

SELECTIVE LICENSING REVIEW

Executive Summary

The current Selective Licensing Scheme in the Canalside Ward of Woking is coming to an end on 31 March 2023. Through this scheme, the landlords of every private rented property in the designated area were required to apply for a licence to be able to legally rent their property. It was put in place to support the Council's strategic aims through:

- Improving housing conditions
- Encouraging professional rental standards
- Tackling landlords operating unlawfully
- Reducing the incidence of tenant exploitation
- Improving property management
- Reducing overcrowding
- Promoting the advantage of landlord accreditation
- Reducing the incidence of harassment and unlawful eviction
- Improving neighbourhood perceptions

The consultation also stated that it anticipated that every private rented property within the designated area would be visited within the life of the designation and that where significant health and safety hazards were found, enforcement action would be taken to remedy the hazards.

It should be noted that the current scheme cannot just be continued. For a new scheme, a full consultation of a minimum of 10 weeks is required, and any new scheme cannot then start for 3 months after a designation decision.

Whilst the Selective Licensing scheme has been useful in identifying private rented properties and landlords in Canalside ward, the amount of work required to implement the scheme was underestimated. This led to the requirement for a number of temporary staff and the inability to inspect the majority of the properties on the scheme. Of those inspected, the quality and hazards found are not dissimilar to properties in other areas of the Borough that have also been visited. The projected income from the scheme was not realised in terms of fees and prosecutions or civil penalty notices following the late decision to remove fees for applications submitted before implementation. This has carried on throughout the scheme whereby landlords are not charged if they apply prior to letting their property. The financial loss from the scheme has not been outweighed by the benefits from identifying and inspecting properties in the area.

With the selective licensing scheme ending, it is proposed that an up-to-date set of Amenity Standards be adopted, which will provide consistency across the whole Borough on what the Council requires of private rented properties. It can also be sent out to landlords who are in the process of setting up their property as a rental property, or converting their property to an HMO, to use as a checklist.

The Housing Task Group has been consulted on these proposals.

Recommendations

The Executive is requested to:

RESOLVE That

- (i) the Selective Licence Scheme in the Canalside Ward is ended at the expiry date of 31 March 2023;
- (ii) no further Selective Licensing Scheme be implemented at this time; and
- (iii) the new Private Sector Housing Amenity Standards, as set out in Appendix 1 to the report, be adopted and form the basis of requirements and enforcement, with the Strategic Director – Communities, in consultation with the Housing Portfolio Holder, being delegated authority to make minor amendments when required.

Reasons for Decision

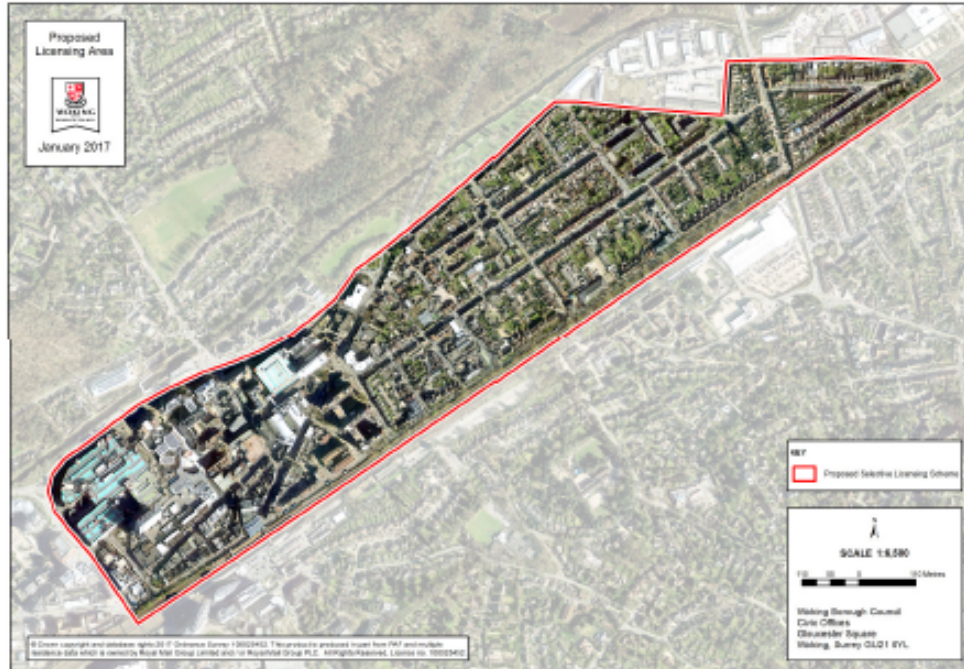
Reason: To agree the Council's future approach to addressing issues of housing standards and improvements in private rental properties across the Borough.

The Executive has the authority to determine the recommendation(s) set out above.

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- Date Published:** 28 September 2022

1.0 Introduction

- 1.1 The current Selective Licensing Scheme in the Canalside Ward of Woking is coming to an end on 31 March 2023. Through this scheme, the landlord of every private rented property in the designated area was required to apply for a licence to be able to legally rent their property.
- 1.2 The following map shows the existing Selective Licence area:



- 1.3 It should be noted that the current scheme cannot just be continued. A full consultation is required of a minimum of 10 weeks, and any new scheme cannot then start for 3 months after a designation decision.
- 1.4 It is necessary to consider the impact of the current scheme to be in a position to decide whether a new scheme commencing at the end of the current one is the most appropriate course of action.

2.0 Impact of the Current Scheme

- 2.1 The Council planned that this scheme would support its strategic aims and listed the benefits that it sought to provide through the scheme. A summary of the impact of each of the aims is given here.

2.1.1 Improving housing conditions

Since the introduction of Selective Licensing in Canalside, the *Brown v Hyndburn Borough Council* case has confirmed that a selective licensing scheme cannot be used to improve property conditions directly, but only to ensure correct management of properties. Conditions can be improved under the Housing Health and Safety Rating System (HHSRS), but this needs an additional visit, and service of notice in advance of the visit, to carry out a full assessment. Improvements have taken place but are limited.

2.1.2 Encouraging professional rental standards

The Private Sector Housing team established good links with many landlords in the area and send a quarterly letter to them with useful information, links and support. This can continue

and be spread across the whole Borough regardless of whether a scheme is in place or not. Officers are also planning a Landlord Forum for all landlords (this has had to be delayed in light of the works towards the Homes for Ukraine project).

2.1.3 Tackling landlords operating unlawfully

The Council has been successful in tackling a few landlords in this situation, but not as many as were forecast. Landlords who had not licensed their properties were found and applied relatively quickly after we contacted them. It is also interesting to note that the rogue landlords the Council have tackled successfully have been due to concerns raised by tenants or neighbours. These concerns have generally been raised as service requests rather than as a direct result of the current scheme. Running the scheme has raised the awareness of the Housing Standards team amongst private tenants, which would hopefully encourage them to contact the Council in the future should they experience difficulties that are not being addressed by their landlord. The team are always looking for rogue landlords in the whole Borough as they are not confined to this Ward.

2.1.4 Reducing the incidence of tenant exploitation

Unfortunately, tenants facing exploitation are often reluctant to come forward and it is difficult to get sufficient evidence or for tenants to agree to be witnesses. Whilst there have been some situations discovered as a result of the selective licence scheme, these are few.

2.1.5 Improving property management

The Housing Standards team are continually supporting landlords and letting agents with their property management. The team do this directly through the scheme but also need to do this across the Borough. It is interesting how many landlords do not understand their responsibilities and the legal procedures they are required to follow.

2.1.6 Reducing overcrowding

This has been a balancing act, particularly during the pandemic when the Council was trying to prevent homelessness and support people in their homes. The Housing Standards team do discover overcrowding issues in properties during inspections and seek to redress this where possible. It is a very slow process and landlords are often unwilling to evict as they are getting a regular income, even though it could be in the best interests of the tenant to be served an eviction notice. This will continue to be a balancing act regardless of whether there is a licensing scheme or not.

2.1.7 Promoting the advantage of landlord accreditation

The scheme has encouraged landlords who have had to pay for their licences to become accredited as they receive a discount on the fees if they have this. However, it may be a token effort to save money rather than a willingness to keep up to date with legislation and best practice. The team have also tried to work with the National Residential Landlord Association (NRLA) to have joint landlord meetings, and will continue to do so for the benefit of all landlords in the Borough.

2.1.8 Reducing the incidence of harassment and unlawful eviction

The Housing Standards team usually receive reports of harassment or unlawful eviction through a service request. The licensing scheme does not bring them to our attention by itself. Raising awareness amongst tenants that the Housing Standards team can help them will hopefully have an impact on future issues for them. It can be difficult to progress unlawful eviction as tenants often will not provide evidence or agree to be witnesses despite the recompense they could get if the landlord is convicted.

2.1.9 Improving neighbouring perceptions

There are many different reasons for the perception of a particular area. Whilst the quality of housing is one factor, it is not the only one. A large number of the properties the team have visited are in excellent condition and looked after extremely well by the landlord. Many landlords want to provide the best accommodation and service that they can and are disappointed when the team find an issue in their property. Having a Ward highlighted as requiring a selective licensing scheme can negatively impact on the perception of the area as it can be seen as needing additional monitoring.

- 2.2 Visits to the licensed properties have been hampered by the magnitude of the initial administration of applications, the pandemic and its aftermath, and the Homes for Ukraine scheme. Of the visits undertaken, it is noted that the vast majority of properties (64%) have a maximum of low category 2 hazards or no hazards at all. Only 9% of properties visited had a category 1 hazard, which is below the expected number of properties predicted to fail the Decent Homes Standard as specified in the analysis carried out in 2016 which formed part of the basis for the implementation of the scheme.
- 2.3 The ethos of the Council is to work informally with landlords to try to achieve a satisfactory outcome for the tenants, and to help educate the landlords into the legal requirements that being a landlord involves. Once landlords understand the reason that a hazard has been identified and the implications for them should there be a death or injury as a result, they are usually happy to make changes through informal discussions with the Housing Standards Officers. This has reduced the number of formal actions instigated.
- 2.4 Improvement Notices are issued where a landlord is not willing to carry out works and where serious hazards are found which we need to ensure are addressed appropriately within a set timescale. Prohibition Orders are used rarely and are implemented only for severe issues or where tenants are no longer present. The team try to avoid causing homelessness. The number of Improvement Notices issued in this area during the scheme are naturally much higher than in other areas of the Borough due to the large number of properties being visited as part of the scheme. It is difficult to make a comparison against other areas in the Borough. However, prosecutions and Civil Penalty Notices have been very low.
- 2.5 The Selective Licensing scheme has been useful for identifying private rented properties and landlords in the Canalside ward, who the team will continue to engage with informally through landlord forums, regular newsletters and other events. Whilst the standards of accommodation has been found to be good in most cases, the scheme has identified that there are landlords who would benefit from a clearer set of standards to work to.
- 2.6 With the selective licensing scheme ending, it is proposed that an up-to-date set of Amenity Standards be adopted, which will provide consistency across the whole Borough on what the Council requires of private rented properties. It can also be sent out to landlords who are in the process of setting up their property as a rental property, or converting their property to an HMO, to use as a checklist. If they are aware of the full set of requirements at the start, there are likely to be fewer issues for them and the tenants going forwards.
- 2.7 Introducing the Amenity Standard will not change the powers that Officers have and they will still work within legislation primarily under the Housing Act 2004 to use powers such as Housing Health and Safety Ratings System, Community Penalty Notice, Improvement Notices, Hazard Awareness Notice, Rent Repayment Orders etc. The information in this document has been drawn from legislation, Government guidance, the Decent Homes Standard, and what is regarded by Local Authorities as best practice. Definitive interpretation of the legislative requirements can only be made by the relevant court of law or Residential Property Tribunal.
- 2.8 To ensure consistency in approach the Amenity Standards will provide a framework for landlords and be referred to by Officers, outlining minimum property standards for most

property types. An assessment will be required to ensure compliance in any individual case. It will be used as a guide for educating and advising landlords and eventually enforcement if other options have not worked or are not sensible i.e. guidance has not worked or a high risk of potential harm is identified.

- 2.9 The Amenity Standards document will be available to all landlords to refer so that they understand their responsibilities and how the Council may enforce them. It will be promoted to landlords by adding it to the Council's website, including it in the landlord newsletter and promotion via information sessions for landlords and Letting Agents and promoting at Landlord Forums.
- 2.10 In the future, the Housing Standards team intend to undertake further analysis of the suitability of management and conditions of smaller HMO properties which do not require a mandatory licence (those with 3 or 4 occupants from 2 or more households). This will inform a discussion on the possibility of an Additional Licensing Scheme for these properties across the Borough.

3.0 Corporate Strategy

- 3.1 The following elements of the Corporate Strategy will be supported by the implementation of the above recommendations:

3.1.1 Improving the health and wellbeing of all residents

Ensuring all tenants and landlords across the Borough have support rather than targeting one area.

3.1.2 Engaging our communities

Providing a service for all of our landlords and tenants that is consistent across the Borough.

3.1.3 Improving the Borough's biodiversity and green infrastructure

Having the time and resources to work with landlords whose properties fall below the Minimum Energy Efficiency rating, and promoting a standard across all rental properties.

3.1.4 Strengthening partnerships

Having the time and resources to engage with all landlords in the Borough, providing support and information.

3.1.5 Effective use of resources

Focusing on an effective service when issues arise without the need to inspect properties where there are no issues, and also being proactive to try to prevent issues in the future by providing landlords with a consistent set of required Amenity Standards on which we can base minimum standards.

4.0 Implications

Finance and Risk

- 4.1 The income from the current scheme has been relatively low as landlords who applied before the start of the scheme, or before their property was rented out, did not have to pay a fee. The income from application fees has been around £100,000 instead of the anticipated range of £300,000 to £600,000 at the outset of the scheme. The income from notices and CPNs has been around £22,800.
- 4.2 The cost of the scheme has mainly been in staffing, an initial survey and marketing. These costs amounted to nearly £200,000. The majority of this was for temporary admin staff to process the licence applications.

- 4.3 Overall, the scheme has made a loss of approximately £70,000.
- 4.4 With no selective licensing scheme proposed in the Borough from April 2023, the Council will avoid further financial losses. The only alternative way of making a new scheme self-financing would be to impose an application fee to landlords, which has not been required under the existing scheme.

Equalities and Human Resources

- 4.5 The Amenity Standards can be implemented within current staff resources.

Legal

- 4.6 Having a consistent set of Amenity Standards, which brings together all legislation and guidance into one document will enable a smoother path towards enforcement where necessary.
- 4.7 The current Selective Licensing scheme has minimum impact in terms of standards and it limits the types of enforcement that can take place.

5.0 Engagement and Consultation

- 5.1 No consultation is required for a decision not to implement a new Selective Licensing Scheme.
- 5.2 The only standards we have been working with have been the legislation in the Housing Act 2004, the Housing Act 1985, and legislation relating to HHSRS and HMOs. The Government has made it clear that local authorities can impose their own standards on rental properties (S65 of the Housing Act 2004 for HMOs). In addition, the local authority may have regard to these standards when assessing the suitability of amenity standards and living space in any type of residential living accommodation (including non-licensable HMO's) under the housing health and safety rating system under Part 1 Housing Act 2004. The Private Rented Sector Amenity Standards aims to set a benchmark which can be used to ensure suitable provision in all private rented properties. These require approval by the Council but do not require consultation outside the Council.
- 5.3 The Housing Task Group has been consulted on these proposals.

REPORT ENDS