

ROTHERHAM BOROUGH COUNCIL – REPORT TO CABINET

1.	Meeting:	The Cabinet
2.	Date:	22 May 2013
3.	Title:	Improving Standards in the Private Rented Sector by Adopting New Strategic Interventions
4.	Directorate:	Neighbourhoods and Adult Services

5. Summary

This paper proposes that the Council adopts new strategic interventions designed to improve Private Rented Sector accommodation standards, address low housing demand, high levels of antisocial behaviour, and the cross cutting issues within our most deprived neighbourhoods by ensuring landlords either meet minimum management standards or are not allowed to let their property. We will mainly use the powers contained in the Housing Act 2004 to do this.

The interventions proposed in this report include; Selective Licensing, Enforced Sales, Empty Dwelling Management Orders, Interim Management Orders and other enforcement options. This package of interventions do not replace existing enforcement resources, but add further capacity to enable a much more intensive approach to be adopted in areas where we have struggled to improve private sector housing conditions.

These new interventions will need to be backed up with well founded evidence, robust consultation, mainstream Council resources and work alongside other initiatives, otherwise the approach will fail to have the desired positive neighbourhood impact.

6. Recommendations

1. **Approval is given to use a range of new interventions, identified as Enforced Sales, Empty Dwelling Management Orders, Interim Management Orders and low level enforcement options, to help improve standards in the Private rented Sector.**
2. **With specific reference to the use of powers relating to Enforced Sales, the recommendations relating to the required processed detailed in Appendix 3 be approved.**
3. **The Cabinet receive a future report to consider the business case for setting up a Selective Licensing scheme.**
4. **That non fee generating work is undertaken by the Resources Directorate to assist with legal, consultation and other enabling work to develop the new strategic interventions identified in this report.**
5. **A capital budget of £80,000 is identified to enable property improvements to be carried out as part of the use of approved tools**

7.1 Background

Rotherham has a number of neighbourhoods where housing problems in the private rented sector are contributing to low demand and antisocial behaviour. These areas exist despite the Council using its powers of enforcement and providing guidance to landlords to improve standards over many years.

In Rotherham there are six distinct areas containing 8,000 households, of which approximately 2,500 are private rented properties that have:

- above average numbers of private rented sector properties
- below average property values
- high numbers of empty properties
- high levels of antisocial behaviour and crime

These areas are:

- Canklow
- Eastwood
- Town Centre
- Masbrough/Ferham
- Dinnington
- Maltby South East

It is no surprise that all of these areas are also amongst the eleven most deprived areas in the borough. The measures outlined in this report should have a positive impact as part of the wider scope of work undertaken within the Deprived Neighbourhoods Programme.

Because of low demand, antisocial behaviour and limited impact made through existing interventions, we are proposing the use of new tools as a means of compelling private sector landlords to manage their properties and their tenants better.

The interventions described later in this report are not considered to be a cure to low demand or antisocial behaviour in themselves and can only be considered as additional tools to complement other multi agency working and regeneration activity.

7.2 The case for change

Currently the Council's Community Protection Unit (CPU) respond to enquiries regarding private rented sector properties in a reactive manner and they also offer resources to contribute to an enhanced strategic enforcement approach in areas such as Eastwood Village. But, this approach is clearly not able to make sustained inroads into the problems of poor quality private rented housing across all of our most challenging neighbourhoods.

We therefore need to look afresh at how we can draw in additional resources and utilise the most appropriate tools contained in the Housing Act that have hitherto not been used in Rotherham.

If we do nothing there is a concern that the Council and other public and voluntary bodies will continue to pour resources into these neighbourhoods in a reactive way and remain unable to achieve sustainable improvements.

Options to do things differently

The following are the suggested potential interventions which are briefly described in turn, with more details contained in the appended documents to this report. These tools if adopted can be used across the entire Borough except for Selective Licensing which will be targeted to specified neighbourhoods identified in the business case.

Using a range of 'on the ground' enforcement tools *(see appendix 1)*

The physical appearance of an area impacts on the quality of life of residents and can influence their behaviour and expectations. Currently a range of established enforcement powers are used both proactively and reactively to tackle problems associated with private sector housing conditions, neighbourhood standards such as accumulations in gardens and fly tipping, and anti-social behaviour. Appendix 1 summarises the existing powers that are in use.

The Council needs to use a range of appropriate tools that are progressively interventionist based on conditions on the ground.

Selective Licensing *(see appendix 2)*

Selective Licensing is used to control the behaviour of private landlords and raise/sustain standards in the private rented sector, where its introduction will reduce specific housing problems and where all other options have been exhausted. It is anticipated that one effect of this approach will be an improvement in market conditions, for example, by attracting higher quality landlords in to the area.

One aim of Selective Licensing is to help address low demand and high levels of antisocial behaviour, by ensuring landlords either meet minimum management standards or are not allowed to let their property. A licence fee paid by landlords will enable the Council to increase the resources employed and dedicated to meet the aims of the local scheme. Additional staff will be employed to work in the licence areas alongside landlords to improve standards by offering advice and support or by taking enforcement action when necessary. The scheme does not replace existing enforcement resources but adds further capacity to enable a much more intensive approach to be adopted in areas where we have struggled to improve private sector housing conditions.

The introduction of selective licensing must be underpinned by a robust business case, which demonstrates why it is needed and what it is expected to achieve. It is also important there is sufficient income from the combined licence fees to pay for the staff required to meet the objectives of the scheme.

Enforced Sales Procedure *(see appendix 3)*

Long term problematic empty homes are a major cause for concern. They represent waste, financial expense and missed opportunities. They can blight communities, attract vandals and tie up resources of the Council and partners. In addition there is a waste of scarce housing resource where there is a shortage of supply of affordable housing.

An Enforced Sales Procedure gives the Council an additional tool to tackle long term empty properties where the owner cannot be traced or the owner is not working with the Council to bring the property back into use.

The tool is one of last resort, used when a range of measures have been taken and failed to address the issue. Many authorities use Enforced Sale as the preferred option to tackle empty properties, given the speed, comparative low resource demand, and financial implications.

Empty Dwelling Management Orders (EDMO) (see appendix 4)

This gives the Council a tool to tackle long term empty properties that are problematic whilst ensuring that the Council has some control over the future of the properties for a prescribed period

The steps to achieve an EDMO will be influenced by the information gathering stages and in particular by the referral through to the Residential Property Tribunal for determination. Once the interim EDMO is in place it can last up to a year, although progression to full EDMO can be speedy and measured in terms of weeks or last up to 7 years.

Interim Management Orders

(IMO) and Final Management Orders (FMO) (see appendix 5)

An IMO transfers the management of a residential property to the Council for a period of up to twelve months. In particular the IMO allows the Council:

- Possession of the house against the immediate landlord, and subject to existing rights to occupy;
- To do anything in relation to the house, which could have been done by the landlord, including repairs, collecting rents etc.;
- To spend monies received through rents and other charges for carrying out its responsibility of management, including the administration of the house;
- To create new tenancies (with the consent of the landlord).

A FMO cannot be made unless immediately beforehand an IMO or another FMO was in force. An FMO lasts for a maximum of five years and allows the Council to manage as in an IMO.

Compulsory Purchase Orders (see appendix 6)

This gives the Council a tool to tackle long term empty properties and occupied properties that are problematic whilst ensuring that the Council has some control over the future of the properties in that the forced sale is to the Council.

Like Selective Licensing and Enforced Sale the tool is one of last resort used where a range of measures need to have been taken to address the issues before seeking the CPO.

It can be used to acquire a single property or more usually multiple properties. However, the process is lengthy, resource intensive and not always successful as the Council has found out in a previous case.

Existing Support to the Private Rented Sector

The Council and its partners are already giving a significant amount of support to this sector. Interventions include:

- Affordable Warmth grant funded programmes which are insulating properties and making them more affordable to heat for tenants.
- Landlord Accreditation which is helping to manage private properties and or achieve prescribed standards so the Council can help let them.
- Landlord Forums are supported by the Council with officer input at meetings offering advice and awareness on a variety of issues.
- Landlord News Letters sent giving up to date information and support.
- Landlord Rent in Advance and Bond Guarantee schemes to help tenants secure a home. The Council is putting sufficient funds in place to meet the demand for this service and benefits by reducing the incidence of homelessness.
- Housing advice to tenants wishing to access the private rented sector via our Property Shop.
- Empty Homes initiatives where the Council offers advice and support to bring empty homes back into use.
- Money Advice and Credit Unions which is helping tenants manage their household income better.
- Area based regeneration initiatives which are making neighbourhoods more attractive places to live.

Summary

It is important sufficient staff resources are deployed to meet the objectives of the interventions described above. Taken together and as part of wider enforcement and regeneration activity, these tools will provide the Council with the interventions it requires to raise standards in the Private Rented Sector.

The main initial draw upon staffing resource in the short term, is the intensive preparatory work required to establish Selective Licensing. A member of staff has already been re-assigned to undertake this work. Once this work is completed and a decision has been taken to introduce selective licensing the Council can collect the licence fee and use it to employ dedicated staff to work in these areas to deliver the objectives of the scheme. Key to successful delivery will be identifying areas that meet the conditions and containing a sufficient number of landlords to ensure the scheme is affordable and not subsidised by the Council.

In using the tools identified above, the Council will need a capital operating budget sufficient in size to carry out essential works to properties. It is difficult to judge how large the budget should be as it will be replenished through property charges, the collection of rent and court decisions.

Some of the benefits of adopting this approach are:

- Dedicated staff improving PRS standards
- Standards are set and there is accountability of landlords and tenants
- All landlords will be required to hold a licence
- A reduction in long term empty properties

- Reduction in ASB
- Improved confidence in the area
- Increase housing demand

The benefits for landlords are:

- All landlords will be on a level playing field
- Potential to increase rents when standards rise and demand increases
- Investment and support into training and support
- The Council can discharge its homelessness duty to accredited landlords
- The Council can offer tenant references to landlords where there is a known good track record

Next Steps

Key milestones for delivery have been identified together with an estimated scheme commencement date. The option for phased implementation across neighbourhoods has been considered, but in order to benefit from the economies of scale and to ensure an affordable licence fee is charged, this approach is not appropriate.

Shown below is a hypothetical timetable for implementing a selective licensing scheme together with new enforcement tools within Rotherham.

Time Period	Completion Date	Selective Licensing
		Type of activity
3 weeks	End May 2013	Finalise area data to define precise areas for inclusion in Selective Licensing
2 weeks	June 2013	Set out what the offer is, how much it will cost and identify landlords
2 weeks	June 2013	Carry out Equality Analysis and write Business Plan
3-4 weeks	September 2013	Management and Cabinet approval of business plan and consultation plan
14 weeks	September – Dec 2013	Consult landlords and stakeholders (12 weeks) and report on consultation
3-4 weeks	March 2014	Management and Cabinet decision process. Forward to Full Council to Designate if approved.
	April 2014	Designation made and Selective Licensing in place.
3 months	April 2014 to July 2014	Start implementation & Statutory communication and introduction period (Housing Act 2004, s82(8)). <ol style="list-style-type: none"> 1. Recruitment and establishment of delivery team/organisation 2. Communication of new designation to the communities affected and landlords 3. Direct contact with respondents to consultation
5 years	End August 2014	First Licences awarded for a maximum period of 5 years

Appendix 7 provides details of the work programme.

8. Finance

Funding, both revenue and capital, will be required to support the introduction and operation of these tools. The selective licensing **business case preparation** and, in particular, the consultation process and initial salary costs will require funding in advance of securing the income generated from the licence fee.

In addition, given the timelines it can be anticipated that both the recruitment and early working of the **delivery team** will require up front financing ahead of licensing income. This financing should be viewed from using Invest to Save Principles.

If opportunities allow (by way of budget slippages etc), the costs of introducing Selective Licensing will be met from existing NAS budgets.

Once the scheme is operational, **property improvement works** will be necessary to some of the properties taken into the management of the Council where a landlord does not meet basic management standards. In these cases the Council will need to fund works in advance to ensure the property is free from hazards, the costs will then be met through rent paid by the tenant.

For a modest initial investment and development of this project there is an anticipated reduction in the cost of a range of cross cutting issues which will reduce overall spending for the Council and other agencies in these deprived neighbourhoods. In effect the project reflects an Invest to Save approach.

Looking at each of these in turn:

- **Business case preparation**

The full cost of the development and creation of the Selective Licensing business case must be borne by the Council and this cost is not recoverable as part of the licence fee. Therefore it is necessary to either identify sufficient funding to undertake the preparatory work on the business plan or use internal capacity. It is recommended we use internal capacity because of General Fund pressures and speedier deployment of internal staff resources. This work has commenced.

To undertake the consultation process and based on the total number of households (8,000 approximately) to be consulted over a three month period, a dedicated Team Leader (Band L) would be required to manage the process.

The affect would be to displace an M2 Manager from Community Protection for a period of six months. The remaining 2 Community Protection unit Managers will provide temporary cover. The affect of this approach will be a reduction in capacity to carry out other community protection and neighbourhoods' work in the short term.

The Manager will need to be able to draw upon existing resources from Housing and Neighbourhood Services teams, including Community Protection Unit, Community Safety, ASB, Sustainable Communities Team and Area Partnerships. All revenue costs will be absorbed from within existing budgets. Other resources will be required such as support from corporate consultation, equality and diversity resources.

- **Property improvement works**

Once a council takes control of a property it has to ensure that it is 'free from hazards' and therefore there is a direct cost to the Council to ensure that the

property meets the minimum standards for letting. The estimated cost, based on Key Choices Property Management data, to remove hazards in private rented properties currently occupied is £1,500 - £2,000 per property. It is unknown how many properties will fall into this category, however a budget of £80,000 would be prudent to set aside for such works during the first two years of operation. This amount of money will have to be available 'up front' to ensure that the quality of life of the tenant is instantly improved from the Council taking management responsibilities for the property. The cost of repairs can be reclaimed by the Council from the rental income and then recycled to support the removal of hazards in other private rented properties managed by the Council. Whilst properties are being managed, the Council will be able to recover monies from the rent appropriate to the cost of providing a management service and offering tenancy support. The remaining monies received from the rental income will be returned to the private landlord.

- **Income generated by the licence fee**

A designated Selective Licensing area must be self financing and the landlord will be charged a licence fee for their properties and this will be a one off cost. The scheme which is developed will be designed to be value for money for the landlords within the borough, be affordable and enable proper support for tenants and landlords whilst providing the opportunity for robust and proportionate enforcement of licence conditions. When benchmarking against other schemes fees range from £500 to £1000 per property for the duration of the Licensing scheme. The money generated will have to cover the cost of running the scheme for the five year duration and the monies ring fenced to this purpose only.

Resources Table		
Activity	Cost	Note
Detailed Business Case	To be absorbed from within existing budgets	1 manager working for 8 months to develop the scheme with support from other teams as required, including consultation with approximately 8,000 households, room bookings and publicity material
Property Improvement works	£40,000 per year	Capital expenditure to long term empties and the removal of hazards associated to those properties subject to Interim management orders. Expenditure for these issues is expected to be recovered from landlords
Selective Licensing Team	To be finalised but funded wholly from licence fee income and to be designed to be value for money	Funded by licence income is based on 2,000 PRS homes being included in the scheme and a one off licence fee paid for a 5 year period . The decision on the level of the licensing fee will be determined as part of the Business Case.

Note: The costs are indicative as the number of licences is not known yet and the amount of capital work undertaken is not fully understood at the time of writing this report.

9. Risks and Uncertainties

The risks of doing nothing are:

- The gap in our most deprived neighbourhoods continues to widen.
- We are unable to sustain current levels of resources that are deployed in a reactive way to resolve Private rented sector issues.
- Empty properties blight neighbourhoods negatively affecting the local housing market.

These risks can be mitigated by introducing the interventions described earlier

The redeployment of staff to work up the business case for selective licensing could have service implications that temporarily reduce service performance in those teams which are operating with reduced staff resources. This will be mitigated by effective management to assist with prioritising work and sharing responsibility for work.

10. Policy and Performance Agenda Implications

Improving the Private Rented Sector housing in Rotherham has a positive impact on helping to narrow the gap in our most deprived neighbourhoods and is a commitment in Rotherham's new draft Housing Strategy.

Through the effective use of Council resources, in this case CPU and Legal staff resources and in conjunction with other regenerative initiatives the Council is delivering much needed improvements in the private rented sector and offering a viable alternative to social affordable housing which is in great demand and so demonstrating value for money.

11. Background Papers and Consultation

Local Authorities utilising Selective Licensing – Blackpool, Hyndburn, Burnley and Leeds
CLG guidance on establishing Selective Licensing
Community Protection Unit, Housing Strategy and Legal Services and Deprived
Community Lead Officers

Contact Name : Tom Bell, Strategic Housing and Investment Manager Tel; 54954
email.: tom.bell@rotherham.gov.uk

On the Ground Enforcement Tools

Timescales

Short Term – can be measured in days, weeks or months depending upon the issue to resolution. Although prosecutions can lead to several months delay.

The powers to act include:

- Housing Act powers relating to the health & safety of the housing conditions
- Environmental Protection Act 1990 and the Public Health Acts for nuisance, rubbish in gardens, alleyways, Littering and fly tipping
- Clean Neighbourhoods and Environment Act 2005 for Dog fouling, defacement and waste disposal controls;
- Town and Country Planning Act 1990 for dealing with visually detrimental buildings.
- Anti-Social behaviour (ASB) tools and powers under the Crime and Disorder Act in relation to general ASB and the Housing Act 2004 for ASB affecting council housing.

Advantages

- Provides for resolution of issues through set legal process
- Can lead to prosecution and consequent message to others
- Works can be done in default and consequently land charges would result which would support enforced sale for example.
- Gives the Council an visual presence
- Gives the Council and community evidence that action is being undertaken to improve the quality of life
- Relatively inexpensive option
- Provides relatively short resolution timescales
- Flexible and adaptable

Disadvantages

- Is not the complete answer, sustainability needs to be achieved through effective cross Council and partnership working to provide long term resolution
- Requires corporate buy in to support the actions and sustainability
- Limited resources and a Statutory Duty to deal with all issues across the Borough not just within a focused area

Selective Licensing

The methodology for implementation

It is necessary to show that the methodology followed in setting up a licence area follows the Government guidance otherwise the Council will be open to challenge that could prevent the scheme going operational. The Council can self designate any scheme but It will need to produce a robust business case to clearly demonstrate it is the best option to achieve the desired outcomes.

Developing the Business Case for Selective Licensing will take 6 months to complete. A report will then be drawn up to present to Cabinet for consideration and appended to this report will be the proposal to designate the scheme in identified neighbourhoods of Rotherham.

The main areas of work which follow government guidance on establishing Selective Licensing areas are:

Identifying compliant areas where Selective Licensing can make a positive difference. To identify areas there needs to be evidence gathered on:

- ASB levels
- Void levels
- Low demand issues (Housing Market Intel)

Clear mapping then needs to take place with red line plans of compliant areas

Interventions previously used to try and improve the area

- What other strategies have been tried
- Why not worked

Clear rationale developed for why the boundary was chosen.

- Consider other options e.g. crime and disorder strategies
- Why will Selective Licensing work?
- Is the scale/size right to make affordable and sustainable?

Options for improvement, what's the offer?

- Draft licence fee proposals, how much will it cost
- What do the landlords get in return for paying the fee?
- What is the fee income paying for?
- Does it represent value for money?

Developing a consultation plan

- Identify landlords
- Set out timetable for meetings and resource requirement
- Prepare consultation material
- Develop record keeping of responses

Consultation

- 12 week period to conform to RMBC protocols
- Start with Elected member briefings
- Letter mail out
- Face to face and attend forums and meetings etc

The Licence fee will be used to fund the management of the licensing regime. To do this staff and resources will need to be identified and put in place for the start of the scheme delivery. Prior to this the Council will need to fund business case enabling work, however these costs cannot be funded by the licence fee and therefore will need to come out of existing Council resources. Enabling and Management resources are described in the body of the report under the Finance section.

Whilst detailed business planning is underway, the Council's Community Protection Unit (CPU) will continue to respond to enquiries regarding private rented sector properties in a reactive manner and they will also offer resources to undertake an enhanced strategic enforcement approach in areas such as is being carried out in Eastwood Village.

When Selective Licensing is successful it can:

- Reduce antisocial behaviour
- Increase housing demand
- Provide support and training for private landlords
- Improve housing and management standards
- Offer a positive economic future for the local community and local businesses
- Accountability and responsibility for repairs
- Accountability for tenants' behaviour, including other people who reside in the properties
- Tenants more aware that they must act in a reasonable manner and not be associated with anti social behaviour
- Tenants benefit from the guarantee of safe and well managed housing
- Poor landlords are forced out of the area
- Profile and public image of the area is raised, encouraging tenants into the area and inward investment
- Make private rented sector more viable
- Will give the Council an overview of the private rented sector in these areas aiding strategic direction

Specific benefits to landlords are:

- Responsible landlords will receive information and support
- Licensing creates a level playing field, so decent landlords will not be undercut by unscrupulous landlords
- Poorly performing landlords will receive support and training to improve
- Improved rental income as areas improve
- Improvement in the reputation of private landlords
- Shorter void periods and reduced tenant turnover
- Landlords have the option to join an accredited scheme for additional support and advice

Specific benefits to tenants are:

- More professional landlords should bring about improvements to the quality and management of property
- Tenants could also see economic benefits, for example in reduced heating costs and improved likelihood of regaining any deposit paid
- Improvements to the neighbourhood would also benefit private tenants' security and sense of community
- Better management practices should help to increase length of tenure and reduce incidence of unplanned moves or homelessness

Equally the introduction of a licensing scheme would bring with it certain obligations for Landlords including:

- Hold a current annual gas safety certificate for the premises
- Ensure any provision of furniture complies with the Furniture Furnishings (fire) (safety) Regulations 1993
- Ensure electrical appliances in the dwelling are safe, and provide a safety declaration if requested to do so
- Fit and maintain smoke alarms as necessary
- Issue tenants with a written tenancy agreement that includes terms and conditions regarding nuisance and anti-social behaviour
- Take reasonable and practicable steps to prevent or reduce anti-social behaviour
- Obtain references for prospective tenants
- Carry out repairs and other legal responsibilities in a reasonable time
- Give their contact details to tenants
- Required to hold a licence and pay a fee which local authorities set
- Landlords will have to demonstrate that they are a fit and proper person

The risks associated with running a Selective Licensing scheme are listed as follows:

- Notional Selective Licensing term of five years requires a resource commitment from all partner agencies. A robust business case has to be supported with both revenue and capital monies throughout the period.
- Revenue cost of delivering the scheme has been proved by other local authorities to be higher than landlords' expectations and therefore local authorities have actively subsidised the scheme to encourage 'buy-in' by landlords. Investigations need to be undertaken to establish whether the licence fee is sufficient to cover all on-costs associated with administering the scheme.
- Lack of funding being available to support commissioning/delivery teams will result in the areas continuing to cause resource problems for the Council.
- Resistance from landlords can be overcome with detailed evidence highlighting the area to be of low demand. Landlords and tenants will be offered advice and support to minimise problems associated with tenancy management. Selective Licensing needs to improve the area so property values will increase.
- If Selective Licensing is not introduced with careful planning, there is a risk that Selective Licensing could have a negative impact, as good and bad landlords alike leave the area due to the licence fees and increased obligations. This could result in an increase in abandoned properties and displaced and homeless people from the area.

- The 'fit and proper' test will be based on local knowledge that may not highlight a person's appropriateness for operating as a landlord. Ensure that there is a robust and supported person check in place to minimise problems being created by uneducated landlords. Offers of landlord development can be made in cases where there is concern regarding the appropriateness of the landlord.

Examples of Selective Licensing Delivery Teams in other LAs

Below are 2 examples of Local Authorities who are currently operating Selective Licensing schemes and the resources and anticipated benefits they are receiving.

Blackpool Council

Blackpool Council currently delivers a selective licensing scheme consisting of 790 properties and the following is an extract from their selective licensing designation document for South Beach Blackpool.

The operation of the scheme will be funded through the revenue raised from the fees collected, which provisional estimates put at approximately £547,000 over the five years of the project. This figure is based on assumptions about the number of people who may apply early and receive discounts, or conversely may be penalised as described earlier.

It may also be the case that for various reasons that a number of rented units presently seen in the area may reduce, thus reducing the council's projected income from these.

It should be stressed that any income raised is ring fenced meaning that it can only be used for this project and not for any other reasons.

The calculations of the fee structure have been based on the following posts needed to operate the scheme:

- 4 Licensing Officers
- 4 Licensing Support Officers
- 1 Landlord Support/Anti Social Behaviour Officer
- 1 Modern Apprentice

This adds to the existing compliment of 4 Housing Enforcement Officers and a Housing Enforcement Manager.

Burnley Council

Burnley Council commenced the Trinity Selective Licensing Designation Area in 2008 to last 5 years and the following is extracted from their 3rd year review of the scheme, *The Third Year of Selective Licensing in the Trinity Area – Annual Monitoring Report (October 2010-October 2011)*.

From 2008 to January 2012, £326,156 has been spent on the delivery of the selective licensing designation area. For the same period £480,000 income has been received through licence fees, court costs and internal Housing contributions. This leaves a current reserve of £153,844. It is predicted that a further £50,000 licence income will be received in 2012/13 and 2013/14 taking the current reserve to £203,844. The remaining predicted spend for the remaining months of 2011/12, 2012/13 and 2013/14 is £197,899 leaving a credit of £5,945 at the end of the designation area.

Enforced Sales Procedure

Timescales

Medium Term – requires initial enforcement action and works in default together with a land charge placed on the property. Speed will be subject to the legal process.

Why do it

An Enforced Sales Procedure gives the Council an effective tool to tackle long term empty properties where the owner cannot be traced or the owner is not working with the Council to bring the property back into use.

Similarly to Selective Licensing the tool is one of last resort used where a range of measures need to have been taken to address the issues before seeking Enforced Sale.

Advantages

- Increased likelihood that the new owner will refurbish the property ensure habitation.
- Financial charges which could otherwise prove impossible to recover, can be discharged out of the proceeds of the sale.
- Increased encouragement on owners to discharge their debts more readily, carry out works pursuant to statutory notices served and keep their properties in a reasonable state and condition. This results in less resources being expended by the Council and partners.
- The Enforced Sale Procedure is presently more expedient and involves less bureaucracy than making a Compulsory Purchase Order.
- The process does not add to the burden on resources for NAS
- The process is relatively speedy
- The process is very much an add on to existing enforcement Works in Default. The burden of the add on would be with Legal rather than NAS
- Financially there would be no additional costs to NAS, other than the resources needed to formulate and put into place an Enforced Sales Policy.

Disadvantages

- There is no guarantee that the property will again be lived in once sold, and the Council does not have the powers to force the property to be inhabited.
- The owner is able to repay the debts while the Enforced Sale process is underway, which although repaying the debt does not ensure that the property is inhabited again.

Required Process

Whilst the use of Enforced Sales powers provide a method for getting long term problematic properties back into use, it is primarily designed to enable Councils to recover outstanding debts created by the discharge of other remedial legal actions that have resulted in a land charge against a property (usually where statutory notices have not been complied with and works in default have been undertaken).

There is a need for key issues, as follows, to be agreed:

1. Debt Threshold

It is fundamental that the Council establishes a level of debt at which it would seek to utilise the Enforced Sale Procedure. It is recommended that, taking into account both the use of the power by other Local Authorities and advice from the Head of Legal Services regarding the proportionality of the scheme, this **level of debt shall be set at £500.**

2. Procedure

In addition, the use of the statutory powers require adherence to an adopted procedure. Such a procedure has been finalised with advice from the Head of Legal Services. The procedure is divided into two processes; the first part of which deals with the process up to the stage of the service of notice under section 103 of the Law of Property Act 1925 which will be dealt with by the Council's Community Protection Unit; the second stage following the service of the s.103 notice will be addressed by the Council's Legal and Democratic Services. It is recommended that **the Director of Housing & Neighbourhood Services approves the working procedure** for operational implementation.

Empty Dwelling Management Orders

Timescales

Medium to Long Term – the process to interim EDMO will be influenced by the information gathering stages and in particular by the referral through to the Residential Property Tribunal for determination. Once the interim EDMO is in place it can last up to a year, although progression to full EDMO can be speedy and measured in terms of weeks.

Why do it

Gives the Council a tool to tackle long term empty properties that are problematic whilst ensuring that the Council has some control over the future of the properties over a prescribed period.

Like Selective Licensing and Enforced Sale the tool is one of last resort used where a range of measures need to have been taken to address the issues before seeking the EDMO.

Advantages

- Compliments other powers
- Brings the property back into use
- Improves problematic properties and quality of life around them
- Can utilise partner property management agencies to manage the properties
- Can provide long term occupation of a property of up to seven years
- No right of appeal in relation to final EDMOs

Disadvantages

- Properties are in hard to let areas
- Interim EDMOs are open to appeal
- Process can be lengthy, costly and resource intensive going in preparation and going through the RPT
- Owner can take back control at Interim EDMO stage
Need owners consent at Interim EDMO stage to place tenants

Interim Management Order (IMO) and Final Management Order (FMO)

An IMO transfers the management of a residential property to the Council for a period of up to twelve months.

In particular the IMO allows the Council

- Possession of the house against the immediate landlord, and subject to existing rights to occupy;
- To do anything in relation to the house, which could have been done by the landlord, including repairs, collecting rents etc.;
- To spend monies received through rents and other charges for carrying out its responsibility of management, including the administration of the house;
- To create new tenancies (with the consent of the landlord).

What is an FMO?

A Final Management Order (FMO) cannot be made unless immediately beforehand an IMO or another FMO was in force.

An FMO lasts for a maximum of five years.

The FMO transfers the management of the house to the Council for the duration of the order.

In particular the FMO allows the Council

- Possession of the property against the immediate landlord, but subject to existing rights of occupation;
- To do anything in relation to the property, which could have been done by the landlord, including repairs, collecting rents etc ;
- To spend monies received through rents and other charges for carrying out its responsibility of management , including the administration of the property;
- To create new tenancies (without the consent of the landlord).

Compulsory Purchase Orders

Timescales

Long Term – process and challenges can cause lengthy delays

Why do it

Gives the Council an effective tool to tackle long term empty properties and occupied properties that are problematic whilst ensuring that the Council has some control over the future of the properties in that the forced sale is to the Council..

Like Selective Licensing and Enforced Sale the tool is one of last resort used where a range of measures need to have been taken to address the issues before seeking the CPO.

Advantages

- Removes a range of blight in the area
- Increases community confidence in the Council's commitment
- Recovers the Council's WID debts
- Can be used to target a single property
- Can be used to kick start regeneration in an area

Disadvantages

- Open to Public Enquiry
- Contentious
- Often consider to be 'difficult' by Councils
- Resource intensive
- Costly in terms of process, relocation and compensation
- Council can have a portfolio of the worst properties in the Borough