

Cabinet

8th January 2019

Name of Cabinet Member:

Cabinet Member for Housing and Communities – Councillor E Ruane
Cabinet Member for Policing and Equalities – Councillor A Khan

Director Approving Submission of the report:

Deputy Chief Executive (Place)

Ward(s) affected:

All

Title: Selective Licensing in Coventry

Is this a key decision?

No – although this matter affects all wards, as the proposal is to go out to consultation, this would not cause a significant impact and consequently is not deemed to be a key decision.

Executive Summary:

The provision of good quality housing for Coventry residents is a key priority for the City Council.

The adopted Coventry Local Plan 2016 details how Coventry City Council will meet the future housing needs up to 2031. There is also a need to consider the City's existing housing stock and in particular the quality of homes provided via the Private Rented Sector (PRS).

The Private Rented Sector in Coventry has seen considerable growth over the past 20 years or so. The 2001 Census reported the sector to be around 13% this had increased to around 21% by 2011, making Coventry the region in the West Midlands with the largest PRS.

Under the Housing Act 2004 Government have legislated to provide local authorities with additional powers to tackle poor quality homes in the PRS through the designation of Selective Licensing schemes.

Due to the timescale for this matter, in accordance with Paragraph 19 of the City Council's Constitution, Councillor T Khan, the Chair of the Scrutiny Co-ordination Committee, has been invited to attend the meeting for the consideration of this matter to

agree the need for urgency such that call-in arrangements will not apply. The reason for the urgency is that due to the breadth of the consultation required, there is a need for it to commence at the earliest opportunity so as not to delay the proposed timetable for implementation.

Recommendations:

Cabinet is recommended to:

1. Consider the Selective Licensing Feasibility Report 2018 and resolve there is a need for Selective Licensing in the areas identified in the report.
2. Authorise a Citywide statutory 10 week consultation beginning on the 9th January 2019 and ending on the 20th March 2019
3. Request a future report to Cabinet following the conclusion of the consultation for a decision to be made regarding the structure of the Selective Licensing scheme and submit the scheme to the Secretary of State for confirmation.

List of Appendices included:

- Appendix 1 – Selective Licensing Feasibility Report 2018
- Appendix 2 – LSOA Maps
- Appendix 3 – Selective Licensing Policy 2018
- Appendix 4 – RICS Private Rented Sector Code of Practice
- Appendix 5 – Timeline for Selective Licensing
- Appendix 6 – Selective Licensing Fees and Charges
- Appendix 7 – Equalities Impact Assessment

Background papers:

None

Other useful documents:

- Cabinet Member for Business, Enterprise and Employment Meeting Minutes 29th March 2016
- Housing and Homelessness Strategy 2019-2024
- Housing Act 2004.
- Additional and Selective Licensing in the Private Rented Sector - A Guide for Local English Housing Survey Private Rented Sector Report 2014-15 Authorities, published by the MHCLG in March 2015.
- General Approval April 2015

Has it been or will it be considered by Scrutiny?

The Chair of Scrutiny has been invited to attend the Cabinet meeting.

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

None.

Will this report go to Council?

No.

Report title: Selective Licensing in Coventry

1. Context (or background)

- 1.1. During the Municipal year 2013/14, Scrutiny Co-ordination Committee established a Task and Finish Group to look at the issue of Houses in Multiple Occupation (HMOs). One of the outcomes of this review was that licensing for private rented sector housing should be looked at in more detail.
- 1.2. Through the review into HMO's, it was recognised that there were issues with the private rented sector generally in the City, not just those in multiple occupation. Concern has been raised from residents as to the quality of some of the housing provided by the sector and residents in some areas of the City have also experienced anti-social behaviour, fly-tipping and noise nuisance in areas where there are large numbers of rented property.
- 1.3. Members therefore instructed officers to conduct further research into the potential for Selective Licensing in targeted areas of the City. This resulted in consultation on a scheme in the St Michaels ward (excluding the City centre). The consultation responses raised a number of queries mainly around fee structure and fairness of a scheme that proposed to treat all landlords the same whether compliant or non-compliant. Members therefore asked for further work to be carried out to not only look at the fee structure but also to look at the evidence base for considering a wider area for the scheme.
- 1.4. A feasibility report into the potential for Selective Licensing has now been completed and is provided at Appendix 1. This identifies those areas that should be subject to Selective Licensing.
- 1.5. The Housing Act 2004 provides the power to the Council to introduce Selective Licensing Schemes in its area. The power was intended to address the impact of poor quality private landlords and anti-social tenants and was primarily developed with the need to tackle problems in areas of low housing demand.
- 1.6. Following the issue of a General Consent in March 2010 by the Secretary of State, Local Authorities in England did not have to seek approval for the introduction of a Selective Licensing scheme provided all necessary conditions were complied with.
- 1.7. However, in March 2015 the Coalition Government introduced amendments. Since 1 April 2015 local authorities have had to seek confirmation from the Secretary of State for any Selective Licensing scheme covering more than 20% of their geographical area, or affecting more than 20% of privately rented homes in the area.
- 1.8. In looking at the area to be covered by a Selective Licensing scheme Coventry has used the Census 2011 to assist as it provides data at succinct levels, namely Lower Super Output areas (LSOAs). A LSOA is a geographic hierarchy designed to improve the reporting of small area statistics in England and Wales and is built from groups of contiguous output areas that have been automatically generated to be as consistent in population size as possible. A LSOA will typically contain from four to six output areas with a minimum population of 1000 and a mean of 1500.

- 1.9. When deciding whether an area has a 'high' proportion of private rented stock the Council is allowed to consider any area that exceeds the national average. Nationally the private rented sector currently makes up 20% of the total housing stock in England and therefore any area in Coventry that has 20% or more PRS stock can be considered for Selective Licensing (subject to it meeting other criteria).
- 1.10. As shown in the feasibility report at Appendix 1 there are 75 LSOA that have 20% or more PRS within them. However, in addition to the area having a 'high' proportion of PRS stock, it must also show signs of one or more of the following criteria in order to be suitable for Selective Licensing:
- A) That the area is, or is likely to become, an area of low housing demand; or
 - B) That the area is experiencing a significant and persistent problem caused by anti-social behaviour and that some or all of the private sector landlords who have let premises in the area are failing to take action to combat the problem that it would be appropriate for them to take; or
 - C) That the area is suffering from poor property conditions; or
 - D) That the area has high levels of migration; or
 - E) That an area has high levels of deprivation; or
 - F) That an area has high levels of crime.
- 1.11. By comparing the data for each of the LSOAs and the criteria set out by Government the Council has been able to identify those areas. Table 1 below shows that of the 75 LSOAs which have 20% or more of PRS there are 37 LSOAs that fail one or more of the criteria. As such these 37 LSOA can be considered for a Selective Licensing Scheme this would cover 8752 (33%) properties in the PRS. As such the criteria for applying to the Secretary of State for confirmation is met prior to any designation taking place. Maps of each proposed LSOA are provided at Appendix 2.

Table 1- Proposed Selective Licensing Areas by LSOA

LSOA Name	Mainly in Ward	Total Households	PRS in LSOA	% PRS
Central Six Retail Park - Queens Road	St Michael's	687	404	63%
Earlsdon - Broadway Albany Roads	Earlsdon	643	191	30%
Little Heath – King Georges Avenue	Foleshill	587	226	39%
Foleshill - Churchill Avenue	Foleshill	458	118	26%
Foleshill – Courtaulds Guild Road	Foleshill	569	233	41%
Edgwick - Canal Road	Foleshill	660	224	34%
Edgwick - Gallagher Retail Park Cross Road	Foleshill	494	157	32%
Foleshill - Broad Street	Foleshill	596	217	36%
Paradise - Awson Street	Foleshill	673	190	28%
Foleshill - Paragon Park Red Lane	Foleshill	797	276	35%
Bishopgate - George Elliot	Foleshill	525	134	26%

Swanswell - Leicester Causeway	Foleshill	559	136	24%
Arena Retail Park – Arbury	Foleshill	481	138	29%
Walsgrave on Sowe – Mount Pleasant & Walsgrave Gardens	Henley	672	156	23%
Whitmore Park - Burnaby Road	Holbrook	572	181	32%
Ricoh Arena & Wilsons Lane	Longford	591	124	21%
Hall Green North	Longford	566	115	20%
Stoke Park	Lower Stoke	678	251	37%
Barker Butts - Bablake School Thomson Avenue	Radford	577	154	27%
Nauls Mill Park - Canal Basin	Radford	943	375	40%
Charterhouse - St Georges Road	St Michael's	713	329	46%
Gosford & Gulson Roads	St Michael's	886	562	63%
Hillfields - Cambridge Street	St Michael's	481	141	29%
City Farm North	St Michael's	545	174	32%
Hillfields - Coronation Road Swanswell Basin	St Michael's	707	265	37%
Hillfields - Canterbury Raglan Streets	St Michael's	902	415	46%
Upper Holyhead Road – Minster Road	Sherbourne	790	462	58%
Barras Heath - West of Clay Lane	Upper Stoke	765	287	38%
Stoke Church End - Shakespeare Street	Upper Stoke	658	245	37%
Gosford Green - Kingsway	Upper Stoke	793	419	53%
Earlsdon Hearsall Lane – Melbourne Road North, The Butts	Whoberley	717	365	51%
Manor Farm	Henley	429	87	20%
River Sowe – Clifford Bridge - Henley Park Industrial Estate	Wyken	634	171	27%
Clifford Bridge Road, Abbey Estate & Dorchester Road North	Wyken	588	126	21%
Hawkesbury, M6 & Foxford School, Anderton Road	Longford	852	167	20%
Longford Village & Longford Park	Longford	994	343	35%
Canley Cemetery, Bransford Avenue & Sir Henry Parkes Road	Wainbody	911	194	21%

1.12. The 2004 Act also requires authorities considering designating an area as subject to Selective Licensing to:

- 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.

2. Options considered and recommended proposal

- 2.1. The feasibility report recommends the Council proceeds with Selective Licensing in the identified areas on the basis that the areas identified in Table 1 above have high levels of private rented housing and meet one or more of the criteria set out in paragraph 1.10.
- 2.2. The Scheme will require all owners of rented properties to apply to the Council for a property licence which the Council will determine using the criteria laid down in the Selective Licensing Policy 2018 attached at Appendix 3. This will include (amongst other things) an assessment of the landlord and manager's ability to comply with the licensing requirements and management practices. Licences will be issued for a period of 1 or 5 years based upon the eligibility of the landlord.
- 2.3. The Council has taken into account the learning outcomes from other Local Authorities that have introduced similar schemes and has structured the scheme in such a way that benefits those landlords and agents that are compliant and provides incentives to improve compliance, whilst managing the opportunities for the non-compliant landlords through higher fees and shorter licences. This is reflected in the proposed fees and charges structure and the eligibility for licences.
- 2.4. Accreditation will be given to those landlords and agents who are experienced, knowledgeable in their profession and are committed to following the good practice principles set out in the Royal Institution of Chartered Surveyors (RICS) Private Rented Sector Code of Practice, which was endorsed by the Minister of State for Housing and Planning in July 2015 and is attached as Appendix 4.
- 2.5. Reactive and proactive services will be carried out to address complaints about property conditions, poor management practices and identifying unlicensed properties.
- 2.6. Any differentiation applied to landlords and agents based on the eligibility criteria, including the length of licence for which they may be considered, is justified in furtherance of the overriding public interest of improving the standard of HMOs and their management.
- 2.7. The proposed fees and charges, discussed further in Section 5 have been developed in order to reach an appropriate fee to consult on the proposed structure of the scheme. In arriving at the proposed fees the Council has attempted to provide incentives for compliant landlords whilst providing sufficient resources to ensure that the scheme can be effectively delivered and every property can be inspected before a licence is issued.
- 2.8. In cases of a registered `not for profit` charity i.e. Cyrenians or an individual housing provider, such as a private landlord or organisation who is assisting the Council by offering permanent accommodation to meet our homelessness duties applications will be accepted, for the particular property being provided without a fee being payable. An assessment of the organisation will then be carried out and if appropriate the Council will determine the application and issue a licence without requiring any fee. Each case will be considered on its merits based on the type of individual or organisation submitting the application and the removal of the fee requirement will only be applied to the licence for the house being provided for homelessness purposes.

- 2.9. Licences will include all of the mandatory conditions required under the legislation, for example, providing gas and electrical certificates and maintaining health and safety standards, as well as additional (discretionary) licence conditions to address issues such as ASB and environmental / management issues.
- 2.10. The Council is required to consult on these proposals and the results of the consultation will clearly influence the final structure and fees and charges for the scheme.

3. Consultation

- 3.1. There is a statutory requirement to consult for a minimum period of 10 weeks on any proposals to designate an area subject to Selective Licensing. This report sets out recommendations to conduct a consultation and for the results of the consultation to be considered as part of the development of the proposed structure of the Selective Licensing scheme.
- 3.2. The consultation will demonstrate that it has satisfied the legal requirement to take reasonable steps to consult with those people who may be affected by the designations. This includes neighbouring areas outside of the City boundary.
- 3.3. A consultation plan has been produced setting out how the Council will meet these requirements, in summary this will include the following.
 - Online questionnaire tailored to gauge cross section of views on the proposals;
 - Focus groups with key stakeholder groups i.e. Landlords, Agents, Tenants, Residents and other key organisations such as the Police;
 - Drop in sessions in various parts of the City;
 - E-communications through social media and the Council's website; and
 - Workshops with Landlords and Agents to present the proposals.
- 3.4. Upon the completion of the consultation a report detailing the consultation results will be referred back to Cabinet for consideration at a future meeting.

4. Timetable for implementing this decision

- 4.1 The proposed timetable for implementing the recommendations of this report is set out at Appendix 5. The key dates for this process include the approval of this Cabinet report with the consultation commencing on the 9th January 2019 for a period of ten weeks and ending on the 20th March 2019.
- 4.2 The Council is then required to submit an application to the Secretary of State to determine whether it has met the requirements for designating a Selective Licensing scheme. The Ministry of Housing, Communities and Local Government has advised that this can take up to 12 weeks but can sometimes be determined sooner depending upon the amount of enquiries they have regarding the submission.

- 4.3 A designation for Selective Licensing cannot come into force until it has been confirmed by Government.
- 4.4 Once the designation has been granted approval by Government it will come into force three months after the date of approval. This is a statutory time period of 12 weeks to allow for any application for Judicial Review.
- 4.5 Based on the timeline any notification of a Judicial Review is expected to be received around early 2020.
- 4.6 A period of time has been allocated to recruit and to develop the systems required to meet the significant undertaking to licence all privately rented properties in the area hence the commencement date of mid-2020. Once a designation comes into force it will last a maximum of five years.

5. Comments from Director of Finance and Corporate Services

5.1. Financial implications

Section 63 of the Housing Act 2004 permits the Council to require any application for a licence under Part 2 to be accompanied by a licence fee and that this fee may properly cover all costs incurred by the Council in carrying out its functions.

When setting the proposed fees and charges structure for the licensing scheme to go out for consultation the Council has taken into account the staff costs, training, administration and publicity and that it is not allowed to use licensing fees to raise revenue for other projects or areas of work.

The proposed fees and charges structure set out in Appendix 6 is cost neutral and will have to be consulted on and ratified prior to the introduction of the scheme. The financial implications are based on the fees being set for the consultation.

The financial modelling of the scheme estimates income and expenditure cash flows as below. This shows that the scheme is modelled to break even over its 5 year life.

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
	£ million	£ million	£ million	£ million	£ million	£ million
Expenditure	1.1	1.1	1.1	1.1	1.1	5.5
Income	(0.3)	(1.6)	(1.6)	(1.0)	(1.1)	(5.5)
Net Total	0.8	(0.5)	(0.5)	0.1	0.1	0

The modelled activity suggests that an additional 22 full time equivalent staff would be required to administer the scheme. There is therefore a financial risk that the number and type of licences issued in real life differ from the model and the amount of income received does not cover the costs of operating the scheme. In order to mitigate this risk:

- The financial position of the scheme will have to be carefully monitored and action taken to control costs if necessary.
- The fees and charges structure will be reviewed on an annual basis and if there is a need to increase fees to cover any potential shortfall then this will be recommended and reported through the budget setting process.

There could also be a financial risk to be managed at the end of the 5 year scheme as if the scheme is not continued or the size of the scheme reduces, there will be costs associated with scaling down the team. Again this will have to be closely monitored throughout the initial 5 years.

Implications of Hemming v Westminster Case

The European Union Services Directive 2006 changed the basis upon which fees for certain licences and permissions could be charged by the issuing authorities. In particular licensing authorities may not set fees that are dissuasive, and any fees must be reasonable and proportionate to the cost of the licensing process and the issuing of the licence. These provisions have been taken into account the proposed fees for consultation.

In addition a recent judgement, in the Supreme Court (Hemming v Westminster case UKSC 2013/0146), has provided further clarification of the type of costs which may be taken into account when setting fees, and when fees may be payable. The council will follow this decision and therefore fees will be payable in two parts to meet with the European Directive requirements.

5.2. Legal implications

Part 3 of the Housing Act 2004 (the Act) sets out the scheme for licensing private rented properties¹ in a local housing authority area. Under section 80 of the Act a local housing authority can designate the whole or any part or parts of its area as subject to Selective Licensing. Where a selective licensing designation is made it applies to privately rented property in the area. Subject to certain exemptions specified in the Selective licensing of Houses (Specified Exemptions)(England) Order 2006 all properties in the private rented sector which are let or occupied under a licence, are required to be licensed by the local housing authority, unless the property is a House in Multiple Occupation and is required to be licensed under Part 2 of the Act.

With effect from 1 April 2015 a local housing authority had to apply to the Secretary of State for Communities and Local Government (Secretary of State) for confirmation of any scheme which would cover more than 20% of their geographical area or that would affect more than 20% of privately rented homes in the local authority area.

Under the new arrangements if a local housing authority makes a designation that covers 20% or less of its geographical area or privately rented properties, the scheme will not need to be submitted to the Secretary of State, provided the authority has consulted for at least 10 weeks on the proposed designation.

However, if the local housing authority makes one or more designations that are in force partly concurrent to an existing scheme, and cumulatively all the designations cover more than 20% of the area or the private rented stock, those new designations will need to be submitted to the Secretary of State for approval.

Likewise if the local housing authority makes two or more designations at the same time, each of which account for less than 20% of the area or private rented stock, but cumulatively account for more than 20% of either, all of the schemes will need to be submitted to the Secretary of State for confirmation.

6. Other implications

6.1. How will this contribute to achievement of the Council's Plan?

The Council Plan takes forward the main themes agreed by the Council in recent years. It reaffirms the Council's ambition – developed with the Strategic Partnership and partners to make Coventry: A Top Ten City.

This ambition is driven through three corporate priorities which directly address the needs of the City and include, in particular:

- Promoting the growth of a sustainable Coventry economy by:
 - Increasing the supply, choice and quality of housing.
- Improving the quality of life for Coventry people by:
 - Improving the health and wellbeing of local residents
 - Protecting our most vulnerable people
 - Reducing health inequalities

The Health and Wellbeing Strategy 2016-19 recognises that creating health, wealth and happiness requires more than simply managing people's health problems.

The health and wealth being of people can be improved if people have jobs, good housing, and are connected to families and communities.

The Council's Housing Strategy 2013-2018 affirms the Council's view that housing plays a crucial role in the economic growth of the City. The ambition for Coventry is "*to ensure decent homes, housing choice and support for Coventry citizens*" through various themes including:

- Increase the supply, choice and quality of new housing;
- Prevent and tackle homelessness;
- Strive for a healthier and more sustainable City by improving the quality and use of stock; and
- Encourage balanced, stable and sustainable communities.

The Housing Strategy 2013-18 has now been combined with the Homelessness strategy into one document known as the Housing and Homeless Strategy 2019-24, which, at the time of preparing this report is subject to public consultation and

not approved. The new strategy does however set out four themes which are relevant to this proposal and the objectives of the scheme, namely;

- Preventing Homelessness
- New Housing Development
- Improving the use of Existing Homes
- Support for People and Communities.

Globally connected - Promoting the growth of a sustainable Coventry City Council economy

The proposals set out in this report will also contribute toward the increase the supply, choice & quality of housing within the designated area and reduce the impact of poverty through supporting residents experiencing fuel poverty.

It will help tackle environmental and anti-social behaviour crime supporting a vibrant business environment and will help raise the profile of Coventry by the improvement of the environment and housing within the area, thereby making it attractive to retaining skilled graduates in the area.

Locally committed - improving the quality of life for Coventry people

Selective Licensing will, together with other agencies, make communities safer and reduce crime and anti-social behaviour.

It will improve health and wellbeing by providing safer and healthier rented accommodation that is well managed with reduced overcrowding and will reduce health inequalities and protect the most vulnerable by improving the standard of poorly managed homes without the need to report problems.

The areas covered by Selective Licensing experience some of the worst health inequalities in the city; this would support the Council's role as a Marmot City. In the report 'Making a Difference in Tough Times' the section on Creating and Developing Healthy and Sustainable Places and Communities explains that: "The health and wellbeing of individuals is influenced by the communities in which they live. People's health is affected by the nature of their physical environment; living in poor housing, in a deprived neighbourhood with a lack of access to green spaces impacts negatively on physical and mental health."

It will help prevent homelessness due to poorly managed or rogue landlord actions

The Housing Strategy links into the Council Plan and the Health and Wellbeing Strategy by contributing to the delivery of the key corporate priorities but also in supporting the local economy through ensuring communities have stable and safe places to live.

6.2 How is risk being managed?

The statutory process required to designate Selective Licensing schemes is being followed to ensure full compliance and a minimum 10-week consultation will be undertaken.

The consultation will be designed to ensure our compliance with legislation and statutory guidance, minimising the risk of legal challenge.

6.3 What is the impact on the organisation?

The approval of the recommendations of this report should have limited impact on the organisation. There is no human resource, financial or ICT implications as the consultation exercise will be carried out using current resources.

The implementation and delivery of the scheme will require additional resources which have been accounted for within the fees and charges for licences. Delivery of this scheme will require approximately 22 staff. A recruitment process will need to be carried out to secure the necessary resources and this is programmed in to take place before the Scheme comes into effect thereby limiting the risk and impact on the organisation.

6.4 Equalities / EIA

The report makes links to the Council's Equality and Diversity Policies and a specific Equalities Assessment has been completed for this report and is attached at Appendix 6.

6.5 Implications for (or impact on) the environment?

The option of "do nothing" considered in the feasibility report is likely to result in significant impacts particularly when the Council will otherwise have very limited ability to maintain and improve conditions, for example: energy efficiency and thermal performance, waste management and household waste recycling.

6.6 Implications for partner organisations?

The proposals to consult on Selective Licensing schemes contributes towards the work of the Community Safety Partnership.

The effective operation of the consultation will enable the Council to make clear and informed decisions about the future proposals for Selective Licensing in the City which will directly impact on the quality and management of properties in the PRS and on the co-existence of rented properties with local residents and communities.

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