

North Somerset Council

REPORT TO THE EXECUTIVE

DATE OF MEETING: 21 JUNE 2016

SUBJECT OF REPORT: SELECTIVE LICENSING OF THE PRIVATE RENTED SECTOR IN WESTON SUPER MARE (PART)

TOWN OR PARISH: CENTRAL AND HILLSIDE WARDS WESTON SUPER MARE

OFFICER/MEMBER PRESENTING: COUNCILLOR ELFAN AP REES

KEY DECISION: YES

RECOMMENDATIONS

1. Agree to designate part of the area comprising Weston-super-Mare Central and Hillside Wards as set out in the map in Appendix 1 and detailed in the streets listed in Appendix 2 as a Selective Licensing Area under the provisions of the Housing Act 2004 in relation to all privately rented dwellings, unless a property is included in the mandatory Houses in Multiple Occupation licensing scheme or has statutory exemption.
2. Agree that the scheme will come into force on 1st November 2016 and (unless previously revoked) will cease to have effect at 23.59 on 31st October 2021.
3. Agree the fee structure as set out in Appendix 3 of this report

1. SUMMARY OF REPORT

In 2012 the council received a report on Private Sector Housing conditions in the district which highlighted significant levels of poor quality privately rented housing in the coastal wards of Weston-super-Mare. Further detailed investigation of this issue, in particular the effect of this housing on the occupiers of the homes and the local community in part of Central Ward, led to the declaration by the council of an additional licensing scheme for Houses in Multiple Occupation (HMOs) in this area in January 2014.

Additional concerns about the poor condition of privately rented homes in Weston-super-Mare outside of the HMO licensing area have prompted further investigation of the issue in the context of amendments made to the national discretionary licensing criteria in March 2015. The Selective Licensing of Houses (Additional Conditions) (England) Order 2015 expanded the criteria which can be used to consider declaring a discretionary licensing area, to include areas where :

- (there is) low housing demand
- (there is a) significant and persistent problem caused by anti-social behaviour
- **there are poor housing conditions**

- **the area has experienced an influx of migration into it**
- **there are a high levels of deprivation**
- **there are high levels of crime.**

The four additional criteria shown in bold were added in 2015.

A comprehensive evidence base has been produced which supports the proposal set out in this report to introduce a Selective Licensing scheme of privately rented dwellings in part of Weston-super-Mare, as shown in the map in Appendix 1.

As required by the legislation formal consultation on the proposed scheme has been conducted for 10 weeks which ended on 30 May 2016. The responses to the consultation have been fully considered and the report is attached (Appendix 5). Some changes to the proposals have been made in response to the consultation however in general the consultation results support the recommendations set out in this report.

2. POLICY

The Corporate Plan identified that over a quarter of private rented homes did not meet the decency threshold. One of the 3 key Outcomes set out in our Corporate Plan is “Quality Places”. The plan identifies that good-quality housing is a key part of the council’s ambitious plans to regenerate Weston-super-Mare town centre as an attractive place to live.

“Improving Homes” is a strategic aim within the Housing Strategy 2016-2021 because we know some parts of our district have pockets of poor housing conditions, in particular where private rented sector tenants live in poorly maintained homes especially in Weston-super-Mare. We are committed to using our powers and influence to work with landlords, tenants and homeowners to raise standards and help ensure the safety of occupiers. The Housing Strategy includes an action ‘to undertake a review of the need for additional discretionary Licensing schemes’

The Private Sector Housing Delivery Plan (2013-2015) includes a proposal to consider taking action to tackle the concentration of poor quality privately rented housing in Weston-super-Mare.

An aim of the North Somerset Partnership Sustainable Communities Strategy is to provide “better access to quality homes”. This scheme will support the achievement of this aim by working with private landlords to improve housing standards.

The aims and priorities of the current Anti-Social Behaviour programme are focused on partnership working and developing problem solving initiatives leading to positive outcomes for residents. A Selective Licensing scheme will contribute to this programme.

A key priority outcome of the North Somerset People and Communities Strategy (July 2013) is to work with communities to better meet housing need. The implementation of the Selective Licensing scheme proposed in this report will support this priority. The strategy highlights that the neighbourhood and the home where a person lives can have a significant impact on their health and well-being. In particular that poor or unsuitable housing conditions, lack of housing options and a lack of support to sustain housing can affect people’s health and well-being in a number of ways. It also identifies that a good housing offer is also important in supporting economic growth in a district.

3. DETAILS

3.1. Research and Evidence

The proposal to introduce this licensing scheme supports an ongoing obligation as set out in section 3 of the Housing Act 2004 which requires Local Authorities to keep housing conditions in their area under review and determine what policy responses should be pursued.

The Private Sector House Condition Survey 2012, found that the worst housing conditions were to be found in the private rented sector. The coastal wards of Weston-super-Mare were highlighted as having high proportions of poor housing. The survey found that the proportion of dwellings with Category 1 hazards using the housing, health and safety system of assessment was the highest in the Central and former West wards in Weston-Super-Mare and a small area of Clevedon. Refer to map included in consultation documents (see the link provided in the background papers).

The private rented sector (PRS) in North Somerset grew by 79% (from 7,948 to 14,270 homes) in the period between the 2001 Census and 2011 Census. The sector accounted for 16.2% of the North Somerset housing stock in 2011. The growth in the sector presents a number of challenges relating to housing quality, management and the limited security of tenure.

In addition to the stock condition data; a review of other data held has allowed us to define the proposed area, taking account of the prescribed criteria.

The **energy performance data** from the Energy Performance Certificates database highlighted a concentration of properties in the proposed area with a low rating i.e. F or G. This would indicate a Category 1 hazard would exist on the basis of excess cold. There are regulations coming into force in 2018 which will prohibit the use for private renting of any dwellings with an EPC rating of F or G. Refer to map included in consultation documents (see the link provided in background papers).

A significant number of private rented tenants (over 45%) applying for **social housing** state disrepair of their current accommodation as a reason why they wish to move and the majority of these applicants live in the Weston-super-Mare area, predominantly in the Central and Hillside wards. This reinforces the data from our stock condition survey. Refer to map included in consultation documents (see the link provided in background papers).

An analysis of records relating to complaints from private sector tenants about **poor housing conditions** was also undertaken. The majority of complainants were located in the Weston-super-Mare area, again concentrated in the Central and Hillside wards. Refer to map included in consultation documents (see the link provided in background papers).

The research data was mapped to create an overview of the locations of poor housing conditions. In summary this identified a concentration of poor housing conditions in privately rented accommodation in the Hillside and Central Wards of Weston- super- Mare as shown in the consultation documents (see the link in the background papers). Having reviewed the results of the research it was considered that the introduction of a Selective Licensing scheme for all privately rented properties (other than those included in the mandatory Houses in Multiple Occupation licensing scheme or where there is a statutory exemption) would be the best way of remedying the poor housing conditions in the area, for

the reasons set out in paragraphs 3.5. As a result formal consultation on this proposal was undertaken as set out in paragraph 3.3. Details of how the proposals meet the legal requirements for declaring a Selective Licensing scheme are set out below

3.2 Legislation

The Housing Act 2004 uses the term ‘discretionary licensing’ in relation to the type of scheme we are proposing. What this means is that local authorities can choose to introduce a discretionary licensing scheme in an area(s) if it meets the legislative requirements. If a scheme is introduced it becomes a legal requirement for all landlords and agents who own or manage rented properties (with some exemptions) in the designated area to apply for a licence. There are 2 types of licensing:

Additional licensing applies to houses in multiple occupation (HMOs).

Selective Licensing can be applied to most privately-rented properties that do not require an additional or mandatory HMO licence. The evidence compiled (as set out in paragraph 3.1) supports the declaration of a Selective Licensing scheme under the expanded criteria (The Selective Licensing of Houses (Additional Conditions) (England) Order 2015) on the basis of **poor housing conditions**.

We are therefore proposing to designate a scheme in the area of Weston-super-Mare shown in Appendix 1. In order to satisfy the criteria it is necessary to demonstrate:

- The area contains a high proportion of properties in the private rented sector, in relation to the number of properties in the area
- The properties are occupied under assured tenancies or licences to occupy
- A formal review of housing conditions has been carried out which confirms there are a significant number of properties which should be inspected to determine if Category 1 or 2 hazards are present requiring enforcement action.
- That the local housing authority intends to carry out inspections with a view to carrying out any necessary enforcement action to improve housing conditions.
- And that making a designation will, when combined with other measures taken in the area (including any licence conditions), contribute to an improvement in general housing conditions in the area.

The investigations in preparation for the consultation demonstrated the following:

Proportion of private rented dwellings and tenure

The table below demonstrates the number of dwellings in the proposed area and also the number which are privately rented (Census 2011). The guidance suggests where the percentage of PRS dwellings exceed the national average (19% EHCS 2013/14) the area can be considered as having a high concentration of private-rented dwellings.

LSOA* by reference	No. of dwellings	No. in private rented sector	% of stock in PRS
NS 018A	823	397	48%
NS 020C	925	353	38%
NS 020D	787	369	47%

(* LSOA – Lower Super Output Area)

Details of how the proposed scheme meets the other criteria is set out below:

Criteria	Action
The properties are occupied under assured tenancies or licences to occupy	Since the 1990's rent controls have been removed and the assured shorthold tenancy became standard (replacing assured tenancies); the transient nature of the sector means the majority of tenancies will satisfy the criteria. There are very few Rent Act protected tenancies remaining in North Somerset
A formal review of housing conditions has been carried out which confirms there are a significant number of properties which should be inspected to determine if Category 1 or 2 hazards are present requiring enforcement action	The information in paragraph 3.1 and in the consultation documents gives details of the review of housing conditions undertaken and sets out that in the proposed Selective Licensing Area there is a significant number of privately rented properties that are in a poor condition and which therefore require inspection to determine if serious hazards are present which require enforcement action.
Carry out inspections with view to enforcement action	Compliance visits will be carried out to all licensed premises to ensure minimum standards and enforcement action will be taken to remedy any failures.
Designation will, when combined with other measures taken in the area (including any licence conditions), contribute to an improvement in general housing conditions in the area	Mandatory HMO licensing scheme already delivering improvements. West of England Rental Standard launched to encourage landlords and agents to provide good quality accommodation. Pro-active inspection of houses in multiple occupation planned Empty Property Delivery Plan targets long term empties although few identified in locality. The Councils 'Prospectus for Change' sets out the vision for a regenerated Weston-super-Mare and the contribution high quality urban living opportunities will offer.

Anti-Social Behaviour

In relation to anti-social behaviour associated with privately renting tenants; the current actions have been reviewed and an evaluation of the impact of the licensing scheme undertaken. The Community Response initiative provides an innovative solution to tackling anti-social behaviour and crime in partnership with the Police.

Housing Services are represented on the multi-agency task group which regularly meets to share information on specific cases and plan an appropriate, targeted response.

Environmental issues in particular refuse, noise and fly-tipping are regularly dealt with through a joint response.

Weston-super-Mare was awarded the prestigious **Purple Flag** status in April 2016 which recognises towns providing a vibrant mix of night-time entertainment while promoting the safety and wellbeing of visitors and local residents. This award demonstrates the innovative approach to tackling anti-social behaviour in partnership with other agencies.

3.3 Formal Consultation Report

Extensive consultation on the proposals to introduce Selective Licensing in the area shown in Appendix 1 was undertaken. The formal consultation was conducted through e-consult which was supported by presentations to the Private Sector Housing Forum, Landlord and Community Groups. A leaflet was delivered to all households and businesses in the locality and displayed on the TV monitors in the Town Hall. The opportunity to respond in writing was available for those who do not have access to the internet.

As part of the formal consultation process a presentation was made to the council's Adult Services and Housing Panel who gave unanimous support to introduction of the scheme.

A detailed report on the responses from the formal consultation is contained in Appendix 5.

There was a good response rate to the survey and from the range of responses received we believe the survey met the aim of reaching as many people who may be affected by the proposals as possible.

In general there was a high level of support for the introduction of the licensing scheme, with 62% of the 151 respondents supporting the main features of the scheme.

Unsurprisingly there was more support for the main features of the scheme from individuals at 78% (tenants and non-tenants) than from landlords at 28%. However, it was reassuring that 27% of landlords agreed or strongly agreed that the scheme will help improve housing conditions. A similar trend was found in relation to organisations, where there was less support from organisations involved in the management/letting of homes than from those not involved in this area of work

A breakdown of responses by each question is included within the consultation report (Appendix 5). A summary of the comments and questions is set out in section 13 of Appendix 5 together with the council response, which includes a number of proposed changes to the scheme in response to the consultation.

The main changes in response to the consultation were to amend the fee structure to provide discounts where less resources would be required to implement the scheme on the basis of sole ownership of all the accommodation in the same building or membership of the West of England Rental Standard.

3.4 Proposal.

Local Authorities have the power to introduce licensing of privately rented properties to improve conditions for tenants and the surrounding community, as set out above. They can decide where to licence and which type of properties to include. It is proposed that a Selective Licensing scheme for all privately rented properties (excluding those properties that are included in the mandatory Houses in Multiple Occupation licensing scheme or have

a statutory exemption) is declared in the area shown at Appendix 1 to enable the poor housing conditions in the private sector to be improved.

The scheme cannot come into force for at least three months after formal designation. The proposed operational date for the scheme is 1 November 2016, which will allow for necessary publicity, administrative processes, training and recruitment.

It is proposed that the licensing conditions which are applied to the licences will be a combination of those used for HMOs covered by the mandatory and additional licensing schemes supplemented by additional conditions.

In addition, it is proposed to introduce an 'Undertaking of Good Practice' which tenants and landlords will have to sign up to. This undertaking will assist landlords to improve their management and ensure that everyone is aware of their responsibilities. The conditions which will apply to the scheme are contained in Appendix 4 for information.

On introduction of the scheme, every privately rented property will need to apply to the council for a licence. Landlords and property managers who operate a licensable property without a licence can be prosecuted and face a fine of up to £20,000.

The scheme would not include council owned or leased property or properties owned by registered social housing providers.

3.5 The benefits of a licensing scheme

Under the proposed licensing scheme the council will have powers to require that private landlords register their properties with the council by making an application for a licence for each property. As a result the council will (a) know where these properties are (b) know who the landlord or manager is and (c) will be aware of the condition of the property as each will be inspected. There is a specific power of entry to investigate offences concerning licensing under the Housing Act 2004 which will provide increased powers to regulate and control the management on these privately rented homes.

Currently, the legislation provides a power of entry to all dwellings regardless of tenure to establish if the statutory standard is breached although tenants are often reluctant to complain about the property condition, for fear of reprisals. A licensing scheme will provide comprehensive additional data on the conditions and management of the private rented sector, in the locality and will enable the council to take enforcement action to improve standards if necessary without the need for tenants to complain.

By licensing properties the council will be able to improve standards as all properties will need to reach minimum standards to meet the requirements of the licence and the Housing Acts. Licensing would also require that landlords meet the 'Fit and Proper Person' criteria. Landlords, who have been convicted of serious offences, including housing offences, may be unable to obtain a licence and can have any existing licences revoked.

Landlords will have to pay a fee upon application and this income will be used to cover the running costs of the scheme.

A public register, similar to the mandatory scheme for HMO's will be held of all licensed properties within the area. This will be able to be viewed free of charge and means that neighbours will be able to find out who manages privately rented properties near them and will make it easier to report anti-social behaviour or poor conditions.

Where landlords are unwilling or are unable to meet the requirements of licensing, it will be possible to take enforcement action in line with the housing enforcement policy. Failure to comply can lead to prosecution, where the Court can impose fines and the Council can recover costs; ultimately, the council can take over the management of a property.

The introduction of a Selective Licensing scheme would enable the issues and concerns of local people and businesses in the area regarding the impact of the private rented sector to be tackled and the management of the sector to be more effectively regulated.

The benefits for a private landlord

- Their reputation will be enhanced by holding a licence, while those landlords who have failed to properly maintain or manage their properties will either be required to bring their properties up to standard or have their licence revoked.
- Landlords will be able to promote their licensed status and find it easier to attract tenants who will know that a licensed property is well managed and safe.
- Better management will enable the landlord to have more control over the property and will support them in dealing with any tenants who commit anti-social behaviour.

The benefits for private tenants

- Tenants will have peace of mind that information on the required standards for housing will have been provided to their landlord who will have confirmed full compliance. An inspection of the property will be arranged during the life of the scheme to confirm standards are being met and where appropriate enforcement action will be taken to deal with any contraventions.
- Advice and guidance will be available to tenants so that they can understand their rights to a decent home.
- Tenants will have access to a dedicated licensing team to discuss any concerns they may have about their accommodation.
- Energy efficiency will be improved in advance of regulations coming into force in 2018 which will prohibit the occupation of the worst performing homes.

The benefits for the community

- The scheme will increase the numbers of properties meeting standards for housing conditions and good management, which should help to decrease incidents of anti-social behaviour.
- The licensed properties must be placed on a public register which can be accessed by neighbours who have concerns about the property condition or behaviour of tenants.

4 CONSULTATION

A detailed report of the formal consultation is contained within Appendix 5 and discussed in paragraph 3.3 above.

The documents and supporting evidence used in the formal consultation are available on the council's website - refer to consultation documents – link provided in background papers at the end of this report.

5. FINANCIAL IMPLICATIONS

The legislation provides for fees to be charged for licensing which should be calculated to recover the costs of any proposed scheme. A fee structure has been prepared which formed part of the consultation documents (Appendix 3) and is consistent with the scheme of charges used in the mandatory HMO licensing scheme. This fee structure will cover the cost of the administration, issuing of licences and accompanying documents, compliance inspection, and monitoring of properties. As outlined in 3.3 discounts will apply where less resources are required to implement the scheme on the basis of sole ownership of all the accommodation in the same building or membership of the West of England Rental Standard

The different fees reflect the amount of time the council will spend processing the application and sets a higher fee for landlords who fail to licence due to the additional work that will be involved to identify these properties. In addition the landlord could be prosecuted for failure to licence.

A compliance visit will be carried out during the period of the licence, which will be prioritised based on a risk analysis. If during the compliance visit the property is found to contain serious hazards enforcement action will follow and the additional costs will be re-charged to the landlord, in line with our enforcement policy. This approach allows good and well intentioned landlords to improve their properties through information and guidance. Where landlords do not take this opportunity and are found to be non-compliant they will directly bear the additional costs incurred by the council. This methodology keeps the licensing fee for compliant landlords as low as possible and those landlords who provide non-compliant accommodation will be expected to pay more.

Fee income which is received will need to be carried forward into each of the financial years of the scheme to enable the costs incurred in each year to be funded.

The fee structure will be amended each year in line with the corporate inflationary increase for any new applications after commencement of the scheme.

6 RISK MANAGEMENT

The introduction of the scheme is a response to the findings of the stock condition survey, analysis of additional data concerning housing conditions and the council's duty to keep the housing conditions of the area under review and take action in particular to consider discretionary licensing schemes.

A risk management assessment has been completed to identify key risks and the mitigation that will be applied to manage the risks. In summary the assessment identified key issues as:

If the scheme is **not** introduced there is a risk that:

- The opportunity to deliver significant improvement to housing conditions will be lost. *(The scheme will locate all privately rented properties, apply minimum standards and improve conditions.)*

- Badly managed properties will continue impacting on the wider community. (*Where landlords operate outside the law and fail to engage, the scheme will enable enforcement action to be taken*)
- Risks to tenants will not be effectively mitigated. (*The scheme will offer better protection for tenants with regard to living conditions, as it will ensure that the conditions of their homes meet the minimum legal requirements and that landlords comply with their responsibilities concerning management and tenancy matters*)

If the scheme **is** introduced there is a risk that:

- The income generated will be less than is required to operate the scheme (*the survey work and consultation has enabled effective financial projections to be made and this is therefore considered as low risk*)
- There is a successful external challenge to the introduction of the scheme (*the research undertaken and the evidence base is considered sufficiently robust to defend any challenge – low risk*)
- The scheme will not achieve the overall aims and outcomes (*the robust conditions applied to the scheme and increased controls will, together with close partnership working, enable the key issues in the area to be tackled. Performance of the scheme will be regularly tracked and any necessary corrective action taken – low risk*)

7 EQUALITY IMPLICATIONS

A full Equality Impact Assessment has been completed and is available on request. The main issues that emerged from the assessment are that:

- Whilst there is a predominantly white British population in North Somerset the Census 2011 data shows a higher proportion of mixed ethnic groups living in central ward than the North Somerset average.
- By implementing the proposed scheme, socio-economic disadvantaged groups will benefit through improved housing conditions.
- The fee payable for a licence could result in an increase in the rental charged for properties but it is considered this would be negligible over the five years of the scheme and is not disproportional to the overall benefits.
- Landlords could decide to leave the sector thus reducing the availability in the area. This has not been the experience on previous schemes and usually when properties are marketed they are often purchased by other landlords.

There is a risk that the introduction of the licensing scheme may adversely affect individuals in a way that we have not expected. This risk will be mitigated by regularly reviewing the scheme against the aims and monitoring against the outcomes.

8 CORPORATE IMPLICATIONS

This introduction of Selective licensing of the privately rented sector supports the delivery of the Council's Housing Strategy and Corporate Plan. It also supports the delivery of the

North Somerset Partnerships Community Strategy and the North Somerset People and Communities Strategy.

The approach is consistent with our Housing Strategy and will complement work being undertaken to bring empty homes back into use. The scheme will help ensure a supply of quality rented homes to meet the demand for housing, including accommodation solutions for homeless people, of a standard that promotes health and well-being.

A key ambition is for Weston-super-Mare town centre to be somewhere people want to live, learn and spend their leisure time; improving poor quality housing will attract more people to live in the town centre and we recognise the important role of private sector landlords. We work closely with landlords and support the Private Sector Housing Forum, offering guidance and information on technical and legislative issues. Our Housing Renewal Assistance Policy offers low cost loans to landlords for essential improvements. However, we are aware of the impact poor housing conditions have on the health and well-being of tenants and are committed to securing improvements. Introducing a selective licensing scheme supports our ambitious plans for regeneration and improving health inequalities.

9 OPTIONS CONSIDERED

Do nothing. The purpose of carrying out the house condition survey was to help inform where the council should target resources to bring about the greatest improvements in housing conditions which would contribute to the improvement of the health and well-being of residents. To not implement a scheme would mean that we would continue to provide a responsive service to complaints about housing conditions but would not have the increased and targeted powers to tackle the problems highlighted in the report and evidence base.

Reduced or expanded scheme. The evidence base supports the introduction of Selective Licensing as proposed. To reduce the area of the scheme would risk not delivering the objectives of the scheme and the natural boundaries of the designated area give a clear definition to assist with management of the scheme. The evidence base overwhelmingly supports the selected area which was highlighted across a number of themes. An expansion of the area is not supported by the evidence base and such an expansion of the proposed area could contravene the restrictions on the size of combined licensing schemes.

AUTHORS

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BACKGROUND PAPERS

Housing Strategy 2016 – 2021
Private Sector Housing Delivery Plan 2013 - 2015
North Somerset Partnership Sustainable Communities Strategy
Consultation documents – www.n-somerset.gov.uk/rented
Adult Social Services and Housing Policy and Scrutiny Panel (21 January 2016)
<http://apps.n-somerset.gov.uk/cairo/docs/doc27161.htm>

LIST OF APPENDICES

Appendix 1 - Map showing location of proposed Selective PRS Licensing Area

Appendix 2 - List of all roads within the proposed Selective PRS Licensing Area

Appendix 3 – Fee structure

Appendix 4 – Licensing Conditions

Appendix 5 – Consultation Report