

# **CABINET**

## **Consultation on the Introduction of Selective Licensing in the Private Rented Sector**

**8 AUGUST 2017**

### **Report of the Chief Officer (Health and Housing)**

<b>PURPOSE OF REPORT</b>				
To advise Cabinet on the benefits of introducing a Licensing scheme for Private Rented Housing in a designated area of Morecambe, and to seek approval to begin a consultation on its introduction.				
<b>Key Decision</b>	<b>X</b>	<b>Non-Key Decision</b>	<b>Referral from Cabinet Member</b>	
<b>Date of notice of forthcoming key decision</b>		<b>6 July 2017</b>		
<b>This report is public.</b>				

#### **RECOMMENDATIONS OF COUNCILLOR ANDREW WARRINER:**

- 1. Approve the development of a Morecambe Licensing Scheme including the definition of a proposed designated area**
- 2. Approve the commencement of a consultation exercise with all persons who are likely to be affected by the designation in accordance with the requirements of the Housing Act 2004.**
- 3. Following the consultation exercise and prior to the Morecambe Licensing Scheme being implemented, bring a report back to Cabinet for final approval.**

#### **1.0 Introduction**

- 1.1** Selective and Additional Licensing were introduced in the Housing Act 2004 giving local authorities a discretionary power to require all private rented sector (PRS) landlords in a defined geographical area to be licensed under particular circumstances. The purpose of licensing is to regulate standards of property management in the PRS.
- 1.2** Lancaster City Council currently operates a mandatory licensing scheme but only for large houses in multiple occupation (HMOs). Selective and additional licensing allow councils to extend the benefits of licensing beyond large HMOs to enable a focus on improving the management of all privately rented properties in a selected area.

- 1.3 The West End of Morecambe has the highest level of private rented properties in the district at approximately 29-33%, with some areas having as much as 80% PRS, compared with a district average of 13% and a national average of 9%. Because of the housing market failure leading to low housing demand, and the high levels of renting and anti-social behaviour, it is considered that the scheme will have a significant positive impact on the West End and compliment regeneration efforts.

## **2.0 Background**

- 2.1 Most landlords provide decent, well-managed accommodation and follow good management practices. However, in some circumstances poor management of properties can severely impact on the community of that area because of their general condition and the anti-social behaviour of some tenants.
- 2.2 Selective and Additional licensing requires landlords within the boundaries of a designated area to obtain a licence for every property they own and to meet specified criteria laid down by the council. If they fail to obtain a licence or meet acceptable management standards, the authority can take enforcement action. Licences are valid for up to five years.
- 2.3 Implementation is subject to consultation with all persons who are likely to be affected by the designation. Government guidance suggests that this consultation should include: tenants, landlords and managing agents, other members of the community who live or operate businesses or services in the proposed designated area; and local residents and businesses in the surrounding area who will be affected.
- 2.4 There are certain mandatory conditions which must be included in a licence, and the council also has the power to set additional conditions relating to anti-social behaviour and general management of the property. In confirming that satisfactory management arrangements are in place, the council must have regard to a range of factors including: the competence of the manager; management structures; and soundness of the financial arrangements. The proposed conditions for this scheme can be found in Appendix 2.
- 2.5 The legislation also states that the landlord must be a fit and proper person as defined by legislation. The council must have regard to any previous convictions and must be assured that the person to whom the licence is granted is the most 'appropriate' person – for example, taking into account whether they are locally resident and have management responsibility. This is designed to ensure that unfit landlords cannot apply for licenses using a third party.
- 2.6 If a landlord has breached licence conditions the council can issue a fine of up to £5,000 for each offence. Operating a property without a licence in a designated area can attract a fine of up to £20,000. The council is obliged to take reasonable steps to ensure that applications are made for all licensable properties.

### Choosing the area for Licensing

- 2.7 In deciding if an area is suffering from low housing demand the council must take into account the following conditions:

- the value of properties in the area, in comparison with similar properties in comparable areas;
- the turnover of occupiers in an area;
- the number of properties available and the length of time they are unoccupied.

2.8 In addition, the 2015 amendment to the Housing Act adds several other conditions to permit licensing where:

- the authority intends to carry out inspection of a significant number of properties to determine the existence of category 1 and 2 hazards, with a view to taking any necessary enforcement action;
- the area has recently experienced or is experiencing an influx of migration into it;
- the area is suffering from a high level of deprivation, which affects a significant number of the occupiers of the properties;
- the area “suffers from high levels of crime”.

### **3.0 Outline Proposal**

#### Area to be Licensed

3.1 Appendix 1 contains detailed consideration of data from Police, Fire, Housing and other agencies and will help shape the area selected. Much of the data presented in the report has been broken down to a Census Output Area level. This is due to the recognition that the larger the footprint, the less targeted Licensing will be. In short, choosing an entire Ward for licensing is likely to include areas with relatively low PRS housing, relatively low ASB, crime, deprivation and relatively high housing demand. Such designations are likely to be less effective in targeting resources and more likely to face public opposition. Additionally, in selecting the area some consideration is needed to the actual administration of the initial consultation and more latterly the physical inspection of the properties as this has cost, time and human resource implications. In simple terms, the larger the area subject to licensing, the more difficult it would be to administer the scheme.

3.2 Based on the evidence in Appendix 1, two separate geographical areas of Morecambe could be considered for licensing:

- West End – An area around the border of Heysham North and Harbour towards the sea front.
- Poulton – The area centred around Clarence Street, and bordered by Queen Street, and Poulton Square.

A full list of the Census Output Areas and the postcodes which they cover can be found in Appendix3.

3.3 As this is the first discretionary licensing scheme to be introduced in the district we will start by designating a small area to make it as manageable as possible. Our recommendation is to designate the area of Heysham North and Harbour for an initial selective and additional licensing scheme, with a further scheme to be introduced in Poulton once the initial scheme is underway.

### Resourcing of a Licensing Scheme

- 3.4 Lancaster City Council was successful in bidding for additional resource as part of the Transformation Challenge Award (TCA). The feasibility study has been prepared by the TCA Project Manager (Lancashire County Council employed / TCA allocation), and the consultation will be resourced under Lancaster City Council's TCA allocation.
- 3.5 The consultation is a formal and prescriptive process which needs to follow the government guidance toolkit.
- 3.6 Initial implementation work will also be undertaken by the TCA Project Manager. As development work progresses to the formal stages of engagement and consultation with landlords, tenants, residents and other parties more staff time will be required from the Private Housing Team to administer, service and develop the scheme to tailor it to the needs of the area. An Anti-Social Behaviour Team is also currently being established on a 2 year pilot basis and it is currently expected that this will be further enhanced through TCA funding. This team will work with landlords at reducing ASB and enabling landlords to manage ASB more effectively, thereby providing additional support to the proposed selective licensing scheme.
- 3.7 A fee will be charged for the cost of the licence calculated to cover the council's costs of implementation and administration of the scheme. Licensing is designed to be self-financing and cost neutral. All fees must only be used for implementation and administration of the scheme.
- 3.8 To encourage the early completion of applications, it is proposed that discounts will be offered to landlords who return applications before the stated deadline. To encourage accreditation, discounts will also be offered to landlords who are already accredited with a nationally recognised Landlord Accreditation organisation.

### Next Steps

- 3.9 A minimum 10 week consultation period is required and following this a final report will be submitted to Cabinet seeking a resolution to declare additional and selective licensing in Morecambe including a schedule of proposed fees.
- 3.10 Once a decision is made, the designation is published with a three month notice of implementation. Once implemented, the scheme lasts for five years, with fees being reviewed annually to ensure the council's costs are covered.

### **4.0 Details of Consultation**

- 4.1 The local authority are required to take reasonable steps to consult persons who are likely to be affected by the designation, and consider any representations made in accordance with the consultation.

It should include consultation of local residents, including tenants, landlords and where appropriate their managing agents and other members of the community who live or operate businesses or provide services within the proposed designation. It should also include local residents and those who operate businesses or provide services in the surrounding area outside of the proposed designation that will be affected. Local housing authorities should ensure that the consultation is widely publicised using various channels of communication.

## 5.0 Options and Options Analysis (including risk assessment)

	<b>OPTION 1</b>	<b>OPTION 2</b>
	Not go ahead with a consultation on the introduction of licensing	Carry out a consultation exercise on the introduction of a licensing scheme in Morecambe
<b>ADVANTAGES</b>	The council operates a minimum service to meet its statutory obligation.	<p>A properly administered licensing scheme should be cost neutral to the council but deliver positive benefits to the housing stock and local area.</p> <p>Residents, potential residents and investors will be reassured of the council's commitment to making improvements to the private rented sector.</p> <p>A licensing scheme would complement existing regeneration programmes.</p> <p>Resources from the TCA grant will fund the consultation.</p>
<b>DISADVANTAGES</b>	<p>The council are not taking advantage of all statutory tools available to them to improve conditions in the private rented sector.</p> <p>The council are not maximising the funding offered by the TCA grant.</p> <p>The council are not taking advantage of a self-financing intervention that has been demonstrated to encourage housing regeneration</p> <p>Investors interested in Morecambe may not be reassured of the council's commitment to improvement of the area as a whole.</p>	There will be some officer time committed to the consultation exercise.
<b>RISKS</b>	<p>Failure to meet the corporate priority of improvements to the private rental sector.</p> <p>Failure to meet outcomes for TCA grant.</p>	Complaints from landlords about increased regulation.

## **6.0 Officer Preferred Option (and comments)**

- 6.1 The recommendation is to approve a consultation exercise on the development of a Licensing Scheme in an area of the West End of Morecambe. The exact boundary is defined in Appendix 4.

## **7.0 Conclusion**

- 7.1 The private rented sector is the only housing option available to some of the most vulnerable people in our society. However, in some areas, properties in this sector suffer from poor conditions, management and low-level anti-social behaviour. The introduction of a licensing scheme offers the opportunity to promote a successful private rented sector. This, alongside other interventions already in place in the renewal areas of Morecambe will bring about further benefits for the community.

### **RELATIONSHIP TO POLICY FRAMEWORK**

Improvements in the private rented sector and housing renewal in the West End of Morecambe have been identified as priorities in the 2016 -2020 Corporate Plan to support positive improvements in the health and wellbeing of residents in the district. Completion of a feasibility study is one of the success measures to the outcome of improving the health and wellbeing of our citizens.

### **CONCLUSION OF IMPACT ASSESSMENT**

**(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)**

Diversity – The consultation will seek views from all persons affected by the designation

Human Rights – There will be no impact if the consultation is undertaken correctly

Community Safety – The proposed licensing scheme should have a positive impact on community safety

Sustainability – none

Rural proofing - none

### **LEGAL IMPLICATIONS**

The legal implications of this consultation are contained within the report.

### **FINANCIAL IMPLICATIONS**

It is not expected that there will be any additional financial implications arising from the proposed consultation exercise as it will be co-ordinated by the current TCA Project Manager employed by Lancashire County Council, with all other associated consultation costs being met from the City Council's TCA grant allocation set aside for consultancy work.

There will be some impact on existing City Council resources as the Housing Standards Team will be required to participate in the consultation exercise by attending public meetings and responding to questions from all stakeholders, however this should be manageable.

As stated within the report, the Selective Licensing scheme is designed to be self-financing through its fees and so it is not expected that there will be any additional cost to the Council once implemented, however a further report will need to be brought back to Members for approval following the consultation exercise, including a full schedule of proposed fees prior to the scheme being implemented, with fees being reviewed thereafter on an annual basis in line with relevant legislation and the Council's Fees and Charges Policy, where appropriate.

**OTHER RESOURCE IMPLICATIONS**

**Human Resources:** From existing resources

**Information Services:** None

**Property:** None

**Open Spaces:** None

**SECTION 151 OFFICER'S COMMENTS**

The Section 151 Officer has been consulted and has no comments.

**MONITORING OFFICER'S COMMENTS**

The Monitoring Officer has been consulted and has no comments.

**BACKGROUND PAPERS**

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