

Cabinet

Date of Meeting: 3 December 2019

Report Title: Selective Licensing

Portfolio Holder: Councillor N Mannion - Environment and Regeneration

Senior Officer: Frank Jordan – Executive Director - Place

1. Report Summary

- 1.1. Cheshire East has seen a rapid growth within the private rented sector over the last few years. This is now the second largest tenure behind home ownership, overtaking social housing provision. It offers a flexible form of tenure and meets a wide range of housing needs. It contributes to greater labour market mobility and is increasingly the tenure of choice for young people. The private rented sector is an essential part of a strong housing market.
- 1.2. There are currently over 31,000 private rented properties across Cheshire East and the sector consists of a number of forms of housing including family accommodation, self contained flats and Houses in Multiple Occupation (shared houses, flats in multiple occupation, partial conversions and fully self contained flats which do not meet the 1991 Building Regulations standards).
- 1.3. Whilst it is acknowledged that many private landlords manage their tenancies well and maintain properties to a good standard, often above the standard required by the law, there are a number of landlords whose management and properties may not meet acceptable standards.
- 1.4. Cheshire East plays an essential role in quality assurance in this sector. Poor management and property standards can have a negative impact on

an area, leading to low housing demand, increased levels of anti social behaviour and community tensions. We have to ensure that we listen to community concerns and demonstrate our commitment to ensuring that existing housing is of good quality and it provides a safe and warm environment in which people can live and thrive.

- 1.5. This paper concentrates on the ability and mechanism to introduce a Selective Licensing scheme within Cheshire East and explains the rationale. It outlines the legislative requirements and the evidence that has been established to support the approach. The report also highlights Government guidance and a recommended approach to ensure that it is a success and would not be subject to challenge.

2. Recommendations

2.1. That Cabinet

- 2.1.1. Confirms and approves the development of an action plan for the area detailed on the map attached at Appendix A (Nantwich Road area, Crewe);
- 2.1.2. Notes that a further report will be brought to Cabinet to consider progress of the action plan and the need for a Selective Licensing scheme to be introduced after all other reasonable measures have been implemented.

3. Reasons for Recommendations

- 3.1. Local authorities have a discretionary power under Part 3 of the Housing Act 2004 to designate an area for Selective Licensing for up to five years. A Local Authority must first demonstrate the evidence for their concerns, look at alternative approaches and consult widely.
- 3.2. A detailed review of the conditions for Selective Licensing has identified the Nantwich Road area of Crewe as a priority area for intervention as it is displaying multiple issues around poor property condition, higher levels of deprivation, crime and of anti social behaviour that are considerably higher than other areas of Cheshire East. The proportion of private rented properties in this area is significantly higher than the Cheshire East and national pictures.
- 3.3. The Government have issued non-statutory guidance in Selective Licensing in the private rented sector, A Guide for Local Authorities, Department for Communities and Local Government March 2015. The guidance states that Selective Licensing should form part of a wider strategy and that schemes

should be adequately resourced. They should include services such as active outreach support programmes to engage with landlords and tenants.

- 3.4. This is reinforced in the independent review of Selective Licensing carried out by Opinion Research Services in 2019 where it indicates that when implemented in isolation the effectiveness of Selective Licensing is often limited, and schemes appear to be more successful as part of a wider, well planned, coherent initiative with an associated commitment of resources.
- 3.5. This is a finding entirely consistent with the aims of the Housing Act 2004. For example, if the focus is on poor property conditions, further resource will be required for housing enforcement. If the focus is on anti social behaviour, landlords will need adequate support to help them deal with problem tenants.
- 3.6. A two-staged approach is recommended, as it will enable the Council to develop a collaborative action plan across a number of services to firstly coordinate current services and then determine if additional targeted interventions could have the potential to drive improvements in the proposed area. This approach would demonstrate that due diligence has been undertaken and all options considered. A further review would then be undertaken and if it is apparent that existing measures alone are not sufficient to tackle the underlying problems within the area then approval will be sought to progress to the consultation stage of the Selective Licensing process.

4. Other Options Considered

- 4.1. The Council could move straight into the Selective Licensing consultation process, however this would be against Government guidance, which clearly advises that all options are considered prior to the implementation of a scheme.

5. Background

- 5.1. The Environment and Regeneration Overview and Scrutiny Committee has been considering the issue of extra controls in the private rented sector. Changes in legislation has ensured that more Houses in Multiple Occupation now come under the mandatory licensing regime, however Members wanted to consider approaches which would enable all private rented properties to come under more rigorous controls.
- 5.2. One approach to applying controls that are more rigorous is the introduction of a Selective Licensing scheme. The features of a scheme include:

- 5.2.1. It would be mandatory for all private rented properties in the designated area to be licensed;
- 5.2.2. It would give the Council access into all private rented properties in the designated area to be able to assess the housing conditions;
- 5.2.3. All licence holders would have to comply with licence conditions; failure to comply with these conditions could result in a criminal conviction and unlimited fine or a civil penalty of up to £30,000; a rent repayment order for up to 12 months rent; and a management order where the Council would take control of the property. Operating a property without a licence would attract similar sanctions.
- 5.2.4. The landlord/agent would pay a fee as part of their licence application to cover the Council's processing costs. The fee cannot however include the cost of enforcing the scheme or any other services that are needed to make the scheme effective; these would require additional Council funding.
- 5.3. There are a number of criteria and stages that have to be satisfied before introducing a Selective Licensing scheme. Officers have undertaken a robust assessment of the criteria which included:
- Does the proposed designated area have a higher proportion of private rented sector (PRS) properties than 19% (the proportion in England)?
 - Is the proposed designated area suffering from one or more of the following:
 - Low housing demand
 - Significant and persistent problem caused by anti-social behaviour
 - Poor property conditions
 - High levels of migration
 - High level of deprivation
 - High levels of crime
 - Are there any other courses of action available to us that would achieve the same objective(s) without the need for Selective Licensing? And, if there are no alternatives, will Selective Licensing significantly assist in achieving the objectives?
- 5.4. Data has been collated from extensive sources to establish whether all or part of Cheshire East would meet this criteria. The data has been collated to generate a 'vulnerability score' for each Lower Level Super Output Area (LSOA) in order to establish the priority areas for Selective Licensing. The vulnerability score is centred around 100, which is the Cheshire East average. For example, a score of 200 would indicate for that item, the

figure is twice that of the Cheshire East average, equally 300 would be three times the Cheshire East average.

5.5. The findings have been collated and summarised within Appendix 2. The outcome of the analysis is:

5.5.1. There is evidence to support a Selective Licensing Scheme within 51 LSOAs across Cheshire East;

5.5.2. 13 LSOAs displayed a higher incidence of multiple poor conditions, predominantly in Crewe;

5.5.3. An area of 4 LSOAs around Nantwich Road in Crewe has been identified as a priority area due to the high density of private rented housing and high vulnerability scores.

Next steps

5.6. It is recommended that the Council considers alternative strategies to tackle issues in this area prior to introducing Selective Licensing, which would be articulated through the development of an action plan.

5.7. There is currently a broader review being undertaken of all projects and initiatives across the areas identified for Selective Licensing and Article 4 Directions to achieve a cleaner and safer Crewe. It is likely that the actions in the table below will be consolidated into this wider piece of work and form part of a single action plan. This will ensure that there is no duplication, strategies are aligned and resources are targeted effectively to achieve a common goal to improve environmental conditions in the area.

Stages	Actions	Timescale
1. Establishment of a Working Group	<ul style="list-style-type: none"> • Scope out and confirm the aims and objectives to be incorporated into a Terms of Reference • Map existing services across the Crewe area and the effectiveness these are having within the wider and focused Selective Licensing area • Establish if existing interventions could be refocused or require additional resources 	January to June 2020
2. Identify gaps in provision and targeted interventions which could drive forward improvement	<ul style="list-style-type: none"> • Development of business cases for submission as part of the 2021/22 budget setting process 	July to September 2020

3. Implementation of any new interventions	<ul style="list-style-type: none"> • Monitor outcomes of existing and new interventions 	July 2020 to March 2022
4. Carry out a review of the proposed Selective Licensing area to establish if improvements have been made	<ul style="list-style-type: none"> • Complete a report on the outcomes of the project and the recommendations to either continue with the interventions or seek approval to consult on the introduction of Selective Licensing 	April 2022 to August 2022
5. If Selective Licensing is recommended	<ul style="list-style-type: none"> • Seek Cabinet approval to consult • Consultation for 10 weeks • Publish notifications • Implement scheme 	September 2022 to February 2023

5.8. It will require the coordination of a number of services to achieve this, including but not limited to Communities and Partnerships, Strategic Planning, Housing, Adults and Children's Services, as well as external partners including Crewe Town Council, Ansa and Cheshire Police.

6. Implications of the Recommendations

6.1. Legal Implications

6.1.1 The ability for a Local Authority to introduce a Selective Licensing scheme comes under Part 3 of the Housing Act 2004. Under Section 80 of the Act a Local Housing Authority can designate the whole or any parts of its area as subject to Selective Licensing.

6.1.2 All properties in the private rented sector which are let or occupied under a licence, are required to be licensed by the Local Housing Authority unless the property is a House in Multiple Occupation and is required to be licensed under Part 2 of the Act.

6.1.3 Any authority who wishes to implement a scheme which would cover more than 20% of their geographic area or that would affect more than 20% of privately rented homes in the local authority area would require approval from the Secretary of State for the Ministry of Housing, Communities and Local Government.

6.1.4 If the scheme covers 20% or less of its geographical area or privately rented properties, the scheme would not be needed to be submitted to the Secretary of State, provided the authority had consulted for at least 10 weeks on the proposed designation.

6.1.5 A designation may be made for up to 5 years.

6.1.6 Section 83 of the Act requires Local Housing Authorities to publish a notice of the designation once it has been confirmed. A Local Authority must publish a notice within the designated area within seven days of the designation being confirmed and notify all those consulted on the proposed designation within two weeks of the designation being confirmed.

6.1.7 Dedicated legal resource would be needed to implement a Selective Licensing scheme including the placing of statutory notices.

6.2. **Finance Implications**

6.2.1 The development of the action plan will identify any growth areas and a business case will be developed and submitted for consideration as part of the 2021/22 budget setting process.

6.2.2 The cost of operating a Selective Licensing scheme is recoverable through a licence fee payable by the landlord/agent. If implemented in the priority area it would generate an income of approximately £1.44million over the 5-year licensing period to cover staffing, publicity, administrative costs and overheads. The fee cannot however include the cost of enforcing the scheme by Housing and Legal Services or any additional interventions that may be required. A business case will be developed to fund the increased resources needed to enforce a scheme and this would accompany the action plan.

6.3. **Policy Implications**

6.3.1 Government guidance highlights that Selective Licensing is not a tool which can be used in isolation. The Council has to demonstrate how the scheme will form part of the overall strategic borough wide approach and how it fits with existing policies including homelessness, empty homes, regeneration and anti social behaviour.

6.3.2 The Council need to take this a step further and develop a more coordinated approach with other services to explore further initiatives that may provide an effective method of achieving the objectives that a Selective Licensing scheme is intended to achieve. This will

demonstrate that we have tried all appropriate measures prior to the implementation of any scheme.

6.4. Equality Implications

6.4.1 An Equality Impact Assessment will be completed as part of the development process for the action plan, and any equalities implications will be addressed through the plan's implementation.

6.5. Human Resources Implication

6.5.1 The implementation of an action plan may require additional resources; this will be included as part of the action plan and form part of any business case brought forward as part of the 2021/22 budget setting process.

6.6. Risk Management Implications

6.6.1 The recommended two-stage approach will demonstrate that all methods of intervention have been explored and tested.

6.6.2 Government guidance states that Local Authorities should also consider any potential negative economic impacts that licensing may have on their area, particularly the risk of increased costs to landlords who are already fully compliant with their obligations. This will be considered through the development of the action plan and consultation with landlords will form part of the process.

6.6.3 Expectation is that we will be able to tackle poor housing conditions by imposing licence conditions under Selective Licensing, however these can only be tackled through Part 1 of the Housing Act 2004. Selective Licensing under Part 3 of the Housing Act 2004 gives us the mechanism to access private rented properties to identify poor housing conditions and we can then use our powers under Part 1 of the Housing Act 2004 to bring about any improvements.

6.6.4 There is a risk that Landlords may migrate to other neighbouring areas outside of the designated areas if a Selective Licensing scheme is implemented.

6.6.5 Research shows that fee setting for Selective Licensing is difficult to get right, as Local Authorities are not able to make a profit and it can only cover certain costs. If set too low this would result in costs to the taxpayer or the scheme delivery would have to be tailored which

will impede its effectiveness. Time will be required to adequately cost and test the scheme.

6.7. Rural Communities Implications

6.7.1 There are no direct implications for rural communities, as the proposed priority area is within Crewe.

6.8. Implications for Children & Young People/Cared for Children

6.8.1 Improvements brought about through an action plan to tackle poor quality housing will have a positive impact on the physical and mental wellbeing of children and young people and their educational attainment.

6.9. Public Health Implications

6.9.1 Improvements in housing and the local environment will have a positive impact on mental health and reduce the risk of many preventable diseases that are made worse by poor housing conditions.

6.10. Climate Change Implications

6.10.1 The Council has committed to becoming carbon neutral by 2025 and to encourage all businesses, residents and organisations in Cheshire East to reduce their carbon footprint. Improvements in housing standards such as improved heating systems and insulation can help to tackle fuel poverty for vulnerable residents and tackle climate change.

7. Ward Members Affected

7.1. Crewe South Ward

8. Consultation & Engagement

8.1. Engagement has taken place with Ward Members for Crewe and with Crewe Town Council, and will continue throughout the development and implementation of the action plan.

8.2. The development of the action plan will require engagement with partners, landlords and other service areas. This will be carried out as part of the development process.

8.3. If the action plan does not achieve the objectives required, Cabinet approval will be required to proceed to consultation on a Selective Licensing scheme.

9. Access to Information

9.1. Background papers are available by contacting the report writer.

10. Contact Information

10.1. Any questions relating to this report should be directed to the following officer:

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