

**TITLE OF REPORT:**           **Proposed Selective Licensing of Private Landlords within Areas of Central Gateshead**

**REPORT OF:**               **Paul Dowling, Strategic Director, Communities & Environment**

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### **Purpose of the Report**

1. This report seeks Cabinet approval to the designation of two Selective Licensing areas of private rented accommodation within the Central Area of Gateshead, under Section 80 of the Housing Act 2004.
2. Following approval by Cabinet, the proposals seeking to designate the two areas require approval from Council.

### **Background**

3. In October 2016, Cabinet considered evidence to support the introduction of further Selective Licensing in specific areas within Gateshead, and agreed in principle to a proposed phased approach, subject to formal designations and following necessary consultation. This report details the final proposal for landlord licensing in respect of the two areas identified following consultation.
4. The second Appendix to this report provides detailed evidence in support of two new Selective Licensing Area designations, and includes feedback from consultation that has been carried out. The same Appendix also provides detailed information on the strategic fit of licensing with Council objectives, alternative ways of working in future schemes, how the Council will work in partnership with other stakeholders and what options other than licensing have been considered. A copy of Appendix 2 can be viewed on-line within the Agenda folder for this meeting.
5. Selective Licensing Areas can be designated for two principle reasons. Either an area is, or is likely to become, an area of low housing demand, and/or the area is experiencing significant and persistent problems caused by anti-social behaviour (ASB). In addition, new criteria introduced in 2015 require proposed areas to contain high concentrations of private rented homes, as well as one or more of the following; high levels of crime, high levels of deprivation, high levels of migration and poor property conditions.
6. Based upon experience gained from former landlord licensing designations, and on analysis of relevant data, the proposed new designations are made in response to problems associated with low housing demand. Both areas are also exhibiting disproportionately high levels of ASB which has been shown to be linked with private rented homes.
7. No referral or authorisation by Central Government will be necessary prior to Scheme implementation, as a new general consent regime for discretionary

licensing was introduced in April 2010. This enables authorities to introduce schemes without seeking prior consent from Central Government.

8. Prior to making any designation based upon low housing demand, a Local Authority must:
  - a. be satisfied that the area is, or is likely to become, an area of low housing demand, and that the designation, together with other measures, will contribute to improved social or economic conditions in that area; and
  - b. be satisfied that the additional criteria in relation to high levels of private rented homes and either high levels of crime, migration, deprivation and poor property conditions have been met (Pages 17-37 of main report)
  - c. take reasonable steps to consult those likely to be affected by the designation, and take into account representations made. (Pages 70-78 of main report)
  - d. Ensure that any exercise of the power is consistent with the authority's overall housing strategy (Pages 13-17 of main report)
  - e. Seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour (Pages 65-69)
  - f. Consider any other courses of action available to them that might provide an effective method of achieving the objectives that the designation would intend to achieve (Pages 79 of main report ) and Appendix N.
9. The existing Selective Licensing Scheme in Swalwell is operating effectively and the expired schemes in Central Gateshead Phase 1, Chopwell and Sunderland Road resulted in improved management and property standards, and contributed towards the reduction in low housing demand in the areas. The Swalwell Scheme will expire in April 2018. The improvements achieved in these areas gives confidence that the schemes now proposed will have a similar positive impact.
10. The introduction of further Selective Licensing will also demonstrate the Council's ongoing commitment towards making Gateshead a place where residents thrive by improving local neighbourhoods and communities.

## **Proposal**

11. Based upon evidence and data analysis, it is proposed to designate the following areas as Selective Licensing Areas:
  - a. Central Area (Phase 2) – The Redesignated Area
  - b. The Avenues (Phases 1,2 and 3).
12. Appendix 2 to this report identifies the Areas, provides evidence of low demand, sets out details of the proposed schemes, and describes the requisite consultation carried out.
13. Once a designation is made, it will be necessary to publish prescribed Notices, in local papers, on the Council website, and make relevant information available to the public.
14. The designation would come into effect no earlier than three months from the date of approval by Full Council, and the proposed duration of each Scheme would be five years, which is the maximum period allowed.

15. In line with the resources available, and recognising that the existing scheme expires mid-April 2018, it is proposed to phase the timing that the schemes come into effect, with Central Area (Phase 2) programmed to come into effect at the end of April 2018, and the Avenues phases as follows, Area 1- October 2018, Area 2, - October 2019 and Area 3 - April 2020. The introduction of Area 3 will be subject to ongoing consultation. If the introduction of Areas 1 and 2 result in noticeable reductions in low housing demand to the wider area in advance of April 2020, Phase 3 may no longer be required. Ongoing monitoring of the relevant indicators of low demand will be undertaken periodically in relation to this and also to determine if other areas within Gateshead would benefit from landlord licensing.
16. The Housing Act 2004 allows a fee to be applied to licence applications. The fee can be set at a level which takes into account the cost of delivering the schemes. The Government's intention was that licensing should be self-financing, with a fee structure which is fair and transparent. Local authorities have the discretion to offer discounts on licences, for example to landlords who are accredited under a local authority scheme. The fee structure for the schemes now proposed is set out on pages 49-52 of the main report in Appendix 2 and also within Appendix F of that report.

## **Recommendations**

17. Cabinet is asked to recommend the Council to;
  - i. Agree to the designation of two areas of Gateshead (as identified in Appendix 1) for selective licensing, and that official notifications are published in accordance with Government guidance and legislation.
  - ii. Agree the proposed schemes detail, implementation programme, and proposed Enforcement Policy, as set out in Appendix 2.
  - iii. Delegated authority is given to the Service Director, Development, Transport and Public Protection to take enforcement action in relation to Part 3 (Selective Licensing) of the Housing Act 2004, throughout the duration of the Schemes as appropriate.
  - iv. Agree the proposed application fees and charges

For the following reasons:

- i. It is considered that the Areas proposed are experiencing low housing demand and the Council is satisfied that by making a designation, when combined with other measures taken by the Council, or by the Council in conjunction with others, it will contribute to an improvement in the social and economic conditions in the area. The Schemes will complement other initiatives and interventions in place to tackle low demand within the proposed Areas, and support the delivery of the aims and objectives of existing Council strategic objectives and the Bensham and Saltwell Neighbourhood Action Plan.
- ii. To ensure the Schemes can be delivered in a timely way, within resources available

- iii. To ensure the Schemes are effective, delivered fairly, and underpin the Council's drive towards improving conditions in the private rented sector.
- iv. To ensure the licence fee structure is transparent, and enables recovery of a proportion of the costs of implementing the proposed Licensing Schemes.

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## Policy Context

1. The proposal referred to in this report supports Gateshead's long-term Sustainable Community Strategy: **Vision 2030**, and the Council Plan. The proposal also aligns with a key priority within The Core Strategy and Urban Core Plan for Gateshead (2010-30) in ensuring that existing communities will be sustainable places of quality and choice.
2. The proposal also aligns with three objectives of The Housing Strategy 2013-18 in relation to *Support* – helping residents access and sustain a home which promotes their wellbeing, *Standards*-to improve quality, condition and management of housing in the private rented sector so residents will benefit from safe, healthy and well managed homes, and finally *Supply* – to ensure use of existing stock to best meet current and future needs and aspirations.
3. The introduction of landlord licensing also complements the objectives of the Bensham and Saltwell Neighbourhood Action Plan; and complements the Council's wider regeneration and economic development objectives.
4. By ensuring that Selective Licensing is implemented alongside other initiatives, it is envisaged that this will significantly assist in tackling the Council's key priorities.

## Background

5. The Housing Act 2004 gives the power to Local Housing Authorities to designate areas for selective licensing in respect of privately rented accommodation, provided:
  - The area is experiencing low housing demand and, when combined with other measures, would contribute to an improvement in the social or economic conditions in the area, and/or,
  - The area is experiencing a significant and persistent problem caused by anti-social behaviour and that some or all of the landlords in the area are not taking appropriate action to combat the problem, and when combined with other measures will lead to a reduction in the problem.
6. New criteria introduced in 2015 also require there to be high levels of privately rented homes in proposed areas, and the existence of one or more of the following: high levels of deprivation, high levels of crime, high levels of migration and poor property conditions.
7. These powers can be used if a designation would be consistent with the Authorities overall housing strategy, and subject to required consultation.
8. One existing Selective Licensing Schemes is in operation within Gateshead. There have been three former licensing schemes that have received approval and implemented in the Borough since 2007, the Sunderland Road Area from 2007-2012, Chopwell River Streets 2010-2015 and Central Bensham Phase 1 2012-2017. The existing scheme running in parts of Swalwell will expire mid-April 2018.
9. The expired schemes operated effectively, and delivered significant improvements in housing market conditions and neighbourhood sustainability, through improvement to properties, management practices, and reductions in anti-social

behaviour. The success of the existing Schemes demonstrates that Licensing can be an effective approach to providing support to an area suffering from low housing demand.

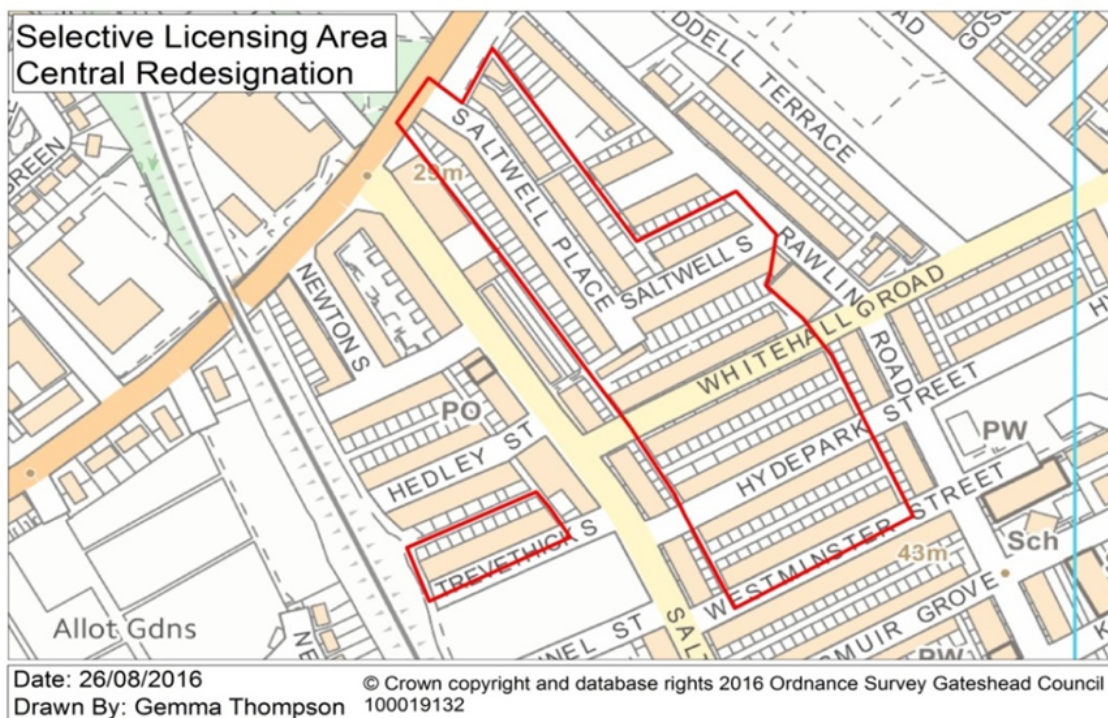
10. In October 2016, Cabinet considered research that identified areas containing concentrations of private rented sector properties within the Bensham and Saltwell Neighbourhood Action Plan Area, as exhibiting indicators of low housing demand, and issued of deprivation and crime. It was agreed in principle that these areas would benefit from Selective Licensing, and that work towards designations should be progressed. The evidence now provided within this report supports a formal designation of two specific areas.
11. Evidenced indicators of low housing demand are being exhibited within both the areas proposed for Licensing, including problems with deprivation and crime in both, and property conditions in the Avenues, There is a correlation between housing conditions, tenure mix, dwelling type and age, and social and economic circumstances. Where these factors are unbalanced, and the housing offered is not meeting local needs, low demand and market vulnerability can arise. Selective Licensing can contribute to improving social and economic conditions that will in turn improve housing market conditions. There have been significant improvements in the former wider Central Bensham licensing area since its introduction in 2012. Evidence and data gathered have confirmed that a smaller and redefined area would benefit from the ongoing intervention of landlord licensing to sustain and increase improvements to date.
12. Appendix 2 to this report sets out the evidence of low housing demand in detail across both proposed areas. Issues include poor management of tenancies and properties; concerns regarding anti-social behavior; and the presence of criminal activity; and the fear of crime. These issues combine to result in:
  - lower than expected property values;
  - low levels of owner occupation;
  - high incidence of empty properties; and
  - high turnover of residents and ownership
13. Appendix 2 also sets out the evidence to confirm that the additional criteria in relation to concentrations of privately rented homes and problems with deprivation, crime and for the Avenues, poor property conditions are met.
14. Although the Areas do suffer from some level of anti-social behaviour, it is felt that this is a symptom of low housing demand. It is considered that the designation of Selective Licensing on the basis of low housing demand is most appropriate, however, it is considered that the designation will also help reduce anti-social behaviour in the Areas.
15. It is recognised that Selective Licensing is most effective when implemented in conjunction with other physical, economic and social interventions. The proposed schemes will complement and strengthen existing interventions, and will help deliver the objectives of approved regeneration plans including, The Bensham and Saltwell Neighbourhood Action Plan. Licensing would also be implemented alongside the recently approved on street Environmental Enforcement service in order to make a positive impact on the environment by providing a physical

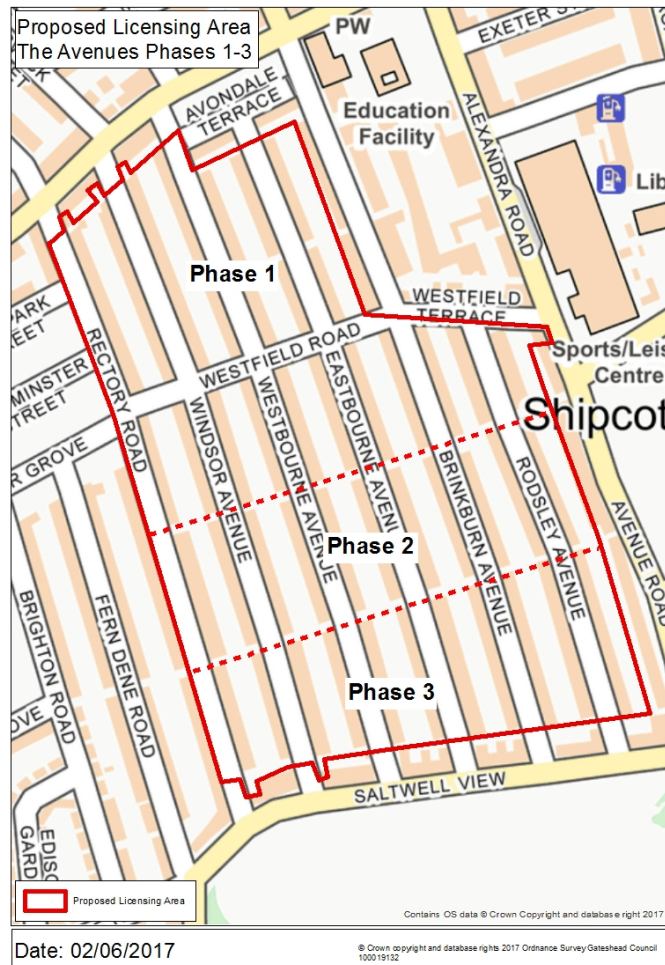
presence of officers on the streets to tackle perpetrators in relation to littering and dog fouling and to change behaviours.

- Both areas proposed for designation have been the subject of recent and historical interventions aimed at improving housing market confidence and tackling problem empty properties. The introduction and continuation of Selective Licensing is considered necessary to ensure improvement continues and becomes self-sustaining. Interventions in the Central Area have included residential Block Improvement Schemes; targeted enforcement activity; engagement with property owners and residents; and promotion of the Council's property Accreditation Scheme.

### The Schemes detail

- The designations will apply to all privately rented residential properties subject to specific exclusions, in the areas outlined on the plans below. The designations will require that all private landlords and agents who rent properties in the areas must obtain a licence to operate.





18. The designations are proposed to come into effect at the end of April 2018 for the Central Bensham Phase 2 (The Redesignated Area) and for the Avenues as follows – Phase 1 (October 2018), Phase 2 (October 2019) and Phase 3 (April 2020-subject to ongoing consultation). This phased approach reflects current service delivery capacity, the expiry date of the Swalwell scheme and the amount of resource required at the differing stages of each scheme following introduction.
19. The Housing Act 2004 allows Local Authorities to apply a fee to licence applications. The proposed fee structure for the new Schemes is detailed in the report in Appendix 2. The proposed fees can be set at a level which takes into account the Local Authorities costs of developing and running a scheme, without being too much a financial burden on landlords. The Government's intention was that Licensing should be self-financing, with a fair and transparent fee structure that reflects the actual costs of Licensing. Local Authorities do have the discretion to offer discounts on licenses.
20. It is proposed that the fee structure for the new schemes should both incentivise good practice, including property accreditation and nationally recognised Landlord Association membership, and penalise deficient applications. Discounts show additional support for private landlords who have demonstrated their commitment to good standards of property and tenancy management, by either becoming members of a nationally recognised Landlords' Association, and/or ensuring their properties attain Gateshead's Accreditation Standard. A discount is also offered



where multiple licence applications are required reflecting the reduction in resources required.

21. The inclusion of discounted rates will limit the total fee income, to a level below the current running costs. There is an important synergy however, between the availability of incentives to landlords, and buy-in-to, and commitment to Selective Licensing from Landlords. The removal of fee discounts could shift the balance, with Landlords resisting the added regulation and so reducing the extent of voluntary improvement that goes beyond the mandatory requirement.
22. There are criteria against which all licence applications will be assessed, the most critical is that a landlord or manager of a property is a “fit and proper” person to be the licence holder. The assessment of “fit and proper” will be in line with criteria used for HMO licensing, and former/existing Licensing Schemes. These are detailed in the Appendix 2 report.
23. Conditions attached to Licences are also detailed in Appendix 2. Mandatory conditions to be included are set by Central Government and a Local Authority is able to set additional conditions. Conditions have been developed to respond to local issues and problems within the proposed areas. The conditions provide a framework for a landlord to follow to ensure effective management of the tenancy and property. A licence can be revoked where breaches of the licence conditions have occurred, and/or it is considered that the Licence holder is no longer capable of managing the property effectively, and/or where they are no longer considered to meet the “fit and proper” criteria.
24. A person commits an offence if they have control of, or manage, a property which is required to be licensed, but it is not so licensed. The penalty for this offence is an unlimited fine (previously £20,000 but recently made unlimited by Central Government in an attempt to encourage good practice within the private rented sector). In addition, where a licence holder fails to comply with any condition of the licence, they are deemed to have committed an offence, and liable to a fine not exceeding level 5 on the standard scale (currently £5,000).
25. Enforcement of the Licensing Schemes will be carried out in accordance with the Council’s overarching Enforcement Policy, meaning that it will be transparent, proportionate, and outcome focused. A specific Landlord Licensing Enforcement Policy has also been developed, details of which can be found in Appendix 2.
26. It is proposed that the Selective Licensing Area designations would apply for the maximum time period of five years. The Schemes, however, will be regularly reviewed, and if it is deemed that the designations have been successful, and the problems associated with low demand have been resolved sooner than expected, the designations may be revised or revoked.

## **Consultation**

27. In preparing this report the Cabinet Members for Economy and Housing and the appropriate Ward Councillors have been consulted.
28. Specific consultation in relation to the proposed Selective Licensing areas has taken place, and this involved:

- sending a questionnaire to all stakeholders (including all residents, landlords and property agents) in and around the proposed areas, inviting responses on the proposed Selective Licensing Scheme. Over 317 completed questionnaires were received.
- Consultation promotion on social media, online webpages and Council publications.
- Drop-in events held within the proposed areas and at the Civic Centre
- Individual consultation with stakeholders who had specific comments and concerns.

29. Whilst the results of the consultation showed overwhelming support for the introduction of Selective Licensing by residents and some landlords, a number of concerns about the introduction of Licensing have also been raised. The feedback is considered in the Appendix 2 report.

30. A late submission from the Gateshead Private Landlords Association was sent to members on 14<sup>th</sup> January 2018. Whilst this is eight months after the completion of the statutory consultation period, Officers and members have considered the information provided in the short timescale available.

### **Alternative Options**

31. Cabinet may choose not to support this initiative however, the proposal has been informed by extensive analysis and consultation, and the approach proposed is considered appropriate, and in alignment with the Council's wider strategic objectives and the wider regeneration policy context.

### **Implications of Recommended Option**

#### **32. Resources**

- (a) **Financial Implications** - The Strategic Director, Corporate Resources confirms that resources within the Development & Public Protection budget, in addition to income from licence fees, are available to deliver the proposed Selective Licensing Schemes (based upon anticipated licence fee income).
- (b) **Human Resources Implications** – Staffing resources are available within the Development and Public Protection Service to deliver the schemes in the phased approach proposed.
- (c) **Property Implications** – None anticipated

33. **Risk Management Implication** –The Sunderland Road, Chopwell and Central Bensham Phase 1 Licensing Schemes delivered noticeable improvements and the existing Swalwell scheme is operating successfully, and potential risks have not arisen or affected the deliverability of the scheme. Factors that could affect the deliverability of the new schemes include; funding, stakeholder support, and human resources.

There is no evidence in relation to the three former and one existing scheme that selective licensing has led to significant displacement of “problem” landlords or tenants to nearby areas.

34. **Equality and Diversity Implications** – The schemes aims to have a positive impact upon those in most need within the designation areas. Public consultation has been carried out in such a way as to attempt to reach all stakeholder groups. A Equalities Impact Assessment has been undertaken.
35. **Crime and Disorder Implications** - Selective Licensing aims to reduce levels of anti-social behaviour thereby benefiting the whole community.
36. **Health Implications** – Selective Licensing actively promotes the Accreditation of privately rented properties. For properties to become accredited they must achieve the decent homes standard and thereby provide a safe and healthy environment for the occupants
37. **Sustainability Implications** - Securing the long-term sustainability of the proposed designation areas is an underlying objective.
38. **Human Rights Implications** – Where the Council's undertakes enforcement activity there are human rights implications, under Article 8 Right to respect for private and family life (Everyone has the right to respect for his private and family life, his home and his correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others) The interference is reasonable in order to achieve adequate standards of repair and comfort to the occupiers.
39. **Area and Ward Implications** – The proposals affect the Saltwell and Lobley Hill and Bensham Wards. The scheme will benefit residents of the all the areas.
40. **Background Information** -
- The Core Strategy and Urban Core Plan for Gateshead (2010-2030)
  - The Housing Strategy 2013-2018
  - Cabinet report – October 2016 - Future Programme for the Selective Licensing of Private Landlords
  - Housing Portfolio Briefing November 2017 – Summary of the Landlord Licensing Consultation Responses
  - Cabinet Report August 2017– Review of Selective Licensing of Private Landlords within Central Gateshead-Phase 1
  - Cabinet Report November 2014– Review of Selective Licensing of Private Landlords within The Chopwell River Streets