

CABINET	AGENDA ITEM No. 6
29 FEBRUARY 2016	PUBLIC REPORT

Cabinet Member(s) responsible:	<i>Councillor Peter Hiller, Cabinet Member for Growth, Planning, Housing and Economic Development</i>	
Contact Officer(s):	<i>Adrian Chapman, Service Director Adult Services and Communities</i>	Tel. 863887

SELECTIVE LICENSING OF PRIVATELY RENTED ACCOMMODATION

R E C O M M E N D A T I O N S	
FROM : Cabinet Member for Growth, Planning, Housing and Economic Development	Deadline date : N/A
<p>To approve the introduction of a Selective Licensing Scheme for the private rented accommodation sector within Peterborough, subject to Secretary of State approval, in the areas described in Appendix 4 to this report, the conditions of which are as set out in appendices 1, 6 and 7.</p>	

1. ORIGIN OF REPORT

- 1.1 This report is presented to Cabinet following a referral from Councillor Peter Hiller, the Cabinet Member for Growth, Planning, Housing and Economic Development.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to outline detailed proposals to Cabinet for a Selective Licensing Scheme for the private rented housing sector within Peterborough following public consultation (Appendix 1).
- 2.2 This report is for Cabinet to consider under its Terms of Reference No. 3.2.3 To take a leading role in promoting the economic, environmental and social well-being of the area.

3. TIMESCALE

Is this a Major Policy Item/Statutory Plan?	NO	If Yes, date for relevant Cabinet Meeting	N/A
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4. INTRODUCTION

- 4.1 The Housing Act 2004 has given councils the power to introduce selective licensing of privately rented properties to improve conditions for tenants and the local community in certain circumstances.
- 4.2 In order to introduce selective licensing the council must demonstrate that the proposed area has a high level of privately rented housing stock and that one or more of the following criteria are met:
- i. That the area is suffering from low housing demand
 - ii. That the area is experiencing a significant and persistent problem caused by anti-social behaviour

- iii. That the area is suffering from poor property conditions
- iv. That the area has high levels of migration
- v. That the area has high levels of deprivation
- vi. That the area has high levels of crime

4.3 Peterborough seeks to introduce such a scheme. The specific areas that such a scheme will cover are located within, but not coterminous with, the following political wards:

- Central
- North
- East
- Park
- Fletton
- Bretton North
- Stanground Central
- Walton
- Orton Longueville

4.4 The scheme will cover 6205 properties. It will last for 5 years.

4.5 During the scheme all landlords, or letting agents on behalf of a landlord, will be required to obtain a licence for each property they let. In order to obtain such a licence they must demonstrate that they are a fit and proper person and meet a number of conditions, as defined by Section 89 of the housing Act 2004. These include not having committed any offences involving:

- fraud or other dishonesty
- violence or drugs
- any offence listed in schedule 3 of the Sexual Offences Act 2003, or
- practised unlawful discrimination on the grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with the carrying on of any business, or
- contravened any provision of the law relating to housing or landlord and tenant law.

4.6 A fee will be payable in order to obtain a licence; fees will range from £50 to £900 and will last for the duration of the proposed scheme (5 years).

A map showing the proposed designated areas can be found at Appendix 3.

A list of the streets that fall within the designated areas can be found at Appendix 4.

4.7 The council has taken great care in deciding which areas should be included in the proposed scheme. It has used a range of independently produced information upon which to assess the evidence and its analysts created a 'Selective Licensing Index' (SLI). The SLI was developed to provide an objective geographical appraisal of those areas across the city which may benefit from the implementation of a Selective Licensing scheme.

A methodology paper outlining the SLI can be found at Appendix 5.

4.8 The SLI amalgamated crime, socio-demographic, deprivation and other housing related data to produce a tool used to assess each of the six criteria (4.2 refers) upon which a Selective Licensing Scheme can be legally based. The concept of the SLI originates from the Vulnerable Localities Index which was developed by the Jill Dando Institute of Crime Science.

4.9 The Selective Licensing Index uses the Lower Super Output Area (LSOA) geographies, which average approximately 1,500 residents and are defined by the Office of National Statistics (ONS). The ONS collects and analyses economic and demographic data across the country to assist local and central government policy creation and decision making. Nationally, over 35000 such LSOAs exist; the Peterborough Unitary Authority area has 112. These areas are independent of political boundaries (such as councillor wards or parliamentary constituencies) and can be used to compare differences across cities and other regions.

4.10 In Peterborough, only those areas that meet at least five of the six criteria set out at 4.2 above, have been identified for inclusion within the scheme.

5. CONSULTATION

5.1 A 12 week public consultation began on 22nd October 2015 and concluded on 14th January 2016.

5.2 The consultation process was designed to enable the initial proposals to be fully considered, debated and scrutinised by the public. This consisted of 40,000 letters being sent to residents, landlords and businesses in the proposed and surrounding areas and 7 public drop-in sessions as detailed in table 1, below. A total of 1662 responses were received consisting of 1516 questionnaires and 146 individual email submissions.

5.3 Of those who responded, overall 60% were in favour, 34% against with 6% indicating no preference. The majority of private landlords who responded were against the scheme

5.4 Particular care was taken to engage with landlords, letting agents, tenants, representative groups and councillors.

Table 1

Exhibition	Total number of feedback forms completed at exhibition	Total number of attendance
Centre 68, 68b Westgate, Peterborough, PE1 1RG Thursday 5 th November 3pm – 7pm	6	36
Pyramid Centre, Watergall, Bretton, PE3 8NZ Thursday 12 th November 3pm – 7pm	6	56
The Fleet, Fleet Way, High Street, Fletton, PE2 8DL Wednesday 18 th November 3.30pm – 6.30pm	7	58
Herlington Community Centre, Herlington, Orton Malborne, PE2 5PW Wednesday 25 th November 5pm – 8pm	2	19
Parnwell Community Centre, Saltersgate, Parnwell, Peterborough, PE1 4YL Thursday 3 rd December 4pm – 7pm	4	13
Beehive Community Centre, St Martin's Street, Peterborough PE1 3BB Monday 7 th December 3pm – 6.30pm	5	35
The Allama Iqbal Centre, 157 Cromwell Road, Peterborough PE1 2EL Thursday 7 th January 10 am – 7 pm	36	64

5.5 The consultation process included presentation to the Strong and Supportive Communities Scrutiny Committee on 24th November 2015. The final recommendations were also debated by the same Scrutiny Committee on 20th January 2016. The Scrutiny Committee commented that “whilst the scheme was not perfect they recognised that it was far better than the scheme previously submitted and therefore agreed to support it”.

The Committee further noted the outcome of the consultation and final proposals for the Selective Licensing Scheme and agreed to endorse the Selective Licensing Scheme with the following recommendations:

1. That all monies received from the Selective Licencing Scheme are accounted for and recorded in a transparent way so that the public can access the information.
2. That the views from all consultation responses be taken into consideration when implementing the Selective Licensing Scheme.

5.6 A detailed consultation evaluation document has been prepared and can be found at Appendix 9.

5.7 In addition, an anonymised copy of comments received and the responses provided can be found at Appendix 10.

5.8 A number of consistent themes emerged throughout the consultation process which can be broadly categorised as follows:

- The fee structure and a perceived unfairness of applying a financial burden upon good landlords/agents
- That other accredited bodies exist and a suggestion of a voluntary local accredited scheme
- The nature of the areas selected and perceived lack of correlation between the issues identified and the private rented sector
- The ability to enforce and prosecute with limited resources

Each of these issues will be addressed individually later within the body of this report.

5.9 As a direct result of these themes which emerged through the consultation process a number of changes have been made to the original proposals. They are summarised in table 2, set out below, and discussed in more detail in the sections that follow.

Table 2.

Theme	Pre consultation	Post consultation
Fee structure	<p>£50 for a landlord who is National Landlords Association (NLA) or Residential Letting Agents (RLA) accredited.</p> <p>£600 standard fee.</p> <p>£750 for House in multiple occupation.</p> <p>£900 for any landlord who is found to be renting a property without having made a valid application 3 months</p>	<p>Available to accredited members of a nationally accredited landlord/letting agent association. NLA, RLA, Association of Residential Letting Agents (ARLA), UK Association of Letting Agents (UKALA), National Approved Letting Scheme (NALS) for the first 3 months of the scheme.</p> <p>The licence holder must maintain their accreditation each year. If accreditation lapses the licence holder will be liable to pay £550 (the difference between £50 and £600).</p> <p>If an accredited licence holder buys a property within the 5 year licence period the fee will be £50 for that property.</p> <p>£600 standard fee.</p> <p>£750 for House in multiple occupation.</p> <p>£900 for any landlord who is found to be renting a property without having made a valid application 3 months</p>

	after the start of the scheme.	after the start of the scheme.
Accredited bodies included in the scheme	NLA and RLA.	NLA, RLA, ARLA, UKALA, NALS.
Areas selected	356 roads/streets/closes in all or part of Central, North, East, Park, Fletton, Bretton North, Stanground Central, Walton and Orton Longueville wards	356 roads/streets/closes in all or part of Central, North, East, Park, Fletton, Bretton North, Stanground Central, Walton and Orton Longueville wards
Licence conditions	19 proposed conditions	<p>Addition to condition 1 requiring landlords to make tenancy agreement available to the tenants before they are asked to sign it.</p> <p>Amendment to condition 2 accepting a signed declaration rather than a reference.</p> <p>Addition of licence condition 20 requiring landlord to maintain their annual accreditation with national body.</p>

5.10 The fee structure and a perceived unfairness of applying a financial burden upon good landlords and agents

- 5.10.1 A wide variety of comments have been made about the fee structure formally in writing and verbally at various meetings. Comments ranged from the differential between the lower 'accredited' level of £50 and the 'non-accredited' level of £600 being too great, to it being too small. There was a level of misunderstanding as to whether this was an annual fee or a 'one-off' payment. There were also suggestions that it could be a staged process rather than a single up-front payment.
- 5.10.2 The issue of the fee structure is something that has exercised officers considerably. Legislation allows authorities to charge a fee structure in order to administer and run the scheme. The proposals to introduce a scheme in Peterborough are wholly to raise the standard of some of its' private rented housing sector for the benefit of all. The fee structure has thus been based upon the principle that those landlords who demonstrate that they meet nationally approved standards receive significant discount; thus the lower level of fee. This is a deliberate action aimed at encouraging as many landlords as possible to become accredited or have their properties managed by nationally accredited letting agents. The cost of becoming an accredited landlord in all cases is less than the differential between the discounted fee of £50 and the base level of £600. Some landlords will not want to join nationally accredited bodies perhaps for reasons of time constraint, out of principle or for other reasons; the £600 fee we believe is reasonable in these cases – it equates to £120 per year or £10 per month. All fees are fully tax deductible. Those who fail to apply to licence within the first three months forgo their option of lower fees and will be required to pay £900 for a licence. Again, this is a deliberate policy to try and ensure licensing of rented property is made in a timely manner. A potential local accreditation scheme may be developed in the future which landlords can join, which would follow on from selective licensing.
- 5.10.3 As a result of the consultation we have considered carefully whether we should reduce the lower level of fees to zero in order that accredited landlords receive no additional financial burden. The level of administration to support the scheme, even if all were subject to the lower fee, is such that to do so would make it financially unviable unless the upper fees compensated accordingly; we do not feel that to increase the upper fee is appropriate. We consider the £50 lower fee level, which equates to £10 per year per property, is appropriate to cover administrative costs.

5.10.4 We have further considered the option of staged payments. The administrative burden that this would place upon the council, together with the effect upon a costing model predicated upon early fees, would necessitate a higher fee structure across all levels. We do not feel that increases in all fee levels would be welcomed. Whilst the scheme will undoubtedly provide landlords with an immediate financial burden, we do not feel that the £50 burden per property is too onerous and reiterate that the ethos of the scheme is to raise standards and thus encourage as many as possible towards national accreditation.

5.11 That other accredited bodies exist and a suggestion of a local voluntary accreditation scheme

5.11.1 A number of comments were made through consultation that other national accredited bodies exist and that we should consider widening the scheme to incorporate those. This was particularly the case in respect of bodies that accredit letting agents.

5.11.2 Consultation was launched on the basis that landlords would receive the benefit of the lower rates if they were individually accredited with either the National Landlords Association (NLA) or the Residential Landlords Association (RLA), or that their letting agent was accredited with the Association of Residential Letting Agents (ARLA).

5.11.3 Dealing with landlords first: as part of the consultation process officers met with both the NLA and RLA and remain of the view that they provide overarching professional oversight and support for Landlords, including timely updates on legislative changes and burdens, 24 hour 7 day a week online resource library, telephone advice line for immediate issues, standard forms and letters and development courses. They also provide a coordinated voice for landlords at a local, regional and national level.

5.11.4 In respect of Agents: as a result of the consultation we have extended the lower level of fees to those who are members of either ARLA, or the UK Association of Letting Agents (UKALA), or those who are members of the National Approved Letting Scheme (NALS). These provide oversight and support for letting agents in the same way as NLA and RLA do for landlords so we felt it was only fair to offer the lower fee for landlords using letting agents who are members of these organisations.

5.11.5 A suggestion has been received to revisit proposals previously put forward on behalf of a distinct group of landlords and agents for a locally developed voluntary accreditation scheme. We have considered a number of options available to us including the introduction of a voluntary scheme. We believe the situation in Peterborough requires a whole system solution and the measures outlined above can be best delivered as part of an overall community improvement plan. Improvement in housing is central to that plan and thus we feel it best delivered by central council leadership.

5.11.6 We do not consider that designing and introducing a voluntary scheme that would replicate an existing, nationally run and respected accreditation system would be one that we would wish to pursue at this time. The RLA, NLA, NALS, ARLA and UKALA provide nationally recognised standards that are easily referenced and measured. We therefore do not consider a voluntary scheme appropriate for Peterborough at this time.

5.12 The nature of areas suggested and perceived lack of correlation between the issues identified and the private rented sector

5.12.1 This report contains an explanation at section 4 above as to how the proposed areas for the scheme were arrived at. The proposed scheme covers around 37% of the City's private rented stock. There were a number of comments made during consultation that ranged from other areas of the City suffering similar issues but not included, through to some of the areas that were included not being recognised as those with issues.

5.12.2 The scheme does not seek to include those areas that are dominated by properties under the management of our registered social landlords. It is some of these areas that prompted individual comment about the lack of inclusion. The selection criteria adopted for the

scheme is such that for areas to be included they must have a private rented sector in excess of 19% and must meet at least five or all six of the criteria set out within the Act and guidance. Comments made about some of the RSL dominated areas were largely based around the physical look of the area; the evidence base for inclusion is much deeper than that and thus they do not meet the exacting criteria used to meet the requirement of the scheme.

- 5.12.3 There were a number of comments that the scheme should only include the area that comprises the central and east wards of the City; such comments were made largely on the basis of the physical appearance of that area. Whilst that area is absolutely one that is included within the scheme, the other areas also suffered from the multiplicity of issues that the evidence suggested, not all of which are outwardly visible.
- 5.12.4 The use of the LSOA framework does mean that in some instances the areas chosen either split streets in two or have other irregular boundaries. As a result of consultation we considered whether to use officer's professional judgement in order to redraw some of the boundaries to include or reduce those that appeared illogical. To do this would mean applying a level of subjectivity to a process that has been wholly evidence based. In addition, to apply an evidence based process to all of the proposed areas down to individual street level information is not practicable or cost effective.
- 5.12.5 The consultation responses included commentary around the areas that had been identified and suggested that other areas were included, these included areas which did not meet the 19% private rented sector threshold, and that the whole city should be included, which is contrary to Government guidance. Therefore the areas covered by the scheme remain the same after consultation.
- 5.12.6 Another issue voiced through consultation has been a perceived lack of evidence to show a direct correlation between the levels of private rented stock and the issues upon which the council seeks to rely to show the need for such a scheme. Officers accept that the evidence to show an absolute direct link between the private rented stock and, for instance, incidents of anti-social behaviour is individually unclear. However, the evidence used shows a very clear correlation between the higher the levels of private rented stock and the higher the level of a multiplicity of problems within those areas. The fact that the Council would be seeking to only introduce a scheme in areas that meet at least five, or all six, of the conditions upon which it can rely, we suggest provides overwhelming evidence of the need for selective licensing to be introduced alongside the other initiatives mentioned within this report. Officers have used as a base level of evidence, the LSOA concept. This works upon homogenous geographical areas of around 600 homes, or 1500 people. We believe this to be a reasonable statistical base. House by house, or individual street by street breakdowns of evidence are impractical and do not address the wider community issues that we are seeking to address by the introduction of this scheme.

5.13 The ability to enforce and prosecute with limited resources

- 5.13.1 The Housing Act allows authorities to apply a fee structure to support the running of such a scheme. This means that administrative support, the inspection regime and other scheme related issues can and will be funded from the licence fee. Any additional resource required to undertake these purposes will be funded from the scheme itself.
- 5.13.2 The council is also looking to introduce Public Space Protection Orders in areas coterminous with the selective licencing scheme in order to support the ethos of improving the area and allowing a more efficient use of the multi-agency resources available for focused work to tackle the underlying causes of multiple problems.
- 5.13.3 In addition, we have amended the licence conditions to reflect discussions with the landlords in the City who are NLA members, including ensuring that landlords maintain their accreditation annually, amendments to the reference requirements and removing the requirement to provide tenancies in other languages.

5.14 Other considerations

- 5.14.1 Comments have been made during consultation that amount to a suggestion that its introduction could have a negative social impact. These include the fact that landlords will inevitably pass on the financial cost of meeting the requirements of the scheme to tenants and that in turn it could lead to increased evictions and homelessness. This scheme, and the standards it requires all landlords to meet, are those which they should already be meeting in accordance with existing legislation or best practice. The additional financial impact should only be the fee structure itself and its impact is described above. Those who feel encumbered by additional cost in bringing properties up to standard to meet the licence conditions should be meeting those conditions in any case and are thus contributing to the reason for the introduction of selective licencing. The council does not apologise for its desire to drive up those standards. The cost of meeting legislative modern standards is a matter for those landlords and a business decision. Landlords who do not meet those standards will be identified and prosecuted. Illegal evictions arising from an unwillingness to meet current legislative standards or licence their property will result in investigation and potential prosecution.
- 5.14.2 Comment has been made suggesting that to introduce such a scheme at a time when additional regulations are being introduced on a regular basis, and at a time when the Government are introducing an increase on buy-to-let stamp duty, could result in fewer good landlords. The council has considered this but takes the view that an increase in living standards in the areas identified by the scheme is likely to result in an increase in the desirability of properties in those areas, thus market forces may well influence better return on investment.
- 5.14.3 Comments were made linked to the issue of badly behaved tenants being a major cause of decline in the proposed areas. To complement the scheme we are proposing a range of measures and interventions to support landlords to deal with tenant-related issues, and these can be found at Appendix 2. This support also includes training for landlords who are keen to learn more about the role and rights of a landlord.
- 5.14.4 Taking all into account the council considers, on balance, that the benefits likely to accrue from the introduction of such a scheme outweigh any negative impact.

6. ANTICIPATED OUTCOMES

- 6.1 An improvement in the quality of life for those who live, work or visit the City.
- 6.2 An improvement in housing conditions across the private rented sector.
- 6.3 An increase on investments made by landlords providing private rented sector housing stock within the designated areas.

7. REASONS FOR RECOMMENDATIONS

- 7.1 In accordance with the Housing Act 2004, proposals for the scheme require submission to the Secretary of State for approval as the areas proposed for selective licensing cover more than 20% of the local private rented housing stock below which a local decision can be made. The proposals for the scheme as outlined above equates to 37.9% of the local stock.

8. ALTERNATIVE OPTIONS CONSIDERED

- 8.1 The multiplicity of issues faced by geographic areas of the City are complex and deep rooted. To do nothing would lead to further decline. As a result the status quo is not something that the Council considers appropriate.

8.2 The introduction of a voluntary scheme has been considered but it is not felt appropriate for Peterborough as outlined at 5.11 above.

9. IMPLICATIONS

9.1 Financial: The Department for Communities and Local Government's cost calculator has been used to complete financial modelling for the introduction of such a scheme. This has been carried out by housing officers and the council's finance team. The proposed fee structure is predicated against this model. Legislation ensures any monies raised by the scheme are used for the scheme alone. Transparent financial accounting will be brought before the Strong and Supportive Communities Scrutiny Committee for the duration of the scheme.

9.2 Legal: This scheme is proposed in accordance with the Housing Act 2004.

9.3 Crime and Disorder / Community Safety: The Council are proposing to introduce Public Space Protection Orders in accordance with the Anti-Social Behaviour, Crime and Policing Act 2014 coterminous with any finally agreed selective licensing areas. An alcohol cumulative impact policy exists within one of the proposed areas and a scheme to improve the public realm is about to be embarked upon.

9.4 Human Resources: Legislation allows the council to use finance raised by the scheme for prescriptive roles to run the scheme. The council will recruit such staff as necessary to ensure the effective running of the proposed scheme. Such staffing will be identified within the financial modelling.

9.5 ICT: The scheme will form part of the Council's digital by default strategy encouraging the effective use of technology to administer the scheme.

10. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985)

- Department of Communities and Local Government "*Approval Steps for additional and selective licensing designations in England*" - February 2010
- Part 3 of the Housing Act 2004
- Department of Communities and Local Government '*Selective licensing in the private rented sector: A Guide for local authorities*' - March 2015
- Department for Communities and Local Government 'Dealing with Rogue Landlords: A Guide for Local Authorities' – August 2012
- The Selective Licensing of Houses (Additional Conditions)(England) Order 2015

11. APPENDICES

- Appendix 1: Proposed Selective Licensing Scheme
- Appendix 2: Support for Landlords
- Appendix 3: A map showing the proposed designated areas
- Appendix 4: A list of the streets that fall within the designated areas
- Appendix 5: Selective Licensing Evidence Document
- Appendix 6: Proposed Licence Conditions
- Appendix 7: Proposed Fees and Charges
- Appendix 8: Equality Impact Assessment
- Appendix 9: Selective Licensing Consultation Questionnaire summary
- Appendix 10: Selective Licensing Consultation comments received and responses provided

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