

# Special Economy and Enterprise Overview and Scrutiny Committee

11 March 2020

## Selective Licensing



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## Report of Geoff Paul interim Corporate Director of Regeneration and Local Services

### Electoral division(s) affected:

Countywide

### Purpose of the Report

- 1 The purpose of this report is to update members of the Economy and Enterprise Overview and Scrutiny Committee on the progress made in relation to Durham County Council's business case for county wide selective licensing and to inform members of consultation prior to a presentation by Housing Solutions.

### Executive summary

- 2 County Durham has approximately 241,600 residential properties across 290 settlements. The county stretches from the North Pennines Area of Outstanding Natural Beauty (AONB) in the west to the North Sea Heritage Coast in the east.
- 3 The county has a dispersed settlement pattern of towns and villages which is a legacy of the rise and fall of mining, steel and other heavy industries. The housing offer in the county reflects issues of its post-industrial history. Whilst there are some beautiful places to live in the county, with a mix of traditional, older housing and more modern family accommodation which are well connected to labour markets and for which very strong demand is clearly evident, there remains a general oversupply of poorer quality terraced housing. In localised areas, this stock can be subject to lower demand and can be associated with higher than average proportions of longer-term empty properties.

- 4 The Housing Act 2004 gave local authorities the powers to introduce selective licensing of privately rented homes in order to tackle problems in their areas that result from low housing demand and/or significant anti-social behaviour. This means that landlords who rent out properties in an area that is subject to selective licensing are required to obtain a licence from the local authority for each of their properties in order to rent them out.
- 5 Selective licensing is a discretionary scheme for local authorities and covers privately rented properties. The Housing Act 2004 allows local housing authorities to designate areas for Selective Licensing to support the improvement of privately rented properties, providing certain conditions are met.
- 6 In areas designated, landlords must apply for a licence if they want to rent out a property, this includes landlords who rely on lettings agents to manage their properties on their behalf. This means the council can check whether they are a “fit or proper person” to be a landlord or letting agent, as well as making other stipulations concerning management of the property and appropriate safety measures. The stipulations are listed in the licence conditions and the conditions are at the discretion of the local authority although there are 5 mandatory conditions.
- 7 Failure to do this could result in a fine and/or a criminal conviction. There are positive impacts for both tenants and landlords associated with selective licensing in problematic areas.
- 8 In April 2015 additional criteria was introduced which extended the conditions for designating an area to include: areas experiencing poor property conditions; an influx of migration; a high level of deprivation; and high levels of crime, thus enabling local authorities to make effective use of selective licensing to address specific problems in certain areas.
- 9 Under the amendments introduced in 2015, should a local authority decide to make a designation that covers more than 20% of its geographical area or more than 20% of the private rented stock, an application to the Secretary of State will be required.
- 10 In January 2020 Durham County Council’s Cabinet agreed to the proposed areas and to formally consult on these proposals over a 10-week period. Then to receive a further report detailing the results of the consultation exercise with a view to reviewing the proposals and submitting a formal application to the Secretary of State to set up a Selective Licensing Scheme in Durham.

11 Arrangements have been made for John Kelly, Housing Team Leader and Joanne Thompson, Project Lead to attend the meeting on the 11 March to provide a presentation focusing on:

- What is Selective Licensing?
- Selective Licensing Criteria
- Why Selective Licensing?
- Detail of private rented sector
- Proposals, designations and areas included in proposals
- Detail of anti-social behaviour
- House prices
- Deprivation
- Licence conditions and fees
- Penalties
- Detail of consultation arrangements including online options
- Next steps

A copy of the presentation is attached as Appendix 2.

## **Recommendations**

12 The Economy and Enterprise Overview and Scrutiny Committee is asked to note and comment on the information provided in the report and presentation.

13 That the comments made by members in relation to the Selective Licensing proposals form the Overview and Scrutiny response to be fed into the ongoing consultation.

## Background

- 14 The Housing Act 2004 gave local authorities the powers to introduce selective licensing of privately rented homes in order to tackle problems in their areas that result from low housing demand and/or significant anti-social behaviour. This means that landlords who rent out properties in an area that is subject to selective licensing are required to obtain a licence from the local authority for each of their properties in order to rent them out.
- 15 Selective licensing is a discretionary scheme for local authorities and covers privately rented properties. The Housing Act 2004 allows local housing authorities to designate areas for Selective Licensing to support the improvement of privately rented properties, providing certain conditions are met.
- 16 In areas designated, landlords must apply for a licence if they want to rent out a property, this includes landlords who rely on lettings agents to manage their properties on their behalf. This means the council can check whether they are a “fit or proper person” to be a landlord or letting agent, as well as making other stipulations concerning management of the property and appropriate safety measures. The stipulations are listed in the licence conditions and the conditions are at the discretion of the local authority.
- 17 Failure to do this could result in a fine. There are positive impacts for both tenants and landlords associated with selective licensing in problematic areas. It can lead to:
  - more reliable, longer term tenancies,
  - better quality and safer property standards,
  - fewer empty properties,
  - reduced levels of homelessness,
  - increased property and rent values,
  - safer, more pleasant areas to live due to lower levels of crime, littering and other anti-social activity.

Landlords have access to:

- help to deal with problem tenants,
- support and advice on how to be a better landlord,
- opportunities to join landlords' forums and be involved in the development of future local initiatives.

- 18 In April 2015 additional criteria was introduced which extended the conditions for designating an area to include: areas experiencing poor property conditions; an influx of migration; a high level of deprivation; and high levels of crime, thus enabling local authorities to make effective use of selective licensing to address specific problems in certain areas.
- 19 Under the amendments introduced in 2015, should a local authority decide to make a designation that covers more than 20% of its geographical area or more than 20% of the private rented stock, an application to the Secretary of State will be required.
- 20 For selective licensing to work effectively, it should form part of a wider strategic approach to an area. Local authorities should ensure selective licensing complements other measures where other measures alone are not enough to tackle the underlying housing problems of a specific area.
- 21 Selective licensing must be consistent with the Council's overall housing strategy and be co-ordinated with procedures for homelessness, empty homes, anti-social behaviour and housing market renewal activity. The authority must also demonstrate the role of other partners such as police and social services in ensuring the designation reaches its goal.
- 22 A designation can run for a maximum of five years and the administration of the scheme can be funded from the licence fee.

### **County Durham Housing in Context**

- 23 County Durham has of approximately 241,600 residential properties across 290 settlements. The county stretches from the North Pennines Area of Outstanding Natural Beauty (AONB) in the west to the North Sea Heritage Coast in the east.
- 24 The county has a dispersed settlement pattern of towns and villages which is a legacy of the rise and fall of mining, steel and other heavy industries. The housing offer in the county reflects issues of its post-industrial history. Whilst there are some beautiful places to live in the county, with a mix of traditional, older housing and more modern family accommodation which are well connected to labour markets and for which very strong demand is clearly evident, there remains a general oversupply of poorer quality terraced housing. In localised areas, this stock can be subject to lower demand and can be associated with higher than average proportions of longer-term empty properties.

- 25 Long term empty properties can be clustered in particular locations, tenures or even settlements. The council understands the impact that long term empty homes can have on a community and will work to bring stock back into use where possible.
- 26 It is recognised that without local or government funding to tackle housing regeneration in deprived communities these areas will continue to decline. Lack of funding is likely to constrain the ability of local areas to respond to regeneration needs.
- 27 Prior to Large Scale Voluntary Transfers (LSVTs) in Durham social housing stock was brought up to the decent homes standard then following LSVT social housing providers have continued investment in their stock and areas.
- 28 Following austerity savings in local government, the resource available to services within the private rented sector (PRS) continues to reduce and as a result, quality can lag in the PRS. Without any investment, it will continue to do so.
- 29 A new Housing and Homelessness Strategy for County Durham was published in 2019 This will show how the proposed selective licensing will be co-ordinated with procedures for homelessness, empty homes, antisocial behaviour and housing market renewal activity.
- 30 This application for selective licensing will demonstrate the role of other partners such as police and social services in ensuring the designation reaches its goal.
- 31 At recent town and villages regeneration meetings attended by the Portfolio Holders for Economic Regeneration and Strategic Housing and Assets, the issues within the PRS were consistently raised by local Members.

### **Conditions for applying for a selective licence designation**

- 32 The Housing Act 2004 (amended 2015) sets out the conditions required for a selective licensing designation. The designation may be made if the area to which it relates satisfies one or more of the following conditions:
  - low housing demand;
  - anti-social behaviour;
  - poor property conditions;
  - high levels of migration;

- high levels of deprivation; and
- high levels of crime.

- 33 In considering whether to designate an area for selective licensing on the grounds of the above, consideration should be given to whether the area has a high proportion of property in the private rented sector. Nationally the private rented sector currently makes up almost 20% of the total housing stock in England, according to the most recent English Housing Survey of 2015/16.
- 34 In addition, when considering whether to make a selective licensing designation the local authority must first identify the objective it intends designation will help it achieve. It must also consider whether there are any other courses of action available that would achieve the same objective.
- 35 It is also important in any application to demonstrate how selective licensing will work in partnership with other existing initiatives (e.g. landlord accreditation). Selective licensing itself is not a stand-alone tool.
- 36 Overall, the Government intends that selective licensing be used only where absolutely necessary and whilst it is often seen as the only solution in local communities, the criteria surrounding it means that it is a complex and extremely time-consuming approach, but where appropriately used it can be part of an overall solution to particular challenges.
- 37 If the problems of anti-social behaviour are only associated with a small number of properties, Special Interim Management Orders (SIMO) should be considered rather than a selective licensing designation. This authorises the council to take control of the residential property, however, it should only be used as a last resort for the most problematic of properties and only for one or two properties in a street, not for whole streets of properties.
- 38 Once a SIMO has been made, the council effectively becomes the temporary landlord of the premises concerned. Whilst it does not obtain any interest in the property, it becomes responsible for its proper management and for ensuring that any immediate health, safety or welfare concerns are dealt with as soon as possible. Once a SIMO has been made, the landlord may not become involved in the management of the property or create tenancies or licences. However, the council may only issue new tenancies and licences with the approval of the landlord.

- 39 SIMO's are therefore only a single measure in the council's response to issues in the private rented sector.

### **Consultation requirements**

- 40 In seeking to progress a selective licensing designation, local authorities must take reasonable steps to consult persons who are likely to be affected and consider any representations made in accordance with the consultation. Consultation should include local residents, including tenants, landlords and where appropriate, their managing agents and other members of the community who live or operate businesses or provide services within the proposed designation.
- 41 Consultation should be widely publicised using various channels of communication. Once the consultation has been completed the results should then be published and made available to the local community, including a summary of the responses received and should demonstrate how these have either been acted on or not, giving reasons.
- 42 Where selective licensing requires confirmation from secretary of state it cannot come into force until three months after it has been confirmed by the Secretary of State.

### **Proposed Selective Licensing in County Durham**

- 43 Data has been considered from Durham County Council, Durham Constabulary and Durham Fire and Rescue Service and has been broken down into Middle Super Output Area (66 in total)
- 44 It is proposed that 43 of the 66 areas are to be designated as they meet one or more of the conditions, this equates to approximately 65% of the MSOAs or 75% of the PRS stock
- 45 The evidence focussed on low demand, anti-social behaviour and deprivation and will not be considering and designations on the conditions of migration, poor property conditions or crime. It if proposed there will be four designations:
- (i) Designation 1 – low demand
  - (ii) Designation 2 – ASB
  - (iii) Designation 3 – Low Demand & ASB
  - (iv) Designation 4 – Deprivation

## Consultation in County Durham

- 46 Extensive consultation will be undertaken and will include representation at numerous venues and audiences:
- Two Landlord events
  - A minimum of 21 drop in sessions for residents across county to be held in customer access points and libraries
  - Attendance at planned meetings
  - Awareness raising of consultation & how people can take part through social media
  - Formal letters to internal and external partners for example Durham constabulary, social housing providers etc.
- 47 Feedback can be given on line at [www.durham.gov.uk/consultation](http://www.durham.gov.uk/consultation), staff will be available at events to assist with the completion of surveys if needed.

## Next Steps

- 48 All responses to consultation will be analysed to inform a business case to be presented to Durham County Council cabinet members in June 2020.
- 49 Following cabinet approval, the business case will be submitted to the Secretary of State for consideration.
- 50 A selection of workstreams will be set up with both internal and external partners to consider:
- Procedures needed to deliver a successful scheme
  - Recruitment of staff
  - Potential impact on partners

## Background Papers

- Evidence Report
- Appendix A – Supporting statistical and geographical information
- Appendix B – Proposed licensing conditions
- Appendix C – Proposed fees
- Appendix D – Area profiles

These documents can be found at:

<http://www.durham.gov.uk/article/22640/Consultation-on-licensing-of-privately-rented-homes-in-some-areas-of-the-county>

### **Other useful documents**

Not applicable

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## **Appendix 1: Implications**

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**Legal Implications** – Under the Housing Act 2004 the introduction of Selective Licensing requires the Council to demonstrate that the conditions triggering eligibility for the imposition of such restriction are applicable in all or part of the area. If more than 20% of the Council's area is to be the subject of Selective Licensing, approval is required from the Secretary of State.

**Finance** - Interim measures to be funded from reserves. New licensing activity will be funded from the licence fees, although any further issues encountered will be flagged in the business case.

**Consultation** - Consultation required with staff, landlords, residents and members.

**Equality and Diversity / Public Sector Equality Duty** – Not Applicable

**Human Rights** – Not Applicable

**Climate Change** – Not Applicable

**Crime and Disorder** - The aim of this approach is to reduce crime and antisocial behaviour in certain geographical areas.

**Staffing** - Within existing staffing resource until approval received from secretary of state then recruitment will take place and funded from selective licensing fees.

**Accommodation** – Fixed desk accommodation will be required for approximately 35 staff and the remaining staff with “hot desk” within current locations with enforcement staff potentially co locating with Durham Constabulary.

**Risk** - The areas may decline if selective licensing designation is not introduced. An application requiring Secretary of State approval might not be approved. Landlords opposed to Selective Licensing could mount a legal challenge

**Procurement** – Not Applicable