

Report to Cabinet

Subject: Selective Licensing Consultation, Netherfield Scheme Review and Proposal Phase 1a

Date: 14th December 2023

Author: Head of Environment

Wards Affected

Netherfield Ward

Purpose

To advise Members of the Netherfield Selective Licensing Scheme Review and Proposal Phase 1a to Declare Selective Licensing Designation within the Private Rented Sector contained at appendix 1 of the report.

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

That Members note 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 review of the selective licensing scheme in Netherfield and the Proposal Phase 1a to Declare a Selective Licensing Designation within the Private Rented Sector (appendix 1).**
- 2) Approve selective licensing scheme review in Netherfield and Proposal 1a 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) That Members note the proposed fees and resource requirements outlined in financial implications section of this report, subject to the result of the public consultation.**

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. 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 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:
- 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 licencing 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 On 8th March 2018 the council's cabinet designated the council's first selective licensing scheme covering the Netherfield ward (Phase 1) from 1st October 2018 to 30th September 2023. This followed a 12 week public consultation to seek views from stakeholders.

- 1.5 The phase 1 selective licensing scheme in Netherfield was introduced as the council was satisfied there were:
- I. a significant and persistent problem caused by anti-social behaviour
 - II. poor property conditions
 - III. high levels of deprivation
 - IV. high levels of crime
- 1.6 The Secretary of States guidance states that Selective licensing is not intended to be an end in itself. It is a means to an end. It is about improving management standards in the private sector in areas where those standards are needed to be improved for the benefits of occupiers and the wider community. The Government recognises that licensing may have to be a long term strategy and that it will not provide instant solutions. It also appreciates that, if in the initial phase there has been little improvement in an area, this does not necessarily mean that a designation is a failure.
- 1.7 When considering whether a local housing authority should renew a selective licensing scheme which requires confirmation by the Secretary of State consideration the guidance requires local authorities to set out whether the scheme has met the objectives or not. Guidance is not provided for council's seeking to renew a scheme that has not required Secretary of State approval and the review of the Netherfield scheme is set out in the same format as if it required Secretary of State approval.
- 1.8 The objectives of the council's selective licensing scheme in Netherfield were:
- 1) To address poor housing conditions
 - 2) To introduce a mechanism to address antisocial behaviour associated with private rented homes
 - 3) To introduce a mechanism to address crime associated with private rented homes
 - 4) To introduce a mechanism that contributes to addressing levels of deprivation
 - 5) To see improvements in property management
- 1.9 The review of the Netherfield selective licensing (see appendix 1) shows in section 5 that there is evidence to show that the scheme has met or is

making good progress towards meeting the scheme objectives as summarised in paragraphs 1.11 to 1.15 below.

1.10 Objective 1

The evidence collated from the scheme confirms there is poor quality housing in the Netherfield ward that presents a hazard to the occupiers or visitors. Progress has been made to improve this poor quality housing but it still remains a cause for concern as even in the final year of the scheme significant hazards are being uncovered. Due to the nature and type of the housing stock in the ward there is evidence to suggest that properties require ongoing maintenance to comply with minimum legal standards which are getting increasingly tighter in terms of energy efficiency and the potential introduction of the decent homes standard for the private rented sector currently under consideration by Government.

1.11 Objective 2

The analysis of antisocial behaviour in the Netherfield ward shows that the scheme objective “to introduce a mechanism to address antisocial behaviour associated with private rented homes” has been achieved but despite this the levels of antisocial behaviour remain a concern. There have been reductions in antisocial behaviour since a peak in 2019/20 and implementation of selective licensing remains a unique mechanism that can help introduce a framework for private landlords and managing agents to work with partner agencies to address antisocial behaviour.

1.12 Objective 3

Whilst crime has reduced during the 4 year period analysed during the selective licensing scheme it remains at a high level and a cause for concern. The review data shows reports are spread throughout the ward and not isolated to one area or street and support an area based / ward wide approach to address criminal behaviour.

1.13 Objective 4

The review shows the selective licensing scheme has introduced a unique mechanism to improve private rented homes and issues associated with them. The selective licensing scheme has improved housing conditions in the Netherfield ward which in turn can help reduce fuel poverty through improved energy efficiency of homes and reduce health impacts through removing hazards in the home. Both of these metrics in terms of improving health and addressing fuel poverty contribute to reducing deprivation in the ward. At a time when the cost of living is extremely high it is more important than ever to ensure that properties are effectively managed and

maintained to help protect some of the most deprived people in the borough.

Introducing a mechanism to address anti-social behaviour and crime can also have a positive impact on deprivation both in terms of acting as a deterrent to dissuade offenders from being drawn into criminal or antisocial behaviour affecting their social status. If convicted or subject to enforcement action associated with antisocial or criminal behaviour can an individual's ability to seek employment or secure housing which are fundamental in Maslow's hierarchy of needs and climbing the social gradient out of deprivation and poverty.

1.14 Objective 5

The introduction of selective licensing in Netherfield introduces minimum standards set out in the licensing conditions and through the process of administering licence applications the council ensures the appropriate management arrangements are in place, the landlord or person(s) in control are deemed fit and proper and compliance with legal obligations are achieved. Where standards fall short the council has brought issues of non-compliance to the attention of duty holders. 52 properties were found to have imminent issues requiring urgent attention and 184 homes were improved as direct result of the scheme and the council working with duty holders to bring about improvements. This scale of improvements in housing conditions would not have been possible without the introduction of the scheme. Furthermore the wider impacts on crime, ASB would also not have been possible without the scheme. Whilst it is fair to say issues will still arise in the ward and have not been completely eradicated the systems and infrastructure in place to address poor property management in the private rented sector are significantly improved by having a selective licensing scheme in place and it is considered that this objective has been achieved.

1.15 The data set out in section 5 of the Netherfield Selective Licensing review (see appendix 1) and elsewhere in the review shows the following Secretary of States criteria for introducing a selective licensing scheme remain in the Netherfield ward:

- I. a significant and persistent problem caused by anti-social behaviour
- II. poor property conditions
- III. high levels of deprivation
- IV. high levels of crime

In order to maintain the positive impacts and improvements the selective licensing scheme is showing it is recommended that a new selective

licensing scheme covering the Netherfield ward is designated subject to a public consultation and approval by the Council's Cabinet members. It is proposed that the designation would apply to all private rented homes in the Netherfield ward as this will ensure wider issues affecting the ward such as crime, antisocial behaviour and deprivation are addressed on an area basis and not lead to streets or sections of the Netherfield community being left behind adjacent areas if the scheme did not cover the whole ward. It is recommended that the new Netherfield designation is referred to as Phase 1a.

- 1.16 Prior to designating an area for selective licensing the local authority must have conducted a public consultation for a minimum period of 10 weeks. Any existing scheme that covers more than 20% of the geographical area of the authority or 20% of private rented homes in the area will require confirmation from the Secretary of State. The proposed Phase 1a selective licensing scheme in Netherfield and the existing phase 2 selective licensing scheme combined do not exceed the thresholds requiring approval from the Secretary of State.
- 1.17 In allowing local authorities to designate areas for selective licensing the government also allows for a fee to be set to recover the costs of running the scheme. It is not permitted for the fees to be set to generate additional revenue for the Council, the proposed fees for selective licensing are explained in the financial implications section of this report. A licence fee discount is proposed for accredited landlords who have voluntarily sought membership of a landlord accreditation scheme. Accredited landlords are required to achieve an agreed standard of competence and have access to training and support from the accreditation provider to improve their skills and knowledge about the business of owning, managing or letting a private rented home.

2 Proposal

- 2.1 That Members note the Netherfield selective licensing scheme review and Proposal Phase 1a to Declare a Selective Licensing Designation within the Private Rented Sector (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 Netherfield selective licensing scheme Review and Proposal Phase 1a to Declare a Selective Licensing Designation within the Private Rented Sector (appendix 1) is circulated for a 12 week public consultation. This is to consider views on the potential renewal of a Selective Licensing Scheme of private landlords for the Netherfield ward.

- 2.3 That Members note the proposed fees and resource requirements outlined in financial implications section of this report, subject to the result of the public consultation.
- 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 Officer's have considered not to renew the scheme in Netherfield but this was not proposed as the scheme is showing some signs of a positive impact and if the scheme was removed the concern is that standards in the private rented sector would deteriorate and the council would not have the resources in place to address them.
- 3.2 Officer's considered if there are other areas of the borough which would benefit from the introduction of a selective licensing scheme which would take the combined total of the council's schemes above the 20% threshold requiring approval from the Secretary of State. Currently there is insufficient evidence to satisfy introducing a selective licensing scheme in other areas of the borough other than those already designated.

4 Financial Implications

- 4.1 The costs associated with conducting a public consultation to consider whether to proceed to designating a 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 associated with 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 To cover rising costs incurred by the council and ensure adequate staffing resource is in place to administer the scheme it is proposed to raise the licence fees for landlords by 30% since the original scheme commenced in 2018. The proposed fees are £635 for accredited landlords and £820 for landlords who are not accredited. The licence fee is subject to the public consultation and is payable at the point of application and will last the duration of the selective licensing designation. Compared to other schemes nationally these fees a mid-range, some councils have set fees of

up to £800 or even £1,200 per property. Nottingham City Council's proposed selective licensing scheme which has been approved by the Secretary of State includes a standard licence fee of £665 for accredited landlords. £887 for non-accredited landlords and £1,233 for less compliant landlords.

- 4.4 The projected income and costs over 5 years of the designated scheme together with the proposed staffing structure are listed in the table 1 below:

Table 1.

Selective Licensing Designation for whole of Netherfield Ward (700 rented properties) - Phase 1a (Renewal of Phase 1)	Projections over 5 years
Income	-£518,315
Staff Costs	£457,712
Non Pay Costs	£66,076
Balance at the end of 5 year period	£5,473

- 4.5 The above projections in table 1 are based on the number of private rented properties found to be licensable during the initial scheme in Netherfield at 700 licensable properties. This is considered the most reliable and accurate way of assessing the likely income from the scheme. The above projections are showing a slight deficit of £5,473 across the 5 year duration of the scheme which will need to be managed effectively to ensure the costs incurred administering the scheme balance with the income generated.
- 4.6 The risk of landlords not applying for a licence is considered small as the scheme will be well publicised and brought to the attention of landlords. Tenants and the community will be encouraged to report properties that should be subject to licensing. The penalties for not licensing a property are significant and with the proposed designated area covering the whole ward it is considered manageable to regulate. The council will proactively pursue landlords who avoid applying for licences and take appropriate and proportionate enforcement action.

4.7 **Table 2**

Staffing Proposal
1 x Housing Improvement Officer Band 8 (Temp) - 3.0 Years
2 x Housing Improvement Officer Band 8 (Temp) - 2.5 Years
1 x Apprentice (Temp) - 2.0 Years
1 x Honorarium for Senior Environmental Health Officer - 5 Years

The proposed staffing requirements necessary to administer the scheme are set out in table 2 above. It is proposed that 3 technical officer grade staff, 1 admin apprentice and 1 Senior EHO will be required to deliver the scheme. The projected staffing costs will be paid for by the licence fees and have been based on the highest costs to the Council if staff were recruited at the top grade in each pay band. The staffing structure will be implemented by the Chief Executive in accordance with delegated arrangements following consultation with the trade unions.

4.8 The projected income generated (see table 1) through the scheme has been based on the 700 private rented properties in the area all applying for licences, it does not take into account additional income if properties that are bought and sold through the course of the scheme that become licensable and/or additional properties that become private rented after the scheme is designated. The projected income also does not take into account cost recovery through enforcement action such as the service of enforcement notices under the Housing Act 2004 which may be required in some circumstances which will be subject of a separate fee. As stated in appendix B of the Netherfield selective licensing scheme review and phase 1a proposal (see appendix 1 to this report) it is proposed to retain all other fees associated with the Phase 1 Netherfield selective licensing scheme approved by the Portfolio Holder for Public Protection on 23rd July 2018. It is considered that the potential additional income described in this paragraph will provide sufficient resources to compensate any reductions in income in the unlikely event that there are significantly less private rented properties in the ward than anticipated.

4.9 The financial risks associated with the proposal have been looked at prudently and the financial risk to the Council is considered low. The staff and costs associated with the scheme will be covered through the licence

fees. The income generated through the scheme will be kept under review and should the actual income received through the course of the scheme turn out to be lower than the staffing and associated costs these will be appropriately adjusted throughout the course of the scheme to ensure it remains cost neutral over the 5 year timescale.

- 4.10 Should this report receive approval officers would compile the necessary resource development bids to be considered in the 2024/25 budget process and final approval for scheme implementation will be subject to approval by Cabinet following consideration of the public consultation.

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. It is a statutory requirement that before making a designation the local housing authority must take reasonable steps to consult with persons likely to be affected by the designation and Cabinet must consider any representation made in accordance with such a consultation. Officers will collate the consultation responses and bring them back to Cabinet at a future meeting. The Consultation will take the form of a survey hosted via the council's 'Have your say' webpage. The consultation survey will be promoted via a range of ways including:
- Mailshot to private landlords and agents known to own or manage properties in the ward
 - Leaflet to be hand delivered to all residents and businesses within the consultation area
 - Press release and advert in to local newspapers
 - Posters to be displayed in community buildings
 - Information on the Council's website and social media platforms
 - Community briefing events to explain the proposal
 - Adverts on the Councils plasma display screens in the borough
 - Depending on the timing of the publication potentially an article in the spring edition of the Councils Contacts magazine delivered to all residents of the borough.

- 5.3 In order to designate an area for selective licensing the council must be satisfied of a number of conditions before any designation is made including that the area contains a high proportion of properties in the private rented sector, in relation to the total number of properties in the area, that these properties are occupied either under assured tenancies or licences to occupy along with being satisfied that the area is experiencing one of the six conditions listed in paragraph 1.2 of this report. Paragraph 1.16 of this report summarises the statutory conditions that are evidenced in the review of the Netherfield selective licensing scheme and Phase 1a proposal document. This shows Netherfield satisfies four conditions:
- I. a significant and persistent problem caused by anti-social behaviour
 - II. poor property conditions
 - III. high levels of deprivation
 - IV. high levels of crime

The authority must not make a designation unless they have considered whether there are any other courses of action available to them that might provide an effective method of achieving the objective or objectives that the designation would be intended to achieve, and they consider that making the designation will significantly assist them to achieve the objective or objectives.

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 A press release will be issued to raise awareness of public consultation, landlord associations will be notified and targeted social media posts and email notifications will be distributed to raise awareness. Officers are producing a leaflet about the scheme consultation to be hand delivered to every household in the proposed Netherfield ward selective licensing area.
- 6.5 A copy of the equalities impact assessment (EIA) that was produced when the original phase 1 selective licensing scheme in the Netherfield ward was introduced is attached in appendix 2 of this report. The EIA will be reviewed through the course of the public consultation to determine if any additional considerations will be required to ensure members of the community from a protected characteristic are not disadvantaged should the proposed scheme be introduced. It is not anticipated that there will be and significant change from the previous selective licensing scheme in the Netherfield ward.

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 renewal of the Selective Licensing scheme in Netherfield 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 selective licensing 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. The government's direction of travel for private rented homes is to continue to improve energy efficiency standards and introducing a further selective licensing scheme will help regulate standards in the private rented sector.
- 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 and interventions at private rented homes that fall below minimum energy performance standards.

8 Appendices

- 8.1 Appendix 1 - Netherfield Selective Licensing Review and Proposal Phase 1a to Declare a Selective Licensing Designation within the Private Rented Sector
- 8.2 Appendix 2 – Netherfield selective licensing phase1 equalities impact assessment

9 Background Papers

- 9.1 Secretary of State’s Guidance “*Selective Licensing in the private rented sector: A Guide for local authorities*”
- 9.2 Cabinet Report 8 March 2018 Selective Licensing Implementation in the Netherfield Ward

10 Reasons for Recommendations

- 10.1 To gain Cabinet approval to conduct a public consultation to consider whether to renew the designation to declare the Netherfield ward for selective licensing.
- 10.2 To gain Cabinet support for the proposed fees and additional staffing resource and structure required to implement the selective licensing scheme.

Statutory Officer approval

Approved by:
Date:
On behalf of the Chief Financial Officer

Approved by:
Date:
On behalf of the Monitoring Officer