

REPORT TO: SCRUTINY PANEL B **DATE:** 6 JULY 2016
HEADING: SELECTIVE LICENSING SCHEME
**PORTFOLIO
HOLDER:** HOUSING & ASSET MANAGEMENT
KEY DECISION: NO **SUBJECT TO CALL-IN:** NO

1 PURPOSE OF REPORT

Selective Licensing was added to the Scrutiny Workplan as part of the annual consultation on potential topics to consider in 2015/16. Following an initial report to Cabinet in November 2015 and a subsequent report in March 2016, it was approved that a 12 week period of consultation would be undertaken, focusing on two priority areas, Phase 1 Stanton Hill, and Phase 2 Sutton Central areas of the District.

This report aims to provide Members of the Panel with the required information to discuss and debate the potential impacts of the proposed scheme and will also provide an opportunity for those comments to be included as part of the consultation feedback process.

2 RECOMMENDATION(S)

Members of the panel are asked to;

- 1 Consider the information contained in this report
- 2 Provide and views and comments relating to the proposed selective licensing scheme in the highlighted areas of Phase 1 Stanton Hill, and Phase 2 Sutton Central areas of the District.

3 REASONS FOR RECOMMENDATION(S)

As stated above.

4 ALTERNATIVE OPTIONS CONSIDERED (with reasons why not adopted)

All options will be considered by the Panel at its meeting on the 6 July 2016 in order to provide constructive feedback to be included as part of the consultation feedback.

Strategically, officers have considered introducing a district-wide scheme but this was not taken forward at this stage because the evidence is not yet sufficient to include 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 the scheme). However, it is the council's intention to collect that data and review this position in a year's time.

Officers also considered not seeking a scheme for selective licensing in the district but this was not pursued as it would not address the increased low housing standards in the area and high tenancy turnovers due to anti-social behaviour and landlord neglect.

5. Background

5.1 Legislative Background

Section 80 of the Housing Act 2004 allows local authorities to apply for selective licensing of privately rented properties in areas which are experiencing low housing demand and/or suffering from anti-social behaviour. The main provisions in respect of selective licensing came into force in April 2006. The same Act also introduced a new licensing regime for Houses in Multiple Occupation (HMOs).

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. In order for a scheme to be approved, such a selective licensing scheme must be shown to be co-ordinated with the authority's wider strategies to deal with anti-social behaviour and regeneration.

The explanatory notes to Part 3 of the Housing Act 2004 make it clear that the selective licensing scheme is strongly linked into the Government's anti-social behaviour agenda and provides some further background to the scheme.

5.2 Ashfield Context

The initial proposal put forward to Cabinet in November 2015 detailed 2,516 privately rented homes in the areas being considered for selective licensing this comprised of a third of the privately rented housing stock in the district. However, as a result of further clarification and more detailed robust project management it has been determined that the Phase 3 & 4 areas are not sufficiently defined and there is not yet sufficient evidence to enable effective consultation to take place. The information is not currently robust enough yet for the designation of these areas to be either confirmed or fall within the general approval.

The consultation now focuses on Phase 1 & 2 priority areas only, i.e. Stanton Hill and Sutton Central (approx. 1,214 properties). Appendix 1 lists the actual locations within the boundary areas and Appendix 2 shows a geographical map with boundaries of the two areas.

This selective licensing scheme project is being managed through a robust project management approach, following the Corporate Project Management Framework. As such there are detailed project management documents in place and a cross organisational project team which meets monthly to manage the consultation process and the project itself. The Project Initiation Document was formulated following November Cabinet, which details the scope of the project, project governance, objectives, approach and risk. There is also a detailed Engagement Plan which identifies stakeholders' needs and how these will be met through engagement activity. A detailed Risk Register and Project Plan are in place to monitor progress.

It is still intended for Phase 3 and Phase 4 areas to be considered in Year 2 following the successful implementation of a Selective Licensing Scheme in the first two areas.

There is also evidence that lower house prices in the identified areas within Ashfield have resulted in an influx of unprofessional landlords purchasing properties to rent. These landlords frequently show no interest in managing their properties properly, often letting to anti-social tenants who cause a range of problems with minimal responsibility or control of both parties. This, in turn, can create difficulties for the local community and cause further destabilisation of these areas. In the last five years the private sector enforcement team have inspected over 2610 privately rented properties within Ashfield to investigate housing standards.

There are 29 hazards enforcement officers look for when assessing a property for disrepair, the most prevalent ones found in the Ashfield district are: electrical hazards, damp and mould, fire safety, excess cold, structural collapse. In the areas identified in this report the average number of hazards at each address is 9 which is above the national average of 3.

5.3 Selective Licensing

Selective Licensing is compulsory and applies to all rented properties in a designated selective licensing area with the exception of those already subject to mandatory HMO Licensing or those managed or owned by Registered Social Landlords (also known as housing associations). In the areas where selective licensing would be applied, all landlords will be required to hold a license in order to rent out a property. The license lasts for five years.

To qualify for a license 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.

5.4 Fees

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 intention for the council is to set the fee at the same level as the mandatory HMO fee i.e. £350 for the five years the scheme will last.

In order to recognise that there are landlords in the areas who manage their properties effectively in the district and are already members of an accreditation scheme (East Midlands Landlords Accreditation Scheme) EMLAS, there will be a reduced fee of £250. They will also need to demonstrate that they have not been subject to enforcement action. Any income that does not pay for the officer time in administering the scheme can be allocated to improvements to the street scene (up to 0.6% of the fee income) in the selected area and the council would see this as a very positive use of any funding available.

5.5 Breaches of Conditions and Fines

The key purpose of licensing is to improve conditions therefore if the scheme is introduced the key actions by council officers will be to ensure that the landlords to rectify problems in their properties. There is, as a last resort, an unlimited fine for those who breach conditions.

The council will look to fine those who do not apply to get a licence within the agreed timescales – the fine for which is up to £10,000. The council may be able to retain approximately a third of the income from fines (as the rest of the income needs to be shared with the courts).

6. IMPLICATIONS

Corporate Plan:

The proposed scheme aligns with the new Corporate Housing Priority, being managed and delivered as part of the 'Suitable and Available Housing' programme.

Legal:

Section 80 of the Housing Act 2004 allows local housing authorities to designate an area in their district as subject to selective licensing where those areas are experiencing low housing demand and/or suffering from anti-social behaviour. Before making a designation the authority must take reasonable steps to consult persons likely to be affected by the designation and consider any representations made.

Section 82 of the Housing Act 2004 provides that a designation for an area as subject to selective licensing cannot come into force unless it has been confirmed by the Secretary of State or it falls within a description of designations in relation to which the Secretary of State has given a general approval. The general approval will not apply if the designation (by itself or combined with other selective licensing designations made by the authority) covers more than 20% of the geographical area of the authority or would affect more than 20% of privately rented homes in the authority's area. Further, the general approval will only apply if the authority has consulted for at least 10 weeks.

The consultation period should allow sufficient time to ensure that the authority's proposals are drawn to the attention of anyone with a connection to, or interest in, the areas to be focussed upon. In addition, the consultation process must give sufficient reasons for the proposals to enable an adequate response.

Financial:

The fees for this Scheme were approved at the Cabinet Meeting in November 2015, based on the number of properties at that time in the Scheme (2,516), and the projected income from fees was indicative. A further report with more detailed information will be provided later in the year following the completion of the consultation and Business Case for Secretary of State approval.

Health and Well-Being / Environmental Management and Sustainability:

The proposal for licensing will strengthen the protection of children in the Ashfield District. The Equality Impact Assessment shows that many poor and marginalised households live in the private rented sector (PRS) and some unethical landlords exploit these groups. These families often live in very poor conditions which threaten the wellbeing of their children and cause stress to parents. Licensing will also mean the council has much better intelligence on this highly volatile sector where population turnover is very high.

The council will have better information on where vulnerable families are living, especially those displaced into Ashfield from other boroughs because of benefit restrictions and placement into the Private Rented Sector by other housing authorities. Ashfield databases will be greatly strengthened by licensing, and we will be better able to plan and develop our existing and future interventions.

To mitigate short term negative effects Ashfield District Council will continue to liaise with the Police, Fire Service, National Landlords Association, the Housing Options service, Shelter and other agencies to ensure everybody is aware of the rights of tenants to protection from harassment and illegal eviction under the Protection from Eviction Act 1977.

This partnership work would be a key element for the role of the Principal Environmental Health Officer to ensure stakeholders, tenants, officers and the wider public have a consistent approach to advice and implementation of such a wide selective licensing scheme.

Of the 196 households who were identified as being pre-hypothermic through national returns for the NHS (i.e. at danger because of a lack of heating in their homes for more than 12 hours where physiological changes impact on health) over the winter of 2014/15, 73% of them lived in the areas identified for selective licensing.

A key issue that will be addressed via the licensing scheme will be ensuring that homes have adequate heating and insulation under the provisions of the Housing Act 2004. These provisions are currently enforceable in all residential dwellings; however the local housing authority will be required to carry out this inspection in *all* properties in a designated selective licensing area within the five year period of the licence. This means that all 2,516 properties required to hold a licence under the proposed selective licensing scheme will have an inspection by an appropriately registered officer of the council to ensure all standards are met.

Human Resources:

The previous Cabinet Report provided an indicative structure only and this will be further determined as a more detailed business case is developed and finalised to assess the required structure, grades and roles for the implementation of the Selective Licensing Scheme. The finalised structure should be sent to HR before being included in any report for wider circulation to ensure the staffing costs are accurate and include the employer's on costs.

Consideration should be given regarding whether posts within the Selective Licensing Team are advertised as fixed term contracts or as secondment opportunities, particularly if they are only advertised internally. If the posts are offered as fixed term contracts, employees with more than 2 years continuous service will be eligible to a redundancy payment when the contract expires. Employees aged 55 and over, will be able to access their full pension and any pension strain applicable will be paid by the Council.

As we are investigating the feasibility of more digitally enhanced processing of applications it is expected this should reduce costs and improve the customer experience and accessibility, and therefore the administrative support requirements for the team will be reduced. A further report will be presented to Cabinet later in the year following the completion of the consultation and Business Case for Secretary of State approval.

Diversity/Equality:

There is an existing Equality Impact assessment which applies to the work of the council in respect of the administration of the Housing, Health and Safety Rating Scheme and the enforcement of Homes in Multiple Occupation. It is expected that the implementation of selective licensing will now be able to be brought forward and will have an earlier positive impact on groups with protected characteristics as it is designed to benefit vulnerable households living in the areas covered by the scheme.

Community Safety:

Part of the key purpose of the scheme is to improve community safety.

Other Implications:

N/A

REASON(S) FOR URGENCY (if applicable)


N/A


BACKGROUND PAPERS

Cabinet Report – 5th November 2015

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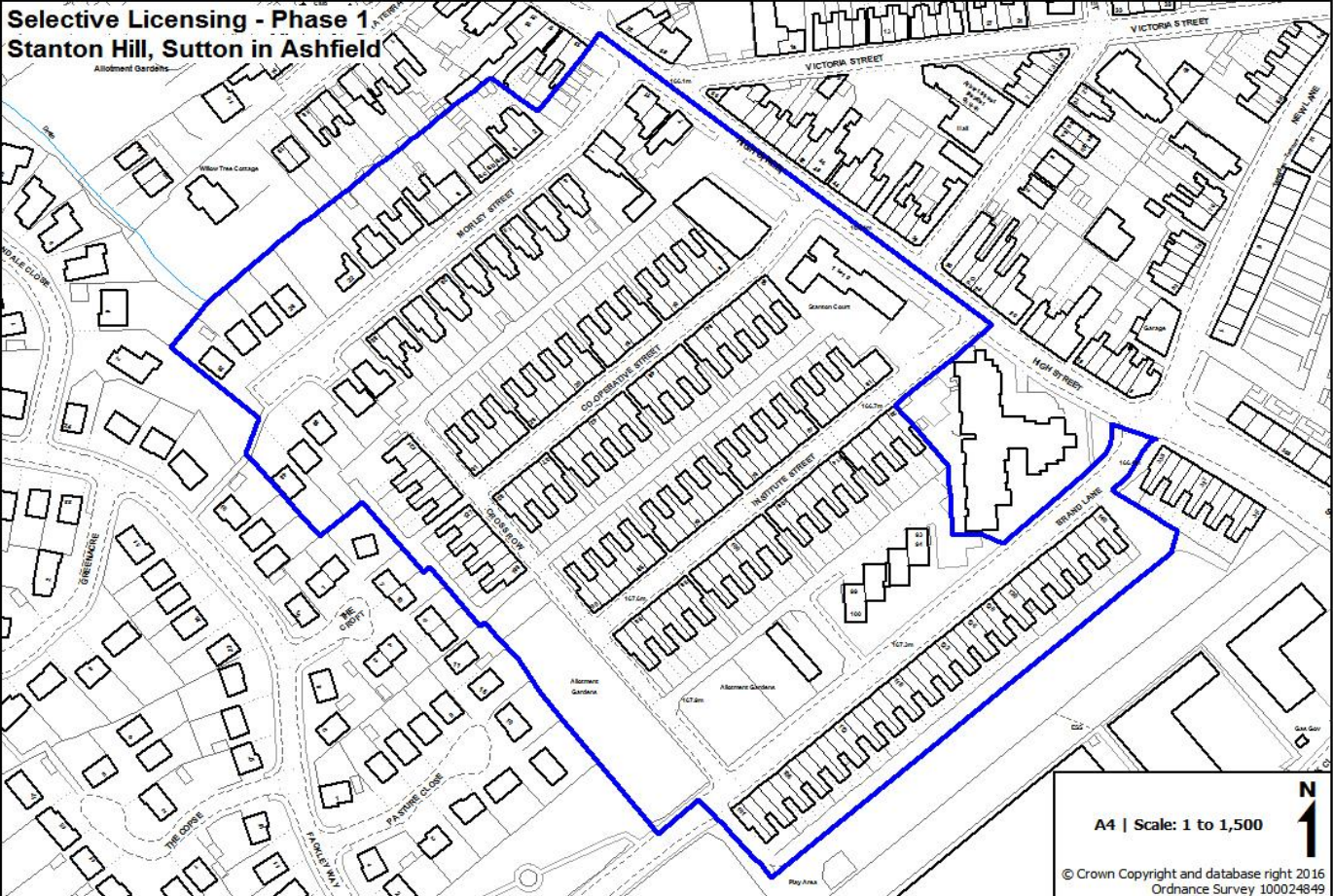
Phase 1 - Stanton Hill, Sutton in Ashfield

High Street (PARTIAL), Stanton Hill, Sutton in Ashfield, NG17 3FY / NG17 3GG
Brand Lane (PARTIAL), Stanton Hill, Sutton in Ashfield, NG17 3FZ / NG17 3GH
Morley Street, Stanton Hill, Sutton in Ashfield, NG17 3HA
Co-Operative Street, Stanton Hill, Sutton in Ashfield, NG17 3HB
Institute Street, Stanton Hill, Sutton in Ashfield, NG17 3HD
Cross Row, Stanton Hill, Sutton in Ashfield, NG17 3HE

Phase 2 - Sutton Central

Outram Street (PARTIAL), Sutton in Ashfield, NG17 4AB / NG17 4AN / NG17 4AP / NG17 4AX /
NG17 4BA / NG17 4BG / NG17 4FS / NG17 4FT / NG17 4FU / NG17 4FW
Park Street, Sutton in Ashfield, NG17 4BB
North Street, Sutton in Ashfield, NG17 4BD
Russell Street, Sutton in Ashfield, NG17 4BE
Morley Street, Sutton in Ashfield, NG17 4ED / NG17 4EE
Downing Street, Sutton in Ashfield, NG17 4EF
Beighton Street, Sutton in Ashfield, NG17 4EG / NG17 4FU
Chatsworth Street, Sutton in Ashfield, NG17 4FR / NG17 4GE / NG17 4GG
Lime Street, Sutton in Ashfield, NG17 4GA / NG17 4GB
Short Street (PARTIAL), Sutton in Ashfield, NG17 4GD
Walton Street, Sutton in Ashfield, NG17 4GF
Stoney Street, Sutton in Ashfield, NG17 4GH
St Michaels Street, Sutton in Ashfield, NG17 4GJ / NG17 4GN / NG17 4GP
East Street (PARTIAL), Sutton in Ashfield, NG17 4GQ
Tenter Close, Sutton in Ashfield, NG17 4GS

Selective Licensing - Phase 1
Stanton Hill, Sutton in Ashfield



Selective Licensing - Phase 2
Sutton Central, Sutton in Ashfield

