

CABINET MEMBER FOR HOUSING AND NEIGHBOURHOODS

**Venue: Town Hall, Moorgate
Street, Rotherham S60
2ER**

Date: Monday, 2nd November, 2009

Time: 10.00 a.m.

A G E N D A

1. To determine if the following matters are to be considered under the categories suggested, in accordance with the Local Government Act 1972 (as amended March 2006).
2. To determine any item which the Chairman is of the opinion should be considered later in the agenda as a matter of urgency.
3. Minutes of Meetings held on 9th and 23rd September and 5th October, 2009 (see Minute Book dated 21st October, 2009, pages 31-43J)

(The Chairman authorised consideration of the following item to enable the matter to be processed.)

4. Selective Licensing of Private Rented Properties (Pages 1 - 10)
5. Exclusion of the Press and Public
Resolved:- That, under Section 100A(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in those paragraphs indicated below of Part I of Schedule 12A to the Local Government Act 1972.
6. Demolition of the Bonded Warehouse and Associated Properties in Thrybergh (Pages 11 - 17)
(Exempt under Paragraph 3 of the Act – (information relating to the financial or business affairs of any person (including the Council))
7. Petition - Tenant Behaviour, Treeton (Pages 18 - 25)
(Exempt under Paragraph 2 of the Act – information which is likely to reveal the identity of an individual)

(The Chairman authorised consideration of the following items to enable matters to be processed.)

8. New Build Council Housing (Pages 26 - 39)
(Exempt under Paragraph 3 of the Act – (information relating to the financial or business affairs of any person (including the Council))
9. Stage 3 Complaint Panel (Pages 40 - 48)
(Exempt under Paragraph 2 of the Act – information which is likely to reveal the identity of an individual)

ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS
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1.	Meeting:	Cabinet Member for Housing & Neighbourhoods
2.	Date:	2nd November 2009
3.	Title:	Selective Licensing of Private Rented Properties
4.	Directorate:	Neighbourhoods and Adult Services

5. Summary

Proposals to examine the feasibility of introducing Selective Licensing of private rented properties under the framework provided by the Housing Act 2004 and related guidance has previously been reported to Cabinet Member for Neighbourhoods on 19th May 2008 (4/2008). On the 24th November 2008 (109/2008), Cabinet Member for Neighbourhoods authorised the initiation of a consultation process in relation to developing Selective Licensing for private rented properties. The initial consultation was to be undertaken in Eastwood Village, to be followed by Dinnington.

This report provides an update as to the progress made so far, examining the feasibility of designating these areas in the Borough as designated areas of Selective Licensing.

6. Recommendations

THAT CABINET MEMBER FOR HOUSING AND NEIGHBOURHOODS

- 6.1 Reject Selective Licensing as an appropriate intervention for Eastwood Village at this time. Support the continued focussed activity of partners in the area, which has proven to deliver tangible improvements for residents over the last year.**
- 6.2 Keep under review, the possibility of applying for consent to adopt Selective Licensing, for specified areas of private rented properties in the Borough. Any application would be dependant on developing sufficient, relevant, multiagency intelligence, to successfully support such an application to the appropriate national authority (Secretary of State)**

7. Proposals and Details

7.1 Background

7.1.1 Section 80 of the Housing Act 2004 gave the Council power to designate part, or the whole of the Borough, to be a Selective Licensing Area, in respect of privately rented accommodation. Designation is conditional on the Council presenting the appropriate national authority (Secretary of State), with detailed local analysis of issues and the results of consultation, which satisfy the strict criteria for the declaration of local Selective Licensing scheme. Any Scheme would not come into force until three months after confirmation by the national authority (Secretary of State) and will remain in force for a maximum of five years. Schemes must be reviewed by the local authority on a regular basis.

7.1.2 Selective Licensing is a tool for Councils to control the behaviour of private landlords but its use is subject to considerable constraints. It is only available where certain conditions are met and where the Council believes it can evidence, its introduction would reduce specific housing problems. The introduction of a Selective Licensing scheme must only be considered as an integral part of the Council's overarching Housing Strategy. Sufficient resources must be made available to support private landlords and tenants to comply with any obligations placed upon them as part of the scheme.

7.1.3 Selective Licensing is primarily designed to control areas where low house prices in areas of low demand have led to a rise in the number of speculative and unprofessional landlords purchasing properties to rent. These landlords often show little long-term interest in the community they invest in, and show minimal interest in managing their properties properly, often letting to anti-social tenants which can cause many detrimental effects on the local community. The Act also enables local authorities to use Selective Licensing in areas where there is a serious and persistent problem with anti social behaviour and some private landlords are not taking appropriate steps to combat it.

7.1.4 What Selective Licensing offers in addition to existing powers;

- A requirement for landlords to identify themselves to the Council
- Landlords who are not deemed fit and proper persons, having regard to any history of criminal convictions or discriminatory practices, can be refused a licence.
- If a landlord is refused a licence or has one revoked the Council is **required** to make an Interim Management Order to take over the day to day management of premises for up to 5 years,.
- License conditions requiring landlords to provide tenancy documentation, demand references of new tenants and to manage tenant who participate in antisocial behaviour **within the curtailage** of their property. **This does not provide the landlord with any additional powers than exist at present.** It requires landlords to communicate with tenants, cooperate with Council or Partners, e.g. by reporting incidents etc and to commence legal evictions where tenants fail to react.
- Penalties for operating a property without a licence or for contravening a condition of the licence.
- Ability to charge for a licence

7.1.5 Properties excluded from Selective Licensing

- Council and RSL properties
- Any Licensed Houses in Multiple Occupation (HMO)
- Properties under existing Management Orders
- Business tenancies and long leases.

7.1.6 **For a scheme to be successful;** It is important to note that the instigation of Selective Licensing is not considered to be a cure to either low demand or antisocial behaviour in itself. The Secretary of State will only consider it as an additional tool within a competent, multi agency intensive area management package. It will only be considered if the additional measures it offers can be evidenced, to have a direct impact on identified area problems, which **could not be address by existing measures**. The Act requires local authorities to provide evidence that;

- This measure is **consistent with their overall housing strategy**.
- **All** other relevant courses of action available to them and partners have been effectively utilised and failed.
- The additional measures introduce by Selective Licensing (7.1.4), when combined with existing measures, such as homelessness, empty homes, anti-social behaviour initiatives, taken by the Authority or other agencies, **will** improve the social and/or economic conditions of an area.
- Selective Licensing is needed to strengthen existing measures put in place to tackle this problem by the local authority and/or other agencies, **which otherwise would not be successful**.
- They can sustain adequate funding for a licensing and inspection regime for the life of the declared area. (up to 5 years)
- Selective Licensing would, when combined with other measures taken by the Authority or other agencies, **reduce or eliminate persistent** anti-social behaviour in an area.

To date, only 11 areas of Selective Licensing have been authorised, with authorities reporting back that the process is time consuming and there is a very slow 'turnround time' with the Secretary of State. The Government has launched a further period of consultation to address these concerns regarding the process.

7.3 Consultation

7.3.1 Consultation in Eastwood Village commenced in late 2008 in accordance with guidance. Information was presented at a number of forums including the new Eastwood Landlord's Forum and the Eastwood Key Individual Network (KIN). Information was delivered to partners in a number of arenas and letters were sent to every address within Eastwood Village advising of the Council's intention to consult on Selective Licensing within the area.

7.3.2 Having raised awareness of the issues, survey questionnaires were sent to every home, business and landlord in the area or having interest in the area. Concurrently officers from the Community Protection Unit, Neighbourhood Investment Team and Area Assembly visited properties within Eastwood Village to support the consultation, provide information, and ensure propriety.

7.3.3 In all, over 900 questionnaires were delivered in late 2008 and substantial support work was undertaken. In response, 180 completed questionnaires were received back from the tenants and residents, 8 back from businesses and 7 back from landlords and managing agents

	Questionnaires Delivered	Questionnaires Returned	% return
Tenants and residents	800	180	22.5
Landlords and managing	50	7	14
Businesses	50	8	16

This was a disappointing return based on the intensity of staff commitment during this period. The return for tenants and residents was dominated (73.3%) by owner occupiers, Council and RSL tenants, who are exempt from the provisions of Selective Licensing. Consequently long term residents (61%>5 years) who expected to remain in the Village in the medium to long term (80%) are over represented. Unfortunately this sample is unrepresentative of the over all tenure of the Village, which has high levels of private rented properties with approximately 15% Council / RSL stock. In general, Selective Licensing was supported by all respondents not directly affected by it, and opposed by those who were, especially if cost was anticipated.

7.3.4 The make up of the returned sample, make it unlikely to be acceptable to the Secretary of State as adequate Consultation. More analysis of the results is provided in Appendix 1.

7.3.5 The proposed consultation on the Selective Licensing area in Dinnington, has been postponed due to the experience gained at Eastwood and the uncertainty regarding Neighbourhood Renewal plans for redeveloping.

7.3 Preparing for a Submission for the Secretary of State

7.4.1 Analysis of Evidential Base For Application

In order to develop the degree of cross service evidence necessary to make a submission for Selective Licensing, partners have reviewed their approach to the area. This included their use of existing powers and focussed on mapping detailed statistics regarding incidents within Eastwood Village. This work has continued throughout this year coordinated by the Area Partnership Manager, and has resulted in a better understanding of the problems within the area and number of new or refocused initiatives. (Appendix 2).

7.4.2 Eastwood Village is **not an area of low demand housing, or a failed housing market**. It has high levels of exempt accommodation approximately (Council, RSL & Owner occupiers). Recent complaint patterns have identified small focussed areas of concern within Eastwood Village located around Selbourne and Hardwicke rather than more Village wide issues. The complaints tend to reflect differing cultural norms, ignorance/ difficulties around waste management systems and overcrowding, creating intolerance and nuisance, rather than overt criminality or determined antisocial behaviour. These issues are having an adverse effect on the locality and the surrounding population however, landlords in the area are known to the Council and **single property interventions have been effective**. Intensive estate management principles, including education, use of translation services and **targeted enforcement are proving effective**.

There are still some difficulties around resourcing and coordination of the multiagency working which inhibits progress.

7.4.3 The evidence from the (Sept 2009) mapping exercise, including a measure of public perception of the problems in Eastwood Village, has been very encouraging. This is not to say problems no longer exist, but they appear to be more controlled, resulting in a **reduced perception of problems** in the Village area. For example there has been a reduction of 65% in nuisance youths reported over the same period last year (May – August). Over the same period this year, the large majority of complaints relate to domestic rubbish, 207 reported, of which 182 have been resolved, only 9 resulting in formal action as a testament to the education taking place in the area. Mapping has also identified a small number of RSL properties which repeatedly feature in ASB. Neither domestic rubbish nor problem RSL properties are issues which can support an application for Selective Licensing powers.

7.4.4 The problem of overcrowding in the private rented sector is a difficult issue. In many cases, **overcrowding has resulted from tenant activity** rather than unscrupulous landlords. Overcrowding has an adverse effect on the area, creating health and safety problems and overstressing local amenities and services. Individuals from A8/A2 countries (Eastern Europe) who are legally in the UK have limited recourse to public funds and in many cases cannot be re-housed by the Council where found to be statutorily overcrowded. Landlords can be required under existing legislation to reduce numbers within properties, but this leads to displacement to other local properties, causing similar problems or homelessness. This issue is currently being discussed with Housing Solutions and the UK Border Agency, to develop the best response which protects tenants and addresses health and safety concerns.

7.4.5 Though many of the issues raised within Eastwood Village are similar to those identified when Selective Licensing was proposed as a potential solution, evidence shows the extent and severity have changed. The changing nature of the issues within the village, require constant reappraisal of available multiagency interventions. The mapping evidence has shown that improvements have occurred over the last year and are acknowledged by both staff and residents.

7.4.6 In an earlier Cabinet Member item in May 2008, it was discussed that a cross boundary application with Sheffield MBC was a possibility, as they had similar issues to Eastwood Village, including high levels of transient Roma communities and antisocial behaviour. Sheffield has now undertaken its initial research and concluded that intensive area management offers adequate remedies for the issues identified in their target areas. Sheffield has decided not to apply for Selective Licensing.

7.5 Conclusion

It is difficult to evidence that the additional measures offered by Selective Licensing, over and above existing powers, will provide substantial additional benefit or are essential to resolving Eastwood's specific problems. It is considered unlikely that a bid to the national authority (Secretary of State) for Selective Licensing powers for Eastwood Village would be successful at this time.

8. Finance

8.1.1 If adopted, Selective Licensing would require:

- Officer and administrative time, supported by legal services, to develop the application to the Secretary of State in the format required.
- Adaptation to existing IT systems to allow for adequate record keeping.
- Initial and continued costs for publicity and marketing of the scheme.
- An increased inspection regime, in order that the scheme have credibility and deliver on increased expectation of residents and those paying licenses. Estimated at 2 FTE officers to supplement existing officers working in the area
- Development of a credible vetting process for landlords to assess fit and proper persons.
- Increases administrative support to deliver the licensing and onward inspection regime. Estimated at 0.5 FTE administrative officers to supplement existing officers.
- Support networks for landlords (including training) and tenants, some of this is currently available but would need to be substantially enhanced

8.1.2 If Eastwood Village is designated as an area of Selective Licensing by the Secretary of State the development of the above infra structure and staffing could not be accommodated from existing revenue budgets, especially having regard to current held vacancies. It may be possible for the schemes initial start up costs to be found from HMR pathfinder, however this funding is short term and committed.

8.1.3 The Council has the ability to set the licence fee, which could be set at a level to make the scheme self financing, but this was the most contentious issue raised at consultation by landlords.

8.1.4 Full costings would have to be worked up including recommended levels of licence fee as part of the submission to the Secretary of State, should Cabinet wish application to proceed.

9. Risks and Uncertainties

- Failure to utilise all the tools available to Local Authorities to address anti-social behaviour and low housing demand will damage community perception of the Council and other bodies in the dealing of antisocial behaviour and community cohesion.
- Failure to deliver will have an adverse affect on targets contained within the Respect Agenda, and the overall drive to reduce the fear of crime.
- Selective Licensing may stigmatise a location and be a barrier to new investment.
- Selective Licensing may drive responsible landlords out of the area due to the additional obligations and the licence fee.
- Increased homelessness due to displacement
- Unreasonable expectation that Selective Licensing will cure all area issues
- Failure to convince the Secretary of State that existing measures are insufficient and that Selective Licensing, based on local evidence is required, may have reputation risk and would result in wasted officer time.

- Once adopted, failure to maintain levels of investment in the medium term (5 years), to sustain the licensing scheme and associated support mechanisms, will have a negative effect on local and national expectation.
- Requirements of the 2004 Housing Act have placed increased demands on already the over-stretched demand for Environmental Health Officers nationally. Consequently there is the potential failure to recruit as extra resources are needed.

10. Policy & Performance Agenda Implications

10.1.1 The refreshed Community Strategy recognises that “*Maintaining the current overall low crime rate in Rotherham, as well as continuing to reduce anti-social behaviour and fear of crime remains a top concern for people*” is a strategic issue for Rotherham. In delivering the strategic priorities, the Local Area Agreement has embedded crime reduction targets and also given emphasis to NI17 in reducing the perception of anti-social behaviour. Rotherham’s ranking from the place Survey 2008 is amongst the worst 10% nationally with 28% viewing ASB as being a problem.

In addressing the **Rotherham Safe** priorities the strategy contributes to delivering the following key strategic actions;

- Maintaining the current overall low crime rate in Rotherham, as well as in continuing to address people’s concerns about anti-social behavior and their fear of crime.
- Aiding the development of a sustainable housing stock.
- Supporting the Rotherham Renaissance Masterplan and reinforcing the town centre’s role as a place for urban living.
- Increase satisfaction with local neighbourhoods.
- Making the connection between national and local strategies.
- Providing a link between regional, national and local organisations

10.1.2 In addition it will contribute to the **Sustainable Development** cross cutting theme by protecting and enhancing the environment, **Rotherham Alive** by ensuring a place where people feel good, are healthy and active, **Rotherham Achieving** by helping raise the quality of life in the most deprived communities and **Rotherham Proud** by increasing the satisfaction in the local area as a place to live and putting pride in the hearts of our communities.

Selective Licensing has clear linkages to the seven outcomes of the Outcomes Framework for Social Care, and importantly includes:

- **Improved Health and Emotional Well-being**, by promoting and facilitating the health and emotional well-being of people who use the services.
- **Improved Quality of Life**, by supporting independence of people to live a fulfilled life.

11. Background Papers and Consultation

- Housing Act 2004
- The Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2006, Statutory Instrument 2006 No. 371

- The Management of Houses in Multiple Occupation (England) Regulations 2006, Statutory Instrument 2006 No. 372
- The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006, Statutory Instrument 2006 No. 373 Office of the Deputy Prime Minister Guidance, Housing Health and Safety Risk Assessment System, Practitioners and Enforcement Version 2
- 2005 – 2007 Housing Strategy
- 2003 RMBC Private Sector Housing Assistance Policy
- 2006 RMBC Enviro Crime Strategy
- 2006 RMBC Private Sector Housing Enforcement Framework
- 2007 RMBC Noise Reduction Strategy
- 2007 RMBC Private Sector Housing Strategy
- Respect Agenda
- Selective Licensing of other residential accommodation DCLG
- Selective Licensing for Local Authorities: a good practice Guide 2006(revised)
- Eastwood Village Selective Licensing Consultation - Results 2009

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Results of Consultation

Within the returned sample there was general support for the need to ensure landlords managed their properties and tenants effectively. There was also support for the concept of Selective Licensing, however this decreased by 23.2% (approx the number of private tenants in the sample) when asked if they would accept an increase in rents to pay for Selective Licensing. 54% said they had experienced or witnessed some form of antisocial behaviour. From the comments section, noise, rubbish, overcrowding and loutish behaviour were the most common concerns

The 7 landlord who responded, jointly held 64 properties and generally accepted their responsibility for their properties and tenants. Only one reported antisocial behaviour as a problem, the biggest issue of concern (44%) was high turnover of tenants and low rents. Low demand was not considered an issue. Taken jointly, the majority of Landlords and businesses did not support Selective Licensing, considering the licence fee a tax on business and it penalised good landlords as well as bad. They suggested that existing powers should be adequate to control poor landlords and tenants. They also commented that the Council and RSL's should do more to control their tenants who had a marked effect on the area.

In general, partners considered the scheme to be a good idea if introducing Selective Licensing can deliver a solution to the problems experienced in the area. Little detail was offered as to how the additional measures offered by Selective Licensing were thought to enhance existing powers.

APPENDIX 2

Examples of New or Refocused Initiatives 2008/09

- Utilising recent Premise Closure Powers for antisocial behaviour, The Community Protection Unit, in cooperation with South Yorkshire Police facilitated the removal of private tenants responsible for ASB.
- Undertaken a massive exercise of education with the transient Roma community, utilising the Council's in-house translator, aimed specially at rubbish and waste management issues, but offering a wide range of guidance.
- Undertaken mapping of tenure in the Village, identifying the majority of landlords (one of the aims of Selective Licensing), which highlights the large number of properties owned by Registered Social Landlords (approximately a third of let properties). These properties are exempt from any Selective Licensing. This work has increased control over local landlords by education of standards and awareness of our powers.
- Increased enforcement of litter and fly tipping
- Instigated a review of all Private sector housing enforcement processes to ensure prosecutions are instigated in a timely manor in all appropriate cases.
- Gained Cabinet approval for the use of enforcement powers to complement a renewed education campaign by waste management to encourage proper use of wheelie bins by residents.
- Reviewed data collection and performance management, to ensure a true picture of the issues is available to managers, SNT, NAG and partners.
- Began investigations into the feasibility of using Special Interim Management Orders (**SIMOs**) and Empty Dwelling Management Order (**EDMO's**) on individual properties in areas where a licensing scheme is not in operation. These orders can be made if there is anti-social behaviour emanating from an individual property, where the landlord is failing to take appropriate action to deal with the problem. These provisions requires the Council to have the ability to effectively

take over the management of a property, and offer similar interventions as contained in Selective Licensing, but based on individual properties rather than areas.

- Recruitment of a Slovak Roma worker funded by Ch Exec's and Area Assemblies. RMBC one of only a handful of local authorities to pursue this radical step. Flagged up as best practice at a recent regional conference
- Registering and delivering to properties with 5+ residents extra black bin capacity
- Removal of contaminated green bins from highway
- Using Area Assembly Devolved Budget to remove raised planters and tidy up playing fields, both fly tipping hotspots
- Setting up joint visits between Waste Management with Neighbourhoods to address bins on pavement

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