

**TO WEYMOUTH AND PORTLAND BOROUGH COUNCIL MANAGEMENT
COMMITTEE**

ON 11 DECEMBER 2018

TITLE: Selective Licensing Consultation in the Melcombe Regis Ward

EXECUTIVE SUMMARY:

The main provisions of the Housing Act 2004 came into effect in April 2006, giving local authorities the power to introduce the Selective Licensing of certain private rented dwellings where the local authority considers it will benefit tenants and communities, in areas of low housing demand and/or where there are significant problems of anti-social behaviour.

In April 2010, the DCLG announced that there would be a change to the approval process for Selective Licensing schemes, and that a General Consent would become operative and that no further schemes would be approved by the Secretary of State. The General Consent process now allows Local Authorities to introduce Selective Licensing schemes without DCLG approval.

This report provides background information to enable the WPBC Management Committee to proceed to formal consultation with residents, landlords, managing agents and businesses on proposals to designate a Selective Licensing scheme which will cover parts of the Melcombe Regis Ward.

1.0 Background

1.1 The Housing Act 2004 gives Local Authorities the power, upon obtaining the appropriate approval, to introduce Selective Licensing of certain individual private rented dwellings where the area is one experiencing -

- a) low housing demand(or is likely to become such an area)
- b) a significant and persistent problem caused by anti-social behaviour

The legislation was amended by the Selective Licensing of Houses (Additional Conditions) Order 2015. The conditions were extended to include

- c) poor property conditions;
- d) high levels of migration;
- e) high levels of deprivation;
- f) high levels of crime

1.2 In considering whether to designate an area for selective licensing on the grounds on property conditions, migration, deprivation and crime, a local housing authority may only make a designation if the area has a high proportion

of property in the private rented sector. The Private Rented Sector within the ward makes up 46% of the total housing stock which is considered very high.

- 1.3 When considering whether to make a selective licensing designation a local housing authority must first identify the objective or objectives that a designation will help it achieve. Secondly, it must also consider whether there are any other causes of action available to it that would achieve the same objective or objectives as the proposed scheme without the need for the designation to be made.
- 1.4 Only where there is no practical and beneficial alternative to a designation should a scheme be made. The designation made must ensure that the exercise of the power is consistent with their overall housing strategy and seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector as regards combining licensing with other action taken by them or others.

. 2.0 Details - Selective Licensing Proposals – Melcombe Regis Ward

- 2.1 Based on local intelligence and officer knowledge and the collection of a rigorous evidence base parts of the Melcombe Regis ward have been identified as containing areas that might be suitable for designation under Selective Landlord licensing.
- 2.2 Subject to the Committee's approval a formal consultation exercise may commence on the proposal to introduce a Selective Licensing scheme on grounds that the proposed area is an area with high levels of deprivation and high levels of crime and that the criteria set out in the Housing Act 2004 can be met.
- 2.3 The Selective Licensing of Houses (Additional Conditions) (England) Order 2015 states that in deciding whether an area is, or is likely to become an area of high levels of deprivation a local authority must take into account (among other matters) –
 - The employment status of adults
 - The average income of households
 - The health of households
 - The availability and ease of access to education, training and other services for households
 - housing conditions
 - the physical environment
 - levels of crime
- 2.4 Further, a guidance document titled "*Selective licensing in the private rented sector*" produced by the Department for Communities and Local Government details other factors which should be considered by a Local Authority when deciding if an area is suffering from high levels of deprivation. These factors include:

- The local housing authority may only make a designation if a high proportion of the housing in the area is in the private rented sector
- The scheme should state what actions the local housing authority intend to take to combat associated with the deprivation. This includes licence conditions to ensure properties are managed properly and can contribute to an improvement in the well being of the occupants and wider community
- The outcome of the designation should be (together with other measures) a reduction of the problems with housing in the private rented sector contributing to the high level of deprivation

2.5 The Selective Licensing of Houses (Additional Conditions) (England) Order 2015 states that in deciding whether an area is an area of high crime a local authority must take into account

- That the area suffers from high levels of crime
- That the criminal activity affects those living in the private rented sector or other households and businesses in the area: and
- That making a designation will, when combined with other measures taken in the areas by the local housing authority, other persons together with the local housing authority or by the police, contribute to a reduction in the levels of crime in the area, for the benefit of those living in the area.

2.6 DCLG guidance requires that the licensing scheme must be part of a wider strategy to address crime in the designated area and can only be made if a high proportion of properties in that area are in the private rented sector. In particular the local housing authority should consider :

- Whether criminal activities impact on some people living in privately rented accommodation as well as others living in the areas and businesses therein;
- The nature of the criminal activity
- Whether some of the criminal activity is the responsibility of some people living in privately rented accommodation

2.7 The scheme should show what measures the local housing authority will be able to take through licensing to reduce criminal activity in the area, such as imposing conditions in licences to ensure properties are safe from intruders.

2.8 The outcome of a scheme designation under the crime criteria together with other measures should lead to a reduction in crime in the area.

2.9 Section 81 of the Housing Act 2004 also applies to the power of a local authority to make designations under section 80 of the Act. In that regard the local authority must ensure that the exercise of any power is consistent with the authority's overall housing strategy. The authority must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour both as regards combining licensing with other courses of action available to them and as regards combining such licensing with measures taken by other persons. The authority must not make a designation under section 80 unless they have considered whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of achieving the objective/s that designation would

be intended to achieve and they consider that making the designation will significantly assist them to achieve the objective/s (whether or not they take any other course of action as well).

- 2.10 Evidence has been gathered which appears to support a scheme being introduced in the proposed area detailed in this report. The Evidence case is attached as Appendix II to the cover report while a map of the proposed area can be found in Appendix IV, and a list of streets is provided in Appendix V..
- 2.11 The evidence appears to indicate that the proposed area is one of high deprivation and high levels of crime. Furthermore the evidence indicates that making a Selective Licensing designation of the area will, when combined with other measures taken in the area by the Council, or by other persons together with the Council will contribute to the improvement of the social or economic conditions in the area.

3. High Levels of Deprivation.

- 3.1 Three of the four LSOAs in the ward are amongst the top seven most deprived in the county across all the deciles of **deprivation** and are amongst the top 20% nationally
- 3.2 Three of the four LSOAs in the ward are considered to be in the top eight most deprived in the county for **Income** and are amongst the top 20% nationally
- 3.3 All four LSOAs in the ward are considered to be in the top ten most deprived in the county on the grounds of **health and disability** and are amongst the top 20% nationally for this decile of deprivation
- 3.4 Three of the four LSOAs in the ward are considered to be in the top 20% nationally for **Crime** (Burglary, Theft, Criminal Damage and Violence) with Melcombe Regis Town Centre LSOA within the top 2% nationally.

4. High levels of crime

- 4.1 Total crime is very high in the Ward with a figure of 528.2 crimes per 1,000 population compared to 122.6 for Weymouth and 103.7 for England and Wales.
- 4.2 Recorded total crime in the ward increased by 46% between 2014 and 2016.
- 4.3 The varied physical make-up and dynamic of the Ward has led to further analysis of reported crime. Melcombe Regis contains both the commercial core of Weymouth, an extensive night-time economy (NTE), high proportions of transient rental residents and a predominantly younger demographic. The Ward also covers the main built-up part of the Esplanade and beach front area. However, analysis of crime within the ward during the first half of 2018/19 revealed that crime not associated with the NTE constituted 61% of total crime in the ward.

Analysis of the crime data shows crime hotspots within the ward which correlate with areas of high private rented sector.

5 Proposed scheme objectives

- 5.1 Having given careful consideration to the proposed designation criteria draft objectives have been proposed and will be subject to the consultation. These are detailed below:

To promote more effective partnership working and regulation of private sector landlords and managing agents to:

1. Improve the health of PRS tenants through improved professional standards of tenancy management
2. Improve the living environment for all residents by ensuring relevant licence conditions are met
3. Tackle crime and anti-social behaviour associated with the private rented sector that is affecting the local community
4. Improve resident satisfaction with the way in which PRS tenancies are managed within the designation

6. Consultation

- 6.1 Section 80(9) of the Housing Act 2004 requires local authorities to take reasonable steps to consult persons who are likely to be affected by the designation and consider any representations made in accordance with the consultation and not withdrawn before make a designation. The manner in which such a consultation exercise is to be undertaken is further informed by government guidance and case law.
- 6.2 Before making a selective licensing designation the Council must take reasonable steps to consult persons who are likely to be affected by the designation and consider any representations made during the consultation and not withdrawn.
- 6.3 This consultation will be carried out over a 10 week period and will be widely publicised using various channels of communication. Everyone who responds to this consultation will have their view acknowledged and responded too. All comments received will be fully considered.
- 6.4 Once the consultation has been completed the results will be published and made available to the local community. This feedback will be in the form of a summary of the responses received during the stakeholder consultation and will explain how the responses have been acted on or not, with full reasons. Following this, a report will be produced based on the findings and will be presented to the Committee.
- 6.5 The Council is required to take reasonable steps to consult with persons likely to be affected by the designation. This should include local residents, including tenants, landlords and where appropriate, their managing agents and other members of the community who live or operate businesses or provide services within the proposed designation. It should also include local residents and those

Appendix I. Report from Salford City Council

who operate businesses or provide services in the surrounding area outside of the proposed designation that will be affected. Everyone who responds to this consultation will have their view fully considered.

6.6 Persons to be Consulted

A comprehensive engagement and consultation process will include partners, stakeholders and

- Private landlords
- Managing agents (where appropriate)
- Accredited private landlords
- Private tenants
- Local communities
- Tenant and resident associations
- Landlord associations
- Citizens Advice Bureau
- Registered providers of social housing
- Local community committees
- Locally elected members
- Local businesses
- Dorset Police
- Other local authority teams including Social Services, Homelessness and Housing Advice

6.7 Methods of Consultation

- Publication of consultation document and questionnaires will be available on Dorsetforyou website
- We will write to all accredited landlords, all licensed landlords and their managing agents, and landlord, tenant and resident associations who operate in and around the proposed area.
- We will write to all residents and business or services within the proposed area of selective licensing and surrounding area;
- The consultation will be promoted on social media, such as Facebook and Twitter
- We will supply a press release to local media.
- Questionnaires will be available to landlords, residents and businesses who operate within the proposed area
- Road show events are being planned for the area to allow those people affected to come along and discuss the selective licensing proposals. It will also give an opportunity for landlords to talk about what requirements will be placed on them by the scheme, if it is approved. Details of events will be advertised and published on the councils website.
- Members of the private sector housing team will be available to attend community meetings.
- Articles about the proposals will be published in local community newsletters

An example of a consultation for a previously approved selective licensing scheme can be found on Salford Councils website at

<https://www.salford.gov.uk/housing/information-for-landlords/landlord-licensing/areas-covered-by-selective-licensing/charlestown-and-lower-kersal/>

7. The Proposed Scheme

- 7.1 The borough as a whole consists of 32,760 residential properties of which 17.8% (5831) are within the private rented sector. Within the ward of Melcombe Regis there are approximately 4274 properties of which 42% are privately rented.
- 7.2 The proposed designation would consist of approximately 2655 residential properties of which 926 are privately rented. This represents 15.8% of the borough wide PRS stock and as such the scheme can be locally approved as opposed to requiring approval from the Secretary of State.
- 7.3 The proposed designation area map seeks to focus on the parts of the ward which evidence the highest levels of privately rented properties and represents a manageable sized scheme.

8. Fit and Proper Person Assessment

- 8.1 An important aspect of obtaining a Selective Licence is the requirement for the local housing authority to decide whether or not a landlord is a fit and proper person to be a licence holder and has satisfactory management arrangements in place. Without a Selective Licensing scheme in place the local housing authority does not have any control over who operates as a landlord in the designation area.

In making a fit and proper assessment of a licence applicant the local housing authority must have regard to (amongst other things)

Whether a person has:

- Committed any offence involving fraud or other dishonesty, or violence or drugs or any offence listed in schedule 3 of the Sexual Offences Act 2003
- Practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business
- Contravened any provision of law relating to housing or of landlord and tenant law; or
- Acted otherwise in accordance with a code of practice approved under section 233

Other considerations include

- Whether any person proposed to be involved in the management of the house has a sufficient level of competence to be so involved;
- Whether any person to be involved in the management of the house (other than the manager) is a fit and proper person to be so involved; and
- Whether any proposed management structures and funding arrangements are suitable

9. National Overview and Benefits of a Selective Licensing Scheme

9.1 Currently there are 27 schemes in operation across the country and 14 schemes that have ended after the 5 year designation period. A scheme typically covers around 800 privately rented properties. However some schemes have contained only 200 properties and some borough wide schemes have covered upto 6000 privately rented properties

Key benefits from introducing a selective licensing scheme include

- Enhanced understanding of the housing market within the designation area
- Greater collaborative working with partner agencies to address local issues
- Improved landlord engagement
- An increase in intelligence led, proactive housing inspections rather than a response, complaint based approach
- Preventative early intervention to respond to breaches of licence condition
- Unlicensed landlords are unable to serve a section 21 repossession notice whilst a privately rented property remains unlicensed

9.2 Where landlords fail to obtain a licence or breach licence conditions they commit a criminal offence. The local housing authority has the option to prosecute the offender in the criminal courts or issue a civil penalty. Where there is no reasonable prospect of a privately rented property becoming licensed then the local housing authority can make an interim management order and take legal control of the unlicensed property. These powers provide a strong deterrent to non compliant landlords and help improve overall standards in the private rented sector.

10. Resources Required

10.1 It is a legal requirement that Selective Licensing schemes are cost neutral and the fee set should therefore cover the actual cost of running the scheme for the full 5 year duration of any designation. Fees do vary across local authority areas however several local authorities have reported a shortfall in revenue as a result of setting a fee that did not reflect the true cost of running a selective licensing scheme. Nationally fees have varied from £350 to £750 with an average of around £550 per property.

10.2 The setting of a fee structure will be subject to the consultation and legal advice following recent case law. However an indicative standard fee of £625 is proposed. The consultation will seek opinion on whether this figure will be reduced for landlords who licence early, have multiple properties or are members of the councils Landlords Local Authority Partnership (LLAP). It should be noted that the fee is for the full five year duration of the scheme and if the fee was set at £625 this would be the equivalent cost of £2.40 per week.

10.3 In order to deliver an effective scheme it is essential that a dedicated landlord licensing team be put in place from the outset to be able to process

applications, pursue unlicensed landlords and take action where breaches of licence condition are evidenced.

10.4 Section 79(5) places a general duty on the local housing authority to make such arrangements as are necessary to secure the effective implementation of the licensing regime and to ensure that all applications for licences are determined within a reasonable time.

11. Risk Assessment

11.1 An example risk assessment for the implementation of a selective licensing scheme is detailed in Appendix VII of the cover report and a finalised version will form part of the consultation document. It is considered that the implementation of a selective licensing scheme will have positive benefits for the Melcombe Regis ward and that identified risks can be managed providing the scheme is adequately resourced.

12. Exemptions from Licensing

12.1 The Housing Act 2004 exempts certain types of exempt tenancy which do not require a licence. These include:

- it is granted by a non-profit registered provider of social housing
- It is granted by a profit-making registered provider of social housing in respect of social housing

12.2 Further exemptions are detailed in the Selective Licensing of Houses (Specified Exemptions)(England) Order 2006

13. Licence Conditions

13.1 A set of draft licence conditions have been prepared which will form part of the Consultation. The conditions will become legal requirements placed on private sector landlords who rent properties within the proposed designation area and will improve standards of tenancy management.

13.2 Schedule 4 of the Housing Act 2004 prescribes mandatory conditions the local housing authority must attach to a Selective Licence. These are

- Gas safety
- Electrical appliances and furniture
- Smoke alarms
- Carbon Monoxide alarms
- Tenant references
- Terms of occupation

Locally applied conditions include provisions relating to:

- Property management
- Security and crime
- External areas and refuse and waste
- Management/Anti social behaviour
- Energy efficiency and affordable occupation
- Notification of change of circumstances

A copy of the draft conditions can be found in Appendix VI.

14. Future Committee Authority

14.1 Should the recommendation in this report be approved and a consultation exercise be undertaken, a detailed analysis of the survey responses will be carried out and a further report will be prepared for consideration by the Committee which sets out the outcomes of the consultation and any recommendations which have been informed by the said outcomes. This will include a review of the business case for the operation of any eventual scheme and ensuring that an appropriate licence fee is set to cover relevant costs including, staffing levels required in line with legislation and current case law.

15. Timeline to designation

15.1 The formal consultation will be for a minimum of ten weeks and following any future decision of the local housing authority to confirm a selective licensing scheme a statutory process must be followed as detailed below

Within 7 days after the date on which the designation was confirmed or made the local housing authority must:

- Place a statutory notice on a public notice board at one or more municipal buildings within the designation area
 - Publish the notice on the authority's internet site ; and
 - Arrange for its publication in at least two local newspapers circulating in or around the designated area
- 1) In the next edition of those newspapers; and
 - 2) Five times in the editions of those newspapers following the edition in which it was first published, with the interval between each publication being no less than 2 weeks and no more than three weeks

Within 2 weeks after the designation is made the local housing authority must send a copy of the notice to

- Any person who responded to the consultation
- Any organisation which to the reasonable knowledge of the authority, represents landlords,tenants,managing agents,estate agents or letting agents within the designation area; and
- Every organisation within the local housing authority area that the local housing authority know or believes provides advice on landlord and tenant matters, including law centres, citizens advice, housing advice and homeless persons units

15.2 The date for commencement of the scheme is determined by the local housing authority but must be no earlier than **three months** after the date on which the designation is confirmed.

16. Conclusion

- 16.1 To summarise, the evidence demonstrates strong evidence to support a selective licensing designation based upon the proposed designation being an area which suffers from a high level of deprivation and crime.
- 16.2 Officers are satisfied that there is sufficient justification to support the introduction of a process of formal consultation to inform consideration of any decision regarding the designation of a Selective Licensing scheme to cover parts of the Melcombe Regis ward.
- 16.3 Authority is therefore sought from the Management Committee to commence a formal consultation exercise on the proposals to introduce a Selective Licensing scheme on grounds set out above.

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