

# **CABINET**

## **Review of the Consultation on the Implementation of Additional and Selective Licensing in a defined area of the West End of Morecambe**

**20 March 2018**

### **Report of Chief Officer (Health & Housing)**

<b>PURPOSE OF REPORT</b>				
To review the outcome of the public consultation on the introduction of licensing in a defined area in the West End of Morecambe and make a decision on an enforcement approach.				
Key Decision	<b>X</b>	Non-Key Decision		Referral from Cabinet Member
Date of notice of forthcoming key decision		19 February 2018		
This report is public.				

#### **RECOMMENDATIONS OF COUNCILLOR WARRINER**

- (1) Note the outcome of the public consultation on the possible introduction of licensing in a defined area in the West End of Morecambe.
- (2) Based on the feedback from the consultation, agree to trial an alternative approach to additional and selective licensing as outlined in this report which involves targeted enforcement of those landlords who are failing to meet and maintain standards.
- (3) Approve the designation of the area referred to in this report and defined in the map set out in Appendix 1 as being subject to the targeted enforcement programme.
- (4) Approve that the trial referred to in (3) should be implemented for a period of not more than 18 months (using existing Transformational Challenge Award grant) and that a report be brought back to Cabinet following this, with an evaluation of the alternative approach, to enable Cabinet to consider its effectiveness and whether there is still a case for considering the introduction of additional and selective licensing.

## **1.0 Introduction**

- 1.1 In 2016/17, a feasibility study was carried out identifying an area in the West End of Morecambe that would benefit from housing enforcement intervention.
- 1.2 In August 2017, Cabinet approved the commencement of a public consultation exercise on the designation of a selective and additional licensing scheme in a defined area in the West End of Morecambe.
- 1.3 Selective and Additional Licensing were introduced in the Housing Act 2004 to give 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 private rented sector.
- 1.4 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 was considered that the scheme would complement other 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. Typical licence conditions are attached as appendix 2. All licence holders must be deemed a fit and proper person in accordance with the Council's fit and proper person policy.
- 2.3 Implementation is subject to consultation with all persons who are likely to be affected by the designation. This consultation took place between the 9<sup>th</sup> October and 15<sup>th</sup> December 2017 (see appendix 3). Landlords, tenants, homeowners, business owners and all other stakeholders who might be affected by the designation were encouraged to come forward with their views of the proposals.
- 2.4 A selective licensing designation may be made if the area to which it relates satisfies one or more of the following conditions:
  - Low housing demand
  - A significant and persistent problem caused by anti-social behaviour

- Poor property conditions
- High levels of migration
- High levels of deprivation
- High levels of crime

A designation may only be made where the local housing authority has:

- Demonstrated that the area has a high proportion of property in the private rented sector.
- Identified the objective or objectives that a designation will help it achieve.
- Considered whether there are any other courses of action available to it that would achieve the same objective/s as the proposed scheme without the need for the designation to be made.

2.5 An additional licensing designation may be made if the authority considers that a significant proportion of the houses in multiple occupation (HMOs) in the area are being managed sufficiently ineffectively as to give rise, or to be likely to give rise, to one or more particular problems either for those occupying the HMOs or for members of the public.

2.6 Licensing is designed to be self-financing and cost neutral to the Council and so the fee would need to cover the council's costs of implementation and administration of the scheme, including enforcing the licensing conditions. It should be noted that the fee cannot be used for enforcement of the removal of hazards, however, as that is a statutory responsibility of the Council.

### **3.0 Details of Consultation**

3.1. The evaluation of the consultation is attached as appendix 3. The majority of respondents recognised that there were specific issues in the defined area, in particular around deprivation, poorly managed properties, anti-social behaviour (ASB) and crime. There was clear support for action but there was a conflicting position on whether licensing was the most appropriate tool.

3.2. The perceived risks of introducing a licensing scheme were:

- It would not target the 'rogue' landlords who would continue to operate under the radar but that too much time and resource would be spent on identifying and licensing the good landlords.
- It was unfair to target good landlords for the irresponsible actions of the minority. Some landlords gave examples of good practice.
- The cost of applying and complying with the licence would be passed on to tenants leading to increased rents.
- There was a lack of evidence of the link between landlords and ASB. Many landlords said that they did not feel responsible for any of the ASB caused by their tenants and that there was nothing they could do about it but that others should deal with it. Landlords wanted support in dealing with incidents of ASB.

- There is evidence that mortgage lenders were refusing to advance money to landlords with homes in areas covered by licensing schemes, thereby potentially having a negative impact the property market and housing provision.
- An increase in homelessness as housing some tenants becomes too much of a risk in case it negatively impacts on the licence.
- The licence fees, along with perception of an area being deemed as bad, would drive out good landlords, making it more difficult to secure mortgages, re-mortgage or loans to invest in properties.
- Concerns were raised about the need to take up references for new tenants. Specifically, how useful they were.

### 3.3 The perceived benefits of introducing a licensing scheme were:

- Extensive knowledge of private renting will enable targeting of enforcement action, and to better understand the root of the problems the area faces
- Bad landlords will be forced to improve their practices or leave the market. Landlords who have not engaged in previous schemes will be forced to engage with the Council.
- More professional landlords should improve the quality and management of property.
- Increasing housing demand and reducing ASB will improve problem areas, making these safer, more desirable places to live. May result in higher rental income as areas improve and an improvement in the reputation of private landlords
- Protection for vulnerable tenants from the worst housing conditions and from bad landlords.

### 3.4 Local authority's response to consultation

- 3.4.1 One objective of a licensing scheme is to bring improvements to the whole area and to professionalise the sector which would benefit all landlords and residents. Intelligence gathered for introduction of the scheme would identify all privately rented accommodation and highlight problem properties. Better knowledge of the private rented sector would allow targeted support and information exchange with landlords. The costs to compliant landlords over the 5 year lifetime of the scheme are low, and it is important to clarify that all properties being rented out should already meet legal standards, so this should create no extra cost. Property conditions and management would be improved.
- 3.4.2 However, several key risks were identified. The possibility of rent rises and an increase in homelessness as some tenants become too much of a risk for licensed landlords mean the scheme has the potential to negatively impact upon those residents it is designed to benefit. Universal Credit (UC) is being rolled out across the district, and evidence is that the move to UC has already led to increases in rent arrears.
- 3.4.3 Stigmatisation of the area is a concern, and examples were cited of banks/building societies not lending to investors in areas where selective licensing was introduced. Landlords felt licensing was punitive, and showed a

lack of support by the Council for their continuing investment in the area. This highlights a key risk of discouraging investment where it is needed.

- 3.4.4 Any loss of support and collaboration with good and well intentioned landlords would be a disadvantage, particularly when the private rented sector is an increasingly important source of accommodation.
- 3.4.5 Fears were expressed that the bureaucracy involved in introducing a licensing scheme would distract from dealing with the minority of bad landlords.

## **4.0 Proposal Details**

### **An Alternative approach to licensing.**

- 4.1 It is possible to consider an alternative approach to licensing by using an intelligence led targeted approach to enforcement. The additional capacity would allow for a two prong approach based on building collaborative relationships with responsible landlords by providing support and education for those wishing to improve, alongside robust enforcement against those whose standards fall below what is expected and required by the Council. Dedicating additional resources to the West End will allow enforcement officers to have a small, caseload concentrated on achieving improvements to the minority of properties that cause persistent problems.
- 4.2 Introduction of a targeted approach would address some of the concerns and risks identified by the consultation while delivering the same objectives. All privately rented properties in the defined area would be identified and all landlords renting property in the defined area advised of their responsibilities in relation to housing conditions. The resources are not currently available to do this. In addition the benefits of joining an accreditation scheme would be highlighted and promoted. Landlords not prepared to co-operate and where any hazards and or failures in relation to management practices are found will be remedied through the use of enforcement powers, with appropriate costs being recharged directly to the landlord.
- 4.3 This proposal is possible because of a number of developments since licensing was originally proposed.
  - 4.3.1 The council has established an anti-social behaviour team, which has already had measurable successes. Responses to the consultation showed that landlords needed support to deal with ASB incidents. The introduction of the ASB team has created an avenue of support for landlords to deal with ASB issues before they escalate. This would be a more sustainable approach that would support landlords to manage ASB when it arises and help tenants to maintain their tenancy, without the issue resulting in eviction and possible homelessness.
  - 4.3.2 Additional enforcement powers are being passed on to councils in the form of civil penalties, banning orders for rogue landlords and rent repayment orders meaning tenants can reclaim rental income where landlords do not comply with specified offences. Mandatory licensing of HMOs is being extended to some smaller HMOs.

4.3.3 Information has been made available to Councils from tenancy deposit schemes as an additional way of identifying private rented accommodation.

4.3.4 Lancaster City Council and Lancashire County Council are working in partnership using the Transformation Challenge Award to promote innovative and sustainable ways of building the resilience of people and communities. A more collaborative way of working with partners is being developed, including statutory services, non-statutory services, the voluntary, community and faith sector to increase community resilience. Strengthening community assets is a priority in order to maximize resources and to make any improvements sustainable beyond the project. This is recognised as a priority to deliver the corporate strategy for Lancashire County Council.

4.4 Research has been undertaken on licensing schemes in other local authorities, particularly those covering coastal towns. It appears that licensing was quite prevalent a few years ago with Blackpool Council introducing it in 2012, covering a small area of the town, and extending it in 2014 and 2016 to include another two areas having evaluated it as a success. Thanet Council extended a five year selective licensing scheme for a further 5 years in Margate and Cliftonville, and Hastings Borough Council introduced a scheme in 2015. However, more recently in 2016, North Somerset Council rejected the introduction of licensing in Weston-Super-Mare but instead investigated an Action Area approach. Bournemouth Council similarly rejected licensing in November 2017 in favour of a targeted enforcement approach. There does appear to be a trend now to exhausting all possible alternative approaches before resorting to licensing.

#### 4.5 Resourcing an alternative approach.

Lancaster City Council and Lancashire County Council were successful in obtaining funding under the Transformational Challenge Award Fund (TCA). The TCA is funded by central government to promote sustainable and transformative ways of working for local government. The aim of the bid was to co-ordinate the work of multiple agencies to provide early intervention to improve the health and well-being of persons identified as having needing help through the work of the housing enforcement officers. There is sufficient money in the bid remaining to fund two full-time housing enforcement officers for an 18 month period dedicated to working in the defined area of the West End of Morecambe, any related project work and associated additional irrecoverable legal costs (should they arise) at a total cost of around £150K. Costs recouped through enforcement (e.g. civil penalties) would be re-invested into the enforcement team in accordance with the legislation. There should be no additional cost arising for the Council, therefore.

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

	<b>Option 1:</b>  Do Nothing	<b>Option 2:</b>  Use TCA funds to introduce a trial scheme of intelligence led, targeted approach to enforcement in a defined area of the West End of Morecambe	<b>Option 3:</b>  Introduce a licensing scheme in a defined area of the West End of Morecambe
<b>Advantages</b>	<p>The council operates a minimum service to meet its statutory obligation.</p> <p>No additional costs</p>	<p>Intelligence gathering will identify the majority of private rented properties.</p> <p>Not restricted by licensing legislation</p> <p>Targets the bad landlords not the good ones.</p> <p>Avoids risk of additional costs being passed onto tenants</p> <p>Avoids risk of stigmatising the area</p> <p>Consistent with enforcement outside the defined boundary where a landlord owns properties elsewhere in the district.</p> <p>Takes into account the feedback from the consultation</p> <p>Takes into account new enforcement powers including banning orders and rent repayments orders and civil penalties.</p> <p>Builds links and collaboration with responsible landlords</p>	<p>Intelligence gathering will identify all privately rented properties.</p> <p>The need for a licence holder will identify a responsible person for each property.</p> <p>All licence holders will have to meet a fit and proper person test</p> <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>Potential for increased goodwill from landlords</p> <p>Cost neutral as funded from TCA</p> <p>No risks of costs from challenge and judicial review</p> <p>It would complement existing regeneration schemes.</p> <p>If this approach doesn't work, it is a clear indication that licensing is needed.</p>	
<b>Disadvantages</b>	<p>The council is not taking advantage of all statutory tools available to it to improve conditions in the private rented sector.</p> <p>The council is not maximising the funding offered by the TCA grant.</p> <p>Investors interested in Morecambe may not be reassured of the council's commitment to improvement of the area as a whole.</p> <p>Problems continue to increase.</p>	<p>Requires alternative resourcing, as no license fees</p> <p>No mandatory requirement to identify a responsible person.</p> <p>No mandatory requirement to be a fit and proper person to be a landlord.</p> <p>No mandatory requirement to register.</p>	<p>The scheme is restricted to one area. The boundary is not flexible.</p> <p>Licensing is restricted to five years.</p> <p>Large bureaucratic burden of legal paperwork.</p> <p>Targets all landlords irrespective of their history of compliance, so time will be spent licensing good landlords.</p>
<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> <p>Issues escalate and there is no additional resource to tackle them.</p>	<p>Relies on collaboration with good landlords.</p> <p>No register of landlords.</p> <p>Level of enforcement is difficult to predict and could result in an additional cost burden to the</p>	<p>Restrictions on the use of fee income: enforcement requirements are difficult to predict and could result in additional cost burden to the Council.</p> <p>Landlord and other opposition could make it difficult to deliver the scheme and to therefore</p>

		Council, although this could happen anyway.	<p>meet objectives.</p> <p>Problems identified in the proposal could displace elsewhere with no specific resource available to address this.</p> <p>Complaints from landlords about increased regulation.</p> <p>The possibility of rent rises with additional costs being passed on to tenants.</p> <p>Increase in homelessness as some tenants become 'too risky'.</p> <p>Stigmatisation of the area.</p> <p>Discouragement of investment in the defined area.</p> <p>Costs to defend a scheme if faced with judicial review</p>
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## 6.0 Officer Preferred Option (and comments)

### Option 2:

- Use TCA funds to introduce a trial scheme of intelligence led, targeted approach to enforcement in a defined area of the West End of Morecambe.

## 7.0 Conclusion

The conclusion from the public consultation on the introduction of licensing welcomed the fact that the council were looking to introduce an initiative to address some of the underlying issues with the private rented sector in the West End. It was not clear that there was support for the introduction of a licensing scheme, however, a number of significant risks were identified.

To take account of the outcome of the consultation and address some of these risks, it is recommended that a targeted enforcement approach be introduced in the West End of Morecambe for a defined period of time. This approach would aim to build a sustainable, collaborative approach with responsible landlords, while targeting those who don't co-operate. It would

avoid the risk of additional costs from licensing being passed on to tenants and avoid the high volume paperwork required to administer a licensing scheme. It would offer a different approach to improving conditions in an area by targeting rogue landlords, so it is likely to be supported by good and well intentioned landlords and would complement the work of the newly established anti-social behaviour team and the approach being developed by work on the Transformation Challenge Award. Targets will be developed to assess the impact of this approach to be fed into an evaluation in 18 months. If this approach were to fail, it would be a clear indication and build a stronger case that the council should pursue licensing in the future.

#### **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 was one of the success measures to the outcome of improving the health and wellbeing of our citizens.

#### **CONCLUSION OF IMPACT ASSESSMENT**

**(including Health & Safety, Equality & Diversity, Human Rights, Community Safety, HR, Sustainability and Rural Proofing):**

Diversity – There is a risk that the designation of a licensing scheme would have an adverse impact on people on low income and with insecure housing tenure. This may still be the case with a targeted enforcement approach, but the impact would be reduced.

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

Community Safety – The proposed approach should have a positive impact on community safety.

Sustainability – None.

Rural proofing – None.

#### **LEGAL IMPLICATIONS**

Any enforcement should be taken in line with existing enforcement policies and, where necessary, input from legal services.

#### **FINANCIAL IMPLICATIONS**

It is not expected that there will be any additional / significant financial implications arising for the Council from the preferred option (2), i.e. to implement a targeted enforcement approach in a defined area of the West End of Morecambe. Overall the trial is expected to cost around £150K to employ 2 Housing Enforcement Officers, fund any related project work and also includes an allowance for additional legal costs arising which might not be able to be recouped through enforcement. This can be met from existing TCA grant and is line with the outputs expected from the original bid submission.

It should be noted that there are already 2 vacant TCA funded posts on the Council's establishment and so continuation of these posts will not create any additional liability at this stage in terms of future redundancy costs due to the proposed trial being for no more than 18 months.

Similarly, should Members opt to implement option 3 either now or following the targeted

approach trial period, then as the Selective Licensing scheme is designed to be self-financing through its fees, it is not expected that there will be any additional costs arising for the Council, if implemented. A further report would need to be brought back to Members clearly setting out the full costs / financial implications, etc. in order for Members to approve the necessary fee structure (i.e. based on full cost recovery), prior to such a scheme being implemented. Fees would then need to be reviewed thereafter on an annual basis in line with relevant legislation and the Council's Fees and Charges Policy, where appropriate.

**OTHER RESOURCE IMPLICATIONS, such as Human Resources, Information Services, Property, Open Spaces:**

Introduction of the approach will see the employment of two full time enforcement officers on grade 4. The posts will be funded by the TCA.

**SECTION 151 OFFICER'S COMMENTS**

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

**MONITORING OFFICER'S COMMENTS**

The Monitoring Officer has been consulted and has no further comments.

**BACKGROUND PAPERS**

Feasibility Study  
Consultation evaluation report  
Proposed licence conditions  
Proposed area for designation

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