

EXECUTIVE BOARD DECISION



REPORT OF: Executive Member for
Neighbourhood and Prevention Services

LEAD OFFICERS: Director of Localities and Prevention

DATE: 9th February 2017

**PORTFOLIO/S
AFFECTED:** Neighbourhood and Prevention Services

WARD/S AFFECTED: Sudell Marsh House Earcroft Sunnyhurst

KEY DECISION: YES NO

SUBJECT: Selective Licensing in the Extended Darwen Area

1. EXECUTIVE SUMMARY

To seek approval for the designation of the Darwen area of the Borough as a Selective Licensing scheme which will require all privately rented houses in the area to be licensed under the Housing Act 2004. The report explains the reasons for designation and the conditions that will apply should designation be approved.

2. RECOMMENDATIONS

That the Executive Board:

- a) Approves the designation of the Darwen area of the Borough as shown on the map attached in Appendix 9 as a Selective Licensing scheme under the Housing Act 2004.
- b) Approves the formal Darwen Selective Licensing designation report.
- c) Approves the proposed fees as set out in Appendix 8 to the designation report with an early payment discount and an additional charge for late payment.
- d) Notes the challenging housing market conditions in Darwen and the need to designate the Selective Licensing area over a wider area than in the original designation.
- e) Notes the contribution Selective Licensing makes to achievement of community safety, social and environmental as well as housing objectives and the need to sustain multi-agency activity in the area.

3. BACKGROUND

3.1. We have seen a positive change in the Central Darwen area since its designation in 2009. This provides positive encouragement that the policy is making a difference. In particular the St Peter's residents association has commented that their area has become a better place to live and now has a more cohesive and settled community. Selective licensing was introduced under Section 80 of the Housing Act 2004 giving local authorities the power to require all privately rented housing in a defined geographic area to be licensed if it suffers from low housing demand and/or significant and persistent anti-social behaviour. Whilst good progress has been evidenced there is further work to do to ensure

that there is a sustained improvement.

3.2. Selective licensing ties in with the 2030 vision statement for the Borough “Creating a Connected, Prosperous, Clean, Safe and Healthy Borough”. It specifically helps achieve the aim of improving the housing offer and conditions.

3.3. Two Selective Licensing Areas were designated in 2008 and 2009 for the Infirmary and Central Darwen areas and a further area was designated called the Griffin Area in 2012. These designations have had a positive impact on the housing market and improved residents’ quality of life. Designation of the first two areas has now lapsed as it lasts for a maximum of five years. The Infirmary Area was re-designated in December 2015.

3.4. At the July 2015 Executive Board meeting it was agreed that the formal consultation process with residents, landlords and other parties commence on the re-designation of the extended Darwen Area for selective licensing and subject to a satisfactory outcome of consultations a further report to be presented to the Board seeking formal approval for the designation of the selective licensing status under the Housing Act 2004. This would involve examining the nature of the issues and consultation with residents, landlords and other parties before concluding whether to present proposals for a licensing scheme.

3.5. Privately rented housing is an important and increasingly essential element of housing provision and choice in the Borough. Unfortunately, badly managed privately rented housing is a significant issue for some parts of the Borough with Darwen being such an area. Badly managed privately rented housing is a source of many problems affecting communities and neighbourhoods and it places high demands and costs across the Council and partner services as well as the disruptive impact on communities.

4. KEY ISSUES & RISKS

4.1 The purpose of Selective Licensing is to regulate standards of property management in the private rented sector and to tackle issues of crime and antisocial behaviour. Selective Licensing requires landlords within the boundaries of the designated area to obtain a licence for every property they own by meeting specified criteria laid down by the Council to continue managing their properties. Government guidance says the landlord must be a “fit and proper person” and that satisfactory management arrangements must be put in place.

4.2. Designation of selective licensing areas is a formal process involving extensive consultation and has to be evidence based to show that it is the most appropriate solution for preventing problems caused by poorly managed privately rented housing. It also has to be shown to be a key component of a local area based approach by being joined up with other Council and partner interventions. Around 16% of the Borough’s housing stock is now privately rented with the proposed Darwen area having around 29.7% privately rented. The proposed Darwen Selective Licensing area covers 3164 properties and the boundary of the area is shown on the map attached as Appendix 9. Although the housing market is generally depressed, house prices in the proposed area are low compared to most other parts of the Borough. The price of established houses in the proposed area has decreased by 14.5% between 2009 and 2016 (October) compared with an increase of 9.8% across the Borough. There are a large number of empty homes (9.1%) compared with the whole of Blackburn with Darwen (4.2%) including those that have been empty long term (17.2%) compared to the whole of the Borough (18.6%). Population turnover is high. Latest information shows that property conditions in both private rented and owner occupied housing is often poor, many not meeting the decent homes standard (53.8%) with 52.8% of these having Category 1 hazards.

4.3. Anti-social behaviour in the proposed area has reduced more than in the rest of the Borough. and both the proposed Darwen selective licensing area and the borough have experienced a reduction in

crime over the period. Crime data between 2007/08 (819) and 2015/16 (653) shows a reduction of 20.3% in the Darwen area. Crime in the borough has reduced by 26.4% between 2007/08 (13,996) and 2015/16 (10,296).

Anti-Social Behaviour reporting also changed in 2011 and changes include hoax calls being recorded separately. However, ASB reduced between 2007/08 (1545) and 2015/16 (560) by 175.9% in the Darwen area, so the reduction has been greater in the Darwen area. The borough statistics also show a similar trend with ASB reducing by 123% in the same time period, so Over the last 6 years the Environment and Housing teams have received approximately 11,297 complaints directly related to the area, a significant number related to cleansing, refuse, fly tipping and privately rented housing.

4.4. Members will be aware that Together Housing have started work on a Housing with care scheme on Shorey Bank and work is due to start on the development of 46 homes at the Ellenshaw estate on Sudellside. A number of the streets in the St Peter's conservation area have previously received face-lifting treatment. This investment and residents' confidence is threatened by difficulties created by a proportion of poorly managed privately rented houses and the poor behaviour of some tenants. The designation report (a copy of which is placed on deposit in the political group rooms) explains in greater detail the case for Selective Licensing and why it is the most appropriate course of action.

4.5. The costs for operating a licensing scheme will be met by the licence fees charged. It is already costing the Council, Police and other agencies considerable expense in responding to problems associated with privately rented housing and tenants' anti-social behaviour as part of a multi-disciplinary package.

4.6. In presenting these proposals it is considered that the Selective Licensing designation is necessary to deal effectively with the problems associated with privately rented housing and that due process has been followed in accordance with the Act's requirements.

4.7 If approval is granted, the designation will come into force three months after the date of designation and will last for a maximum of five years.

4.8. Poor housing conditions significantly contribute to poor health. Strong partnership working with the Health sector aims to reduce poor housing conditions as a means to reducing poor health.

5. POLICY IMPLICATIONS

5.1. Implementation aims to promote greater responsibility by landlords in the way they manage properties and develop closer working with the Council. Likewise, their tenants will be made aware of tenancy conditions and the requirement to maintain good relations with the wider community.

5.2. Selective licensing is a crucial tool to stabilising low housing demand and anti-social behaviour, but has to be part of a concerted neighbourhood approach involving the local community alongside a range of agencies/partners including the police, Councillors, local businesses, registered providers, neighbourhood management and other services. Private landlords and private tenants will need to be encouraged to see themselves as an integral part of a "team" which seeks to improve the future prospects of the Darwen area.

5.3 The area is being declared on the basis of low demand. New initiatives being considered to help support the area will include the promotion of a tenant's handbook and a model tenancy agreement. In addition the scope for a landlords' forum is being explored and a pilot scheme to assist landlords with the disposal of bulky waste is being considered to be trialled for an initial 12 month period.

5.4. Designation requires all privately rented properties in the defined geographical area to be licensed. Legislation says the landlord must be a "fit and proper person" and that satisfactory

management arrangements must be in place. The definition of a “fit and proper person” is set out in Appendix 6 and also means the Council takes account of the competence of the person managing the property. This definition is the same as applies to existing Selective Licensing areas.

5.5. Government guidance also imposes mandatory licence conditions for those landlords deemed to be “fit and proper” and the Council may include such conditions as it considers appropriate for regulating the management, use or occupation of the house concerned. These are set out in Appendix 7 and will support and encourage good management practice. Licence conditions are similar to existing areas with modifications to reflect consultations with community groups, partners, landlords and residents within the Darwen area.

5.6. Scheme implementation and administration of licensing will be carried out by the Housing Standards Team in the Localities and Prevention Department. Costs will be covered by the licence fee.

5.7. Where a landlord fails to comply with the licensing conditions, as a last resort the Council will be obliged to take legal action. In both the existing areas it has been necessary to take informal and formal enforcement action. The Council makes every effort to work with licensed landlords where possible. Enforcement requires resources from the legal team.

5.8. Should a landlord be deemed not to be a “fit and proper” landlord and the licence conditions cannot be met, the Council has the option to appoint a managing agent to take over the management of the rented house.

5.9. The scheme will have inbuilt reviews with a range of outputs being measured such as the number of empty homes, house price changes, anti-social behaviour and the number of enforcement actions or notices served. This will help to monitor progress on the objectives of designation such as better management or housing conditions.

6. FINANCIAL IMPLICATIONS

6.1 Licensing requires considerable resources placing major demands on the Housing Standards Team. The licence fee is set to cover the cost of setting up and operating the scheme. Income generated for a scheme has to be ring fenced to allow the team to carry out functions associated with the designated area. The selective licensing designation is for a maximum of 5 years.

6.2. It is proposed the charge for the Darwen selective licensing area would be £750 per property payable either in full or in annual instalments by Direct Debit of £150 per annum. This would be reduced to £600 if payment is made within 6 months of the date of designation by either lump sum or annual direct debit of £120 for five years. Landlords who have failed to pay their previous licensing costs in full will not be eligible for the discount or to pay in instalments. An additional charge will be added for applications received 12 months after designation. Different rates apply in the case of a House in Multiple Occupation.

6.3 Based on licensing 600 single occupancy privately rented houses, income generated would be £90,000 annually. In accordance with Regulation 18(4) of the Provision of Services Regulations 2009, the fees are proportionate. A full explanation of the financial charges, discounts and penalties is given in Appendix 8.

7. LEGAL IMPLICATIONS

7.1. The Housing Act 2004 and regulations under the Act gives a Local Authority the power to introduce selective licensing in specified localities within their area. Guidance requires the Local Authority to present the case for selective licensing, why it is the most appropriate solution, how consultations have been undertaken and how responses have been dealt with.

7.2. Previously an application for licensing had to be approved by the Secretary of State for Communities and Local Government. Since April 2010 local authorities can approve schemes themselves under “general consent” powers. From April 2015 the Secretary of State for Communities and Local Government has to confirm any scheme which would cover more than 20% of a Local authority’s geographical area or that would affect more than 20% of privately rented homes in the local authority area. This scheme would not need that approval.

7.3. After formal designation it will be an offence for a person who has control of or manages a property within the designated area (landlord or managing agent) not to have a licence unless the property is exempt. The fine payable following summary conviction is now unlimited (previously £20,000). This would also indicate that the person would not be a ‘fit and proper’ person.

8. RESOURCE IMPLICATIONS

8.1. The full cost of the scheme will be met by fees. It is important to sustain the scheme over the full 5 years of designation.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. (*insert EIA link here*)

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. (*insert EIA attachment*)

10. CONSULTATIONS

10.1 Wide ranging consultation has taken place with local residents, landlords and managing agents in the area and a workshop has been held with partners. Consultation has involved newsletters, “drop in” consultation sessions enabling landlords and residents to ask questions and questionnaires. This commenced in September 2016 and lasted until 25th November 2016

10.2. Support for the scheme has been given by local residents, community groups and ward members. Not unexpectedly landlords who responded to the consultation mostly expressed opposition to the scheme. A full analysis of comments made and responses is contained in Appendices 4 and 5 of the designation report. However, useful comments about how the selective licensing scheme should operate have been taken on board where possible. These include modifying the boundary and licensing conditions, reduction in fees where early payment is made and continuing to allow payment in instalments.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council’s Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

VERSION:	0.01
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CONTACT OFFICER:	S. MacAlister
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DATE:	January 2017
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BACKGROUND PAPER:	
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