

Council Report

Improving Places Select Commission, 5th April 2017

Title

Selective Licensing Review

Is this a Key Decision and has it been included on the Forward Plan?

No

Director Approving Submission of the Report

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Ward(s) Affected

All

Executive Summary

In May 2015, four designations for the selective licensing of private rented housing were implemented following a detailed public consultation. This report reviews the progress of the licensing scheme.

The report concludes that the current designations have been a success and have exceeded expectations both in terms of take up, the number of necessary property improvements and compliance with the scheme.

Recommendations

It is recommended that the Commission:

1. Note the progress achieved and recommend that an annual review of the selective licensing designations be submitted to the Cabinet each September; and
2. Agree that further consideration is given to extending the scheme to other areas of the Borough where there is evidence to support this.

List of Appendices Included

Appendix 1 – Maps of the designated selective licensing areas

Background Papers

Report to Cabinet - Private Rented Housing - Selective Licensing 17th December 2014

<http://moderngov.rotherham.gov.uk/documents/s97787/Selective%20Licensing%20Cover%20Report.pdf>

The Eastwood Deal

http://www.rotherham.gov.uk/srp/download/downloads/id/25/safer_rotherham_partnership_-_the_eastwood_village_plan_-_2016.pdf

Rotherham Council Corporate Plan 2016/17

http://www.rotherham.gov.uk/downloads/download/145/council_performance

Rotherham Council Housing Strategy

http://www.rotherham.gov.uk/shf/downloads/file/36/rotherham_housing_strategy_2016-2019

Selective Licensing webpage with landlord guides

www.rotherham.gov.uk/landlordlicensing

Consideration by any other Council Committee, Scrutiny or Advisory Panel
No

Council Approval Required
No

Exempt from the Press and Public
No

Title: Selective Licensing Review

1. Recommendations

- 1.1. It is recommended that the Commission:
 - 1.1.1 Note the progress achieved and recommend that an annual review of the selective licensing designations be submitted to the Cabinet each September; and
 - 1.1.2 Agree that further consideration is given to extending the scheme to other areas of the Borough where there is evidence to support this.

2. Background

- 2.1 Rotherham Council introduced four selective licensing areas (Eastwood, Masbrough, Dinnington and Maltby South East) to help deal with problems caused by poor management of properties in the private rented sector which was contributing to low housing demand. Within these designated areas shown in the maps in Appendix 1, all privately rented properties must be licensed and comply with a set of licence conditions. The costs of the licensing scheme are borne entirely by the property owners through a licensing fee of £592 per property. If landlords fail to licence a property or do not comply with licence conditions they can be prosecuted. Other sanctions such as Management Orders and Rent Repayment Orders are also possible.
- 2.2 The private rented sector is growing in response to the demand for lower cost housing outside of the social rented sector, and the Council is committed to supporting and promoting private landlords to provide quality and affordable housing. However, there are concerns that standards within the private rented sector are falling below the minimum expected under the Housing Act 2004. In some areas the significant increases in the private rented sector, high rates of empty properties (10% in some areas), short term tenancies and anti-social behaviour are having a negative impact on those communities.
- 2.3 In some areas the private rented sector accounts for up to 60%¹ of the housing market and is becoming a significant part of the overall housing market in the Borough.
- 2.4 In order to introduce Selective Licensing, the Council had to demonstrate one or more of the following criteria in any proposed area:
 1. That the area is, or is likely to become, an area of low housing demand; and/or
 2. That the area is experiencing a significant and persistent problem caused by anti-social behaviour.

¹ Eastwood Village Survey carried out by the Rotherham South Area Assembly

- 2.5 It was expected (from data mainly contained in the 2011 census) that these designation areas would contain approximately 1,254 licensable properties and an objective of licensing 95% of these was put in place for the 2016/17 financial year. Most of the designation areas have exceeded that number of licences and further work carried out through door to door surveys and additional data from Council Tax and Benefit records have identified a revised estimate of 1,990 licensable houses.
- 2.6 The difference in the initial and current estimates is due to the growth of the private rented sector since the 2011 census and a lack of comprehensive data available at the time the designations were made.
- 2.7 In 2020 the current designations will end. Prior to that the Council will need to decide whether the designations have achieved or are on course to achieve their aims, whether the achievements can be sustained without licensing or whether additional licensing designations need to be put in place to ensure the sustainability of improvements.

3. Key Issues

3.1 Performance measures

- 3.2 Two key performance indicators (KPI's), monitored through the Corporate Plan, enable the Council to meet its Housing Strategy objective of improving standards in the private rented sector through the implementation of selective licensing. The KPI's are measured on a quarterly and annual basis respectively. These are:

- 4.B5(a) - % of eligible properties which have applied for a licence, within Selective Licensing areas
- 4.B5(b) - % of privately rented properties compliant with Selective Licensing conditions within designated areas.

- 3.3 It is also anticipated that by the end of the 5 year scheme, Selective Licensing will contribute to reducing anti-social behaviour, empty property levels and occupier turnover in these areas. These further anticipated impacts are unlikely to be seen until the licensing scheme has had the opportunity of changing management practices in the private rented sector in these areas. The KPI's and additional measures will form part of the annual review process.

3.4 Performance Measure 1 - Applications for licences (Corporate Plan ref 4.5b(a))

- 3.5 Although the estimates had projected 1,254 privately rented properties were within the licensing areas, by the end of 2016 it was clear some areas had more private rented properties than initially estimated. Therefore the performance of those over-achieving areas was capped at 100% to ensure the overall performance was accurate.
- 3.6 At the beginning of the third quarter of the financial year, additional staff had been appointed to enable more focussed, and street by street

enforcement to capture those remaining unlicensed properties. This has then increased the estimate of the number of licensable houses as well as stabilising the new application rate, which was previously beginning to fall.

3.7 From the initial estimates of licensable properties, the performance objectives for 2016/17 have been met ahead of schedule, by February 2017 with an outturn of 96% expected at the end of March. Figure 1 shows the number of applications received by quarter of each financial year since the implementation of Selective Licensing.

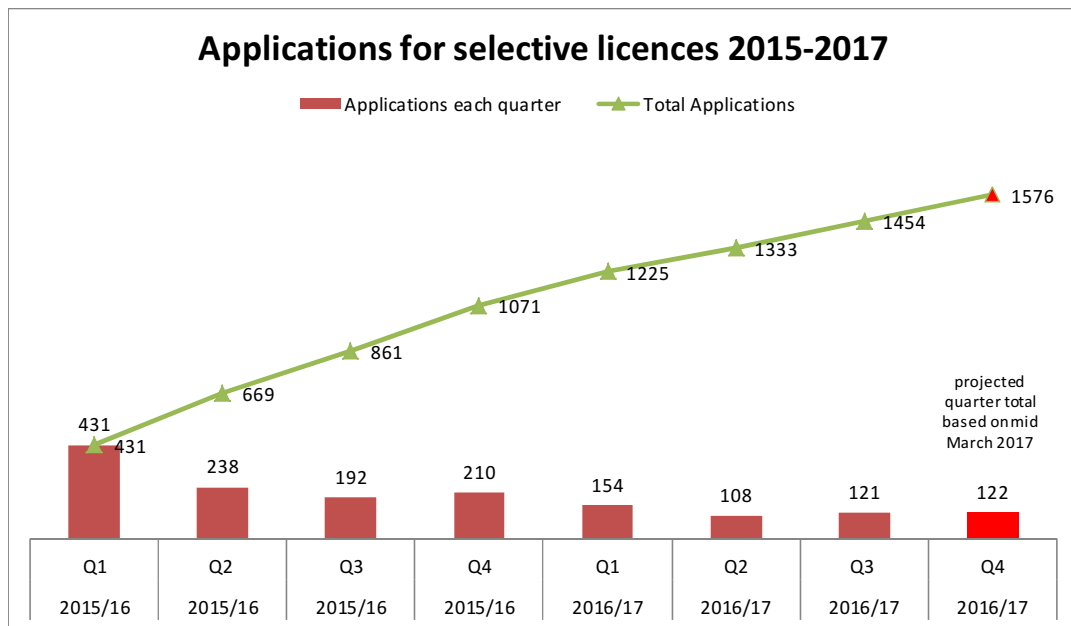


Figure A - applications for selective licences by financial year quarter.

3.8 As discussed earlier, the initial estimates of 1,254 properties, has grown to 1,990 properties within the licensing areas. Table 1 shows the performance of the scheme in each designated area.

3.9 Performance against the revised estimate of private rented properties in the designation areas shows that landlords of 76% of licensable properties have applied, and it is anticipated with the dedicated enforcement resource being in place, that an objective of 95% can be achieved in the coming financial year.

Designated Area	Property with open/acceptable application (% of estimated PRS property registered in the designated area)	2011 Estimate of licensable property (from 2011 census)	2017 Estimate of licensable property	% of all licensable property registered
Masbrough	330 (103%)	319	432	76%
Eastwood	641 (173%)	370*	779	82%
Dinnington	245 (122%)	200	369	66%
Maltby South East	307 (84%)	365	410	75%
Total	1,523 (121%)	1,254	1,990	76.5%

Table 1- property licensing performance by area

3.10 Performance Measure 2 - Compliance with Selective Licensing conditions (Corporate Plan ref 4.5b(b))

3.11 This measure assesses licence and housing condition compliance rates after the properties have been inspected. With each inspection comes an enforcement process which starts, if appropriate, with an informal schedule or works for a landlord to comply with to bring a property up to the required standard.

3.12 Landlords are given between 2 and 8 weeks to make improvements, dependant on the level of risk to the tenant and the complexity of the works. If there are urgent repairs needed and a tenant's safety is imminently at risk, then a formal notice may be issued immediately and properties can be immediately prohibited from occupation. 820 full property inspections have taken place (mid-March 2017) and a further inspector post is being advertised to enable all the inspections to be completed by April 2018. During the inspections, 89% needed some level of improvement and 41% of the properties were found to have serious risks to tenants. Only 11% were found to be in a good condition which did not require any further intervention.

3.13 70% of properties were expected to be complaint at the end of the informal stages of enforcement, however based on the inspection outcomes over this first year of the measure, the 2016/17 outturn is likely to be 85% of properties will be found to be compliant. This demonstrates that while housing conditions across the designated areas are generally sub-standard at the initial inspection, following the rigorous inspection and enforcement process; landlords are choosing to improve properties within a reasonable time scale.

3.14 Anecdotally, officers carrying out the inspections have noted that there is a significant lack of awareness of the minimum standards that are expected (for example with regards to fire detection and prevention measures) in private rented accommodation and the property being seen as an investment rather than a business.

3.15 Enforcement Activity

3.16 In addition to the inspections of licensed property, a variety of enforcement interventions are carried out through the Community Protection Unit and in partnership with police colleagues. The Selective Licensing Team, is a small team within the Community Protection Unit, but Selective Licensing powers are used on a daily basis by enforcement officers in the wider service to deal with anti-social behaviour and property conditions. These enforcement officers work closely with the Selective Licensing Team to ensure that they can use the licence conditions to complement their existing enforcement tools to deal with housing conditions problems or anti-social behaviour.

3.17 316 cases of failing to licence have been investigated with the vast majority licensing immediately after a warning. Seven cases have been prosecuted and convicted already with a further 21 with legal services. Landlords are typically given 2 weeks to submit an application for a licence. This approach tends to illicit a full application without the need for formal proceedings.

3.18 The issues the licensing conditions tend to be useful in dealing with are neighbour noise nuisance, waste in gardens and fly tipping and to date 121 warnings have been given to landlords in such cases. The vast majority of cases where the Landlord is required to assist the Council results in satisfactory closure of the case with no further occurrence of anti-social behaviour.

3.19 In addition to this model of working the licence conditions give the Council powers to require landlords to warn and/or evict tenants found to be causing anti-social behaviour, and on two occasions landlords have evicted tenants involved in serious criminal activity following warnings under those conditions.

3.20 Four licences have been revoked as the licence holder was convicted of offences which meant they were no longer deemed a fit and proper person. A further eight properties have had licences refused as the proposed licence holder was not considered to be fit and proper to hold a licence. These refusals have mostly resulted in acceptable applications and where they are not, an investigation and potential prosecution would be brought for failing to licence.

3.21 Enforcement Plan

- 3.22 Enforcement of unlicensed houses will continue through the remaining three years of the scheme. The remaining 450 houses will have some form of enforcement over the next 6 months to ensure they licence as soon as possible or face prosecution. Fines for failing to licence vary, dependant on the number of properties involved, however the average fine and costs per flat or house is approximately £500. This almost doubles the cost of the licence for the owner. After this there could be significant repairs costs they will need to meet.
- 3.23 Following inspections of properties, each is risk rated depending on the inspector's findings to determine a next inspection date. 20% of properties inspected so far require an annual revisit to check on standards due to concerns over ongoing and future management of the property. A further 20% will be inspected after 2 years and the majority of the remaining properties showing reasonable management practices will be part of an additional random sample of properties to revisit up to 2020.
- 3.24 Existing partnerships with the South Yorkshire Police and Children and Young Peoples Services are also being enhanced by the scheme, enabling properties to be inspected and checked earlier where partners have concerns, raised through the existing partnership meetings. Information sharing with the Police has improved as they now have access to a wider pool of information. The licence conditions also provide the Police with similar powers to the Council in obtaining information directly from landlords.

3.25 Landlord and Tenant Engagement

- 3.26 The Selective Licensing team regularly attends the quarterly Dinnington and Maltby landlord forum meetings. The Rotherham and District Residential Landlords Association (RDRLA) has also invited the team to their next meeting, which is likely to be in May 2017. Further landlord forums covering the central area of Rotherham are also being considered as part of the Eastwood Deal.
- 3.27 A dedicated web site has been created as a hub for landlords and tenants to obtain information about the licensing scheme, tenant rights and minimum housing conditions tenants should be able to expect.
- 3.28 Landlord, tenant, interest groups and partner workshops are to take place over the coming months. The findings and outcomes from the workshops will form part of the annual review. This will provide qualitative analysis of:
- experiences in the private rented sector in the licensing areas;
 - whether the licensing scheme has influenced landlord or tenant behaviour;
 - the support each group would like to see as part of the licensing scheme;
 - improvements/developments to the scheme which group members would like to see.

4. Options considered and recommended proposal

- 4.1 This is a report for the Improving Places Select Commission regarding the implementation and progress of the Selective Licensing designations. The report highlights overall progress towards achievement of the outcomes designed into the scheme. Members are asked to note the progress achieved.
- 4.2 The current designations end in May 2020. By that time almost 2,000 homes will have been inspected with letting practices and compliance managed through inspections and enforcement with the landlords and tenants. Ahead of the end of the licensing scheme the Council will need to consider the impact of the licensing scheme and whether further designations are required. An annual review of the licensing scheme and its impact is the first step to this decision making process.
- 4.3 The early findings of these designations have demonstrated that the concerns for the private rented sector were well founded with more than 40% of homes having significant hazards to tenant health and safety. The additional controls and enforcement tools the scheme has provided are expected to contribute to reductions in anti-social behaviour and is already ensuring landlords take more responsibility for their properties and tenants.

5. Consultation

- 5.1 The designations were made following a statutory public consultation and there are no consultation requirements for this report.

6. Timetable and Accountability for Implementing this Decision

- 6.1 This progress report will be followed by a report to the Cabinet each September during the scheme and following the end of the designations in 2020 to evaluate progress and outcomes.

7. Financial and Procurement Implications

- 7.1 The income generated from the licence fees funds the administration of the licensing scheme, the inspections of each property and the ongoing compliance monitoring.
- 7.2 As can be seen in the table below it is likely the scheme will generate income of £1.1m which is to be spent over the 5 years of the licensing scheme, predominantly on salaries of staff employed specifically to the licensing team. The majority of that income has already been received.
- 7.3 Income generated in the first two years is held in a reserve account to pay for the scheme through the final three years. The budget is on course to balance to zero at the end of the 5 years.

7.4 The growth in expenditure between years 2 and 3 reflects the increases in the staffing requirements as the service moves into the compliance and monitoring phases of the licensing scheme.

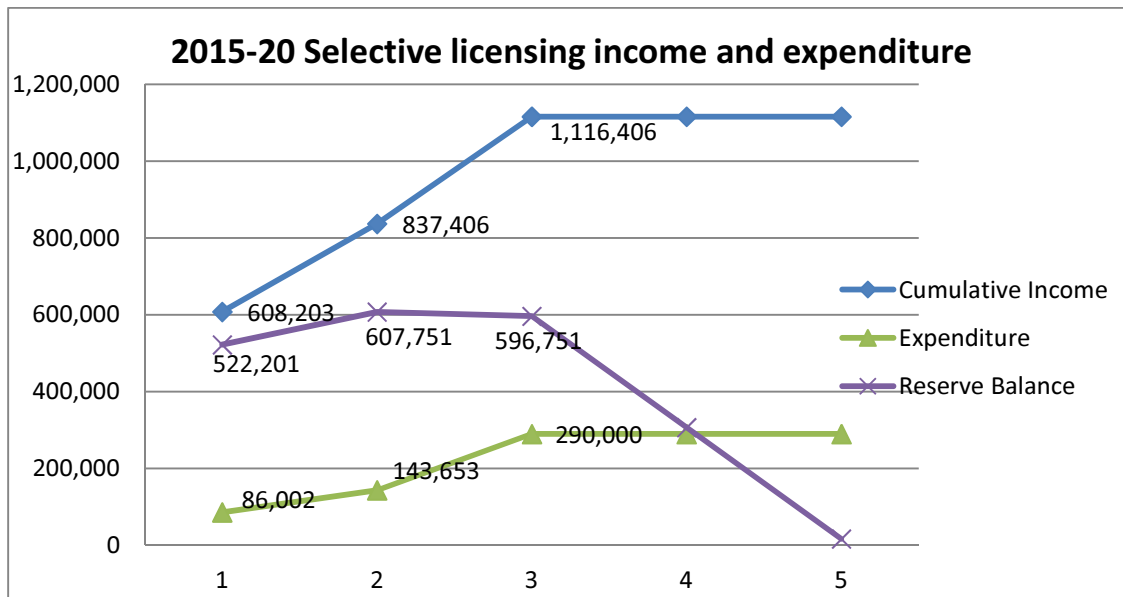


Table 2 - Income and expenditure projected through the 5 years of the licensing scheme

8. Legal Implications

8.1 The selective licensing designations were made under the provisions of Part 3 of the Housing Act 2004, however there are no direct legal implications of this report.

9. Human Resources Implications

9.1 There are no Human Resources implications of this report.

10. Implications for Children and Young People and Vulnerable Adults

10.1 The report reviews the current progress of the Selective Licensing designations. The success of the scheme will bring benefits to children, young people and vulnerable adults through the greater accountability of landlords, information sharing with partners and robust enforcement activity in some of our most deprived neighbourhoods.

11. Equalities and Human Rights Implications

11.1 The report reviews the current progress of the Selective Licensing designations. It does not contain any direct equalities and human rights implications.

12. Implications for Partners and Other Directorates

12.1 The success of the designations can impact on anti-social behaviour and crime levels within the designated areas. There are also likely to be changes in the ownership of some properties. As such the designations may have implications for the wider Community Safety & Street Scene service, Adult Care and Housing as well as South Yorkshire Police. It also provides greater opportunities for partnership working, some of which are already being exploited.

13. Risks and Mitigation

13.1 The designations continue for a further three years. At the end of the five year life of the designations the additional regulatory activity and the influence on the private rented sector may be lost if the scheme is not renewed. To mitigate against this, an annual review of the scheme will be carried out and a report to Cabinet on the future of the current designations should be submitted to Cabinet by September 2019.

13.2 Although the number of privately rented properties has increased significantly, there are appropriate resources in place to ensure all of the remaining unlicensed properties are brought within the scheme.

14. Accountable Officer(s)

14.1 Damien Wilson, Strategic Director – Regeneration & Environment
Karen Hanson, Assistant Director - Community Safety & Street Scene

Approvals Obtained from:

Strategic Director of Finance and Corporate Services: Named officer

Director of Legal Services: Named officer

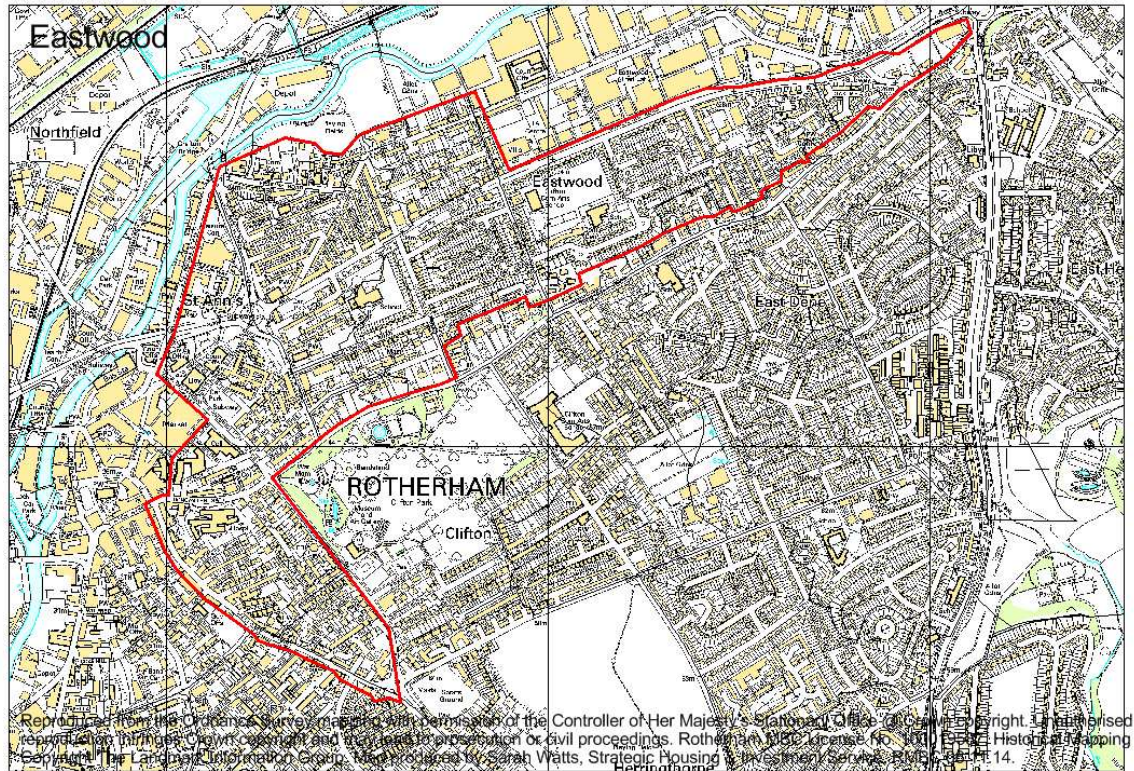
Head of Procurement (if appropriate):

This report is published on the Council's website or can be found at:-

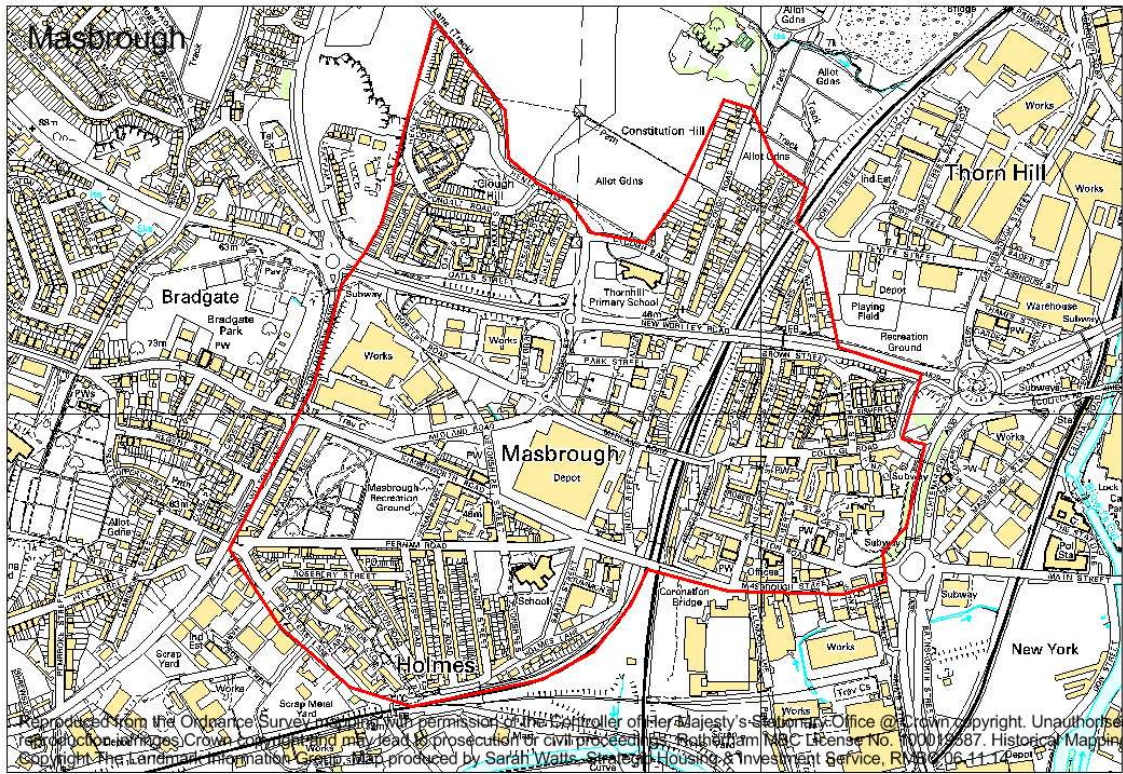
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Appendix 1 – Maps of selective licensing designations

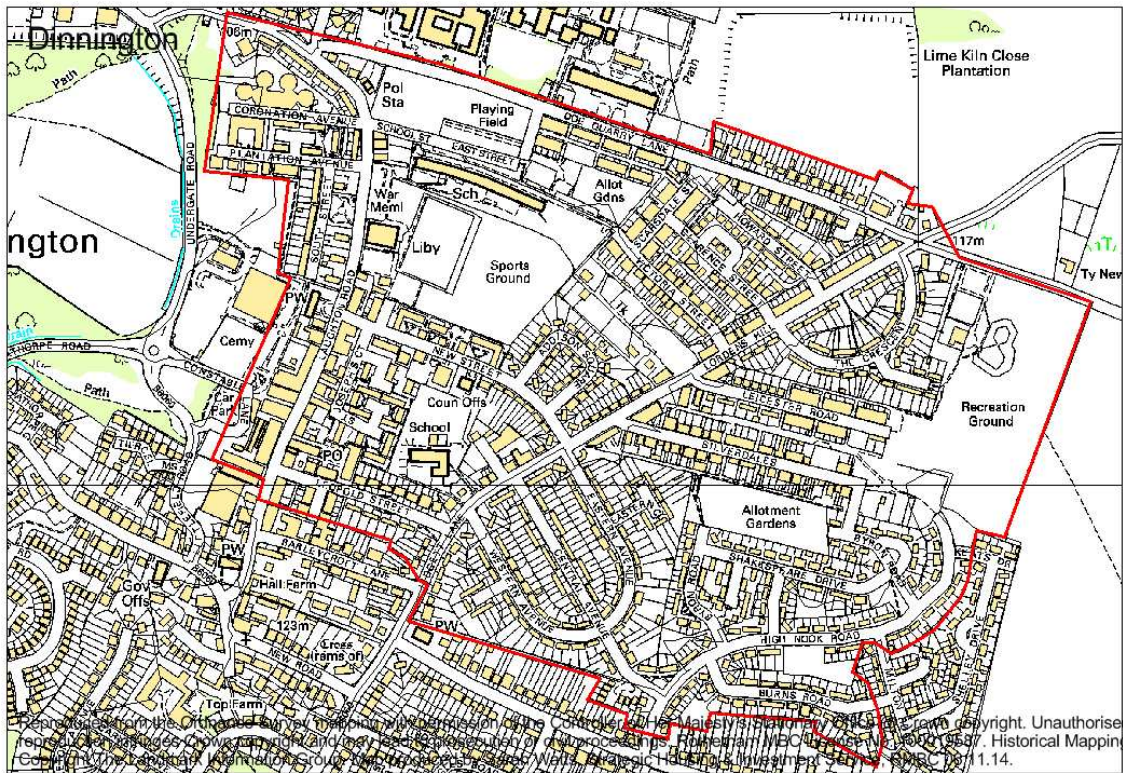
Eastwood Selective Licensing Designation Area



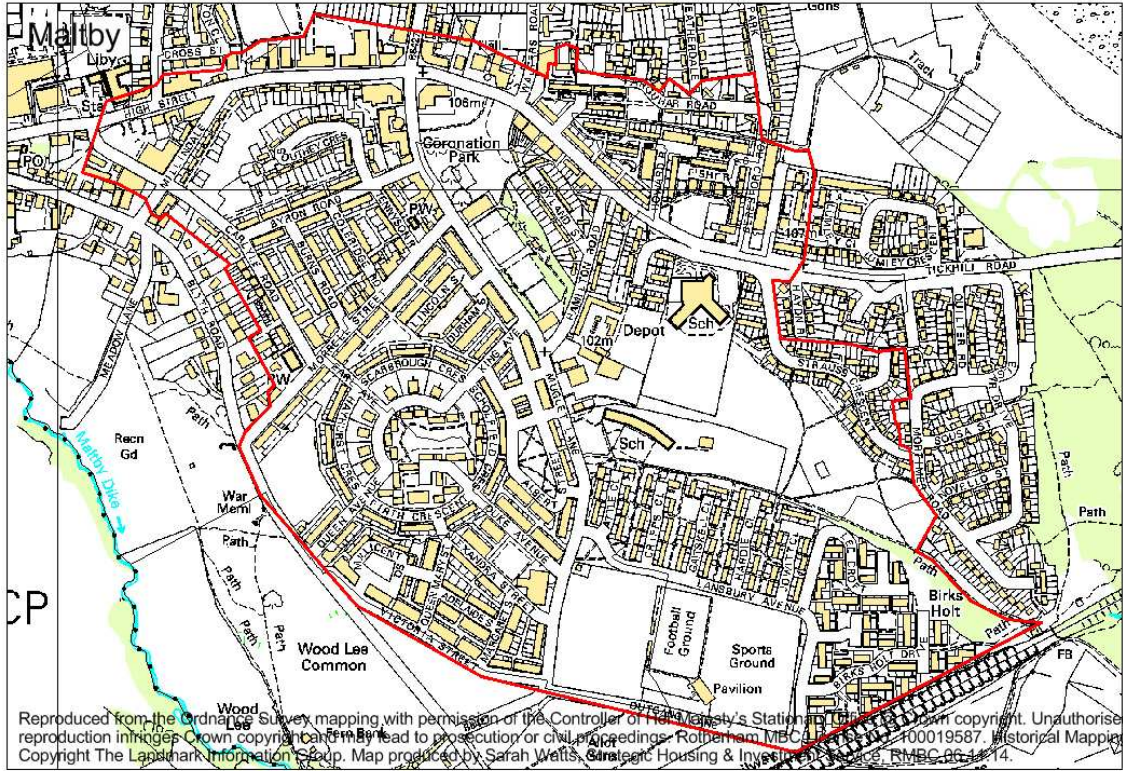
Masbrough Selective Licensing Designation Area



Dinnington Selective Licensing Designation Area



Maltby South East Selective Licensing Designation Area



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