

## ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS

1.	<b>Meeting:</b>	<b>The Cabinet</b>
2.	<b>Date:</b>	<b>27<sup>th</sup> November 2013</b>
3.	<b>Title:</b>	<b>Business Case to consider the Selective Licensing of Private Rented Accommodation in Rotherham</b>
4.	<b>Directorate:</b>	<b>Neighbourhoods and Adult Services</b>

### 5. Summary

Further to the report to Cabinet on 22<sup>nd</sup> May 2013 on “Improving Standards in the Private Rented Sector”, this report presents the findings of the Business Case to assess the potential introduction of Selective Licensing in some parts of the borough which are suffering from the effects of low housing demand and/or Anti-Social Behaviour.

The review identified areas which meet the primary low housing demand criteria in the Housing Act 2004 which have:

- Low values of residential premises in the area when compared with similar areas
- High proportions of empty properties
- High turnover of occupiers of residential property.

The analysis concludes that there are consistent indicators of low housing demand in three areas of the Borough compounded by high Anti-Social Behaviour rates in all the areas, high rates of disrepair complaint in most, and increasing crime rates in more than half of the individual Super Output Areas considered.

The areas identified as suffering from low housing demand and to be prioritised for consideration for licensing are:

- Rotherham Central, including the Town Centre, Canklow, South Central & Boston Castle, Eastwood and Masbrough
- Dinnington
- Maltby South East

The decisions arising from this report are likely to have a significant effect on communities living or working in an area comprising two or more wards, and therefore, under the provisions of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, these decisions are deemed as **Key Decisions**. Accordingly, the required 28 day pre-meeting public notice has been made.

### 6. Recommendations

**It is recommended that Cabinet approve that:**

**6.1 Selective Licensing should be considered in the areas identified by Option 1 of this report.**

**6.2 The required public consultation be commenced to introduce Selective Licensing and that its outcome be reported to Cabinet**

## 7.0 Proposals and Details

### 7.1. Introduction

This report looks towards a contributory proactive solution for a number of neighbourhoods where the private rented sector is contributing to **low housing demand** and **Anti-Social Behaviour** (ASB). The proposal for the introduction of a Selective Licensing scheme takes into consideration that these areas exist despite the Council using its enforcement powers and providing guidance to landlords to improve standards over many years. In addition previous significant investment from such schemes as the Housing Market Pathfinder initiative in these areas has not brought sustained community and infrastructure improvement. The review undertaken to assess the need for such an approach is detailed in a Business Case which has been available to Members and can be viewed on the Council's website.

**Low demand** is indicated by factors which demonstrate that areas are not as desirable as others, such as high rates of empty property, high rates of occupier turnover, low property values and other social factors.

To effectively tackle the problems associated with low housing demand it is necessary to ensure that all stakeholders take their share of responsibility in the areas in which they live, work and invest. Historically, intervention with problem tenants and properties has been focussed on criminal enforcement methods, which tackle the problem at the time, rather than the area as a whole. By ensuring landlords have an investment in their communities as well as the properties they own, we will enable a reduction in ASB incidents. In a similar way, reactive housing enforcement to complaints about poor housing standards and landlord/tenant relationships can only have a limited and short term impact in some areas with entrenched problems.

Poor housing conditions and excessively cold and damp properties have significant health impacts on occupiers, in addition to the physical safety risks to tenants of poorly maintained property.

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) and short term tenancies are having a negative impact on those communities.

In some Local Super Output Areas (SOA's)<sup>1</sup> the private rented sector accounts for up to 41% of the housing market with an increase of up to 14% in some areas since 2001 and is becoming a significant part of the overall housing market.

Because of the concerns about low demand, ASB and limited impact of existing interventions in some of our neighbourhoods, the use of Selective Licensing under the Housing Act 2004 is being considered as a means of ensuring private sector landlords manage their properties better and to ensure tenants fulfil their responsibilities to the communities they live and work within.

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<sup>1</sup> 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.

The Business Case provides discussion of the following elements:

- What is Selective Licensing?
- The Legislative Requirements
- Previous Interventions and alternatives to Selective Licensing
- Benefits of a Selective Licensing Scheme
- Critical data analysis
- Evidence Supporting progression of a Selective Licensing Scheme, and
- Identification three areas of the Borough for consideration for a scheme

Making designations for Selective Licensing schemes, along with other partnership interventions, are designed to reduce problems associated with low housing demand, improvement in housing standards and a reduction in ASB and crime.

The objectives of a designation in should be based on the evidence on which the designations are made and these should be:

- Reduction in the turnover of occupiers in areas which will in turn provide a more stable community and greater pride by residents in their area,
- Reduction in rates of empty properties through the promotion of the areas for both buying and letting residential properties,
- Ensure minimum standards are met by landlords for the safety of properties
- Reductions in crime and ASB brought by more stable communities.

A designation would require all privately rented properties within the identified boundary (subject to statutory exemptions) to be licenced for up to 5 years. Each licence will be charged at a standard rate with the potential for discounts. The anticipated maximum cost of a licence is currently £687 for the 5 year period, with some proposed reductions for accredited landlords and for single payments. Further details are in Section 8 of this report.

The Council will provide a dedicated landlord liaison officer, direct support for landlords in the scheme and regular landlord and tenant meetings through the life of the scheme.

The potential benefits for landlords of a Licensing scheme will be:

- more informed and responsible tenants,
- cheaper maintenance bills for properties,
- reduced crime and vandalism,
- reduced levels of fly tipping and waste issues,
- more involved landlords sharing good practice,

- and more desirable communities attracting higher sale values for properties.

The benefits to the wider community, Rotherham Council and partners are:

- lower levels of deprivation in these communities,
- lower turnover of occupiers with more stable communities,
- reductions in ASB and Crime,
- potential savings in reactive enforcement work across the Council and service partnership;
- a more “professional” landlord community.

Accredited<sup>2</sup> landlords (by national organisations or other local authorities) will benefit from lighter touch regulation while all un-Accredited landlords will have properties inspected prior to, or as soon as possible after Licences are granted. All licenced property will be part of a sampling inspection programme through the life of the scheme with the aim of inspecting at least 50% of all licenced property for compliance with licence conditions.

Each Licence holder will receive a standard set of conditions with additional conditions added where appropriate following an inspection of the property. These conditions will be monitored through the administration of the scheme.

The administration, compliance monitoring and support for the scheme will be financed solely from the licence fee’s received. In order to provide the best value for money for landlords, it is desirable that the application handling be fully digital, with online application and automated processing which will reduce the processing time for applications. This will enable the staffing costs for administering the scheme to be kept to a minimum. A summary to the financial breakdown is included in Section 5 of the Business Case and provided in Section 8 below.

## **7.2. Proposals for a Selective Licensing Scheme**

From an analysis of data relating to the housing market in the Borough there are three distinct areas of Rotherham which show characteristics of low housing demand consistent with the definitions in the Housing Act 2004 and the associated guidance. The boundary maps for these areas can be found in Appendix 1. These are:

- **Rotherham Central**, comprised mainly of the Super Output Areas Rotherham Town Centre, Canklow and South Central & Boston Castle and the SOA’s within Eastwood and Masbrough,
- **Dinnington** Central and East SOA’s
- **Maltby South East** made up of the Town Centre, Muglet Lane and Maltby Main SOA’S.

In all parts of these areas there is clear evidence of:

- High rates of empty properties
- high rates of occupier turnover,

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<sup>2</sup> Accredited Landlords or Managing Agents are those who have received Accreditation by either another local authority run accreditation scheme or by a national body, and can demonstrate that a training programme has been completed to achieve accredited status.

- high rates of ASB
- high proportions of rented and privately rented property
- lower than average rates of owner occupied property

Most areas suffer from lower than average house values. Where property values have been found to be more towards the average or above the average, those areas are adjacent to another SOA which is suffering those problems.

Disrepair complaints in all the areas were higher than the average for the Borough with concentrations of overcrowding complaints in the Eastwood, Masbrough and Town Centre/Canklow SOA'S. Criminal activity in half the SOA's was also found to be increasing, with sharp increases in the Masbrough West and Bradgate areas.

There are just over 2,400 privately rented properties (excluding registered providers of social housing) in the proposed areas with **2,029** properties likely to be licensable. The difference being due to some properties are legally exempt from Licensing. These include those where tenants are close family members or where the tenant is sharing the accommodation with the owner of the house<sup>3</sup>.

A set of the draft licence conditions are drafted in Section 4 of the Business Case and replicated in Appendix 2 of this report.

### **7.3. Options Appraisal**

#### Option 1 – Introduce Selective Licensing in all the areas identified as suffering from low housing demand.

This option provides a large scheme of approximately 2,029 licensable properties and efficiencies for landlords through its size and scale. These premises are within the areas shown in Appendix 1. The key benefits of this option are dedicated staff to the scheme to provide full time support and advice to landlords and tenants and as a licence fee which is as low as possible for landlords.

Additional short term inspection capacity will be required for the routine inspections for non-accredited landlords to ensure houses can be inspected within a reasonable time scale of the application and fee being received. As most applications will be received within the first 12 months it would be impractical for the Council to directly employ enough inspectors for that short period to meet the demand.

There is a risk that in developing a large scheme covering all the areas there will be a heavier burden on existing enforcement services without the ability to recover finances from the licence fee. This number of individual designations also may result in an increased risk of challenge through the Courts. National and regional landlord organisations have objected to large schemes previously in other parts of England.

Consideration has been given to adjusting this option to limit it to streets in those areas where there are identified issues and problems with tenants and landlords. To, however, prevent a migration or displacement/transference of a problem within similar priced or located areas, an inclusion of the whole area it is viewed that it is more appropriate, with some additions, to ensure communities are considered as a whole with this intervention.

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<sup>3</sup> Article 2 of The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006

With all street areas having equal distributions of rented properties the de-selection of some streets from the scheme would also place the finances at risk on not achieving the required income as not all streets areas have equal distributions of rented properties. The financial operational model for the scheme is based on self-financing with little/no cost burden being borne from the Council's general fund revenue account.

#### Option 2 – Introduce Selective Licensing in Eastwood and Masbrough.

This option introduces a limited size scheme (700 licensable households) which would cover two areas in the centre of Rotherham with the most acute levels of low housing demand. This could be paired with a voluntary accreditation scheme (Option 3) in other areas of Rotherham, with which to compare the effectiveness of different options.

A smaller scale project would provide the ability to introduce selective licensing in Rotherham at a gradual pace, annually considering outcomes of the first designations before considering introducing further designations.

Due to smaller numbers of licensable properties it is likely that licence fees would be higher for landlords and the scheme would not provide a dedicated team for the administration of the scheme. Enforcement relating to the scheme would have to form part of the existing functions within the Community Protection Unit which, without providing additional resources to cover the additional work, may be difficult to carry out effectively. The voluntary accreditation scheme would require the identification of additional resources to manage and facilitate.

#### Option 3 – Voluntary Accreditation Scheme

The Council did run a voluntary accreditation approach in 2004 but this was not successful due to a low uptake by landlords. Establishing a new scheme would provide an opportunity to work proactively with landlords and agents on a voluntary basis and to build a co-operative approach to improving standards in the sector. This may be considered more appropriate by landlords, agents and national landlord groups.

Other authorities in South Yorkshire and across the country have voluntary accreditation schemes; however these usually result in the most professional landlords registering. It does not force absentee or irresponsible landlords to register, nor does it place any additional responsibilities upon those for which the scheme is designed. Hence, such an approach would be unlikely to cover those landlords who may be viewed to be those who need to most improve both their management and standards of their properties.

Accreditation of landlords by the Council would also require the identification of additional resources with which to manage and facilitate a scheme, as opposed to requiring landlords to be accredited through any Licensing Scheme. Where landlords have properties which fall under multiple schemes in different areas they could also use their accreditation under a different scheme or a National scheme by a Landlord association.

Operating a voluntary accreditation scheme is not a financially viable option for the Council.

### **7.4. Process of Designating Areas and Timescales**

Following a decision by the Cabinet to proceed with proposals, a public and targeted consultation is required. This 12 week consultation will include:

- A consultation report with the draft designations will be prepared and posted on the 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 promoting the consultation throughout the 12 weeks
- A questionnaire posted to all addresses within the proposed areas (residential and businesses).
- A letter and questionnaire to every private sector landlord for which the Community Protection Unit has direct contact details
- Consultation meetings in each locality with drop in sessions throughout the consultation period
- Landlord consultation meetings in each locality
- Direct contact with Landlord associations and representatives
- A door to door survey with tenants and residents in areas where there are language and communication barriers

The following is an approximate schedule for different stages of the process should the recommendations in this report be agreed.

Time period	Completion Date	Type of activity
10 weeks	Feb 14	Consult landlords and stakeholders and report on consultation
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	May – August 2014	Statutory communication and introduction period (Housing Act 2004, s82(8)). <ul style="list-style-type: none"> <li>1. Recruitment and establishment of delivery team/organisation</li> <li>2. Communication of new designation to the communities affected and landlords</li> <li>3. Direct contact with respondents to consultation and other people identified by regulations</li> </ul>
5 years	August 2014	Start implementation for a maximum period of 5 years

## 8. Finance

The council can recover the costs incurred in administering the scheme from a fee for each licence. The proposed standard fee is **£687** for a Licence which lasts for up to 5 years. It is proposed that the following discounting should be part of the fee structure:

- Reduction of £100 for applications where the applicant or proposed Licence Holder is an accredited landlord at the time of the application. This reflects that accreditation would reduce:
  - the inspection of each house prior to or shortly after a Licence is issued
  - revisits to check on compliance with any advice/requirements of that initial inspection
  - the generation of an inspection report and,

- administration time to process inspections.
- Reduction of £10 for application payments made via direct debit or invoicing. Payments by credit/debit card are not subject to additional internal processing charges.

An inspection programme covering a sample of 50% of licenced houses for compliance checks will be part of the scheme and therefore accredited landlords may receive an inspection part way through the scheme.

The proposed staffing needs for Option 1 are as follows:

- Team Leader – Single point of contact for landlords and licence holders in the designated areas, staff and contractor performance management, annual reviews and quality assurance.
- Housing Licensing Officer (x2 reducing to 1 in year 5) – Deputise for Team Leader, application consultations, carry out annual reviews of licences and checking submitted documents and confirming licence conditions, technical guidance and assistance to Administrative staff. Reduced from two to one officer in year 5.
- Licensing Administration Officers (x3 reducing gradually to 1 in year 5) – Application and enquiry management, processing of licences and updating records from inspections, licensing correspondence.

The ability to pay by instalments over a 12 months period would provide flexibility and make it easier for landlords to pay. These proposed fees could change if there are changes due to considerations in a later consultation or increased/reduced costs for infrastructure and administration.

Some schemes (for example Thanet District Council) have also provided larger portfolio landlords (10 or more properties) with the ability to pay for a single year licence in the first year and then to pay for the remaining four years just before year 2. This would be of significant benefit and encouragement to these landlords who could face a significant bill in the first year of the scheme. If they were to fail to renew the licence before the end of the first year and pay the remaining 4 years fee then the licence lapses and they are then required to pay for a full licence fee for each property with no further reductions.

As a delivery model, it may be possible to look to the private sector to deliver the scheme on behalf of the Council, however there are no schemes currently in operation in other authorities with private providers assuming all the functions and the process of engaging with an untested provider may have additional risks to the scheme and timescales for implementation. A level of outsourcing is planned into the initial licensing process to enable efficient and timely inspections of properties prior to licensing.

It is proposed that the licence fee be set and reviewed annually in the fees and charges review process to ensure value for money new landlords (those that have acquired a house to let in the preceding 3 months).

There will be additional financial burdens placed on the Community Protection enforcement team (estimated as 2 fte) as the cost of enforcement cannot be recovered by the licence fee.

In managing the financial arrangements of the scheme, the income collected from the licence fee will be accounted for over the full 5 year period that the licence covers in order to meet the costs of administration of the scheme over the full period. It is anticipated that the

scheme will operate in a deficit for the first 6 months due to employment and infrastructure costs. Figure 6 demonstrates the income and expenditure over the life of the scheme.

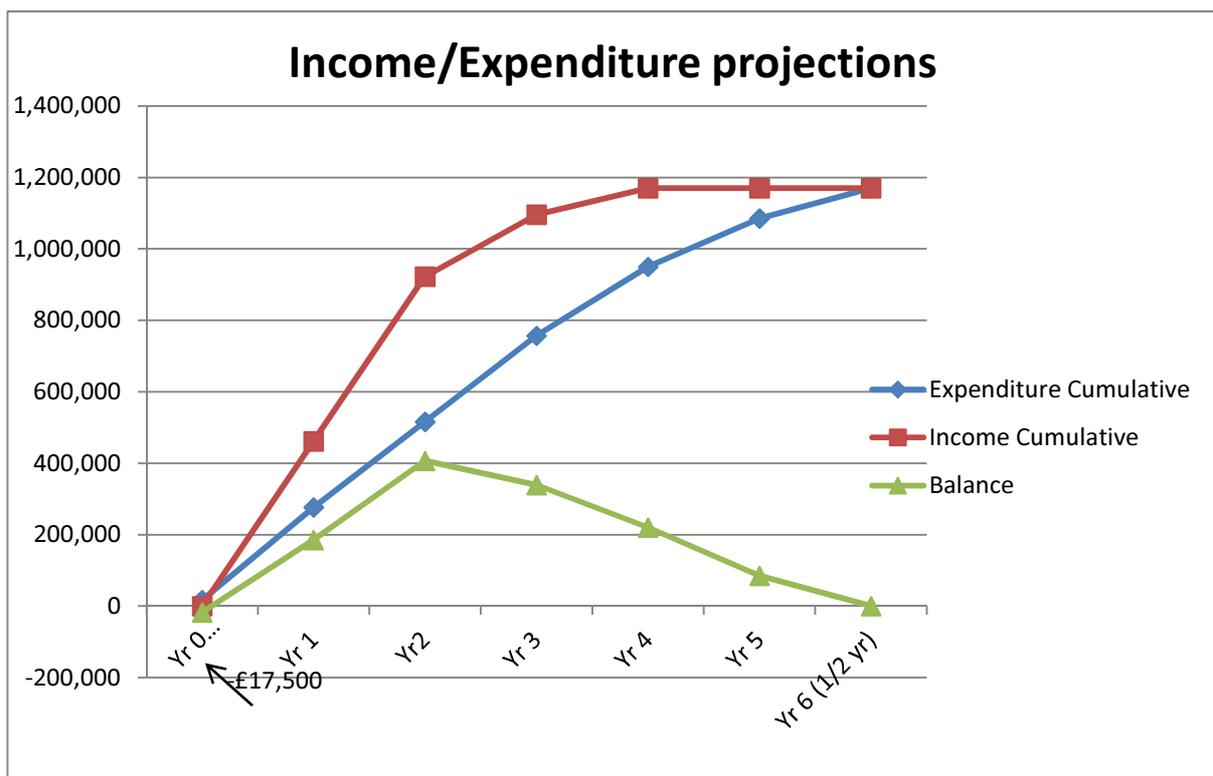


Figure 1 - Income, Expenditure and balance profiled for the end of each financial year, assuming the scheme begins in the final quarter of 2013/14

## 9. Risks and Uncertainties

A risk register has been developed for the business case and steps put in place to reduce the likelihood that these will be realised. The most significant risks are:

- a) 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 or if there is a lack of additional enforcement resource outside the scheme.
- b) Judicial Review of the scheme which leads to a delay in full implementation, unexpected and unrecoverable legal costs.
- c) There is a risk of a significant number of enforcement actions which may place an additional burden on both the existing enforcement team in the Community Protection Unit (estimated to be 2fte of current resourcing) and Legal Services.

## 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.

The aims the recommended scheme are consistent with aims of the Council's Housing Strategy and Homelessness Strategy.

The use of Selective Licensing will also contribute to tackling Anti-Social Behaviour which is a key priority and set out in the RMBC Corporate Plan

- *helping to create safe and healthy communities, and*
- *ensuring people feel safe where they live, particularly that Anti-Social behaviour and crime is reduced and people from different backgrounds get on well together.*

In particular the proposal contributes in ensuring that;

- People feel safe where they live
- ASB and crime is reduced
- Our streets are cleaner

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**

The Business Case (made available to Members and posted on the Council website) and the supporting evidence has been reviewed by Legal Services and Finance Services. The appendices to the Business Case are:

**Appendix 1** – Housing Market Data and Analysis

**Appendix 2** – Correlation of Private Rented Housing and Anti-Social Behaviour

**Appendix 3** – Maps of Proposed Selective Licensing Areas

**Appendix 4** – Draft Licence Conditions

**Appendix 5** – Expenditure and Income Projection data

**Appendix 6** – Risk Register Summary

- The Housing Act 2004, Part 3
- The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006.
- The Selective Licensing of Houses (Specified Exemptions) (England) Order 2006
- Approval steps for additional and selective licensing designations in England – Revised Edition, February 2010, Department for Communities and Local Government.
- Selective Licensing of Privately Rented Housing, Standard Note SN/SP/4634, House of Commons Library, 16 June 2010
- House Proud: How Councils Can Raise Standards in the Private Rented Sector: Lauren Lucas, LGiU Policy Briefing, 12<sup>th</sup> September 2013
- Rotherham Warmer Homes Strategy 2012-2015
- Keeping Warm In Later Life Project findings (KWILLT), Rotherham NHS, 2011
- Initial informal consultation meetings with affected Ward Councillors June-July 2013
- Informal consultation with National Landlords Association, Rotherham & District Residential Landlords Association, Shelter and Rotherham Citizens Advice Bureau, August 2013

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