



**COUNCILLOR
GEORGE DAVIES**

CABINET

Monday, 27 November 2017

**APPROVAL OF BUSINESS CASE AND
CONSULTATION APPROACH FOR THE
PROPOSED EXTENSION OF
SELECTIVE LICENSING**

Councillor George Davies, Cabinet Member - Housing and Community Safety (and Deputy Leader of the Council), said:

Wirral's private rented sector has almost doubled in recent years. In order to ensure this sector remains healthy, the Council needs to address some of the housing and related social issues which continue to affect specific areas to the east of the Borough where there are particularly high concentrations of poor quality private rented properties. Many landlords act responsibly however Wirral's existing Selective Licensing Scheme has highlighted the need to extend this targeted approach to enforcing minimum standards to other parts of Wirral where similar conditions exist in order to protect vulnerable tenants and residents in these areas.

REPORT SUMMARY

This report sets out a proposal to extend Wirral's Selective Licensing Scheme to four more areas in East Wirral. Selective Licensing is a scheme to improve private rented sector homes within specific neighbourhoods by requiring private landlords to obtain a license and comply with certain agreed conditions. A Business Case which supports the extension of the scheme and relevant appendices are attached to this report and members are asked to agree that this evidence is the subject to a statutory consultation exercise to seek wider view on the proposal.

The Scheme contributes to the Wirral Plan 2020 Pledge; 'Good quality housing which meets the needs of residents' by improving the quality of Wirral's housing offer for our residents which is a key component of Wirral's Housing Strategy.

Wards affected include Bidston and St James, Birkenhead and Tranmere, Seacombe and Claughton.

This is a key decision.

RECOMMENDATIONS

Members are requested to:-

- a) approve the draft proposal for implementing Selective Licensing in the additional four proposed areas in the Borough based on the robust evidence base;
- b) approve the consultation plan and draft Business Case as attached to this report as the basis for public consultation on Selective Licensing;
- c) give delegated authority to the Head of Operational Housing Services and Cabinet Member for Housing and Community Safety to undertake minor amendments to the Business Case should further evidence be made available which should be included in the consultation.

SUPPORTING INFORMATION

1.0 REASON/S FOR RECOMMENDATIONS

- 1.1 The report sets out the reasons for commencing with a ten week consultation process on the proposed implementation of Selective Licensing in four designated areas in the borough. The consultation will obtain the views of tenants, residents, landlords and stakeholders and is a requirement of the approval process required by DCLG.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 The Council has used a range of tools for tackling poor management including property accreditation, healthy homes and enforcement action. Whilst this has had some success the benefit that Selective Licensing brings is a co-ordinated, targeted mandatory approach, where the ultimate sanction is that a landlord can be prevented from letting out properties.
- 2.2 The current Selective Licensing Scheme has demonstrated that the targeted approach has accurately identified areas of properties in very poor condition and the evidence has demonstrated that many vulnerable residents do not feel able to complain about their housing conditions so without Selective Licensing it is highly likely that their hazardous housing condition would not have been addressed.
- 2.3 A Borough wide approach was also considered but the Selective Licensing of Housing (Additional Conditions)(England) Order 2015 requires new schemes to be introduced in areas where the private rented stock is greater than the national average at 19% without Secretary of State approval. Whilst local authority areas with less than 19% can still request a designation by the Secretary of State, officers are not confident that they can demonstrate a need for a Borough wide initiative due to the fact that as in Wirral there are very distinct housing markets where the private rented sector is significantly higher which are clearly concentrated in small pockets in the east of the borough, but there are also areas of high demand where the levels of private renting are much lower. Recent evidence from the Performance and Public Health Intelligence Report (Business Case Appendix 1) supports the fact that there is significant polarisation of the housing markets in the borough. It is recommended therefore that the Council should focus resources in the areas displaying the worst problems of low demand and poor property condition.

3.0 BACKGROUND INFORMATION

- 3.1 Wirral introduced its first Selective Licensing Scheme in the Borough on 1st July 2015 into four designated areas in Birkenhead, Tranmere, Seacombe and Egremont. Over 1300 Licence applications have been granted in these areas representing over 99% of known licensable landlords. Compliance checks which are based on the license conditions have been completed to 340 privately rented properties and the compliance rate with license conditions has been found to be extremely poor at only 28% of the properties inspected. Although the worst properties have been targeted for early inspections, the scheme demonstrates that without pro-active Council intervention in these areas, vulnerable tenants would continue to live in poor quality, often hazardous housing. Officers will have to inspect all privately rented properties in these areas by 30th June 2020 which is the end of the current 5 year designation period.

3.2 It is still too early to assess whether or not Selective Licensing has had its intended impact of reducing low housing demand, however an initial review of the scheme was undertaken earlier this year along with a residents and landlord survey to gauge some initial views on progress. Whilst feedback showed that after 18 months residents did not yet see big changes in Selective Licensing Areas, feedback was positive in many aspects such as a high overall satisfaction with the areas and improving property conditions. Clearly it is very early on in this scheme however improving awareness of the support available via the scheme will need to be fundamental to all aspects of the work along with more multi-agency approaches being taken to tackle wider issues in the Selective Licensing scheme over the coming years.

4.0 WHAT IS SELECTIVE LICENSING?

4.1 The Housing Act 2004 provides local authorities with a range of tools with a view to encouraging private sector landlords to improve management, amenity and safety standards of their properties and to tackle anti-social behaviour, which in turn will help to improve living standards and improve areas of low demand. Part 3 Section 80 of the Housing Act 2004 contains provisions for local authorities to license the private rented sector in some circumstances. Before 2015, the criteria for introducing Selective Licensing schemes were either 'low demand' or 'anti-social behaviour'. This was revised with the Selective Licensing of Housing (Additional Conditions) (England) Order 2015 which stated that evidence must demonstrate that an area is experiencing one or more of the following factors:

- low housing demand (or is likely to become such an area);
- a significant and persistent problem caused by anti-social behaviour;
- poor property conditions;
- high levels of migration;
- high level of deprivation;
- high levels of crime.

4.2 Wirral's first Selective Licensing Scheme was declared on the basis of tackling Low Housing Demand, however having operated the first scheme for over two years, it is clear that property condition was a major failing that also needed addressing, with deprivation, and property crime also influencing factors which will help define any future Selective Licensing areas.

4.3 A Selective Licensing designation can be in force for a maximum of five years and in making the designation, all private rented properties within the designated boundary area will require a licence to be able to let their property.

4.4 Owners of rented properties will be required to make an application to the Council for a licence and will need to nominate either the manager or the owner to be the licence holder. Wirral Council will assess applications and will determine the proposed licence holder as a 'fit and proper' person in terms of their suitability to manage their properties before issuing a licence.

4.5 Landlords will require a licence for any properties they rent out within the designated area and it will contain a series of conditions that the licence holder will be required to comply with. These conditions will include items relating to the management of the property, fire safety and anti-social behaviour. There will also be a requirement that landlords provide references for tenants that move on from their properties. The draft

Selective Licensing Conditions for the new scheme areas have changed very slightly from the first scheme due to a need to address changing legislation since 2015 and the addition of items such as internal decoration and security. The proposed draft licensing conditions, which will also be subject to the proposed consultation exercise, are detailed in the Business Case Appendix 4 attached to this report. In summary they include conditions relating to safety requirements and maintenance of installations and equipment, tenancy management, alley gates, pests and infestations, fire safety, anti-social behaviour, external area refuse and waste and energy performance.

5.0 WHY EXPAND SELECTIVE LICENSING IN WIRRAL?

- 5.1 The 2011 Census reported that in Wirral almost 16% of properties (22,275) rent from a private landlord and this has significantly increased by nearly 80% since 2001.
- 5.2 Despite Wirral committing resources to tackle poor housing in the private rented sector the main findings from the Wirral 2013 Private Sector Stock Condition Survey identified that 32.0% of private rented homes did not meet the Decent Homes Standard, compared to 20.6% of owner occupied homes and rates of serious hazards in private rented properties were more than double those in the owner occupied sector.
- 5.3 Poorly managed rented properties are frequently associated with areas suffering from low demand due to high levels of long term empty properties, environmental blight, criminal damage (anti-social behaviour), poor repair and high levels of housing benefit claimants. Many of the areas which suffer from these indicators require regular intervention from Council services and partner agencies and suffer from low levels of activity in the housing market, particularly in the private rented sector.
- 5.4 The expansion of Wirral's Selective Licensing Scheme in additional specific, targeted areas of low demand and poor property condition would help to stabilise more neighbourhoods by declaring an intention to drive up property management practice and property standards in the private rented sector as well as aligning other interventions including targeted activity to help bring empty properties back into use, Healthy Homes and energy efficiency interventions. In addition, the use of Selective Licensing would help solve other neighbourhood issues that are contributing to low demand within a neighbourhood through a multi-agency approach with wider public, community and voluntary sector stakeholders and residents within an area.
- 5.5 The expansion of the existing selective licensing scheme was requested at Cabinet on 18th July 2016 when the Council leader requested that they would like to see selective Licensing operating in more areas over the next 5 years (minutes refer). An action to take forward a feasibility study to explore extending Selective Licensing was subsequently incorporated into Wirral's Housing Strategy, published in July 2016 as an action to be taken forward.
- 5.6 Wirral's Housing Strategy focusses a range of activity in the borough to achieve the Wirral Plan 2020 Pledge; 'Good quality housing which meets the needs of residents'. The strategy is clear that access to good quality homes is a foundation upon which people can build happy and successful lives and is a crucial component of strong and sustainable communities. The strategy focus is on three clear themes:
 - Building more homes in Wirral to meet our economic growth ambitions;
 - Improving the quality of Wirral's housing offer for our residents;

- Meeting the housing and support needs of our most vulnerable people to enable them to live independently.
- 5.7 Whilst the role of the private rented sector runs through all of these themes, this sector is and will continue to be vital in meeting the borough's housing needs, particularly given the continuing pressure on the availability of affordable rented homes in the social sector.

6.0 EVIDENCE BASE AND SELECTION OF PROPOSED DESIGNATED AREAS

- 6.1 Earlier this year, Wirral Council's Performance and Public Health Intelligence Team were commissioned to undertake research into a wide range of evidence from a variety of data sources to help identify potential areas where the Council could make a significant impact in specific neighbourhoods through the introduction of a Selective Licensing scheme.
- 6.2 The evaluation involved an analysis of 18 individual data sets for the worst performing small geographical areas across the borough called Lower Super Output Areas. These are the smallest geographical areas where official data which is collected at a national level can be used for analysis. The LSOAs are determined nationally and to change these boundaries would affect the robustness of the analysis. Data analysed included for example the number of long term empty properties, low sales values and sales rates, high numbers of private rented properties, high turnover of private rented properties and longer than average times that privately rented properties took to be re-let as well of other data that reflects areas suffering from low-demand.
- 6.3 Each of the indicators was given a score of either one or two points. Those indicators which according to Government guidance [2] demonstrate low housing demand and poor property condition scored two points. Supporting indicators which demonstrate deprivation, anti-social behaviour and high levels of crime scored one point. The indicators and scoring differ from that used in the current selective licensing scheme's Supporting Evidence and Rationale written in 2014 due to the release of the 2015 Government guidance referred to above. Table 1 shows the list of indicators and points awarded for each in the matrix.

Table 1 – Matrix points awarded per indicator

2 points
<ul style="list-style-type: none"> • Percentage of privately rented properties • House sales • House prices • Long term empty properties • Length of time long term empty properties are left empty • Lettings turnover • Time taken for properties to let • Deliberately started fires • Fly Tipping • Environmental Health Complaints • Housing Team Interventions
1 point
<ul style="list-style-type: none"> • Deprivation (overall and living domains of 2015 IMD) • Out of work and disability benefits (ESA, JSA and UC) • Injuries (sustained in the home) • Criminal damage • Housing benefit paid to private landlords

- 6.4 All of the 207 LSOAs in Wirral were ranked based on these indicators and the worst performing 10 LSOAs were entered onto a master matrix document. This represented the worst 5% of LSOA in terms of the low demand criteria that was evaluated. The worst 5% of LSOAs was chosen to coincide with other Council interventions (e.g. Health Action Area initiative) that operate in the most deprived LSOAs.
- 6.5 The evidence highlighted that the four LSOAs in Wirral's current Selective Scheme still score in the top 10 worst performing LSOAs in Wirral with Seacombe Library still ranking in 1st place, Birkenhead South in 2nd place while Egerton North and Egremont promenade south dropping to 7th and 10th places respectively.
- 6.6 The proposed new Selective Licensing scheme would look to extend the scheme to the LSOAs areas that are 3rd, 4th 5th and 6th places in the new evidence base (Table 2)

Table 2 – Four Proposed new Selective Licensing areas

LSOA code	LSOA name	Ward	Constituency	Total no. of households	Total no. of private rented households	Proportion of private rented households
E01007278	Seacombe Library	Seacombe	Wallasey	658	235	36%
E01007129	Birkenhead South	Birkenhead & Tranmere	Birkenhead	761	287	38%
E01007126	Hamilton Square	Birkenhead & Tranmere	Birkenhead	1170	292	25%
E01007273	Seacombe St Pauls	Seacombe	Wallasey	667	201	30%
E01007127	Birkenhead West	Birkenhead & Tranmere	Birkenhead	670	176	26%
E01007128	Birkenhead Central	Birkenhead & Tranmere	Birkenhead	926	193	21%
E01007179	Egerton North	Prenton	Birkenhead	612	231	38%
E01007291	Tranmere Lairds	Birkenhead and Tranmere	Birkenhead	917	240	26%
E01007295	Tranmere Urban Village	Rock Ferry	Birkenhead	522	161	31%
E01007215	Egremont Promenade South	Liscard	Wallasey	784	293	37%

- 6.7 The full supporting evidence and rationale is contained in the Business Case Appendix 1 attached to this report.

7.0 BUSINESS CASE AND CONSULTATION PLAN

- 7.1 The Department for Communities and Local Government (DCLG) has a procedural document on the subject of selective licensing in the private rented sector, A Guide for local authorities 2015. Within this document the DCLG has set out what Local authorities must do in order for them to confirm the designation is appropriate.
- 7.2 In seeking approval from DCLG it is best practice for local authorities to prepare a business case setting out the reason for the designation of an area. Wirral has prepared a full Business Case and is using this as the basis of the consultation process with key stakeholders. The business case sets out the following key information:-
- The evidence base justifying the selection of the proposed areas which is summarised in sections three, four and five of this report.

- Explanation of how such a designation will be part of the overall strategic borough wide approach and how it fits with existing policies on homelessness, empty properties, anti-social behaviour
 - The possible effects of making a designation and the inclusion of any risk assessment that may have been carried out.
 - How the areas will benefit from the designation of a selective licensing area;
 - The current position with regards to activity and programmes, demonstrating how the area would benefit from the combination of existing policies and selective licensing;
 - The operation of the scheme including the conditions for licensing.
- 7.3 For Selective Licensing, the Housing Act 2004 states that before considering making a designation for Selective Licensing the local housing authority must:
- a) Take reasonable steps to consult persons who are likely to be affected by the designation; and
 - b) Consider any representations made in accordance with the consultation.
- 7.4 The Council has set out a Consultation Plan (Business Case Appendix 3 to this report) detailing a full consultation programme to be undertaken in considering the designation of selective licensing. Consultation will be undertaken with local residents, including tenants, landlords and where appropriate their managing agents and other members of the community who live or operate businesses or provide services within the proposed designation. It will also include local residents and those who operate businesses or provide services in the surrounding area outside the proposed designation that could be affected or who consider they live within the same locality of a proposed scheme. The Business Case will be used as the main document for the consultation process and this will be available on the Council's website or a paper copy will be provided if required. It is proposed however that an Executive Summary will be produced and will be distributed to all those people affected by the proposed designation.
- 7.5 The consultation period required by DCLG is ten weeks. This is the period adopted for the consultation on the proposed Scheme and will commence subject to Cabinet approval in December 2017. The Housing Investment Team will be managing the consultation programme in conjunction with support from the Council's Communications Team.
- 7.6 At the end of the consultation period Cabinet will be provided with further report summarising the outcome of the consultation exercise. Cabinet will then also take a decision on whether to approve the implementation of a Selective Licensing scheme in the four proposed areas resulting in a requirement for all private landlords to obtain licenses for the properties that they are letting in the designated areas.

8.0 FINANCIAL IMPLICATIONS

- 8.1 The cost of the public consultation will be met from existing resources and should a scheme be introduced in 2018, the cost can be re-charged from the new Selective Licensing Scheme income.
- 8.2 It is estimated costs of operating a scheme in the four areas is estimated to be in the region of £200k in the first year with costs reducing in years 2-5 of the designation period. The final costs for operating a Selective Licensing scheme will not be

determined until after the consultation has ended and all results have been analysed, specifically feedback on the proposed fee structure which can be used to offset against the service costs including staffing. Whilst the legislation on Selective licensing allows the council to recover costs, the fee will be based on the actual cost of administrating the scheme and needs to reflect the overall costs of the administration of the licence and property inspection process. Following consultation, the final costs and fees for implementing a scheme will be highlighted in a future report for Cabinet's final consideration.

9.0 LEGAL

- 9.1 The Housing Act 2004 contains provisions for local authorities to license the private rented sector in some circumstances. Selective Licensing is one form of licensing that can be used.
- 9.2 Legal services have been working alongside officers within Housing Services to advise them and guide on the legislative requirements and process for designating a Selective Licensing area and to ensure that Wirral's Business case is sufficiently robust to support any challenges including judicial review if Members agree to the introduction of an additional Selective Licensing Scheme.

10.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS

- 10.1 If a new scheme were to be introduced there would be additional costs associated with operating the Selective Licensing Scheme that are not permitted to be charged for out of the license fee. This includes for example enforcement costs to remove serious hazards which will need a Council contribution or existing staff re-aligned from within housing services to take on delivery of this role. This would likely to require a restructure of Housing Standards Services and may involve changes to some services to allow for additional staff to be re-aligned to support the delivery of Selective Licensing.
- 10.2 Full resources and implications will be set out to members in a further report following consultation to inform any final decision going forward.
- 10.3 There are no IT implications for the Council arising from this report.

11.0 RELEVANT RISKS

- 11.1 As with Wirral's first Selective Licensing Scheme, the proposed extended licensing scheme is likely to be met with opposition from landlords and it is important to engage with them through meaningful consultation as part of the process. There is also the need to ensure that the evidence base is robust and can withstand any potential challenges from landlords seeking a Judicial Review. This along with other risks associated with the introduction of such a scheme have been identified in Business Case Appendix 5 attached to this report. The risk assessment identifies the controls which will be put in place to mitigate these factors. When the consultation has been completed and all stakeholders views have been collated the risk assessment will be reviewed and any further issues identified. A full risk assessment will then form the basis of a report to Cabinet for consideration as part of any final decision on implementing Selective Licensing in Wirral.

12.0 ENGAGEMENT / CONSULTATION

- 12.1 It is proposed that a ten week consultation programme will commence in December 2017. The full consultation programme has been set out in the attached Consultation Plan (Business Case Appendix 3 to this report). It is proposed to use a variety of consultation mechanisms to engage with a range of stakeholders including tenants, residents, landlords, service providers, council staff, members and National and Regional Landlord organisations. It is proposed to undertake some specific detailed targeted consultation with those landlords, tenants and stakeholders who directly live or operate in the proposed Selective Licensing areas or those immediately surrounding the areas and are deemed likely to be affected. This will be in the form of letters, posters and drop in sessions within the proposed areas.

13.0 EQUALITY IMPLICATIONS

- 13.1 It is anticipated that the proposed implementation of Selective Licensing will have a positive impact on stakeholders in the affected areas through improvements in the standards and management of private rented properties, improving the Boroughs Housing Offer and improved access to quality housing in these additional four Lower Super Output Areas. The introduction of a Selective Licensing Scheme is consistent with the priorities identified in Wirral's Housing Strategy of which an Equality Impact Assessment (EIA) was completed. A full Equality Impact Assessment (EIA) will be presented to Members as part of a further report to consider expanding Selective Licensing.

REPORT AUTHORS: **REPORT AUTHOR:** *Lisa Newman*
Head of Operational Housing Services
telephone: (0151-691-8197)
email: lisaneuman@wirral.gov.uk

Emma Foley
Senior Manager, Strategic Housing Services
telephone: (0151-691-8198)
email: emmafoley@wirral.gov.uk

APPENDICES

Business Case

- Business Case Appendix 1:** **Evidence Base**
Business Case Appendix 2: **Maps & Address Lists**
Business Case Appendix 3: **Consultation Plan**
Business Case Appendix 4: **License Conditions**
Business Case Appendix 5: **Risk Register**

REFERENCE MATERIAL

Approval Steps for additional and selective licensing designations in England, Department of Communities and Local Government, Revised addition 2010
Selective Licensing of Privately Rented Housing December 2013, House of Commons
Selective Licensing of Housing (Additional Conditions)(England) Order 2015, Department of Communities and Local Government.

SUBJECT HISTORY (last 3 years)

Council Meeting	Date
Cabinet – Approval of business Case and consultation approach for the proposed introduction of Selective Licensing	6th November 2014
Cabinet – Consideration of proposal to implement Selective Licensing following consultation	12th March 2015