9 Cabinet are asked to note the headline budget allocations, the staffing structure and implications in tables 1 to 5 above. The budgets required for the selective licencing scheme have been included in the Gedling Fund Revenue Budget 2022-23 report considered by Cabinet on 17 February 2022 and recommended to Council on 5 March 2022. Should Cabinet approve this report the staffing implications will implemented via a separate report to the Chief Executive who will approve the

establishment of post in accordance with delegated authority.

5 Legal Implications

- 5.1 The statutory power for designating an area for selective licensing is set out in Part 3 of the Housing Act 2004. The statutory tests that are required to be met in order to make such a designation, along with the guidance to be followed are detailed at 1.2-1.3 of this report and within the draft proposal at section 2.1 accessible at 1.9 of this report.

Before reaching a decision Cabinet must be satisfied that the statutory tests have been satisfied and the secretary of state's guidance has been followed.

- 5.2 Under section 80(9) of the Housing Act 2004 there is a statutory requirement to take all reasonable steps to consult persons who are likely to be affected by the designation, prior to any decision regarding designation being made. The details of the consultation exercise undertaken is dealt with in the body of this report.

The Government has produced guidance on effective consultations, which sets out a number of principles. In particular consultations should be targeted, should be clear and concise, should take account of the groups being consulted and should allow adequate time for responding.

The results of both periods of consultation and summary of issues raised can be found at appendix 3-5. There is a statutory duty that any representations received are to be considered by Cabinet in making its decision.

6 Equalities Implications

- 6.1 The equalities implications are considered in the equalities impact assessment in appendix 6. The proposed areas for the phase 2 selective licensing are where there are a higher proportion of private rented accommodation and likely to contain disadvantaged households who have not accessed owner occupied tenure. Private rented tenants have less ability to improve their own housing conditions and rely on their landlord and public sector for support and improvements in their living conditions. The selective licensing mechanism is a tool available to the council to legally require landlords to apply for a licence and in doing so introduces minimum standards to improve housing conditions.
- 6.2 The selective licensing scheme will have a positive impact on protected characteristics and groups from an equalities perspective as regulation of the private rented sector will help improve living conditions and ensure best practice. Rogue landlords who take advantage of vulnerable tenants will either need to comply with their legal obligations or move out of the

sector. The selective licensing mechanism increases the enforcement powers of the council to protect vulnerable tenants.

- 6.3 The availability of a public register of licensed landlords improves openness and transparency in the sector and can enable access of services to tenants living in licensed homes. The council's Improvement Officers are able on inspection to sign post tenants to services such as Disabled Facilities Grants or services and assistance which may benefit them.

7 Carbon Reduction/Environmental Sustainability Implications

- 7.1 The introduction of the Phase 2 Selective Licensing scheme extends the remit of selective licensing in the borough and number of licenced properties. Through increasing the staffing resource to improve private sector housing conditions and improving the public register of licensed homes the council can take action to address excess cold hazards which in turn will improve the energy efficiency of homes. The development of the public register of licensed properties enables the targeting of interventions to ensure complied with the Minimum Energy Efficiency Standards in the private rented sector. The council and partners can also target grants and assistance for landlords to improve energy efficiency such as with the Local Authority Delivery retrofit schemes phases 2 and 3 and the Energy Company Obligation scheme. Without an extended selective licensing the council's ability to improve energy efficiency in the private rented sector would be significantly reduced.

8 Appendices

- 8.1 Appendix 1 – selective licensing phase 2 designation
- 8.2 Appendix 2 – licence conditions
- 8.3 Appendix 3 – summary of issues raised 12 week consultation
- 8.4 Appendix 4 – summary of issues raised 4 week extended consultation
- 8.5 Appendix 5 – summary of the issues raised by landlord associations
- 8.6 Appendix 6 – Equalities Impact Assessment

9 Background Papers

- 9.1 Secretary of State's guidance Selective licensing

9.2 Report to Cabinet authorising the public consultation

9.3 Report to Portfolio Holder authorising the extended public consultation

10 Reasons for Recommendations

10.1 The Council considers that the general conditions required to designate the Phase 2 Selective Licensing Scheme under Section 80(6) of the Housing Act 2004 are satisfied.

Selective licensing is an important component of the Council's strategy to improve housing conditions in the private rented sector in Carlton Hill, Colwick, Daybrook and Newstead Village. It is the only option available to the local authorities that compels landlords to look at how they manage their rented properties and where required, make improvements to their management practices. It is important that this scheme will support the work of the Council and partners in improving the physical environment and economic conditions of the areas.

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer