

Summary Sheet

Name of Committee and Date of Committee Meeting

Cabinet and Commissioners' Decision Making Meeting – 6 August 2018

Report Title

Future Designation of Selective Licensing Areas

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

Yes

Strategic Director Approving Submission of the Report

Damien Wilson, Strategic Director of Regeneration and Environment

Report Author(s)

Lewis Coates, Head of Service, Regulation and Enforcement
01709 823117 or lewis.coates@rotherham.gov.uk

Matthew Finn, Community Protection Manager
01709 823134 or matthew.finn@rotherham.gov.uk

Ward(s) Affected

Rawmarsh
Rother Vale

Summary

Selective Licensing is the licensing of privately rented housing in a specific area with the aim of improving management standards. Where the Council designates an area, landlords must obtain a licence and comply with conditions, or face legal action including prosecution and financial penalties.

Selective Licensing is an important tool for the Council and partners, to drive improvements not only in the safety of homes, but to contributory issues related to deprivation. The Council has successfully implemented schemes in Rotherham, which are designed to deliver improvements to the private rented housing stock and to individual quality of life.

The Council, along with statutory agencies and voluntary organisations, has committed to the Rotherham Plan, a partnership to improve the Borough as a place, and make life better for local people. Part of this approach is to find new ways to halt the trend of deprivation becoming more concentrated in the least well off areas.

In 2015 the Government widened the criteria for which Local Housing Authorities can implement Selective Licensing schemes to improve management standards in the private rented sector and help to combat housing problems associated with deprivation.

The data in this report identifies areas of Rotherham in Thurcroft and Parkgate, which meet the criteria, are within the 20% most deprived areas of England, and additionally have high levels of private rented housing.

This report recommends consulting on proposals to designate parts of Thurcroft and Parkgate as Selective Licensing areas, which will help combat problems associated with housing and housing conditions within areas of deprivation, and deliver improved health and social wellbeing outcomes for those communities.

Recommendations

1. That public consultation be undertaken on the proposed designation of parts of Thurcroft and Parkgate for Selective Licensing of private rented housing.
2. That a further report be submitted in December 2018 on the outcome of the public consultation to consider designating Selective Licensing areas.

List of Appendices Included

- Appendix 1 Intervention Case Studies
- Appendix 2 Areas which fall within the 20% most deprived in Rotherham, private rented accommodation levels and Selective Licensing areas
- Appendix 3 Proposed Selective Licensing Area Boundary Maps
- Appendix 4 Current Selective Licensing Conditions in Rotherham

Background Papers

The following documents have been considered when preparing this report:

[Selective Licensing Mid-Term Report, Improving Places Select Commission, January 2018](#)

[Selective licensing in the private rented sector: A guide for local authorities](#)

[English Indices of Multiple Deprivation](#)

[Rotherham Together Partnership – The Rotherham Plan](#)

[Housing Act 2004](#)

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Overview and Scrutiny Management Board

Council Approval Required

No

Exempt from the Press and Public

No

Future Designation of Selective Licensing Areas

1. Recommendations

- 1.1 That public consultation be undertaken on the proposed designation of parts of Thurcroft and Parkgate for Selective Licensing of private rented housing.
- 1.2 That a further report be submitted in December 2018 on the outcome of the public consultation to consider designating Selective Licensing areas.

2. Background

- 2.1 In May 2015, following extensive consultation and adherence to due legal process, the Council introduced Selective Licensing to four areas of Rotherham. The areas designated for Selective Licensing were Dinnington, Maltby, Ferham and Masbrough, and Eastwood. The scheme has ensured that all landlords in these areas are identified and licensed, ensuring that landlords can be held to account for their properties including the behaviour of their tenants and the conditions inside and outside of the house.
- 2.2 Also in 2015, the government widened the criteria for which housing authorities can designate Selective Licensing schemes to improve management standards in the private rented sector and to help combat housing problems associated with deprivation.
- 2.3 Analyses of deprivation in local communities are published on a regular basis by the Office of National Statistics. They indicate the proportion of the population who live in areas with the best and worst outcomes for health, education, income and living conditions. These are published as the Indices of Multiple Deprivation.
- 2.4 The latest figures show that 50,370 Rotherham residents (19.5%) live in areas within the most deprived 10% of England. This figure has grown from 30,400 in 2007 and 44,170 in 2010.
- 2.5 The Council has embarked on a significant partnership with voluntary and statutory partners to develop the Rotherham Plan, which aims to tackle deprivation in local communities, help improve the Borough as a place, and make life better for local people. This is contributed to by the Council's Housing Strategy which aims to improve standards in the private rented sector whilst ensuring those in our most vulnerable communities have safe and healthy homes.
- 2.6 As discussed above, the amendment to the Housing Act 2004 has provided Councils with the power to introduce licensing of privately rented properties with the aim of helping to tackle the effects of deprivation. This change in the law supports the work of the Council and partners to improve outcomes for communities.¹

¹ The Selective Licensing of Houses (Additional Conditions)(England) Order 2015 – Article 4-7

- 2.7 Additionally, the Council may only make a designation on grounds of deprivation if the proposed area has a high proportion of property in the private rented sector compared to other areas locally or nationally. Nationally the private rented sector currently makes up 19.9% of the total housing stock in England. If the number of privately rented properties in an area exceeds this national number it can be considered as having a high proportion of privately rented properties.²
- 2.8 Licensing, together with inspections and compliance monitoring, will improve private rented housing management by landlords to ensure that those who rely on the private rented sector have safe and healthy homes. Often tenants do not contact the Council about poor housing conditions through fear of eviction.
- 2.9 The current designated Selective Licensing areas of Rotherham have seen significant successes in improving housing conditions to make properties safer for our most deprived communities. These improvements contribute to improving health outcomes for families and children, including many of the most vulnerable in our community. In particular, inspections and consequent enforcement actions, have dealt with a range of issues which impact directly upon the health of the young and vulnerable. These include tackling damp and mould in properties, which can lead to long term respiratory disease; trips and falls, which impact directly on reducing individual injuries and mortality; fire safety, which reduces the risk of death; and excess cold, which impacts on chronic and acute pulmonary and respiratory disease.
- 2.10 From May 2015, the first phase of the existing Selective Licensing scheme focused on the administration of licences. The second phase of the scheme, which started in October 2016, progressively concentrated on the enforcement of conditions primarily through inspections of properties.
- 2.11 Significant improvements to the safety of the private rented housing stock have been made through Selective Licensing. Since the scheme came into effect, 1,850 additional private rented houses have been inspected through the scheme, which is five times more than the Council would normally inspect over a similar two-year period following complaints from affected tenants public. Appendix 1 contains a number of case studies describing the positive outcomes associated with Selective Licensing since its inception.
- 2.12 90% of all licensable property is now registered, with investigations and prosecutions in progress for the remaining 10%. Following a detailed mapping exercise in 2017, a complete picture of all licensable houses in these designated areas now exists.
- 2.13 Some 91% of private rented properties initially inspected under the scheme required action to be taken to make them safe. Only 9% of the inspections undertaken found homes to be safe for tenants.
- 2.14 Of those properties which failed the inspections, 36% had significant Category 1 hazards; most commonly a lack of adequate fire safety, damp, mould, excess cold, and damaged floor coverings presenting a serious risk of falls on stairs and throughout the home.

² The Selective Licensing of Houses (Additional Conditions)(England) Order 2015 - Article 3 (1) (a); [English House Condition Survey 2015/16](#); [Selective licensing in the private rented sector: A guide for local authorities, Paragraph 5](#)

- 2.15 Following inspections, subsequent intervention by the Council has resulted in 94.2% of those properties being improved to a safe standard for tenants through the use of formal warnings, threat of Improvement Notices and risk of prosecution. Currently 130 properties are undergoing further warnings and formal enforcement action.
- 2.16 Ten houses were found to be an imminent and serious risk to the safety of tenants. Consequently, the Council has prohibited their use, effectively closing the properties to occupation. Subsequently, the Council arranged emergency accommodation and put in place steps to help these tenants into better quality homes in the private or social rented sectors.
- 2.17 The Council has so far successfully prosecuted eighteen landlords for failure to licence properties or comply with licence conditions within Selective Licensing areas, together with a further thirty landlords awaiting a Court hearing.
- 2.18 In addition to the closure of properties and successful prosecutions, a significant amount of activity has taken place including:
- 2.18.1 958 investigations of unlicensed properties have been successfully completed
 - 2.18.2 232 landlords have received formal warnings in relation to the anti-social behaviour of their tenants
 - 2.18.3 6 tenants engaged in anti-social behaviour have so far been evicted
 - 2.18.4 1,337 properties received warnings in relation to Gas Safety certificate failures; all of which have complied
 - 2.18.5 104 Landlords have been issued with formal notices to bring properties back to an acceptable standard. This includes 10 Prohibition Notices, forcing closure of all or part of properties
 - 2.18.6 2,088 properties have been licensed so far.
- 2.19 The existing scheme will continue to drive improvements for the next two years in the designated areas. The Mid-Term report on Selective Licensing to the Improving Places Select Commission on 3rd January 2018 demonstrated reductions in fly tipping, waste in gardens, noise nuisance and occupier turnover over the last three years. Maltby and Dinnington also showed reductions in empty property rates in that time frame.
- 2.20 While this is not directly due to licensing, the behaviour of tenants, the safety of property and the letting practices of landlords alongside more robust enforcement action and policies from other services in the Council and partners, has an influence on these indicators. A significant benefit to the licensing scheme is that the scheme is administered and enforced as part of the wider Regulation and Enforcement Service and enforcement action is often taken alongside other neighbourhood enforcement work.

3. Key Issues

- 3.1 Consideration of the most deprived areas of Rotherham, detailed at Appendix 2, demonstrates that the two Local Super Output Areas³ of 'Thurcroft Central and Brampton', and 'Parkgate', stand out as being some of the most deprived communities in both Rotherham and England, with a significantly higher level of private rented housing than the national average of 19.9%. 'Thurcroft Central and Brampton' is ranked as being in the top 16% of the most deprived areas in England while 'Parkgate' is ranked in the top 15%.
- 3.2 It is important to take into account a number of relevant factors that contribute to the level of deprivation in communities. These issues include employment, health and housing conditions amongst others, which are described in the table below. These factors are ranked out of 32,844 Local Super Output Areas in England.

Deprivation Indicator	Thurcroft (Rank out of 32,844)	Parkgate (Rank out of 32,844)
Multiple Deprivation	5,139	4,818
Workless adults	4,260	3,425
People on low incomes	5,202	5,839
Health and disability	3,642	2,187
Access to local services (school, post office, GP and food shop)	23,935	16,770
Housing conditions	19,591	11,108
Environmental conditions	10,278	4,657
Levels of crime	7,672	9,625

Ranks relate to all Super Output Areas in England, where 1 is the most deprived

- 3.3 From the Indices of Multiple Deprivation the 'Thurcroft Central and Brampton' super-output area is most affected by a lack of employment, low educational attainment and poor health. 'Parkgate' is most affected by the same lack of employment, poor health and the outdoor environment.
- 3.4 The housing in a poor condition indicator is a modelled estimate in the Indices of Multiple Deprivation of the proportion of social and private homes that fail to meet the Decent Homes standard when assessed under the 2011 English House Condition Survey.⁴

³ The UK is divided into geographical areas called Local Super Output Areas (SOA) for statistical purposes by the Government, whose areas are determined by the number of households and the populations. In each area there are on average 1500 people and 500 households.

⁴[English Indices of Multiple Deprivation 2015 – Underlying Indicators](#)

- 3.5 Housing conditions are worse in Parkgate than most of the rest of England according to the statistics in the table above. Although Housing Conditions across Thurcroft are not lower than the average under this data set, the English House Condition Survey on which the data is based is a statistical average for the whole area and some streets have higher proportions of problems than others. The data is also six years old and in that time period the level of private rented housing is expected to have grown significantly; importantly, the private rented sector doubled between the 2001 and 2011 Census.
- 3.6 Income levels, employment and health outcomes for households in the area are significantly lower than most of the rest of England. These indicators demonstrate that people have less housing option choices, and may not be in a position to ensure that their privately rented properties are maintained to an appropriate standard.
- 3.7 Poor health outcomes and low incomes contribute significantly to the overall deprivation in the area. Health outcomes are negatively impacted by poor housing conditions, subsequently influencing physical, mental and social wellbeing. Some of the more prevalent hazards found in the existing Selective Licensing areas in Rotherham include fire safety, electrical safety, falls, damp and excess cold, carbon monoxide from unsafe gas appliances, pest control problems, poor food preparation and storage provision as well as security risks.
- 3.8 Crime and anti-social behaviour incidents in the areas from 2016/2017 also support the deprivation data as detailed in the table below:

Area	Crime incidents per 1,000 people	ASB incidents per 1,000 people
Rotherham Borough average	84.8	50.3
Parkgate Super Output Area	423	100
Thurcroft Central and Brampton Super Output Area	122	72.4

- 3.9 To assess where interventions would have the greatest impact, the two Local Super Output Areas, along with Rawmarsh South (which is adjacent to Parkgate and part of the same residential locality), were analysed to identify patterns of crime and anti-social behaviour through 2015/2016 and 2016/2017. This analysis demonstrates that there is one area in Thurcroft and one area in Parkgate and Rawmarsh South, which contain high proportions of crime and anti-social behaviour. Moreover, there are clear trends, which show that these areas suffer from a significant amount of environmental problems, such as fly tipping and littering.
- 3.10 The two areas of greatest concern have been identified in the proposed licensing area maps at Appendix 3. In the identified streets in Parkgate, 98 privately rented properties provide 21% of the housing stock, whilst in Thurcroft, 87 properties in the area account for 38% of the housing stock. Both areas are above the national average of 19.9% and therefore meet the threshold for Selective Licensing under the deprivation criteria.⁵

⁵ The Council may only make a designation under the grounds of deprivation if there is a higher than average level of private rented accommodation. [English House Condition Survey 2015/16](#)

3.11 The figures for the concentration of private rented housing in these streets have been calculated by assessing complaint and street survey data over the last three years by Regulation and Enforcement and the Strategic Housing and Investment Service.

4. Options considered and recommended proposal

4.1 Option 1 – Begin a formal consultation to designate the defined areas of Thurgroft and Parkgate, as described in Appendix 3, for Selective Licensing.

4.1.1 Prior to designating an area, the Council is required to undertake a ten-week statutory consultation with local people, businesses, landlords and partners. An outline of the consultation process is contained within section 5 of this report.

4.1.2 Developing the designations for Selective Licensing in Thurgroft and Parkgate, identified in Appendix 3, will contribute both to the Council's Housing Strategy⁶ though improving the quality of the private rented sector, reducing fuel poverty and providing tougher enforcement for those landlords who do not meet their statutory responsibilities. The designations will also contribute to the aim of the Rotherham Together Partnership to find new ways to halt the trend of deprivation becoming more concentrated in the least well off areas; a situation reflecting high worklessness, low skill levels and ill health. The plan reaffirms that the quality of housing has a direct impact on health and wellbeing⁷.

4.1.3 Selective Licensing will improve housing conditions in the private rented sector through inspections and through enforcing improvements in properties and property management standards. This in turn will contribute to improving health outcomes in these communities, and make the local environment more appealing to residents and visitors.

4.1.4 A formal designation would ensure that the costs of both licensing and property management improvement is borne by the industry and not the Council. The existing designations are self-financing and new designations would work in the same way.

4.1.5 A designation would require all privately rented properties within the identified boundaries of the two areas, subject to statutory exemptions, to be licensed for up to five years and comply with a set of licence conditions. The conditions for the current Selective Licensing designations, which would form part of the consultation, can be seen in Appendix 4.

⁶ http://www.rotherham.gov.uk/shf/downloads/file/18/housing_strategy_2016-19, Pg24

⁷http://rotherhamtogetherpartnership.org.uk/downloads/file/7/the_rotherham_plan_a_new_perspective_2025

4.2 Option 2 – Carry out alternative interventions in place of a formal scheme

4.2.1 Alternatives to Selective Licensing were considered in 2014 prior to the designation of the current Selective Licensing areas. These included voluntary registration and use of traditional enforcement tools, which would require significant additional investment by the Council to achieve any sustainable change across the area.

4.2.2 These traditional tools, while initially attractive, do not provide the level of engagement with landlords necessary for the desired improvements. Landlord take up of previous accreditation schemes has been very low and would only include those responsible landlords who saw a value in being part of a scheme. Short term proactive enforcement projects can have an impact but are not sustainable without significant investment from existing revenue budgets or grant funding.

4.3 Preferred Option

4.3.1 It is proposed that Option 1 is the most appropriate course of action to ensure a sustainable and cost effective solution to improving management standards in the private rented sector in these two areas and that a formal consultation begin.

5. Consultation

5.1 This report recommends taking the proposals to the statutory consultation prior to the Cabinet decision as to whether to designate areas for Selective Licensing.

5.2 The consultation process would begin on the on the 17th September 2018 and be for the 10 week statutory period which would include:

- A consultation report with the draft designations will be prepared and posted on the Council's website.
- A Selective Licensing consultation web page with an online questionnaire and information about the scheme.
- Advertisements in the local newspapers.
- A series of press releases and social media postings promoting the consultation throughout the 10 weeks.
- A questionnaire posted to all addresses and businesses within the proposed areas (residential and businesses) and a buffer zone around the proposed area.
- A letter and questionnaire to every private sector landlord, letting agent and current HMO or Selective Licence holders for which the Regulation and Enforcement Service has direct contact details.
- A consultation meeting for landlords and tenants at the beginning and end of the Consultation period.
- Direct contact with landlord associations and representatives through local meetings, and the Selective Licensing Steering Group meetings.
- Attendance at local disability or minority support groups in or servicing the areas.

- 5.3 Following the consultation, a further report will be made to Cabinet with the outcome of the consultation and final recommendations for the next steps. Following this the full outcome will be published. In accordance with legal requirements the respondents to the consultation will be individually notified of the outcome in addition to being publicised through newspapers, the Council's web site and press releases.
- 5.4 Once the consultation has concluded, the outcome will be reported back to the Cabinet on whether there are any adjustments that should be considered following any representations that have been made and whether the proposed areas should be designated.

6. Timetable and Accountability for Implementing this Decision

- 6.1 The consultation process would begin on the on the 17th September 2018 and be for the 10 week statutory period.
- 6.2 Following this a further report will be presented to Cabinet in December 2018. Should a decision be taken to implement a Selective Licensing area, designation would be within 3 months from the date of that meeting, i.e. April 2019. This would include a statutory notification period after the designations were made.
- 6.3 The Assistant Director for Community Safety and Street Scene will be responsible for the delivery and implementation of the proposal.

7. Finance and Procurement Implications

- 7.1 Based on the costs of the previous consultation processes for Selective Licensing designations, it is expected that the consultation process will cost approximately £5,000. The majority of this would be spent on postal surveys to affected and neighbouring addresses and landlords. Costs will be minimised by contacting existing licence holders through email addresses they have provided from their previous applications. The costs of the consultation exercise will be managed within the existing Regulation and Enforcement Service revenue budget. The cost of consultation cannot be recovered through the licence fee.

8. Legal Implications

- 8.1 The designations would be made under Part 3 of the Housing Act 2004. This would provide the Council with additional enforcement powers in relation to those houses.
- 8.2 The consultation exercise must comply with statutory requirements (section 80(9) of the Housing Act 2004).
- 8.3 Paragraph 13.6 below refers to legal risks.

9. Human Resources Implications

- 9.1 There are no direct HR implications arising from these proposals. However, it will be necessary following the statutory consultation to consider the requirement for any additional staffing resources needed to implement any subsequent outcome or further recommendations.

10. Implications for Children and Young People and Vulnerable Adults

10.1 There are no direct implications for Children and Young People and Vulnerable Adults arising from this report.

11. Equalities and Human Rights Implications

11.1 There are no equalities and/or human rights implications anticipated arising from this report.

12. Implications for Partners and Other Directorates

12.1 Relevant partners and Directorates will be advised of the recommendations made in this report in addition to the formal consultation process.

13. Risks and Mitigation

13.1 If more than 20% of the private rented housing in the Borough or 20% of the geographical area of the Borough will be subject to licensing, approval for designations must be sought from the Secretary of State for Communities and Local Government.

13.2 The most recent estimates⁸ for the size of the private rented sector in Rotherham come from the Office for National Statistics which estimated that in 2015 there were 14,562 privately rented properties in the Rotherham Borough. This has grown from the 12,500 privately rented houses identified in the 2011 census and is likely to have grown since. These projections, while not official statistics, are designed to enable Councils to set housing policy.

13.3 The current and proposed licensing schemes would cover no more than 2,600 privately rented properties, which equates to 17.9% of the private rented housing stock in the borough. This means that the Council does not require Secretary of State approval to make the designations.

13.4 There is a risk of a significant budget shortfall if the scheme does not receive applications and fees from the anticipated number of licensable premises, however access to taxation and benefit claim data under the Housing Act 2004⁹ will mitigate that risk and the vast majority of the licensable properties will be identified as part of the consultation and designation processes.

13.5 This risk is mitigated by the experience that the Selective Licensing team has developed in mapping and taking enforcement action where there is a failure to licence. It should also be mitigated further by the formal consultation process.

⁸ Sub-national dwelling stock estimates – Office for National Statistics

<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/subnationaldwellingstockbytenureestimates>

⁹ Housing Act 2004, Section 237. This provides access to such data sets to local housing authorities for the purpose of exercising functions under parts 1 to 4 of the Act.

13.6 An application for Judicial Review is a realistic expectation. These have been successful where Councils have failed to follow the correct consultation processes or have been unable to justify part of their scheme, proposals or evidence base. Although the previous designations in Rotherham were found to be sound at the Judicial Review in 2015, and this experience has helped develop these proposals, it is possible a further review could be sought.

13.7 An effective dialogue with local and national landlord representatives through the newly formed Selective Licensing Steering Group and an effective consultation process should mitigate these risks.

14. Accountable Officer(s)

Tom Smith, Assistant Director, Community Safety and Street Scene
Damien Wilson, Strategic Director, Regeneration and Environment

Approvals obtained on behalf of:-

	Named Officer	Date
Strategic Director of Finance & Customer Services	Judith Badger	23.07.2018
Assistant Director of Legal Services	Dermot Pearson	20.07.2018
Head of Procurement (if appropriate)		
Head of Human Resources (if appropriate)		

This report is published on the Council's website or can be found at:-
<http://modern.gov.rotherham.gov.uk/ieDocHome.aspx?Categories=>