

Report of:	Director for Adult Social Care and Health Integration – Erik Scollay Executive Member for Regeneration – Councillor A Waters
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Submitted to:	Executive - 1 September 2020
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Subject:	Re-designation of the North Ormesby Selective Landlord Licensing Scheme
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Summary

Proposed decision(s)
That Executive consider the Evaluation Report on the North Ormesby Selective Landlord Licensing Scheme and approve: <ul style="list-style-type: none"> a. The commencement of appropriate consultation relating to the re-designation of the selective landlord licensing scheme in the North Ormesby ward, b. The consultation to include the proposed fee of £765 to cover the cost of delivering the scheme in the designated area. c. That the results of the consultation be presented to Full Executive for consideration in January 2021 prior to implementation.

Report for:	Key decision:	Confidential:	Is the report urgent?¹
Decision	Non-key as decision relates to consultation	No	No

Contribution to delivery of the 2020-23 Strategic Plan		
People	Place	Business
The scheme will provide an opportunity to improve both the living and environmental conditions as well as making the community safer for	The scheme is aimed at improving housing and environmental standards and encouraging investment to the area	The scheme has a significant contribution to, building confidence in the community, encouraging businesses to invest in the

¹ Remove for non-Executive reports

residents in North Ormesby and improving the wider determinants of health.		area and supporting residents to access all available resources.
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Ward(s) affected
North Ormesby

What is the purpose of this report?

1. The purpose of this report is to present the evaluation report for the North Ormesby Selective Landlord Licensing Scheme which comes to an end on 31st December 2020 and to seek approval to consult on the re-designation of the North Ormesby as a Selective Landlord licensing area and the proposed fee of £765.

Why does this report require a Member decision?

2. Executive approval is required as this scheme is delivered via a legislative framework that requires organisational approval to start formal consultation prior to implementation.

Report Background

3. The Housing Act 2004, gives local authorities powers to introduce Selective Landlord Licensing (over a five year period) for privately rented properties in areas experiencing low housing demand and/or significant and persistent anti-social behaviour. The purpose of such a scheme is to improve standards of property management in the private rented sector, and when combined with other measures, should lead to improved physical, social and economic conditions.
4. Under the Housing Act 2004, Part 3 (Selective Licensing of other Residential Accommodation), all private landlords operating within the designated area are required to obtain a licence from the Council for each property that is rented out. The conditions of the licence ensure that the property is managed effectively, and licence holders have to demonstrate their compliance.
5. On 1 April 2015, a new General Approval came into force for selective landlord licensing schemes. Under these new arrangements if a local housing authority makes a designation that covers 20% or less of its geographical area or privately rented properties, the scheme does not need to be submitted to the Secretary of State for approval, provided that the authority has consulted for at least 10 weeks on the proposed designation.
6. On the 9th December 2014 Executive approved a report setting out proposals for introducing Selective Landlord Licensing in Middlesbrough and a further report to Executive on 14th July 2015 saw the implementation of the scheme in North Ormesby commence on 1st January 2016. The area of North Ormesby was designated as a

Selective Landlord Licensing area as it was identified as an area with a high proportion of private rented properties which was suffering problems attributable to:

- a. Low housing demand
 - b. A significant and persistent problem caused by anti-social behaviour related to tenants of or visitors to rented properties which were not being controlled by landlords;
7. In 2015 the government widened the criteria for designating Selective Licensing schemes to include poor housing conditions and high levels of deprivation, crime and migration. The improvement of management standards in the private rented sector would help to combat housing problems associated with deprivation.
8. The scheme aims to address:
- The problems associated with low demand for housing in the North Ormesby ward by imposing conditions relating to the management of properties.
 - The problems associated with anti-social behaviour by including conditions in licences which required landlords to take action to deal with such behaviour, such as tenancy referencing to ensure that properties are not let to persons with a known record of anti-social behaviour and relating to the use of the property.
 - The poor housing standards in the private rented sector by incorporating housing inspections and enforcement action as a requirement of the scheme, as well as ensuring that the properties are properly managed to prevent further deterioration.
9. The intended outcomes for the scheme are:
- A reduction in the number of empty properties and low demand which will lead improvements in the social and economic conditions of the sector, which are identifiable.
 - A reduction in anti-social behaviour (caused by tenants in the private sector) in the designated area.
 - A general improvement of property conditions in the designated area within the lifetime of the designation
10. The North Ormesby Selective Landlord Licensing Scheme is due to end on 31st Dec 2020 and consideration should now be given to whether the scheme has met its objectives, whether it should be renewed or whether there are any other courses of action available that would achieve the same objective or objectives as the scheme without the need for the designation to be made.
11. To date (July 2020) 934 licences have been issued covering 867 properties. This has exceeded the initial estimation of 550 properties covered by the scheme by 164%. The current fee is £580 + £20 fit & proper fee and the income generated through the scheme over the 5 year period is £608,896 this figure is made up of licence fees, part licensed properties and late fee charges. This income has been used to cover the cost of the SLL staff.

12. An evaluation of the North Ormesby Selective Landlord Licensing Scheme has been undertaken using guidance from Local Government Regulation. (Appendix 1) The evaluation seeks to identify the effectiveness of Selective Licensing in:

- reducing anti-social behaviour attributable to the private rented sector;
- improving management standards in the private rented sector;
- increasing housing demand;
- improving the environment; and
- contributing to the effectiveness of partnership working to improve the quality of life.

13. The evaluation has also taken account of findings from an Independent Review of the Use and Effectiveness of Selective Licensing which was carried out by Ministry of Housing, Communities and Local Government (MHCLG June 2019, Updated September 2019).

14. In summary, the main findings of the evaluation report are:

- House prices in the North Ormesby Selective Landlord Licensing area have started to increase. In 2016 the average house price plummeted to £36,000 and has since increased by 17% to £42,000.
- The turnover of tenants has reduced by 50% resulting in a more static population.
- The overall number of empty properties has fluctuated throughout the life of the scheme, however there has been a considerable reduction in the number of long term empty properties which are often the more problematic for residents. Further work is needed to reduce the overall numbers.
- The number of private rented properties which have been inspected has increased and housing conditions have improved. Prior to the introduction of the scheme only 8.4% of the properties had been inspected on complaints from tenants regarding their housing conditions. In 2020 760 properties have been inspected. Serious housing hazards were identified on 1,692 (category 1 & 2) properties and have been addressed to protect tenants. Smoke alarms checks have been carried out on all housing inspections to ensure they are provided in properties.
- Anti-social behaviour has been tackled through a wide range of interventions by the SLL team;
 - 1249 early interventions have been carried out. These are mainly referrals into other services for support
 - 2495 low Interventions. These include telephone call/e-mail, letter drop, diary sheets received, initial warning letters, motorbike warning letter, site meetings and joint patrols.
 - 955 medium interventions. These include second warning letters, final warnings, ABC issued, ABC breached, joint interviews and tenancy breach interviews.
 - 15 high level interventions. These include Criminal Behaviour Orders, Civil Injunction, House Closures (all for high levels of persistent antisocial

behaviour and a last resort after all low and medium level interventions have been exhausted).

- There has been a reduction in personal antisocial behaviour incidents from 233 in 2015 to 118 IN 2019 (-49%)
- There has been a reduction in nuisance antisocial behaviour incidents from 337 in 2015 to 301 in 2019 (-11%).
- 154 post tenancy visits have been carried out to provide support to the tenant on a wide range of issues including substance misuse, parenting skills, unemployment;
- Whilst the number of environmental antisocial behaviour incidents remain high, the number of incidents with rubbish bins/refuse left in alleyways and reports to the contact centre have considerably reduced.
- There has been a relatively low number of legal cases taken against landlords for not licensing their properties, 4 resulting in court hearings and 8 landlords applying for their licence after receiving their court summons.
- Support for landlords – the scheme in north Ormesby has supported landlords in the following ways:
 - Free empty property advertising;
 - Dedicated Neighbourhood Safety Officer;
 - Dedicated tenancy relations officer;
 - Housing and tenancy support/advice;
 - Rent recovery in excess of £5,000;
 - Referencing;
 - Post tenancy visits for new and existing tenancies.

15. The Evaluation Report recognises that the Selective Landlord Licensing scheme has made a major contribution to the achievements in North Ormesby working together with key partners. It is also recognised that the strong community infrastructure in the area has played a significant role in delivering the outcomes i.e. North Ormesby benefits from a number of community organisations working together with local schools, businesses, and key partners and this has been supported by significant financial investment from national charitable organisations. It should also be noted that the intensive approach to delivering services in North Ormesby from a number of agencies and partners is considered one of the key factor in its success.

16. The proposed locality based working approach planned for North Ormesby aims to build on the intensive targeted delivery of services working in partnership and the SLL team would be an integral part of set up. The North Ormesby ward remains a concern for the Council due to the low levels of income, poor health outcomes and the lack of choice about where tenants can live, which are supported by the indices of multiple deprivation.

2019		2015		2010		2007	
Category	Rank	Category	Rank	Category	Rank	Category	Rank
IMD Deprivation	3	IMD Deprivation	2	IMD Deprivation	7	IMD Deprivation	46
Income	3	Income	1	Income	25	Income	140
Employment	4	Employment	9	Employment	33	Employment	57
Education, Skills and Training	15	Education, Skills and Training	10	Education, Skills and Training	198	Education, Skills and Training	204
Health Deprivation and Disability	4	Health Deprivation and Disability	19	Health Deprivation and Disability	60	Health Deprivation and Disability	80

17. The North Ormesby ward is still rated one of the most the most deprived in the country based on low income levels, low educational attainment, poor health outcomes and crime. North Ormesby has the second highest rate of crime and anti-social behaviour out of all Middlesbrough wards. The amendment to the criteria for designating Selective Licensing areas introduced in 2015 has allowed Councils to introduce Selective Landlord Licensing with the aim of helping to tackle the effects of deprivation and housing conditions. This change in the law supports the work of the Council and partners to improve outcomes for communities. Those people on lower incomes are most likely to see the benefits of the Selective licensing scheme in terms of improving the living and environmental conditions of the area they live in. Selective Licensing has also contributed to the progress made around reducing the levels of anti-social behaviour. These are considered to be wider determinants of health which affected people's health and well-being. Supporting people through the scheme can assist in reducing health inequalities.

18. There is clear evidence that the North Ormesby Selective Landlord Licensing scheme has been a success by increasing property safety and management standards by supporting landlords and also holding them and their tenants accountable for their behaviour. However, there is concern that without the Selective Landlord Licensing regulatory framework some landlords will revert back to the position of lower compliance with legal standards for housing standards if housing inspections are not required through the scheme. Although property conditions have been improved there is still a significant risk that standards in North Ormesby could deteriorate and return to previous poor levels if not kept under review for a further 5 year period. Low levels of tenants reporting defects in their property is still seen in other areas across the town. Tenants may also revert back to poor behaviour if they are no longer referenced before taking up properties or offered support to deal with their or their family's vulnerabilities. The people living in private rented accommodation in these areas are at the most risk due to limited choices about where they live.

19. Whilst it is clear the Selective Landlord Licensing scheme has resulted in improvements in the North Ormesby ward there are some minor proposed amendments to the re-designated scheme:

- To include the costs of an Environmental Health Officer. This post carries out the housing inspections as part of the Selective Landlord Licensing scheme. Including this post would be consistent with the approach taken in the Newport SLL scheme. In line with recent legislative changes the costs of regulation are now allowed to be charged to the Selective Landlord Licensing fee.
- The mandatory condition of the current scheme on tenancy referencing to be amended to require landlords to specifically use Middlesbrough Council's free referencing service.
- Payment of the SLL fee by instalments. This has been requested by some landlords. The fee is paid in two parts and it is proposed that Instalment arrangements could only be applied to the second part of the fee, the initial payment covers the cost of administering the application process. It is proposed that fees could be paid over a term of between 6 and 12 months depending on the number of properties to be licensed. Terms would be applied and to cover the cost of administering this a fee of £100 is proposed. Any landlord who defaults on payments would not be offered payment by instalments for subsequent licenses.

20. Proposed licence fee.

The inclusion of the EHO post in the SLL staffing generates additional cost for the North Ormesby Selective Landlord Licensing. The calculation of the overall cost of the scheme is consistent with the Newport SLL scheme, with the addition of an inflationary rise to cover increased staffing costs. A similar approach has been adopted to the profiling of staff working across schemes in later years. It is proposed that the licence fee for the re-designated area should be £765 for a 5 year licence, taking into account the expected number of properties which will require a licence. Penalty fees of £100 would continue to apply for late applications.

21. Boundary to the North Ormesby Selective Landlord Licensing scheme.

The geographical area for the proposed scheme is in line with the existing North Ormesby ward boundary as shown in Appendix 1 to the Evaluation Report.

22. Impact of COVID-19 on the re-designation of the North Ormesby Selective Landlord Licensing Scheme.

Whilst it was intended to achieve a smooth transition from the current licensing scheme however, due to the impact of COVID-19 there has been a delay in the commencement of the consultation period. The existing SLL designation ends on 31st Dec 2020 and if the new scheme is approved this will not commence until April 2021. This would include the statutory notification period after the designations were made.

What decision(s) are being asked for?

23. That Executive consider the Evaluation Report on the North Ormesby Selective Landlord Licensing Scheme and approve:
- a. The commencement of appropriate consultation relating to the re-designation and resignation of the selective landlord licensing scheme in the North Ormesby ward,
 - b. The consultation to include the proposed fee of £765 to cover the cost of delivering the scheme in the designated area.
 - c. That the results of the consultation be presented to Full Executive for consideration in January 2021 prior to implementation.

Why is this being recommended?

24. The SLL scheme in North Ormesby has resulted in improvements in the living and environmental conditions for those living in the area and contributed to reductions in antisocial behaviour. A re-designation of North Ormesby Selective Landlord Licensing scheme would continue to ensure that property standards are maintained, anti-social behaviour issues related to tenants are reduced and managed and that landlords are held accountable for the costs of both licensing and the property management improvements. The existing SLL designation is self-financing and, in line with the recommended changes to the scheme, the new designation would work in the same way.
25. The re-designation will require all privately rented properties within the identified boundaries, subject to statutory exemptions, to apply to be licensed for up to five years and comply with the licence conditions.
26. The proposed fee of £765 enables the Council to ensure the scheme is self-financing, it is calculated on the staffing requirements for the administration and regulation of the selective landlord licensing scheme.
27. The current boundary for the SLL scheme is to be maintained to ensure complete coverage of the area in relation to improved housing standards, environmental conditions and reduction in crime and anti-social behaviour.
28. Prior to designating an area, the Council is required to undertake a minimum 10 week statutory consultation with local people, businesses, landlords and partners. An outline of the consultation process is contained in paragraph xx of this report. Developing the designations for Selective Licensing in the area identified in Appendix 1 to the Evaluation Report, will enable the Council to sustain the improvements already achieved in North Ormesby.
29. In 2018 Middlesbrough Council Scrutiny Panel reviewed the North Ormesby scheme. The Panel were extremely supportive of the scheme:

- They recognised the achievements made through SLL in the North Ormesby ward, including improving community confidence which has led to increased reporting of anti-social behaviour and crime to the SLL team.
- They were complimentary of the work achieved, and applauded the Selective Licensing Team for their efforts.
- The Panel also learned that in November 2017, the team had been awarded Outstanding Contribution to Prevention at the Cleveland Community Safety Awards.

Throughout the investigation, the Panel made reference to the issues within Gresham and University wards and the increasing number of private rented housing properties. The Panel were of the opinion that the excellent work achieved since the introduction of Selective Licensing in North Ormesby and hoped that any future schemes would mirror this model.

Other potential decisions and why these have not been recommended

30. Re-designate an amended area within the area of North Ormesby for Selective Licensing and request approval for consultation.

This is not recommended as the current area is considered to cover the locations with the highest density of rented properties in the ward as well as incorporating other factors such as potential displacement of tenants and anti-social behaviour.

31. Do not renew the SLL designation and carry out alternative interventions to replace of a formal scheme

Alternatives to Selective Licensing were considered in 2014 prior to the designation of the current Selective Licensing areas. These included voluntary registration and the use of traditional enforcement tools. These would require significant additional investment by the Council to achieve any sustainable change across the area.

32. There is a still a need to ensure that that proactive assessment of properties and an increased focus on renting and management practices is sustained. While selective landlord licensing is not intended to be indefinite, a shift to an alternative non-regulatory approach or only relying on traditional reactive enforcement tools is not considered appropriate sustain or progress the improvements achieved.

33. Traditional interventions do not provide the level of engagement with landlords necessary for the desired improvements. Landlord take up of previous accreditation schemes have been very low, they tended to only engage with responsible landlords who saw a value in being part of a scheme. An example of a non-mandatory scheme is the Stockton Pluss model which is run by landlords. Stockton Council figures show that they had 80 members for this scheme with 539 properties and not all landlords who opposed their SLL scheme joined the accredited scheme.

34. Short term proactive enforcement projects can have an impact but are not sustainable without significant investment from existing revenue budgets or grant funding.
35. It is proposed that the recommended action is the most appropriate course to ensure a sustainable and cost effective solution to improving management standards in the private rented sector in the designated area within North Ormesby and that a formal consultation is commenced.

Impact(s) of recommended decision(s)

36. The recommended decision is to commence consultation with local landlords, the residents and partner agencies. This consultation will be used to inform a final recommendation to be made to Executive in January 2020 on whether to re-designate the Selective Landlord Licensing scheme in the North Ormesby ward. The impact of such a scheme will be determined through this consultation and detailed in the Executive Report.

Legal

37. Part 3 of the Housing Act 2004 sets out the scheme for licensing private rented properties in a local housing authority area. Under the Act a local housing authority can designate the whole or any part or parts of its area as subject to selective licensing. Where a selective licensing designation is made it applies to privately rented property in the area.
38. A selective licensing designation may be made if the area to which it relates satisfies one or more of the conditions listed in para 7. The local housing authority may only make a designation if the area has a high proportion of property in the private rented sector. Nationally the private rented sector currently makes up 19% of the total housing stock in England.
39. Before making a designation, a consultation is required and full consideration should be given to any representations made during the process. Where the criteria are satisfied and a selective licensing scheme is made, a designation may be made for up to 5 years. The designation cannot come into force until 3 months after it is made. A notice of the designation has to be published within seven days of the designation being confirmed. All those consulted on the proposed designation should be notified within two weeks of the designation being confirmed.
40. There is a possibility of legal challenge in the form of a judicial review against the decision to introduce or renew a Selective Landlord Licensing scheme. However the risk of such a challenge will be less where the Authority ensures that the legislation is complied with. A previous judicial review of the Newport scheme in August 2019 in which one landlord made an application to the High Court. This application was declined referral for a full review on the basis that all five grounds submitted were not sufficient. The Council was awarded the previous costs order of £1500.

Financial

41. Based on the costs of the previous consultation processes for Selective Licensing designations, it is expected that the consultation process will cost approximately £8,500. The costs will be managed within the existing Public Protection revenue budget as they cannot be recovered through the licence fee.
42. The SLL scheme will be self-financing through the payment of a fee by landlords to obtain their licence. If a licence fee of £765 per property is introduced then the scheme can be delivered within the existing financial envelope. This fee will be subject to consultation and detailed financial consequences of the re-designated scheme will be detailed in the final report to Executive in January 2020.
43. The re-designation to the North Ormesby Selective Landlord Licensing scheme has been delayed due to the impact of the COVID-19 pandemic. Therefore, if a re-designation is approved by Executive in January 2020 there will be a gap between the existing scheme which ends on 31st Dec 2020 and the implementation of the new scheme estimated to be in April 2020. It is proposed that in order to maintain the progress of the Selective Landlord Licensing work in North Ormesby the staffing costs will be met by the Public Protection revenue budget.

Policy Framework

44. The proposed designations contribute both to Middlesbrough Council's Housing Strategy through improving the quality of the private rented sector and reducing fuel poverty. The designation will also contribute to reducing health and social inequalities by tackling deprivation in the least well off areas; improving the quality of housing, environmental conditions and reducing crime and disorder which has a direct impact on health and wellbeing.

Equality and Diversity

45. There will be no negative, differential impact on diverse groups and communities associated with this report. It has been demonstrated that the North Ormesby Selective Landlord Licensing scheme provides significant benefit to vulnerable groups by improving living standards and providing support in improving health, education and financial management.

Risk

46. Approval for designations must be sought from the Secretary of State for Communities and Local Government if more than 20% of the private rented housing or 20% of the geographical area of the local authority are will be subject to licensing, The area proposed, along with the recent designations for the Gresham SLL area do not cover more than 20% of the geographical area of the borough. This means that the Council does not require Secretary of State approval to make the designation proposed in this report.

47. If the SLL scheme is not approved for re-designation there is a risk that the successes seen in the North Ormesby ward as a result of Selective Landlord Licensing will start to slow down returning to the initial position prior to the introduction of the scheme e.g., poor housing standards, long term empty properties, elevated levels of anti-social behaviour.
48. There is a risk of a shortfall in recovering the costs of the scheme if the scheme does not receive applications and fees from the anticipated number of licensable premises. However the vast majority of the licensable properties have already been identified as part of the previous designation and consultation processes. This risk is also mitigated by the experience that the Selective Licensing team has developed in mapping and taking enforcement action where there is a failure to licence. It should also be mitigated further by the formal consultation process.
49. There is a possibility of legal challenge in the form of a judicial review against the decision to introduce or renew a Selective Landlord Licensing scheme. However the risk of such a challenge will be less where the Authority ensures that the legislation is complied with. An application for permission to Judicially Review a previous Council decision to designate part of Newport Ward was made by one Landlord. The High Court refused to grant permission to the landlord to Judicially Review the decision because none of the grounds raised by the landlord were found to be arguable.

Actions to be taken to implement the decision(s)

50. This report recommends undertaking statutory consultation prior to an Executive decision on whether to designate the ward of North Ormesby for Selective Licensing. The consultation process would begin in October 2020 and be for a 10 week statutory period.

It would include:

- A consultation report with the draft designations to be posted on the Council's website.
- A Selective Licensing consultation web page with an online questionnaire and information about the scheme.
- Adverts in two local newspapers.
- A series of press releases and social media postings promoting the consultation throughout the 10 weeks.
- A questionnaire posted to all addresses and businesses within the proposed areas (residential and businesses) and a buffer zone around the proposed area.
- A letter and questionnaire to every private sector landlord, letting agent and current HMO or Selective Licence holders where their contact details are known.
- Consideration will be given to Webex consultation meetings for landlords and tenants,
- Direct contact with landlord associations and representatives through local meetings, and the Selective Licensing Steering Group meetings.

51. Following the consultation, a further report will be brought to Executive (scheduled for January 2021), with the outcome of the consultation and final recommendations for the next steps including any adjustments that have been considered following any representations and whether the designation should be renewed.

Should a decision be taken to renew the Selective Licensing area, designation would be within 3 months from the date of the Executive meeting which is scheduled to be April 2021.

52. Following this the full outcome would be published. In accordance with legal requirements the respondents to the consultation would be individually notified of the outcome in addition to being publicised through newspapers, the Council's web site and press releases.

Appendices

Appendix 1. Evaluation Report for the North Ormesby Selective Landlord Licensing Scheme.

Appendix 2. Equality Impact Assessment

Background papers

Body	Report title	Date
MHCLG	Selective Licensing in the Private Rented Sector. A Guide for Local Authorities.	March 2015
MBC	Evaluation Report for North Ormesby ward Selective Landlord Licensing Scheme.	July 2020

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