

REPORT TO CABINET

11 October 2022

TITLE OF REPORT: **Future Programme for the Selective Licensing of Private Landlords**

REPORT OF: **Colin Huntington, Deputy Chief Executive**

Purpose of the Report

1. To seek the agreement of Cabinet to develop an evidence led programme of future Selective Landlord Licensing (SLL) schemes.

Background

2. Gateshead has for many years been at the forefront of tackling poor standards in the private rented sector. In September 2007 the Council introduced one of the first Selective Landlord Licensing schemes in the country. This followed extensive political campaigning to introduce SLL as a tool to tackle problems associated with concentrations of privately rented homes. The successful implementation of licensing schemes in Gateshead has been proven to improve landlord management and to reduce or stabilise problems such as anti-social behaviour (ASB) and crime, and to have a beneficial impact on other indicators of low housing demand. This has included a reduction in the requirement for tenants to have cause for complaint about their homes, reduction in turnover of residents, and a reduction in the number of empty properties.
3. Since the first scheme, a further seven schemes have been introduced, each lasting five years: Chopwell River Streets in 2010, Central Bensham Phase 1 in 2012, Swalwell in 2013, Central Bensham Redesignated Area in 2018, Avenues Phase 1 in 2018, Avenues Phase 2 in 2019 and Avenues Phase 3 in 2020. There are four current schemes in place, covering approximately 1,500 homes.
4. In line with the Council's Thrive agenda, the proactive engagement with residents within SLL areas has brought to light other issues including social, economic, health and wellbeing concerns, which without SLL, would not have been identified. The financial contribution that schemes make from landlord licence fees has allowed intensive work with residents within these areas, with improved outcomes for them and improved confidence in their neighbourhood.
5. Recent schemes have included a dedicated proactive partnership approach with Northumbria Police via 'Operation Vienna'. Co-location working arrangements within the Civic Centre with information sharing and a joint approach to tackling ASB and crime in licensing areas has led to the uncovering of organised crime gang activity, tenant exploitation, sex work and drug related issues. Tackling these issues to improve community safety contributes to the Council's Health and

Wellbeing Strategy. This approach by the Council and Northumbria Police within SLL schemes has recently been commended by an independent government review paper.

6. The schemes are designed and implemented by the Council's Private Sector Housing team. The team works across the borough and fulfils the part of the Council's role of 'the Local Housing Authority', of being responsible for detecting, inspecting, and taking action in respect of poor housing standards and a range of other housing related offences.
7. The private rented sector in Gateshead has grown from 6% of the borough's homes in 2010 to 25% of the boroughs housing stock in 2021. The team continues to identify across the borough dangerous housing and the poor practices by landlords that cause people to be concerned about private renting. These issues include landlords simply not being aware of their obligations and failing to invest in property condition, through to the deliberate exploitation of those that have no other housing choice. Proactive work outside of SLL scheme areas is not often possible due to a lack of resources. The team have detected that some landlords whose portfolio extends inside and outside of scheme areas, manage their properties outside of scheme areas to a lower standard than those inside, demonstrating the positive impact SLL has on landlord conduct.

Proposal

8. The Council has both a strategic role and statutory responsibilities to tackle the poor housing and antisocial behaviour that is prevalent in areas of low demand. There are areas in Gateshead with concentrations of privately rented homes, that are vulnerable to investment from unscrupulous landlords that are not currently included with SLL areas. These areas are also affected by multiple deprivation and would benefit from the intensive work to drive up standards in the private rented sector, and the support to tenants and their families that is provided by SLL. The creation of any further Selective Landlord Licensing schemes must follow robust evidence led approach to area identification. This includes identification of the indicators of low demand described above, together with other indicators relating to crime, anti-social behaviour and housing related complaints.
9. It is proposed that in line with the expiry dates of existing schemes a rolling programme of licensing schemes is developed, with implementation phased over several years from 2024/25.
10. Additional staffing capacity and expertise is required to carry out the investigative and development work to create the robust evidence base and future SLL scheme programme at a cost of £0.240m.
11. In parallel, existing schemes within the Bensham and Lobley Hill ward, and within the Saltwell Ward will require continued management to ensure that scheme objectives are achieved up to scheme expiry dates, the latest of which is March 2025.

Recommendations

12. It is recommended that Cabinet:

- (i) Approves the proposal for an evidence led assessment of potential areas of the borough that would benefit from Selective Landlord Licensing.
- (ii) Approves the proposal to consider at a future meeting, details of the proposed areas and to receive and consider at that time a proposed programme of SLL scheme implementation, subject to statutory public consultation.
- (iii) Notes the financial impact of the necessary development work.
- (iv) Notes an intention to undertake a study into the impacts of SLL in meeting the Council's wider Thrive ambition and in delivering its Health and Wellbeing strategic priorities.

For the following reasons:

- (i) There are high levels of private rented properties in some areas, and ineffective property and tenancy management by some landlords is having a detrimental effect on the health and wellbeing of some of the most vulnerable private renters and contributing to the impact of deprivation.
- (ii) Without SLL it is not possible for the Council to focus any proactive intervention to protect residents within these areas from the impact of poorly managed privately rented homes.
- (iii) The development of a programme of SLL that phases implementation over time, is necessary to ensure that the activity is achievable within the resources available and affordable to the Council.
- (iv) Current schemes must continue to be resourced until they come to an end and development work for further schemes must be carried out at the same time.

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Policy Context

1. The proposals referred to in this report support Gateshead's key strategies including Health and Wellbeing Strategy, Housing Strategy, Economic Strategy, and ultimately delivery of the Council's Thrive vision.
2. The promotion of sustainable neighbourhoods to provide quality areas to live and work is a key priority within the Core Strategy and Urban Core Plan for Gateshead (2010-2030). Policy CS9 Existing Communities aims to ensure that communities will be sustainable places of quality and choice and within this strategy, SLL is recognised as a tool to improve homes within the private rented sector to manage and secure improvements in areas of low demand and related social problems.

Background

Legal Framework

3. The Housing Act 2004 gives powers to Local Housing Authorities to designate areas for selective licensing in respect of privately rented accommodation, provided:
 - The area is or is likely to become an area of low housing demand and selective licensing, 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 selective licensing, when combined with other measures, will lead to a reduction in the problem.
4. In 2015, additional conditions were introduced within The Selective Licensing of Houses (Additional Conditions) (England) Order 2015, that are required to be satisfied prior to an area being designated for landlord licensing, these being:
 - (a) that the area contains a high proportion of properties in the private rented sector, in relation to the total number of properties in the area;
 - (b) that the properties referred to in sub-paragraph (a) are occupied either under assured tenancies or licences to occupy; and
 - (c) that *one or more* of the sets of new conditions within the Order are satisfied, these being; Condition 1 – poor housing conditions, specifically relating to hazards to the health or safety of occupiers; Condition 2 – that the area has recently experienced or is experiencing an influx of migration into it and that it is necessary to ensure that private properties are well managed and overcrowding is prevented; Condition 3 – that the area is suffering from high levels of deprivation and; Condition 4 – that the area suffers from high levels of crime affecting those living in private rented properties.
5. When SLL schemes cover less than 20% of an administrative area and less than 20% of the private rented sector within that area, a scheme can be approved by 'general consent', i.e. by a Council. This local approval is subject to adherence with the legal requirements set out in the Housing Act 2004. These include in-depth data capture and analysis against specific criteria to demonstrate an area needs and would benefit from a designation of SLL, the setting out of a clear proposal with

robust scheme objectives, and a minimum 12-week public consultation exercise. Local Authorities proposals to introduce schemes can be challenged by landlords and can be subject to Judicial Review.

6. Whilst many landlords in Gateshead are supportive of licensing, scheme designation proposals in 2018 did receive vociferous challenge from some landlords who felt that licensing was unnecessary and an unreasonable financial burden. Any development of further schemes must be well evidenced and legally compliant.

Scheme Performance

7. To date eight SLL schemes have been introduced, each lasting five years. Four schemes have now expired and four schemes remain in existence; Central Bensham and The Avenues expiring 2023 and The Avenues Phase II and II expiring in 2024 and 2025 respectively. All schemes have resulted in improved tenancy management and property standards. In 2017 a Central Bensham Scheme was evaluated, with the results shared as in this page on the Council's website:
<https://www.gateshead.gov.uk/article/7143/Central-Gateshead-licensing-scheme>
8. There are areas covered by current SLL schemes, that may benefit from a re-designation after the initial 5-year term, because the area has not yet responded sufficiently well for the intensive work to come to an end. These schemes must continue to be implemented effectively until their expiry, but investigative work is now necessary to ascertain whether it is proportionate to re-designate for a further term to allow the work to continue.

Financial Performance

9. Landlords must pay a fee for their licence within a scheme. The fee covers the cost of administration of the licence and the work carried out during the 5-year term of the scheme. The fee for current schemes ranges from £550 to £1000 per property (the variation reflects the extent of notifications/reminders that are required to the person responsible to secure a valid licence application) and is charged just once should a licence holder retain their property in the scheme for the 5-year term. Some discounts apply.
10. Landlords can receive a fine if they fail to apply for a licence, or if they fail to comply with the conditions of the licence during the scheme. Fines are calculated on a case-by-case basis using information about the landlord's culpability and track record, harm caused, financial benefit from committing the offence and the cost of investigation of the offence.
11. Income associated with the schemes tend to be received in the first two years of the scheme and can be carried forward from year to year to fund a scheme's cost within the 5-year term. Current schemes come to an end between 2023 and 2025.
12. There are currently 11 posts associated with the delivery of current schemes. 10 posts are permanent and 1 is fixed term.
13. Additional staffing capacity and expertise is required to carry out the investigative and development work to create the robust evidence base and future SLL scheme programme at a cost of £0.240m

14. The fee structure for future schemes will be restructured to ensure they are self-financing over the 5 year scheme term.

New Scheme Development

15. Capacity is not available for the depth of work required for new scheme development whilst current schemes are in operation. Additional staffing capacity and expertise is required to carry out the investigative and development work to create the robust evidence base and future scheme programme. If a programme is to be developed, this must be carried out alongside current scheme implementation to minimise the period between current schemes ending and new schemes beginning. Any delay will result in increased costs to the Council and a drain of licensing expertise to neighbouring Councils. This cost of scheme development, resourced by the Council for this period, can be recovered via a recalculated licence fee structure for future schemes.
16. SLL financial modelling shows that based on the current scheme fee structure, the operation of a programme of 7 schemes over a five-year period would result in their operation at no cost to the Council. A recalculation of the fee structure to reflect changes since its creation in 2017 could reduce the number of schemes required to achieve a no cost outcome for the Council, and / or the recruitment of additional staff. This will be explored further as proposals develop. Whilst cost recovery is an important consideration for the Council, caution should be exercised in the operation of so many licensed properties at any one time (i.e. large schemes or running multiple schemes concurrently) because this can reduce the impact and effectiveness of the licensing activity.
17. Benchmarking licensing schemes against other Councils

| Council | Number of homes subject to SLL | Number of homes as a percentage of the private rented stock | Licence Fee |
|----------------------------------|---------------------------------------|--|---|
| Northumberland | No SLL schemes | | |
| Newcastle | 4,535 | 17% | £650 no discounts. |
| North Tyneside | No SLL schemes | | |
| South Tyneside – proposed scheme | 750 | 8% | £550 |
| Sunderland | No SLL schemes | | |
| Durham | 30,000 | 42% | £500 Discounts can reduce fee to £350 |
| Gateshead | 1,164 | 5.2% | £550 to £1,000. Discounts available. Web link. |

Timescales

18. The steps and predicted timescales associated with the development of a programme of schemes are included at Appendix 2. It is anticipated that in accordance with this plan, new schemes would be commenced on the ground in spring 2024.

Consultation

19. Consultation has been carried out with the Housing Portfolio Holder, and this report was discussed and supported at a meeting of the Strategic Housing Board on 1st September 2022.
20. It is intended that the programme is brought back to a further meeting of the SHB. If ultimately Cabinet approves the programme subsequent to the support of the SHB, a statutory period of 12 weeks of consultation with residents, property owners and landlords would then commence within the areas where new schemes were proposed.
21. In January 2023 the Housing, Environment and Healthy Communities Overview and Scrutiny Committee will consider the impact and effectiveness of the Council's approach to private housing standards, including selective landlord licensing, giving members an opportunity to review performance prior to the requirement to decide upon the developed programme.

Alternative Options

22. June 2022 has seen the publication of 'a fairer private rented sector' a government white paper setting out proposed changes to the way in which the private rented sector will operate. This includes changes to regulation. None of the changes will be sufficient to drive up standards within the private rented sector in the areas dominated by poorly managed private rented homes. A multitude of evaluation reports carried out after assessment of schemes nationwide are supportive of the continued use of SLL in a targeted way to tackle areas worst affected by poor conditions and management practices.
23. Relying on tenants asking for help, and funding reactive work results in insufficient activity within areas of need. Tenants are fearful of retaliatory eviction, rent increases and not being able to find somewhere else to live if evicted. The Council cannot resource sufficient activity without the contribution from landlords that SLL enables. The SLL approach is the most sustainable method of funding the work in the sector, sidestepping the risk of retaliatory eviction, and of providing what tenants need.
24. The option of not carrying out further schemes has been considered and disregarded, as there is strong evidence of the need to introduce selective licensing without which problems associated with low demand including poor property prices and standards, levels of empty properties and anti-social behaviour are likely to continue. This would not support the achievement of the Council's wider strategic objectives.

25. The option of a 'whole borough' scheme has also been considered. However, this would require Secretary of State consent, with approvals following submission of the proposal taking up to 2 years to achieve. It would also add significant additional cost to the Council in developing the proposal and in ensuring its subsequent delivery.
26. The Council could choose to consult with the public now, with a proposal to impose SLL borough wide, without further investigative work. This option has been disregarded due to the evidence led, robust approach that is expected of Councils in the identification of areas where SLL are to be applied. Local Authorities can expect to be challenged by landlords, by the Secretary of State for Levelling Up, Housing and Communities, and face Judicial Review if licensing schemes are proposed and the conditions required (outlined in paragraph 4 above) are believed not to be met. The investigative work proposed will seek to uncover whether the evidence base exists for borough wide licensing.

Implications of Recommended Option

27. Resources:

- a. **Financial Implications** – The Strategic Director, Resources and Digital confirms that the schemes require up front development costs of circa. £0.240m which can be met from reserves.

Whilst it is acknowledged that the schemes will have an implementation phase the fee structure will be developed to ensure they are self -financing over the 5 year scheme term accruing a budget saving of £0.044m.

- b. **Human Resources Implications** - Staff are currently employed to implement current SLL schemes. Should the Council decide not to develop a programme of further licensing, then those staff could be made available for housing enforcement work outside of SLL areas, but at Council cost and without a contribution from landlords. Alternatively they may need to be redeployed, or face redundancy.

Councils local to Gateshead are also developing SLL schemes at the same time. Newcastle has recently recruited to around 20 posts of those in the private rented housing profession, Durham has recently commenced recruitment of SLL staff and a member of Gateshead's team has been contacted by a neighbouring Council to attract them to move.

Team members understand that their roles are linked to licensing, and that COVID has resulted in a delay in future scheme proposal and development. Any further delay will risk a drain of the expertise from the team to the benefit of other Councils as staff become concerned about the risk to their posts.

- c. **Property Implications** - All private rented properties within licensing areas are inspected by licensing team members during the five year term of a scheme to ensure good quality accommodation is provided and that conditions meet the legal minimum standard. Property owners are requested to undertake repairs and improvements where necessary and many go beyond the minimum standard to reach the Council's Property Accreditation standard. This reduces the number of non-decent homes and those that have Category 1 hazards under The Housing Health and Safety Rating System. The introduction of

licensing can also contribute towards stabilising and improving rental and property values.

28. **Risk Management Implications** - Approval is sought to develop a programme of schemes. Further approval will be sought to that programme. Scheme implementation will be subject to rigorous statutory requirements to consult with those affected. Further SHB support and subsequent Cabinet approval will be sought after that consultation to create the legal designation of each scheme. During that process risks may include lack of support from stakeholders, changes in legislation, or lack of ability to appoint or commission the expertise required. Steps will be taken to minimise the risks to delivery at each stage.
29. **Equality and Diversity Implications** - An Equalities Impact Assessment will be developed alongside the SLL programme proposal.
30. **Crime and Disorder Implications** - Selective Licensing can be designated on grounds that an area suffers from high levels of crime affecting those living in private rented properties and when the scheme would contribute towards a reduction in the levels of crime in the area, for the benefit of those living in the area. The investigative work to develop the programme will include an analysis of crime and anti-social behaviour data to determine how licensing can contribute to a reduction in crime, disorder and ASB. Current schemes created as a result of low demand in the affected areas, whilst not created specifically to tackle crime and disorder, have had a beneficial impact on crime and ASB as a result of the support provided to individuals to improve their circumstances, the support to report, and the focussed investigation of ASB carried out by the licensing officers and the partnership working with Northumbria Police as 'Operation Vienna'.
31. **Health Implications** - The introduction of Selective Licensing contributes directly to improving the health and well-being of residents of Gateshead by improving conditions and management of private sector homes. Intensive work by licensing officers within the area also provides opportunities to identify residents that are not accessing services, including health care and to support them to access what they need.

By the nature of the selection processes for areas to be licensed, it is inevitable that they will house a significantly higher proportion of people who are not thriving than in other parts of our areas, and this targeted activity contributes to achieving the aims of our Thrive agenda and Health and Wellbeing Strategy.

32. **Climate Emergency and Sustainability Implications** - The energy efficiency of homes is a criteria considered in the development of the SLL programme, i.e. areas with privately rented homes that are poor in energy efficiency terms will contribute to their demonstration of need for SLL. Implementation includes property inspection, ensuring compliance and investment by landlords in energy efficiency requirements and advice to tenants about how to use heating controls. This has carbon footprint benefits.

Securing the long-term sustainability of neighbourhoods in need of support is an underlying principle of SLL.

33. **Human Rights Implications** - Where the Council undertakes enforcement activity there are human rights implications, under Article 8 Right to respect for private and

family life. Enforcement activity within SLL areas can result when a property is identified that fails to meet the basic minimum housing standard. This interference is reasonable in order to achieve adequate standards of repair, safety and comfort to the occupiers and to others.

34. **Ward Implications** -There are no direct ward implications arising from this report. There will be ward implications after the programme is developed. The programme will indicate which areas of the Borough would benefit from SLL.