



## ECONOMY REGENERATION & HOUSING COMMITTEE

Monday, 17 July 2023

REPORT TITLE:	PROPOSAL TO CONSULT ON SELECTIVE LICENSING SCHEME
REPORT OF:	DIRECTOR OF REGENERATION AND PLACE

### REPORT SUMMARY

This report sets out a proposal to consult on a Selective Licensing Scheme in Wirral through re-designating two Selective Licensing areas that have been in place since 2019 and are due to end on 31<sup>st</sup> March 2024 and extending the scheme to include two further new areas, both in East Wirral based on a robust evidence base for selection.

Selective Licensing is a scheme to improve private rented sector homes within specific designated 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. Members are asked to agree that this evidence is the subject of a 10-week statutory consultation exercise to seek wider views on the proposal.

The Scheme contributes to the Wirral Plan 2021-26 Working for safe and vibrant communities where our residents feel safe and are proud to live and raise their families as well as the Birkenhead Regeneration 2040 Framework by promoting access to good quality housing within strong and sustainable communities.

The Wards affected are Bidston & St James, Birkenhead & Tranmere, Claughton, Liscard and Seacombe.

This is a key decision.

### RECOMMENDATIONS

The Economy, Regeneration & Housing Committee is recommended to:

1. approve the draft proposal for Selective Licensing in the following four areas from 1<sup>st</sup> April 2024 until 31<sup>st</sup> March 2029:
  - Birkenhead West
  - Seacombe St Paul's
  - Bidston & St James West

- Egremont North;
2. approve the Business Case set out in Appendix 1 to this report as the basis for the rationale for wider consultation on Selective Licensing;
  3. approve the consultation plan as set out in Appendix 3 of the Business Case; and
  4. authorise the Director of Regeneration and Place to undertake any 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 RECOMMENDATION/S**

- 1.1 There is clear evidence within the Business Case on the rationale for commencing with a ten-week consultation process on the proposed continuation of Selective Licensing in two of the existing designated areas in the borough which commenced in 2019 and the introduction of Selective Licensing in two further areas. There is a requirement to undertake a consultation exercise with those stakeholders affected. The consultation will obtain the views of tenants, residents, landlords and stakeholders and is a requirement of the approval process required by the Department of Levelling up, Housing and Communities. Consultation will take place through press releases, individual letters, events, and forums to enable all relevant parties to have a number of mechanisms to have their say. A Consultation Plan is attached in Appendix 3 of the Business Case
- 1.2 At the end of the consultation period Economy Regeneration & Housing Committee will be provided with a further report summarising the outcome of the consultation exercise. This report will be used to determine any final recommendations for Members on the future of a Selective Licensing scheme in the proposed areas.

### **2.0 OTHER OPTIONS CONSIDERED**

- 2.1 The Council can cease operating the Selective Licensing Scheme that was declared in 2019 once it comes to an end on 31<sup>st</sup> March 2024 and could decide not to consider consulting on any further areas. The evidence base from the Wirral Intelligence Service has recently identified that while there has been an improvement in the ranking of two of the initial four areas, two of these original areas, Birkenhead West and Seacombe St Paul's are still in the top 8 Lower Super Output Areas for Wirral in terms of the indicators that contribute to low demand and poor property condition and therefore intervention is still required in these areas to bring the properties up to a good standard.
- 2.2 A Borough wide approach to Selective Licensing was also considered but the Selective Licensing of Housing (Additional Conditions) (England) Order 2015 only allows new schemes to be introduced in areas where the private rented stock is greater than the national average at 19%. Private rented stock in Wirral is just below the national average, at 18.9% and so a Borough wide scheme would not be permitted under the regulations. Furthermore, it would not have been possible to demonstrate a robust need for a Borough wide initiative due to the high demand for housing and strong rental markets in many parts of the borough.
- 2.3 Extending the scheme to include more select areas was also considered, but this option would have generated a cost to the Council in additional staffing resources and associated overheads, as only specific elements of running a selective licensing scheme can be recovered from the license fee. Enforcement of poor property condition for example, cannot be paid for from the licence fee. It is also considered that restricting Selective licensing to a distinct and tightly defined boundary will enable the impact of the scheme to be better measured and complementary interventions to be targeted, without them being diluted over a greater area.

2.4 Finally, as the third Selective Licensing Scheme that commenced in 2020 is due to finish in October 2025 consideration was given to whether the consultation exercise for both schemes could be aligned. Legal advice was that the Council could be challenged if the evidence base for a scheme was not up to date and recommended completing a new evidence base and business case for Scheme 3 at the appropriate time.

### **3.0 BACKGROUND INFORMATION**

- 3.1 The Council introduced its first Selective Licensing Scheme on 1<sup>st</sup> July 2015 in four small areas. A further scheme was approved by the Council's Cabinet on 1<sup>st</sup> October 2018 to introduce four new areas from April 2019. In 2020, the first scheme area was redesignated for a further 5-year period to 2025 with an additional 2 small areas also included. Although there had been significant improvements to property condition, sometimes Selective Licensing designations are needed longer than the 5-year period to make a lasting change.
- 3.2 At present there are currently 10 areas in Wirral that are subject to Selective Licensing. The Schemes have had a significant impact in improving properties through compliance inspections and pro-active engagement with landlords, tenants and residents. The purpose of this report and the attached business case is to consider the outcomes from the 2019 designated areas in the context of the requirement for any future designation.
- 3.3 In the 2019 Selective Licensing scheme areas, inspections have so far been completed to 533 privately rented properties. The compliance rate with license conditions has been found to be poor with 37% of the properties inspected failing to meet the licensing conditions. The scheme demonstrates that without pro-active Council intervention in these areas, vulnerable tenants would continue to live in poor quality, often hazardous housing.
- 3.4 The Council values working collaboratively with private landlords and will be continuing to facilitate the landlord steering group, forums and newsletters to promote engagement and dialogue. During previous Selective Licensing schemes, training events and advice to landlords has been provided for landlords in Selective Licensing areas to improve standards and management practices, but it has also had to take a tough approach to enforcement. It has successfully secured 18 prosecutions against both individual landlords and managing agents for failing to license rented properties. In addition, of the 533 inspections completed so far, 28% have needed informal action to ensure compliance with licensing conditions and a further 9% (47 properties) have required formal action. This approach seems to have been successful with to date, of the 47 properties which have needed formal action, only 18 have had prosecutions or simple cautions being issued for breaching licensing conditions or not complying with formal enforcement notices. All of these prosecutions were successful.
- 3.5 Other complementary activity has included:
- 113 empty property grants being approved in Selective Licensing Areas, 66 of which have already been refurbished and are once again occupied;

- 2236 Healthy Homes Surveys/home visits completed and more than 4000 referrals made to over 113 referral partners including Energy Projects Plus, Tomorrow's Women, Stop Smoking Services, Inclusion Matters, children's centres and several NHS services.

3.6 Notable improvements have been made within two of the 2019 areas which have since fallen down the rankings in the matrix due to not being in the top 10 areas for long-term empty properties, the time empty properties remain empty and workless benefits. However, the Business Case in Appendix 1 makes the case for continuing Selective Licensing within Birkenhead West and Seacombe St Pauls, two of the 2019 geographical areas. The evidence shows these areas are continuing to experience the worst symptoms of low demand and poor property condition in the Borough. It also makes the case for introducing selective licensing into two new areas Bidston & St James West and Egremont North which are showing similar symptoms.

#### **4.0 FINANCIAL IMPLICATIONS**

4.1 The public consultation will be delivered with the existing staffing resource within housing services and the small costs associated with producing consultation material will be met from existing budgetary provision within housing services. Should a scheme be introduced in 2024, these costs can be re-charged back from the new Selective Licensing Scheme income.

4.2 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 administering the scheme. Following consultation, the final costs and fees for implementing any proposed scheme will be highlighted in a future report to this committee for final consideration.

#### **5.0 LEGAL IMPLICATIONS**

5.1 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.

5.2 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 the Council's Business case is sufficiently robust to support any challenges if Members agree to the proposal to consult on any potential additional Selective Licensing Scheme.

#### **6.0 RESOURCE IMPLICATIONS: STAFFING, ICT AND ASSETS**

6.1 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 licence fee. This includes for example enforcement resources 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.

- 6.2 It is anticipated this will be delivered by extending the existing resources utilised to support the 2019 scheme. The full details will be set out in full in the subsequent report that will be brought to the Economy, Regeneration & Housing Committee in early 2024 after the completion of the consultation exercise.
- 6.3 There are no IT implications for the Council arising from this report.

## **7.0 RELEVANT RISKS**

- 7.1 As with the Council's three previous Selective Licensing Schemes, the proposed new licensing scheme is likely to be met with opposition from some 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.
- 7.2 This along with other risks associated with the introduction of such a scheme have been identified in Appendix 5 of the Business Case 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 Economy, Regeneration & Housing Committee for consideration as part of any final decision on implementing Selective Licensing in Wirral.

## **8.0 ENGAGEMENT/CONSULTATION**

- 8.1 It is proposed that a ten-week consultation programme will commence in July 2023. The full consultation programme has been set out in the Consultation Plan as set out within Appendix 3 of the Business Case. 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.

## **9.0 EQUALITY IMPLICATIONS**

- 9.1 An EIA has been completed for the Consultation exercise on Selective Licensing (hyperlink below). A full Equality Impact Assessment (EIA) will be presented to Members as part of a further report to consider the consultation Selective Licensing.

<https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments>

## 10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 Properties within Selective Licensing Areas are predominantly older, pre 1919 terrace stock with poor thermal efficiency and tenants are more likely to have a lower-than-average income and consequently are more likely to be in fuel poverty than other parts of Wirral. Selective Licensing in the areas present an opportunity to create a more sustainable, housing market by making standards in the private sector better in the face of challenges around climate change. Selective Licensing is expected to reduce emissions of Greenhouse Gases by ensuring properties are meeting both minimum standards and incentivising landlords to improve the thermal performance of their properties, including through targeted promotional campaigns for financial support from schemes such as the Energy Company Obligation, the Home Upgrade Grant and any subsequent programmes. Proposals for consultation include offering discounts on the standard licensing fee for properties with a SAP rating A-C, which is above the required minimum standard of a SAP rating E.

## 11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 While there are some portfolio landlords who live out of borough, many landlords who operate in the Selective Licensing area are landlords with just a few properties who are local to Wirral and who employ Wirral contractors to maintain their properties, therefore creating benefit to local employment. Improving thermal efficiency of properties will help address fuel poverty which in turn will enable tenants to save money on household running costs and recycle more income into the local community.

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## APPENDICES

Appendix 1 Business Case

## BACKGROUND PAPERS

1. *Approval Steps for additional and selective licensing designations in England*, Ministry for Housing, Communities and Local Government, Revised addition 2010.
2. *Selective Licensing of Privately Rented Housing December 2013*, House of Commons
3. *Selective Licensing of Housing (Additional Conditions) (England) Order 2015*, Ministry for Housing, Communities and Local Government.
4. *An independent Review of the Use and effectiveness of Selective Licensing, 2019*, Ministry for Housing, Communities and Local Government.

## **TERMS OF REFERENCE**

This report is being considered by the Economy, Regeneration and Housing Committee in accordance with Section 4.2(h)(iv) of its Terms of Reference, the Authority's role and functions to strategic and private sector housing policies and as the housing authority including licensing schemes.

## **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
<b>Cabinet Report: Consideration of proposal to implement selective licensing following consultation</b>	<b>Tuesday 4<sup>th</sup> February 2020</b>