

**Report of the Private Sector Housing Manager  
To  
The Portfolio Holder Housing**

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**APPROVAL TO CONSULT ON SELECTIVE LICENSING IN MANSFIELD**

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**1. SUMMARY**

- 1.1 This report seeks approval to consult on the designation of Selective Licensing Areas in Mansfield. This would require all privately rented houses within the designated areas to be licensed under Part 3 of the Housing Act 2004.

**2. RECOMMENDATIONS**

**To be Resolved by the Portfolio Holder for Housing**

- To approve the formal consultation process with residents, landlords and other parties regarding the designation of Selective Licensing Areas;
- Notes the timelines outlined for the consultation, if approved.
- Notes the outcomes of a review of data for Selective Licensing in Mansfield (Appendix 1-5);
- Subject to satisfactory outcomes of consultations request further reports to be presented seeking formal approval of the designation of the Selective Licensing Areas under the Housing Act 2004.

**3. BACKGROUND**

- 3.1 Section 80 of the Housing Act 2004 provides for the introduction of a scheme of selective licensing of private landlords in a local housing authority's area. The powers in the Act came into force in April 2006.

- 3.2 The aim of selective licensing is to raise standards in the private rented sector. It has primarily been developed with the need to tackle problems in areas of low housing demand, high levels of migration, high deprivation, significant crime/anti-social behavior and poor housing standards. An area can be designated if it suffers from one of these conditions.
- 3.3 Many of the provisions relating to selective licensing are like those relating to the mandatory and discretionary licensing of Houses in Multiple Occupation (HMOs) – new regimes which were also introduced by the 2004 Act.
- 3.4 In an area subject to selective licensing, all privately let properties must be licensed and if they are let without being licensed, or fail to comply with licensing conditions, the authority can take enforcement action.
- 3.5 A review of the district has been undertaken to identify areas that are affected as described above continue to be an issue (Appendix 3), for which a designation may be appropriate, and suitable areas have been identified.

#### Identification of Areas

- 3.6 The private rented sector is an important and essential part of housing provision and housing choice in the district. Insufficiently managed private rented properties are the source of many problems and place high demands and costs across the Council and partner services as well as disruptive impact on local communities. Selective licensing aims to address the problems with poor quality and insufficiently managed private rented housing and in turn reduce the burden on Council services.
- 3.7 To consider which areas of the district might currently be suitable for designating a selective licensing area, a review of the district was undertaken using a range of data sources that included Lower Super Output Area information (LSOA) and the 2021 Census Data. Local data has also been taken from Nottinghamshire Police and Complaint Management Systems that support Environmental Health, Private Sector Housing and Community Safety at Mansfield District Council.
- 3.8 Data was taken from the Integrated Dwelling Level Housing Stock Modelling and Housing Stock Condition Database commissioned by Mansfield District Council from the Building Research Establishment (BRE) in 2020.
- 3.9 The decision to use LSOA information is due to LSOA's being a geographic subsection of the district, each containing around 1,500 households, which enables

reliable comparisons between areas. It is also important to collate and examine at LSOA level as this provides information for a smaller geographical area than at Ward Level. There are 68 LSOAs in the district of Mansfield as opposed to 36 wards.

3.10 The statistical analysis of the data gives an indication of the situation, but this needs to be considered with the Council's local knowledge and experience on whether an area requires intervention and whether other interventions have or are going to be put in place in the areas being considered.

3.11 For this reason the statistical data in this review has been used as the basis of a consultation with partners within the Council in relation to demand on their own services in various areas of the district and further detailed analysis has taken place in relation to prevalence of privately rented stock.

3.12 As a result of this work, five areas have been identified which are believed would benefit from being designated Selective Licensing Areas, these are:

- Area 1 – Streets within the Central ward
- Area 2 – Streets within West Bank ward and Bancroft ward
- Area 3 – Streets within the Market Warsop ward
- Area 4 – Streets within the Rock Hill ward and Eakring ward
- Area 5 – Streets within the Central ward

3.13 The reasons for inclusion in the selective licensing decision are also included in **Appendix 1-5**. All areas are in deprived LSOA's and have a high percentage of privately rented properties (the English Private Landlord Survey recently published by the Department of Levelling Up, Housing and Communities puts the national proportion of privately rented properties at 19%).

3.14 The scheme's purpose is that the implementation, combined with other measures delivered by partners, will lead to improvements in social and economic conditions.

3.15 The benefits of designating the areas would include:

- Specific requirements for landlords to obtain references for new tenants.
- Specific requirements for landlords to take steps in relation to complaints about anti-social behaviour issues caused by their tenants.
- Specific requirements relating to the provision of bins built into the tenancy agreements.

- Provision of Officers dedicated to working solely in the areas who have close ties with Environmental Health, Community Safety and The Private Sector Housing Teams.
- 3.16 A key part of the proposed designations would be an evolved approach to enforcement by the council when compared with previous reactive enforcement activity. Housing conditions would still be addressed as necessary within the area, but focus can also be placed on ensuring compliance with conditions relating to environmental matters such as waste presentation and disposal, and general management of tenants.
- 3.17 Alongside this work, very close collaboration will take place with internal and external partners to maximise the mutual benefits of work undertaken within the area. Therefore, further discussions will take place with colleagues in Environmental Health, Housing Needs, Community Safety and external partners during the 10-week consultation period.

#### Costs of Scheme

- 3.18 A fair but robust approach will be taken towards enforcement within any newly designated selective licensing area. Councils can recover costs associated with administering and performing the relevant functions of a selective licensing scheme. To achieve a cost-neutral scheme the licence fees will have to be calculated with a view to recovering this cost over the 5-year period. Councils are not allowed to make a profit from licence fees or use it for other purposes.
- 3.19 The legislation requires intensive consultation and evidence base to implement designation. The Council is required to consult fully with residents, tenants and landlords, managing agents and local businesses, both within the proposed areas and in the surrounding areas. The Government Guidance also states that consultation on the designation must also contain the fee proposals as well as the scheme itself.
- 3.20 From 1st April 2015 the government introduced a new requirement that applications for Selective Licensing designation must be submitted to the Secretary of State for confirmation if the designation together with existing designations affect more than 20% of private rented homes in the local authority area, based on figures from census data. Given that no selective licensing areas are currently in force Mansfield, the size of the areas identified means that referral to the Secretary of State would not be required.

### Licensing Fee

- 3.21 A licensing fee of around £800 is proposed (subject to consultation) for the area with a discount for applications submitted early within the scheme. The fee is split into two parts, the application and when a licence is granted.
- 3.22 Depending on the areas and the outcome of the consultation it is expected that between 650 and 1221 licence applications will be received. A breakdown of income expected depending on the size of areas covered is given in Appendix 6,
- 3.23 The council cannot make a profit from the licensing scheme, the intention is to operate the scheme on a cost neutral basis, modelling income and expenditure over a 5-year period and matching staffing resources and costs. The proposed licence fee has been determined with reference to the cost of the Scheme over the 5-year period.
- 3.24 The proposed model provides for sufficient staffing resource to maintain a scheme which is robust in terms of enforcement but will allow integration of value-added elements such as landlord and tenant engagement to improve on issues which have a Council-wide impact (e.g. waste enforcement and other anti-social behaviour).
- 3.25 The Council will need to support those designation costs which cannot be recovered from the licensing fee, which includes the costs of consultations. This will be done from within existing budgets.
- 3.26 Enforcement costs cannot be included in costings, although costs are applied for when a prosecution is successful (but cannot be applied for when cases do not reach the courts). Where appropriate, civil penalties will be used as an alternative to prosecution for non-compliance to minimise enforcement costs and avoid criminalisation of non-compliant landlords unduly.

### Resource Implications

- 3.27 The scheme would be administered by the Private Sector Housing team within the Housing Service. Depending on the scheme's size, it is anticipated that additional enforcement officers and administrative support would be required to deliver the scheme, managed by the Senior Environmental Health Officer and Private Sector Housing Manager. Additional recruitment will be required for these posts.

#### 4. OPTIONS AVAILABLE

- 4.1 **Option 1 (recommended)** – the Portfolio Holder for Housing approves the formal consultation process with residents, landlords and other parties regarding designation of selective licensing areas.
- 4.2 **Option 2** – not to approve the formal consultation process. This is not recommended as it will prevent the council exploring proactive measures to improve areas of the district which are affected by deprivation, antisocial behaviour and poor housing standards.

#### 5. RISK ASSESSMENT OF RECOMMENDATIONS AND OPTIONS

- 5.1 The risks associated with option 1 and those associated with option 2 are outlined in the table below.

Risk	Risk Assessment	Risk Level	Risk Management
<b>Option 1</b> –to approve the formal consultation process			
Legal	Landlords challenge the consultation process on implementing a licensing scheme	<b>Medium</b>	Ensure the consultation process meets legislative requirements to discourage or prevent a future legal challenge.  Decision is for consultation only.
	Resident and/or tenant challenge on the decision to implement a licensing scheme	<b>Low</b>	Schemes should benefit residents and or tenants so unlikely to challenged

#### 6. ALIGNMENT TO COUNCIL PRIORITIES

- 6.1 This report links directly to the Council's corporate strategy Making Mansfield Towards 2030 in particular with regards to Our Communities, Our Organisation, and Our Environment themes.

## 7. IMPLICATIONS

### Legal Implications

- 7.1 Sections 79- 81 of Part 3 of the Housing Act 2004, provide local authorities with power to introduce selective licensing schemes for other houses falling outside of Part 2 of the Act, which deals with licensing of HMOs.

The types of houses to be licensed under a selective licensing scheme are defined within s. 79 (2) of the 2004 Act. Namely, it applies to a house if -

- (a) it is in an area that is for the time being designated under section 80 [for selective licensing], and
- (b) the whole of it is occupied either-
  - (i) under a single tenancy or licence that is not an exempt tenancy ...., or
  - (ii) under two or more tenancies or licences of different dwellings contained in it, none of which is an exempt tenancy or licence..."

Further statutory considerations for a local authority apply under Part 3 of the Housing Act 2004 for selective licensing schemes, pursuant to section 80 (2)(a) and (b). These include conditions in relation to housing conditions, deprivation, migration and conditions in relation to crime and anti-social behaviour.

When fixing fees, the local housing authority may pursuant to s. 87 of the 2004 Housing Act (subject to any regulations made under subsection 5) take into account:

- all costs incurred by the authority in carrying out their functions under this Part, and,
- all costs incurred by them in carrying out their functions under Chapter 1 of Part 4 in relation to Part 3 houses (so far as they are not recoverable under or by virtue of any provision of that Chapter).

Guidance requires the Local Authority to present the case for selective licensing, and to say why it is the most appropriate solution, how consultations have been undertaken and how responses have been dealt with.

The Act, therefore, provides that before making a selective licensing designation a local housing authority must take reasonable steps to consult persons who are

likely to be affected by the designation and consider any representations made as part of the consultation.

It is a condition that the local authority undertakes a consultation process of no less than 10 weeks, and that the designation, either by itself, or in combination with other selective licensing designations made by the Council, does not cover more than 20% of the geographical area of the authority and does not affect more than 20% of the private rented homes in the authority, based on figures from the census data.

The detail within this report outlines how the Council will comply with these conditions in undertaking the consultation.

### Human Rights

7.2 It is not considered that the recommendation within this report will infringe on the principles of the Human Rights Act 1998.

### Equality and Diversity

7.3 It is not envisaged that approving the recommendation within this report will adversely disadvantage any groups.

### Climate change and environmental sustainability

7.4 There are no negative implications in respect of climate change and environmental sustainability.

### Crime and Disorder

7.5 Not applicable

### Budget /Resource

7.6 There is sufficient budget within the Private Sector Housing budgets to cover the costs incurred from the consultation.

## **8. COMMENTS OF STATUTORY OFFICERS**



8.1 Monitoring Officer - no specific comments

8.2 Section 151 Officer – no specific comments

## 9. CONSULTATION

9.1 none.

## 10. BACKGROUND PAPERS

None

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