

MIDDLESBROUGH COUNCIL

Report of:	Director for Environment and Commercial Services
Relevant Executive Member:	The Mayor and Executive Member for Adult Social Care and Public Health
Submitted to:	Executive
Date:	10 April 2024
Title:	Selective Landlord Licensing: Responses to the Consultation and Approval to Designate the Newport 1 area.
Report for:	Decision
Status:	Public
Strategic priority:	Physical environment
Key decision:	Yes
Why:	Decision(s) will incur expenditure or savings above £250,000
Subject to call in?	Yes
Why:	Not urgent

Proposed decision(s)

That Executive approves the designation of Selective Landlord Licensing in the Newport 1 area.

Executive summary

Local authorities have powers to introduce Selective Landlord Licensing (SLL) schemes for a five-year period in areas with a high number of private rented properties, low housing demand, poor housing conditions, high levels of deprivation, crime and migration and/or significant and persistent anti-social behaviour associated with the tenants of private rented properties.

The purpose of such a scheme is to improve standards of property management in the private rented sector, and when combined with other measures, leading to improved physical, social and economic conditions and reduce crime and anti-social behaviour. There are currently three SLL schemes operating in Middlesbrough; one in North Ormesby and two in the Newport ward (commonly known as Newport 1 and Newport 2). Newport 1 scheme comes to an end on 12th June 2024. An evaluation of the scheme has been carried out which shows improvement in a number of areas. The area continues to experience major challenges and therefore it is proposed that it would benefit from a further five-year period of designation as a Selective Landlord Licensing Scheme.

The SLL schemes in Middlesbrough do not meet the threshold for Secretary of State approval which is required for those schemes that cover 20% or more of its geographical area or privately rented properties, provided that the authority has consulted for at least 10 weeks on the proposed designation. The schemes in Middlesbrough do not meet the threshold for Secretary of State approval and a ten-week period of consultation has been undertaken.

This report provides a summary of the responses to the consultation for consideration by Executive and to seek their approval for the Selective Landlord Licensing Scheme to go ahead in the Newport 1 area.

1. Purpose

1.1 An Executive decision was made on 20th December 2023 to commence consultation on the designation of a Selective Landlord Licensing Scheme in Newport ward (known as Newport 1 area). The report set out the rationale for commencing consultation and provided full details on how this consultation would be undertaken. The purpose of this report is to present and consider the outcome of the ten-week consultation and to recommend that the area of Newport shown in Appendix B is designated for Selective Landlord Licensing.

2. Recommendations

2.1 That Executive approves the designation of Selective Landlord Licensing in the Newport 1 area.

3. Rationale for the recommended decision(s)

3.1 The SLL schemes in both North Ormesby and Newport have resulted in improvements in the living and environmental conditions for those living in those areas and contributed to reductions in antisocial behaviour. A further designation of the Newport 1 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 property management improvements. The existing SLL designation is self-financing and, in line with the

recommended changes to the scheme, the new designation would operate in the same way.

- 3.2 The designation will require all privately rented properties within the identified boundary, subject to statutory exemptions, to apply to be licensed for up to five years and comply with the licence conditions.
- 3.3. The proposed fee of £998 enables the Council to ensure the scheme is self-financing, it is calculated on the resource requirements for the administration and regulation of the selective landlord licensing scheme.
- 3.4. The current boundary for the SLL scheme is to be maintained to ensure coverage of the area in relation to improved housing standards, environmental conditions and reduction in crime and anti-social behaviour. Developing the designation for Selective Licensing in the area identified will enable the Council to sustain the improvements already achieved in the Newport 1 area and prevent the improvements from declining again.
- 3.5. In 2018 Middlesbrough Council Scrutiny Panel reviewed the North Ormesby 1 scheme. The Panel were fully supportive of the scheme and in summary:
- 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.
- 3.6 The Panel also learned that in November 2017, the team had been awarded Outstanding Contribution to Prevention at the Cleveland Community Safety Awards.
- 3.7 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 recognised the excellent work achieved since the introduction of Selective Licensing in North Ormesby and hoped that any future schemes would mirror this model.
- 3.8 Consideration is currently being given to the next steps in terms of rolling out SLL to other areas of the town which meet the criteria. A further report will be brought to Executive seeking approval for the next steps.
- 3.9 An internal audit was conducted during July-Sept 2023 which focused on the Selective Landlord Licensing Schemes currently operating in the areas of North Ormesby and Newport 1. Auditors concluded that:

- the SLL schemes are well administered, the financial model is fit for purpose, and that performance of each of the schemes is monitored to ensure that the Council's objectives are met.
- a sound system of governance, risk management and control exist, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
- controls within the system at the time of the audit provided Substantial Assurance.

3.10 The Statement of Policy and Procedure for Selective Landlord Licensing (SPPSLL) is published on the Council's website and sets out the requirements of the schemes, and is appropriately reviewed, updated and approved. The aims and objectives of each of the schemes provide links to the Council's Strategic Plan and to the improvement of housing. The Selective Landlord Licensing (SLL) team works in close partnership with other Council services and external agencies to maximise the benefits of the schemes.

4. Background and relevant information

4.1 Executive approval is required as the schemes are delivered via a legislative framework that requires organisational approval to designate the area for Selective Licensing.

4.2 The Housing Act 2004 gives local authorities powers to introduce Selective Landlord Licensing (over a five year period) for privately rented properties. 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..

4.3 In order to designate an area to be subject to selective licensing the area must satisfy one or more of the conditions set out in Section 80 the Housing Act 2004 and the Selective Licensing of Houses (Additional Conditions) (England) Order 2015. The conditions are:

- That the area is, or is likely to become, an area of low housing demand; and that making the designation will, when combined with other measures taken in the area will contribute to the improvement of the social or economic conditions in the area.
- That the area is experiencing a significant and persistent problem caused by anti-social behaviour; that some or all of the private sector landlords who have let premises in the area are failing to take action or combat the problem that it would be appropriate for them to take; that making the designation, when combined with other measures taken in the area will lead to a reduction or elimination of the problem.
- That the area contains a high proportion of private rented properties which have been let or licensed in relation to the total number of properties in the area, and *one or more* of the following conditions apply:

- Housing conditions: After a review, officers consider it is appropriate that a significant number of private rented properties are inspected with a view to determining the existence of category 1 and 2 hazards with a view to taking enforcement action where appropriate. That a designation, when combined with other measures, will contribute to an improvement in general housing conditions in the area.
- Deprivation: That the area suffers from high levels of deprivation affecting a significant number of occupiers of private rented properties and a designation, when combined with other measures, will contribute to a reduction in the level of deprivation in the area.
- Crime: That the area suffers from high levels of crime affecting occupiers of private rented properties, households and businesses in the area and a designation, when combined with other measures, will contribute to reductions in the levels of crime for the benefit of those living in the area.

4.4 Under the Housing Act 2004, Part 3 (Selective Licensing of other Residential Accommodation), all private landlords operating within the designated area are required to pay a fee and 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 must demonstrate their compliance. The fees are ring-fenced to fund the staffing resources for the delivery of the scheme.

Existing designated SLL areas in Middlesbrough

4.5 On 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. Further reports were approved that saw the implementation of Newport 1 scheme, which commenced on 13th June 2019, North Ormesby 2 designation which commenced on 14th June 2021 and Newport 2 scheme which commenced on 3rd July 2023.

4.6 The areas of North Ormesby, Newport 1 and Newport 2 were designated as a Selective Landlord Licensing areas as they were identified as areas 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;

4.7 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.

4.8 The schemes aim to address:

- The problems associated with low demand for housing 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.

4.9 The intended outcomes for the schemes are:

- A reduction in the number of empty properties and low demand for housing 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.

The Newport 1 SLL Scheme

4.10 The Newport 1 Selective Landlord Licensing Scheme is due to end on 12th June 2024 and consideration is now being given to whether the scheme has met its objectives, whether there should be a new designation 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.

4.11 There were 800 licensable properties originally identified in the proposal for the Newport 1 Selective Licensing area and income generation of £600,000 was forecasted. The number of licensable properties has exceeded the original estimation over the five years of the scheme. To March 2024 1,238 licenses have been granted. This value represents the total number of licences which includes properties that have been re-licensed due to change in ownership. To date income of £1,000,823 has been generated. The income is ring-fenced and will only be used for the delivery of the SLL scheme including staffing and on costs. Throughout the life of the scheme the fees include the staffing costs of the following SLL posts which are necessary for the delivery of the scheme: Manager, Co-ordinator, SLL Neighbourhood

Safety Officer, Environmental Health Officer, SLL Assistant and Tenancy Relations Officer and a Regulatory Compliance Officer.

4.12 An evaluation of the Newport 1 Selective Landlord Licensing Scheme has been undertaken using guidance from Local Government Regulation. (Appendix G). The evaluation seeks to identify the effectiveness of Selective Licensing in the set outcome areas:

- Reducing anti-social behaviour attributable to the private rented sector
- Improving management standards in the private rented sector; and
- Increasing housing demand

In addition, it also evaluates the wider impact on:

- Improving the environment; and
- Contributing to the effectiveness of partnership working to improve the quality of life.

4.13 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).

Summary of the Evaluation Findings

4.14 In summary, the main findings of the evaluation report are:

- House prices in the Newport ward have started to increase. In 2019 the average house price was £48,585 and as of 2022 has since increased to £66,000.
- The overall number of empty properties have reduced. In 2019 Newport ward had 418 empty properties, 246 long-term empty (more than 6 months). In 2022 the number of empty properties was 298, with 178 of these as long-term empties (more than 6 months).
- The number of private rented properties that received a housing health and safety system inspection (referred to as HHSRS) increased, significant hazards have been identified and housing conditions have improved. During the scheme to date (11th March) 756 properties have been inspected. High-risk hazards (Category 1 only) were found in 89 properties (scheme start to end December 2023). Medium to low-risk hazards (Category 2 only) hazards were identified in 338 properties and both Category 1 and 2 hazards were found in a further 164 properties.
- Anti-social behaviour has been tackled through a wide range of interventions by the SLL team. This includes:
 - 5621 low level interventions - telephone calls/e-mails, letter drops, diary sheets received, initial warning letters, motorbike warning letters, site meetings, and referrals into other services for support and joint patrols.

- 45 medium level interventions - second and final warning letters, including for anti-social behaviour issues (Acceptable Behaviour Contracts (ABCs) issued, ABCs breached,) joint interviews with landlords, police and partner agencies and tenancy breach interviews.
 - 79 high level interventions - Criminal Behaviour Orders, Civil Injunctions, enforced property closures (action taken to address high levels of persistent antisocial behaviour and as a last resort after all low and medium level interventions have been exhausted).
- There has been a reduction in personal and nuisance antisocial behaviour incidents from 1023 in 2019 to 455 in 2022 (a reduction of 44%)
 - 111 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.
 - 501 tenants have been provided with information, advice, and guidance on a range of issues.
 - The number of environmental antisocial behaviour incidents has reduced; however, they still remain high.
 - There has been a relatively low number of legal cases taken against landlords for not licensing their properties:
 - 5 landlords applied before their cases were scheduled for court,
 - 1 landlord accepted a simple caution as an alternative to prosecution,
 - 2 landlords applied for a licence following the issue of a court summons, and,
 - 1 case received a Civil Financial Penalty of £4,628.38.
 - SLL Newport 1 has supported landlords in the following ways:
 - Free empty property advertising.
 - Dedicated Neighbourhood Safety Officer.
 - Dedicated Tenancy Relations Officer.
 - Housing and tenancy support/advice.
 - Supported tenant/landlord disputes over rent arrears preventing eviction.
 - Tenancy referencing.
 - Post-tenancy visits for 'red' referenced tenancies.

The impact of the Covid-19 pandemic on the delivery of the Newport 1 Scheme.

4.15 The Covid-19 pandemic significantly impacted the delivery of the Newport 1 scheme, primarily by preventing staff from carrying out visits, housing standards inspections and other face to face contact for a considerable period. This was a period of unprecedented demand on the local authority and during the Covid pandemic those SLL staff, who were unable to deliver their SLL functions, were redeployed to the Covid response and their salaries were funded from sources other than SLL income. The pandemic mainly impacted on the delivery of face-to-face interventions including housing standards inspections and delayed the programme by 18 months. Officers resumed inspections and face to face work in June 2021. Housing inspections

identified an increase in the number of properties with 'Category 1' (high risk) and 'Category 2' (low risk) hazards, which placed increased demand on officer time. Currently (March 2024) there are 432 housing inspections outstanding. The number of staff carrying out HHSRS inspections has been increased (within the financial envelope of the scheme). Gaining access to properties continues to be difficult and it is estimated that 90% of properties will receive a HHSRS inspection.

- 4.16 The Evaluation Report recognises that the Selective Landlord Licensing scheme has made a significant contribution to improvements in Newport in the last 4 years, 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. It should also be noted that the intensive approach to delivering services in Newport from a number of agencies and partners is considered one of the key factors in its success.
- 4.17 The locality based working approach implemented in North Ormesby and Newport wards (and the proposed neighbourhood approach) aims to build on the intensive targeted delivery of services working in partnership and the SLL team are an integral part of this. However, the Newport ward remains a concern for the Council due to the low levels of income, poor health outcomes and the lack of choice on where tenants can live, as supported by the Indices of Multiple Deprivation. Moreover, even with the improvements referred to above, the statutory criteria for making a selective licensing designation continue to be met.
- 4.18 In summary, there is evidence that the Newport 1 Selective Landlord Licensing scheme has been successful in increasing property safety and management standards by supporting landlords and holding them and their tenants accountable for their behaviour. However, the statutory conditions for making a selective licensing designation are met and there is concern that without the Selective Landlord Licensing scheme this progress will be lost, and some landlords will revert back to lower compliance with legal standards for housing standards if inspections are not required through the scheme. Although property conditions have been improved there is still a significant risk that standards in Newport 1 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 to poor behaviour if they are no longer referenced before taking up properties or offered support to deal with their vulnerabilities. The people living in private rented accommodation in these areas are the most at risk due to the limited choices they have about where to live.

The Proposal for a further Designation of Newport 1 SLL Scheme

4.19 The proposal document (Appendix A to the evaluation report) sets out how the Newport 1 area meets the criteria to be designated a Selective Landlord Licensing area in relation to:

Low housing demand:

4.20 The largest number of households in Newport are 'private landlord or letting agency accommodation' at 46.4%. That compares with 18.7% for Middlesbrough as a whole, 15.1% for North East Region and 18.2% for the whole of England. (Census, 2021)

4.21 The second largest number of households in Newport are 'owned outright accommodation' at 16.2%. That compares with 28.6% for Middlesbrough as a whole, 32.5% for North East Region and 32.5% for the whole of England. (Census, 2021)
At the end of September 2023 there were 188 properties which had been empty for greater than 6 months in Newport, which is 3.46% of the Newport housing stock. There were 374 empty properties in total which is 6.87% of the wards stock.

4.22 Newport is the third highest ward in Middlesbrough, behind North Ormesby and Central, in terms of percentage of empty properties, and in raw numbers Newport is second highest in Middlesbrough.

4.23 Long term empty properties in Newport account for 16.4% of the total long term empty properties in Middlesbrough, and the total empty properties in Newport account for 18 % of the total number of empty properties in all of Middlesbrough.

4.24 The turnover of properties in Newport has varied throughout the life of the scheme with a reduction from 31.9% in 2019 to 25.5% in 2021 and an increase to 31.3 % in 2022.

Antisocial Behaviour:

4.25 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.

In terms of rate per 1000 Head of Population Newport is currently ranked 8th in Middlesbrough in relation to anti social behaviour. The anti social behaviour levels in 2022-23 significantly reduced with 2023/24 appearing higher, the levels of ASB counts per month so far in 23-24 overall are still lower than in 2020-21.

Poor housing conditions:

4.26 Middlesbrough's Private Sector Stock Condition Survey (PSSCS) 2008 identified Newport as having the second highest proportion of non-decent dwellings in Middlesbrough at 49.3%.

4.27 The same survey identified Newport as having the second largest proportion of vulnerable households (50.1%) living in non-decent homes.

Newport was also found to have the second highest proportion of homes with a Category 1 hazard (23.1%).

4.28 Between April 2018 and September 2023, 582 premises were issued with a 'notice of intention' which details hazards in properties requiring remedy. Of these 321 (55%) were in the Newport ward.

Deprivation:

4.29 In 2015, out of 7,219 wards, Newport was the 26th most deprived ward in the country and remains at the 26th most deprived ward at IMD 2019. Newport is ranked as the fourth most deprived ward in Middlesbrough.

Crime:

4.30 During the period 1st October 2021 to 30th September 2023, Newport ward had the third highest rate of crime out of all wards across Middlesbrough. Newport ward has also consistently had the third highest rate of crimes marked as racially aggravated accounting for at least 12% of all racially motivated crime within Middlesbrough across the period. However, there has been some improvements in the incidence of crime in Newport, the levels of police reported crime have been continuously decreasing with levels in 2023-24 recording some of the lowest seen over the last 3 financial year periods. The total of 163 crimes in October 2023 is lower than in 2022 by 41.3%, lower than in 2021 by 36.3%, and lower than in 2020 by 29.4%.

4.31 The evaluation of the Newport 1 scheme identifies areas of learning and improvement to the delivery of the scheme and these are detailed in the Evaluation report. Some of these have been incorporated into the proposed new Newport 1 designation and were included in the consultation process. There have been some amendments to the proposed changes which are explained below:

- A review of the procedure for carrying out a Fit & Proper person check had considered the use of Disclosure Barring Service (DBS) checks. A further review has identified difficulties with the use of DBS checks and it is therefore proposed that the Fit and Proper Person check will comprise of a self-declaration and internal records checks. Further checks will be carried out if information obtained indicates any false declaration of convictions or concerns regarding a person's fitness to hold a SLL licence.
- An additional charge of £100.00 will only be made for the submission of late applications. Incomplete applications will not be accepted and will be returned to the applicant for resubmission.
- To provide those landlords making applications for licences in the last twelve months of the designation to be eligible for a reduced fee of 50% of the second

payment, where properties have not been licensable prior to the 12 month deadline. Offering discounts has to be carefully considered in the context of ensuring that the scheme is adequately resourced throughout its life and that they do not encourage landlords to delay making their application. This remains unchanged.

Proposed licence fee

4.32 A review of the staffing resource required for the delivery of the Newport 1 scheme has been carried out.

4.33 The following staffing resources are required to ensure the scheme can be effectively and efficiently administered and delivered:

- Selective Landlord Licensing Manager
- SLL Coordinator
- Environmental Health Officer
- Neighbourhood Safety Officer
- Regulatory Compliance Officers x 2
- Licensing Assistants x 1.5
- Legal Investigations Officer

4.34 The calculation of the overall cost of the scheme is consistent with the current schemes, with an additional Licensing Assistant, an inflationary rise to cover increased staffing costs and service charges.

4.35 It is estimated that 1297 licences will be issued in the course of the scheme, which will generate £1,294,406 income. It is proposed that the licence fee for the designated area be set at £998 for each licence. This is an increase from the current fee of £803 + £20 for a fit and proper person (licence holder) check.

4.36 The table summarises the estimated income and cost of the scheme:

Estimated Number of licences	Cost of the scheme over the 5-year period	Proposed licence fee	Estimated income
1297 licences	£1,294,406	£998	£1,294,406

4.37 A penalty fee of £100 would continue to apply for late applications. It is also proposed that applications for licences in the last twelve months of the designation will be eligible for a reduced fee of 50% of the second payment, where properties have not been licensable prior to the 12-month deadline. This reduction would not apply to those properties which were liable for licensing prior to the 12 month deadline and had avoided doing so.

4.38 The licence fee is split into a 50% stage 1 (£499) fee payable by every applicant the cost of which reflects only the costs of processing the application. The second stage 50% fee (£499) is payable only by successful applicants the cost of which reflects the overall costs of administering and enforcing the scheme.

4.39 The second payment can be paid up to 12 months after the applicant is accepted onto the scheme. An administration fee of £100 will apply.

Boundary to the Newport 1 Selective Landlord Licensing scheme

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

Performance Monitoring.

4.41 It is proposed that the Newport 1 scheme will be performance monitored in accordance with the following criteria:

- Undertaking the licensing process and ensuring that all eligible properties are licensed.
- At least one Housing Health and Safety Rating System (HHSRS) inspection will be carried out for all private rented properties within the five year life of the scheme.
- Identify Category 1 and 2 hazards in private rented properties and take appropriate enforcement action.
- Identify the energy efficiency standard of private rented properties and take appropriate enforcement action.
- Response to complaints from tenants about serious hazards in their rented property within one working day.
- Response to complaints from tenants about non-serious hazards in their rented property within 7 working days.
- Response to complaints about empty insecure properties within 48 hours, or within 24 hours if there is a serious risk to health.
- Ensuring landlords are fit and proper.
- Taking the appropriate enforcement action against those who commit offences in line with the Enforcement Policy.
- Post tenancy visits for those tenants who have been assessed as high risk as part of the tenancy referencing scheme.
- Support offered to tenants of private rented properties and make referrals to other services.
- Support offered to landlords to assist with sustaining tenancies.
- Referencing of new tenants on behalf of the landlord.
- Monitoring annually the change in house prices.
- Response to complaints about antisocial behaviour and to issue low, medium and high level interventions to individuals in relation to antisocial behaviour issues.
- Response to complaints about environmental issues.

Consultation Process and outcomes.

4.42 Consultation on the proposed scheme was carried out over a 10-week period between 2nd January 2024 and 12th March 2024. Letters were sent to all Selective licensing landlords, residents and businesses within the area of Newport ward and leaflets were delivered to a wider consultation area. The consultation process provided full details of the proposed scheme and responses were requested to be submitted through a proforma questionnaire online (appendix C) and via e-mail. In addition, all consultation material was available on the internet and the consultation was publicised in the press, on social media and through partners. Contact could also be made by telephone.

4.43 During the 10-week consultation period 37 responses were received:

- 1 telephone call
- 22 e-mails
- 21 online submissions

4.44 The report attached at Appendix D provides a summary of the e-mail and telephone call responses.

4.45 In summary, of the 23 email/telephone responses received, 11 were from landlords/managing agents, 3 were tenants/residents, 5 were Councillors and 4 ‘other’ unknown. All 5 Councillors supported the scheme; 4 landlords/agents agreed, 8 disagreed; 2 residents agreed, 1 disagreed with the scheme and of the ‘other’ persons 3 disagreed with the scheme. A summary of comments is provided in Appendix D.

4.46 A summary of the online consultation responses is provided in Appendix E. Online responses were received from the following:

Managing/Letting Agent in the proposed area	1
Other interested party	5
Private Landlord in the proposed area	13
Private Tenant in the proposed area	2

4.47 Summary of responses from landlords in the proposed SLL area:

- 43% of landlords thought properties owned by other private landlords were maintained to a good standard (21% thought they weren’t and 36% had no opinion)

- 57% of landlords thought other landlords acted responsibly in letting, managing and maintaining their properties
- 43% of landlords thought other landlords took appropriate action against tenants who cause nuisance or anti-social behaviour; (36% said they did not know)
- 85% of landlords thought that the number of private rental properties was not an issue.
- 54% of landlords thought long term empty properties was an issue
- 62% of landlords thought there was no issues with low house prices in the area
- 23% of landlords thought there was no issue with households not staying long
- 46% of landlords thought properties were in substandard condition (39% said they were not)
- 58% of landlords thought antisocial behaviour was an issue in the area.

4.48 Summary of responses from the landlords/managing agents in the consultation area surrounding the proposed SLL area:

- 44% thought that landlords of properties in the proposed SLL did not maintain their properties well. (44% said they did not know)
- 56% thought landlords did not act responsibly in letting, managing and maintaining their properties; (33% said they did not know);
- 67% thought that private landlords did not take appropriate action against tenants who cause nuisance or anti-social behaviour (22% said they did not know);
- 44% thought that the number of private rental properties was an issue in the area (equally 44% said the number of private rental properties wasn't an issue)
- 78% thought that long term empty properties was an issue
- 56% thought that low house prices were not an issue;
- 56% thought that households not staying long was an issue;
- 67% thought that properties were in substandard condition;
- 78% thought that antisocial behaviour was an issue;

4.49 There was no responses received from businesses in the proposed SLL area.

4.50 Summary of responses from all respondents:

- 72% agreed that SLL would help tackle some of the issues in the proposed SLL area.
- 60% agreed with the licensing conditions
- 38% believed that properties should be inspected to check compliance with housing standards and license conditions. (33% did not feel inspections should be carried out)
- 34% believe that tenancy relations support should be provided (19% disagreed and 47% stated they did not know)
- 45% agreed that applicants should be charged an additional fee for late applications and 40% said that a charge should not be applied.

4.51 All written submissions have been fully considered. Combined online, email and telephone submissions have also been considered together so that an overall picture of the responses has been obtained and they have been considered as a whole. A number of responses raised concerns over ongoing anti-social behaviour, empty properties and lack of environmental improvements. One submission, which represented a tenants union stated that improvements had been made and tenants had been given more power to deal with concerns in rental properties.

4.52 A common statement was that landlords act responsibly and do keep their properties in good condition and it is only a minority of landlords that do not deal with necessary repairs to their properties. However, one respondent felt that most landlords did not live locally and therefore issues went unnoticed.

There was a strong divide in some responses – one respondent felt that the costs of the scheme would be put onto tenants, which was a significant concern, and therefore would strongly oppose the scheme, while other respondents stated that SLL schemes improve the lives of people living in the area. Various other issues were raised in the consultation responses all of which have been considered and that they are set out in more detail in the Appendix D.

4.53 There were some particular issues of principle raised in three detailed consultation responses and these are summarised below:

a. **Whether the decision to recommend a renewal of the designation was predetermined?** The recommendation to renew the designation was based on the evidence as set out in the Report.

b. **The misuse of data including Newport-wide data rather than that limited only to the Newport 1 licensing area.** The majority of data relating to the Newport 1 area is only available on a full ward basis. However, where narrower defined data could be obtained it has been included in the proposal document. There is nothing provided in the full Newport ward data that officers consider would provide distorted figures.

c. **Failure to consider alternative measures to Selective Landlord Licensing.** It is the considered view of Middlesbrough Council's officers, based on their own and other nearby local authorities' past experience, that accreditation schemes, or similar, can help landlords / lettings agents to meet agreed standards of competence, skills and knowledge about the business of owning, managing or letting a private rented home. However, such schemes are not widely supported by landlords and they have tended to focus only on a small aspect such as the physical condition of properties or the management of tenancies. It is our view that such alternative approaches are unlikely to address the broader issues that SLL seeks to address and are not expected to sustain the improvements which have been achieved over the life of the existing scheme, including reducing ASB and crime. Officers do not consider that the

fact that the Newport 1 area has been the subject of selective licensing is likely to make any significant difference, and do not think that an accreditation scheme would be sufficient or, therefore, an acceptable alternative to selective licensing. The introduction of an accreditation scheme or other alternative to SLL is not considered a sufficiently beneficial approach to addressing the broad issues faced in the Newport 1 area relating to the private rented sector. Further consideration will be given to the introduction of schemes like an accredited or good landlords schemes as a means to supplement the achievements of Selective Licensing as part of SLL formal reviews.

d. The consultation did not run for 10 weeks and the evaluation should not have commenced before the previous scheme had come to an end. The consultation did run for 10 weeks. Officers consider that the evaluation of the first 4 - 4.5 years was entirely adequate to demonstrate the impact of the scheme.

4.54 One respondent to the consultation, who has stated that they represent a number of landlords, has said that they intend to challenge formally any decision to designate the Selective Licensing Scheme in Newport 1 through judicial review.

Review of licensing conditions

4.55 A review of the licensing conditions has been carried out and the following changes have been made;

4.56 Mandatory Condition Number 1: has amended from *“If gas is supplied to the house, the Licence holder shall provide to Middlesbrough Council a Gas Safety Certificate issued within the previous 12 months at the time of the application and thereafter annually”* to *“If gas is supplied to the house, the Licence holder is to produce to Middlesbrough Council annually for their inspection a gas safety certificate obtained in respect of the house within the last 12months”*. The wording *“at the time of the application”* has been removed as it is not stipulated in the Housing Act 2004, Schedule 4 (Mandatory conditions).

4.57 Applicants will still be asked to provide a copy of their gas safety certificate with their application so that it can be checked and details of its renewal date recorded. Once a property is licensed the licence holder will be required to submit their annual gas safety certificates to the Council.

4.58 Mandatory Condition Number 7: Tenancy referencing – this condition is not a mandatory condition under the Housing Act 2004: Schedule 4 and has therefore been removed and placed under the list of additional conditions.

5 Other potential alternative(s) and why these have not been recommended

5.1 Do not renew the SLL designation/new designations and carry out alternative interventions to replace of a formal scheme

- 5.2 Alternatives to Selective Licensing were considered in 2014, 2019 and 2023 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.
- 5.3 There is 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 are not considered appropriate to sustain or progress the improvements achieved.
- 5.4 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.
- 5.5 Short term proactive enforcement projects can have an impact but are not sustainable without significant investment from existing revenue budgets or grant funding.
- 5.6 A pilot project undertaken in early 2023 to carry out proactive housing inspections in a selected area of Central ward found it very difficult to engage and landlords and tenants. This is detailed in the Evaluation report.
- 5.7 Considering the responses received to the consultation (see para.4.51 above) it is maintained that the recommended action to designate the Selective Landlord Licensing Scheme in Newport 1 is the most appropriate course. The area meets the legal criteria for the designation of a Selective Landlord Licensing Scheme which is the most effective solution to improving management standards in the private rented sector and will sustain the improvements already achieved in Newport 1 and prevent further decline.

6. Impact(s) of the recommended decision(s)

The recommended decision to designate the Selective Landlord Licensing Scheme in Newport 1 area will result in the implementation of the scheme using the same model as the current schemes. The scheme will become effective after a three month period and will be in place for a period of 5 years, subject to periodic reviews.

Following approval by the Executive there will be a three month lead in time period before the designation comes into force. A notice of the designation will be published within seven days of the designation being confirmed. A delivery plan for the duration of the scheme will be developed to ensure that the recommended decisions are implemented, including key milestones and will be monitored by a Governance Board.

6.1 Financial (including procurement and Social Value)

Case law (R on the Application of Hemming T/A Simply Pleasure Ltd v Westminster City Council) states that the local authority can require payment of a fee which includes enforcement as well as processing costs. The Housing Act 2004 s84(7) states that when fixing fees under this section, the local housing authority may take into account all costs incurred by the authority in carrying out their functions under this Part.

The SLL schemes will be self-financing through the payment of a fee by landlords to obtain their licence. As referred to in paragraph 4.4 above, these fees are ringfenced to meet the costs of administering the scheme and therefore any annual surpluses generated are not available to fund other Council services and will be held in an earmarked reserve to fund the cost in future years. The scheme should break even over the 5 year period of operation. The calculation of the overall cost of the scheme is consistent with the current schemes, with the addition of an inflationary rise to cover increased staffing costs and service charges. The table below summarises the budget over the five- year period of the scheme.

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Total
	2024/25	2025/26	2026/27	2027/28	2028/29	2029/30	
	9 mths	12 mths	12 mths	12 mths	12 mths	3 mths	
	Estimate	Estimate	Estimate	Estimate	Estimate	Estimate	
	Jun-March					Apr-Jun	
	£ m	£ m	£ m	£ m	£ m	£ m	£ m
Payroll Costs	£ 0.196	£ 0.247	£ 0.227	£ 0.233	£ 0.240	£ 0.050	£ 1.193
Other Supplies & Services	£ 0.001	£ 0.001	£ 0.001	£ 0.001	£ 0.001	£ 0.001	£ 0.006
* Council Overhead @ 8%	£ 0.016	£ 0.020	£ 0.018	£ 0.019	£ 0.019	£ 0.004	£ 0.095
TOTAL COSTS	£ 0.213	£ 0.268	£ 0.246	£ 0.253	£ 0.260	£ 0.055	£ 1.294
Projected Income	No Licence	1297					
Fee		£998					
TOTAL Income		£ 1.294					
* Council Overhead includes cost of Management Support/Finance/HR/IT							

It is estimated that 1297 licences will be issued throughout the course of the scheme. A licence fee of £998 per property will ensure the cost of the scheme can be met by the income generated. which will generate £1,294m of income over the 5 year period. This is an increase from the current fee of £803 + £20 fit and proper check. The table summarises the estimated income and cost of the scheme:

Estimated number of licences	Cost of the scheme over the 5-year period	Proposed licence fee	Estimated income
1297 licences	£1,294,406	£998	£1,294,406

Penalty fees of £100 would apply to late applications. It is also proposed that applications for licences in the last twelve months of the designation will be eligible for a reduced fee of

50% of the second payment, where properties have not been licensable prior to the 12 month deadline.

If a decision is made not to seek a further designation of the Newport 1 area, there may be redundancy costs to be borne by the authority associated with those staff with over 2 years service who are unable to be redeployed.

6.2 Legal

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.

A selective licensing designation may be made if the area to which it relates satisfies one or more of the conditions set out in Section 80 the Housing Act 2004 and the Selective Licensing of Houses (Additional Conditions) (England) Order 2015 referred to in paragraph 4.3 above.

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.

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. There was a previous judicial review of the current Newport 1 scheme in August 2019 where one landlord made an application to the High Court. This application was refused permission to apply for a full review on the basis that all five grounds submitted were not sufficiently arguable. The Council was awarded the previous costs order of £1500.

One respondent to the consultation has stated that they intend to challenge formally any decision to designate the Selective Licensing Scheme in Newport 1 through judicial review.

There has been one challenge to a tenancy referencing condition in a proposed licence for a specific premises in the first-tier tribunal, but this has yet to be determined.

6.3 Risk

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 will be subject to licensing. The area proposed, along with the existing designations for the Newport 2 SLL area and North Ormesby 2 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.

If the Newport 1 SLL scheme is not approved for further designation there is a risk that the improvements seen in the Newport 1 area 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.

There is a risk of a shortfall in recovering the costs of the schemes 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.

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.

6.4 Human Rights, Public Sector Equality Duty and Community Cohesion

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

6.5 Climate Change / Environmental

Compliance with energy efficient standards of houses in the private rented sector are assessed by officers when they carry out housing inspections.

6.6 Children and Young People Cared for by the Authority and Care Leavers

The Equality Impact Assessment has not identified any negative impact of selective landlord licensing on looked after children and young people and care leavers.

6.7 Data Protection

There will be no data protection impact from the designation of the selective licensing scheme. However, personal information will be obtained in the course of the licensing process and used during the enforcement, as relevant, of the provisions on the Housing Act 2004. All data will be obtained, stored and handled lawfully.

Actions to be taken to implement the recommended decision(s)

Action	Responsible Officer	Deadline
Notification of the outcomes to the consultation responders and publication	Judith Hedgley/ Louise Kelly	April 2023

through newspapers, the Council's website, and press releases.		
Should a decision be taken to designate the Selective Licensing Area, designation would be within 3 months from the date of the Executive meeting which is scheduled to be 10 th April 2024.	Judith Hedgley /Louise Kelly	July 2024 scheme start date

Appendices

1	Appendix A – Newport 1 Proposal Document
2	Appendix B – Newport Licensing Map
3.	Appendix C – Consultation Questionnaire
4.	Appendix D – SLL Newport 1 Consultation Telephone & E-mail Responses
5.	Appendix E – SLL Newport 1 online consultation responses.
6.	Appendix F – SLL Equality Impact Assessment
7.	Appendix G – Selective Licensing Newport Evaluation report with appendix

Background papers

Body	Report title	Date
MHCLG	Selective Licensing in the Private Rented Sector. A Guide for Local Authorities.	March 2015
MBC	Newport 1 Evaluation document for Selective Landlord Licensing Scheme.	October 2023

Contact:

Judith Hedgley
 Head of Public Protection
Judith_hedgley@middlesbrough.gov.uk

Louise Kelly
 Principal Public Protection Officer (SLL)
louise_kelly@middlesbrough.gov.uk