



PRCC.08 15/16
Prosperous Communities Committee
Date 22nd July 2015

Subject: Selective Licensing in Gainsborough South West Ward

Report by:	Chief Operating Officer
Contact Officer:	Andy Gray Housing and Communities Team Manager 01427 675195 Andy.gray@west-lindsey.gov.uk
Purpose / Summary:	To provide elected members with an update on selective licensing proposals in Gainsborough

RECOMMENDATION(S):

Elected members are asked to:

- a) Note this report and the findings of the NKM report
- b) Approve that proposals for a selective licensing scheme in a specific part of the South West Ward are consulted upon in the timescales set out within this report

IMPLICATIONS

Legal:

The Council is entitled to introduce a selective licensing scheme as per the Housing Act 2004 S80. In order to do so the authority must consider that amongst other criteria, the area is experiencing significant and persistent problems caused by anti-social behaviour; that some of the private sector landlords are failing to take action to combat the problem; and that making a designation will, when combined with other measures, lead to a reduction in, or elimination of the problem.

The legal framework is found in Part 3 (Sections 79 to 100) of the Housing Act 2004.

In order to satisfy these criteria additional work is being undertaken to identify the links between anti-social behaviour and the private rented sector and to provide a robust evidence base.

A table of the considerations that need to be made in regards to the overall scheme are shown in appendix 1.

Financial: FIN/37/16

There are no financial implications set out within this report. The financial implications for a selective licensing scheme were set out in the December 2014 Committee report, which is linked within this document.

Any additional consultation costs will be met from within existing revenue budgets

Staffing :

The staffing implications in regards to selective licensing were set out in the December 2014 Committee report.

Equality and Diversity including Human Rights :

A full equality impact assessment has been undertaken and formed part of the December 2014 Committee report. This assessment will be updated following any additional consultation and included as part of any final Committee report produced for selective licensing.

Risk Assessment :

A full list of risks and considerations is shown in appendix 1.

Climate Related Risks and Opportunities :

None noted

<p>Title and Location of any Background Papers used in the preparation of this report:</p> <p>The Private Rented Sector and Anti-Social Behaviour : NKM Report 2015 http://www.west-lindsey.gov.uk/residents/housing-and-home-choices/empty-homes-and-housing-standards/improving-housing-standards/selective-licensing/</p> <p>Prosperous Communities Committee Report – December 2014 http://www.west-lindsey.gov.uk/your-council/decision-making-and-council-meetings/meetings-agendas-minutes-and-reports/committee-information-post-april-2011/prosperous-communities-committee/prosperous-communities-committee-reports/prosperous-communities-committe/124382.article</p>

Call in and Urgency:

Is the decision one which Rule 14.7 of the Scrutiny Procedure Rules apply?

i.e. is the report exempt from being called in due to urgency (in consultation with C&I chairman)

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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Key Decision:

A matter which affects two or more wards, or has significant financial implications

Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
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1. Background

- 1.1 In December 2014 Prosperous Communities Committee resolved that to note the progress made to date and commission an additional report in the links between the private rented sector and anti-social behaviour. The specific resolution was as follows “having reviewed the progress to date in regards to selective licensing and having considered any additional information which may be required prior to a final decision on whether to proceed with the Scheme is made, the report and progress made be noted”.
- 1.2 This report has now been commissioned and is being provided to Prosperous Communities Committee for discussion and decision in order to determine the next steps in regards to the selective licensing project.
- 1.3 The December report for Prosperous Communities Committee, which provides an overview of selective licensing can be found here for information <http://www.west-lindsey.gov.uk/your-council/decision-making-and-council-meetings/meetings-agendas-minutes-and-reports/committee-information-post-april->

[2011/prosperous-communities-committee/prosperous-communities-committee-reports/prosperous-communities-committee/124382.article](https://www.west-lindsey.gov.uk/residents/housing-and-home-choices/empty-homes-and-housing-standards/improving-housing-standards/selective-licensing/2011/prosperous-communities-committee/prosperous-communities-committee-reports/prosperous-communities-committee/124382.article)

2. **The Private Rented Sector and Anti-Social Behaviour**

2.1 In order to designate a selective licensing scheme the local authority must demonstrate that there is a correlation between the private rented sector (PRS) and high levels of anti-social behaviour (ASB). The report commissioned by the Council and produced by Neighbourhood Knowledge Management (NKM) analyses these links and provides detailed findings across a variety of areas. NKM use a methodology that is explained within their report and they have experience of providing this type of information for other districts who are considering selective licensing schemes such as Waltham Forest Borough Council.

2.2 The NKM report can be found here <http://www.west-lindsey.gov.uk/residents/housing-and-home-choices/empty-homes-and-housing-standards/improving-housing-standards/selective-licensing/>

It provides analysis and commentary on key areas. The report has utilised data from the Council and also the Police to come to its conclusions. It also provides maps and charts to support its findings.

2.3 In summary, the report has found the following:

- In every category of ASB analysed, levels are higher in South West Ward and higher than the all-ward average. Furthermore these problems are persistent over a long period of time including within the three-year period for which data were provided.
- Where ASB can be directly ascribed to a property it finds that in private rented properties levels of ASB are two to three times higher. In addition it finds that repeat incidents are more likely in South West Ward than in other wards.
- A spatial analysis using the location of every single household reveals that nearly every single property in South West Ward has been impacted by ASB and in one or two areas in particular by more than three reported incidents in the time frame.
- That ASB is highly concentrated in certain areas of the town and the analysis identifies a small number of significant hotspots where problems are especially acute. These hotspots are the areas in which there is most

likely to be a high number of properties in the PRS, particularly in the South West Ward.

- 2.4 The report also provides geographical information on the concentration of ASB. Figure 1 taken directly from the report is a map of all residential properties in the town. Each coloured symbol is a residential property based on the Local Land and Property Gazetteer. Each property is colour coded according to its exposure to ASB. A property is coloured yellow if there have been no incidents within 50 metres over the time period; green if one ASB; light blue if two incidents and dark blue if three-plus incidents. This map is overlaid by the density of PRS properties, with the darker areas showing higher density. It is clear from this map that increased incidents are associated with the higher density areas.
- 2.5 The highest concentrations of ASB is clearly identifiable in South West Ward in cells C5 and C6 but ASB is also prevalent in a north south strip from B11 to C6 some of which are in North Ward. Outside these areas the problems are fewer and a majority of the population live in ASB-unaffected households.
- 2.6 Figure 2. Again provides an overlaid map which show the intensity of ASB incidents along with the density of the most probable PRS properties. This map highlights additionally that the density of incident is far greater in the South West Ward area particularly in the hotspot areas which are the areas with highest risk properties that are most likely to be in the PRS. The report also states that “It is plain to see that these darker patches overlay fairly concisely the areas circumscribed by the contours identifying the main concentrations of ASB”. This support the additional analysis in the report looking at risk factors that found there was significantly higher levels of ASB in properties most likely to be in the PRS.
- 2.7 The methodology used within the report does not tell us unequivocally whether a property is in the PRS or not but it does provide a risk score that can identify using a scale which is much likely to be private rented than not. When this likelihood is compared to levels of ASB reported in different sources over a three year period the results show that the incidence of ASB is much higher in properties identified as being most likely to be private rented.
- 2.8 At a ward level the analysis shows that South West Ward stands out among the other wards as being by far the most affected and that it is especially concentrated in one or two relatively small areas.
- 2.9 The primary area affected in the South West Ward is the area to the North and South of Ashcroft Road, which is in line with the proposed cluster area within the Prosperous Communities Committee report from December 2014.

2.10 Additionally, an area with high levels of ASB can be found in the North Ward mainly in the area to the East of Ropery Road and to the North and South or North Marsh Road and North Warren Road. This area however does not have the same volume of ASB incidents or PRS property likelihood as the South West Ward area.

2.11 As a result it is proposed that a selective licensing scheme be introduced to cover the streets identified within the December 2014 Prosperous Communities Committee report as follows:

Ashcroft Road	High Street	Stanley Street
Bacon Street	King Street	Stafford Street
Bridge Street	King Street East	Thornton Street
Britannia Terrace	Lea Road to 80/171	Tooley Street
Burton Street	Lewis Street	Trent Street
Cleveland Street	Linden Terrace	Trinity Court
Clinton Terrace	Marlborough Street	Trinity Street
Colville Terrace	Pillard House Lane	Wall Street
Cromwell Street	Portland Terrace	Waterworks Street
Darwin Street	Primrose Street	Wellington Street
Dickenson Terrace	Queen Street	Wheeldon Street
Drake Street	Ruskin Street	Willoughby Street
Florence Terrace	Sandsfield Lane to 155/180	Wintern Court
Frampton Terrace	Shakespeare Street	
Gordon Street	St Johns Terrace	

2.12 Within these streets there are circa 1,415 properties of which an estimated 485 are privately rented, which equates to 34%. There are also 94 long term empty properties within this area, which contribute towards the South West Ward having the highest number of long term empty properties within the district.

2.13 The evidence base has also highlighted that other areas of Gainsborough are subject to high levels of ASB, therefore additional consultation will help to explore these and determine whether any proposed scheme could be widened in the future.

Figure 1. Map showing detail of properties and roads affected based on Figures 7 and 8 in the main text including grid overlay. Darker shaded areas indicate areas with higher concentrations of private rented properties

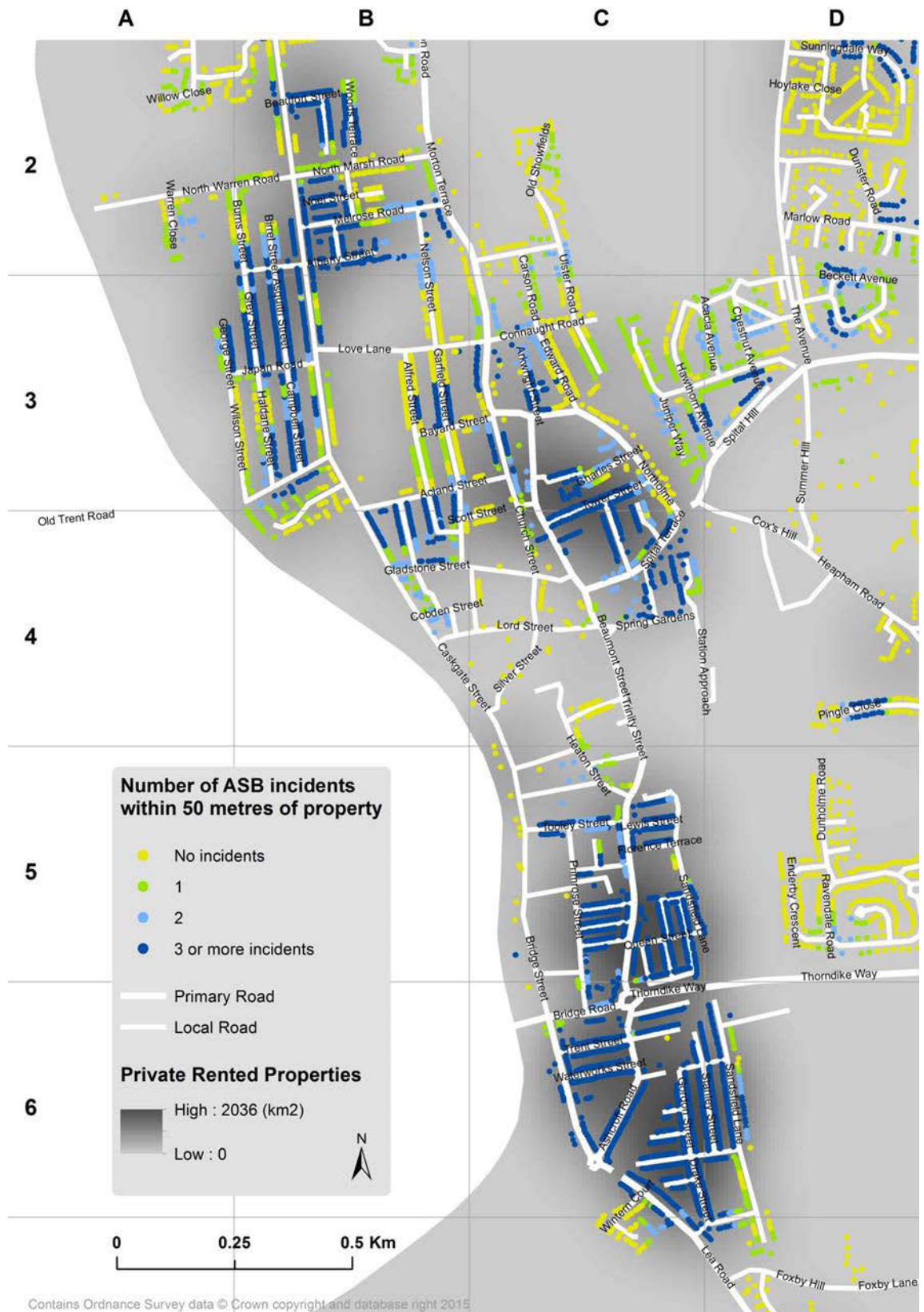
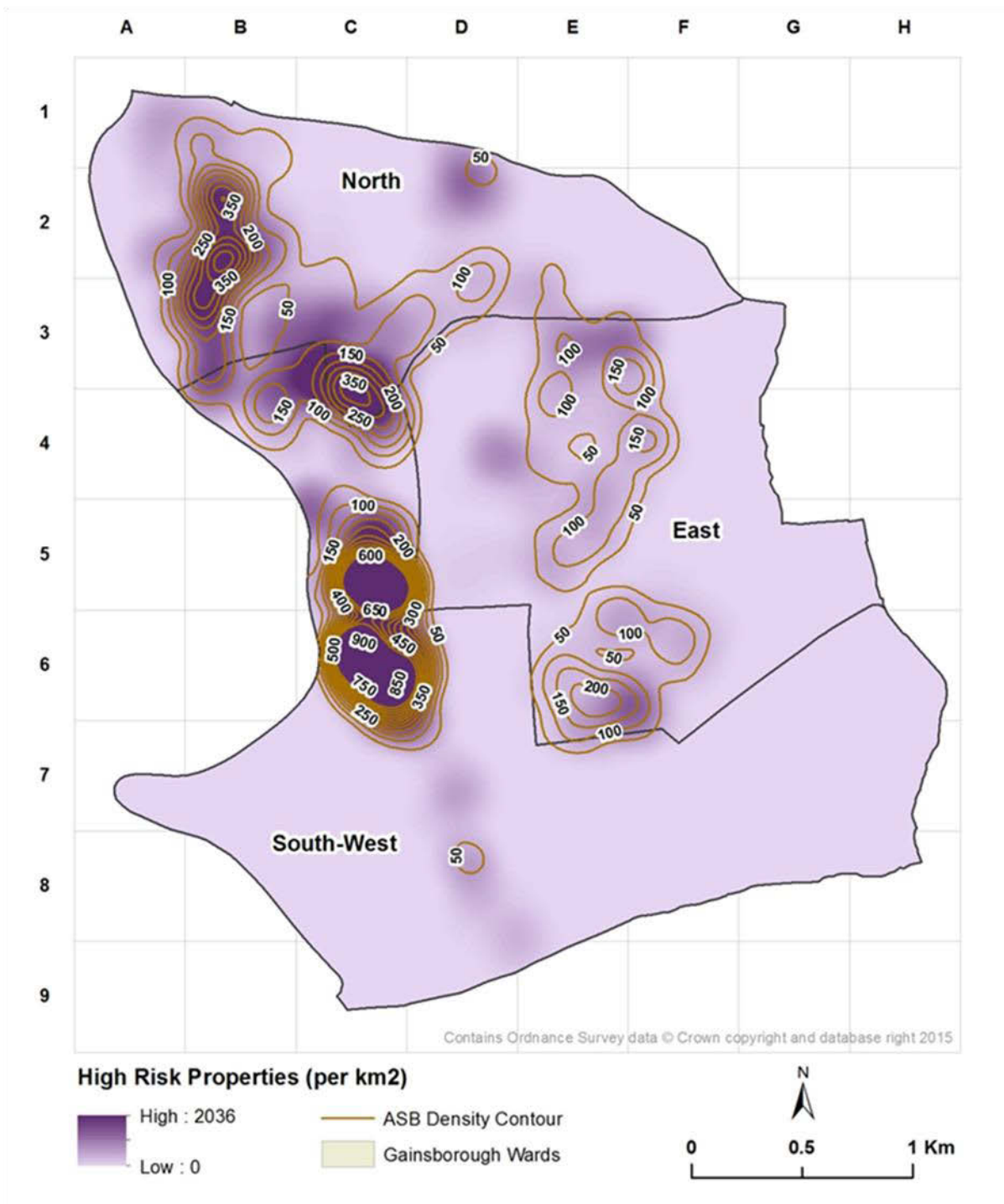


Figure 2. Ward map showing the intensity of reported ASB incidents overlaid by a hotspot map showing the density of the most probable private sector rented properties. Note: Contour values and private rented properties based on number of incidents/properties per square kilometre



3. Legislation

- 3.1 In March 2015 local authorities were informed that the General Approval for selective licensing schemes will change from the 1st of April 2015. The amendments require local authorities to seek Secretary of State approval for any selective licensing scheme which would cover more than 20% of their geographical area or would affect more than 20% of privately rented homes in the local authority area. It is believed that this approach will help to ensure that local authorities focus their activity on areas with the worst problems while helping to ensure they do not adversely impact on good landlords.
- 3.1.1 Any selective licensing scheme in Gainsborough would not cover more than 20% of the Councils geographical area. This element has been introduced in an attempt to ensure the district or borough wide schemes are only introduced where absolutely necessary.
- 3.1.2 It is estimated that there are around 5,900 properties in the PRS within the District. In order for any scheme to affect more than 20% of the PRS it would need to include around 1,180 properties. There are currently estimated to be around 765 properties in the South West Ward, which amounts to 13% of the Districts PRS properties. The North Ward contains an estimated 600 PRS properties. In determining any scheme, this legislation amendment will need to be considered.
- 3.2 Alongside this change to the General Approval, regulations have been laid in Parliament that will expand the criteria for selective licensing. This is in response to concerns expressed by many local authorities who have suggested that the current criteria for selective licensing are too restrictive and do not give local authorities enough discretion to take account of local circumstances. It has, therefore, been decided to expand the criteria for selective licensing. Regulations have been laid before Parliament which will, subject to parliamentary approval, extend the criteria for selective licensing to cover areas experiencing poor property conditions, large amounts of inward migration, a high level of deprivation or high levels of crime. These changes are likely to come into effect from the 1st of October 2015 and if approved it is believed will strengthen the case for a selective licensing scheme in Gainsborough.

4. Consultation

- 4.1 In December 2014, in the days leading up to the Prosperous Communities Committee meeting a High Court decision from a Judicial Review was reached in the case of R (Regas) Vs London Borough of Enfield. This decision determined that the local authority acted unlawfully when designating

its selective licensing area as it had failed to consult with persons who were likely to be affected outside of the designated area as well as failing to consult for a sufficiently long period.

- 4.2 In this case LB Enfield were designating a Borough wide scheme and had not consulted with neighbouring Boroughs who may have been impacted by the scheme due to the potential movement within the rental market. The High Court determined that it was obvious that people outside the borough should be consulted. Part of the rationale for designating the whole borough was to prevent bad landlords and/or tenants simply moving to an unlicensed part. The logical implication of that fear was that they might move to the neighbouring boroughs. It followed that those neighbouring authorities, together with residents and businesses in those areas should have been consulted.
- 4.3 The concerns for any scheme within Gainsborough due to this ruling are as follows:
- Only the South West Ward were consulted within the initial consultation period from 16th June 2014 to 1st September 2014
 - The initial consultation did not provide a geographically finalised scheme
 - The initial consultation did not include the additional ASB evidence that has now been collated.
- 4.4 Throughout the consultation comments were made in regards to the movement of tenants between areas.
- 4.5 General case law supports the notion that any consultation must provide details of what is specifically being consulted upon. The additional ASB information has not yet been considered by the public and therefore may not be seen as consulted upon should any scheme proceed prior to further consultation.
- 4.6 In summary, the initial proposals made to Prosperous Communities Committee in regards to the license fee and license conditions are still proposed to form part of any selective licensing scheme. It is now believed that it is necessary to complete additional consultation for a wider area within Gainsborough to ensure that any final proposals are not vulnerable to the same type of challenge
- 4.7 This further consultation will propose a specific geographic scheme within the South West Ward and the proposals in regards to the license fee and license conditions will be as per the initial proposals to Prosperous Communities Committee in December 14. No changes are proposed to these.

5. Next steps

- 5.1 Any decision in regards to additional consultation will impact on the next steps and timescales for this project. Set out below are the proposed timescales with key decision points should the additional consultation take place

Date	Milestone
22/7/15	PCC update and additional consultation proposal
17/8/15	Commence Consultation (min. 10 weeks)
2/11/15	Cease consultation
14/12/15	Final report to CLT/Growth Board
5/1/16	Final report to Leaders Panel
2/2/16	Final report to PCC
11/2/16	Final report to P & R
18/2/16	3 month designation
18/5/16	Scheme implemented

6. Resources

- 6.1 The previous consultation was carried out using internal resources and officers are exploring whether an independent consultation company, with experience of selective licensing consultation could be utilised. These discussions are ongoing and it is felt that an independent viewpoint will provide a more robust set of evidence should any scheme proceed.

7. Summary

- 7.1 It is clear from the NKM report that there is an evidenced link between ASB and the PRS in particular areas of Gainsborough. This is shown most clearly in the South West Ward.
- 7.2 There is a need to respond to the recent law rulings on consultation and for any future process to consider this to ensure that the risk to the Council is minimised should it wish to proceed with a selective licensing scheme.
- 7.3 This report sets out the steps that are now proposed in order to proceed with a selective licensing scheme in a specific area of the South West Ward.

8. Recommendations

Prosperous Communities Committee are asked to:

- a) Note this report and the findings of the NKM report

- b) Approve that proposals for a selective licensing scheme in a specific part of the South West Ward are consulted upon in the timescales set out within this report

Appendix 1: Selective Licensing Considerations

The following areas need careful consideration in regards to any decision that is made on the implementation of selective licensing for the South West Ward of Gainsborough. These issues have been raised via the consultation process.

	Issue	Implications for Scheme	Risk to Implementation	Comment	Update
1.	Requirement of specific data relating to ASB in private sector tenancies. Data also required to be split down to street and tenure level.	Scheme will not be justifiable if challenged unless this data is provided. Additional data provided demonstrates link between PRS and ASB	Low	Data currently being	Report complete
2.	Impact on regeneration and investment in the area	Anecdotal evidence suggests that investors may not consider the area and some landlords may pull out of the area if scheme is introduced. Some major lenders not lending in areas where selective licensing is in place.	Medium	The implementation of the scheme could impact on the councils wider strategy for regenerating Gainsborough.	Growth Board to consider Town Centre inclusion and impact that this may cause in regards to wider regeneration aims.
3.	Lack of current wider strategy for regeneration of the area	A licensing scheme alone, will not change tenant behaviour, this is supported by consultation comments. The scheme may not be justifiable or have the necessary impact if there is not a wider strategy for	Medium	Wider strategy, incorporating all SWW related projects, including capital investment	Wider strategy approved at PCC on 16/12. Additional work being undertaken to

		regenerating and improving the ward and area as a whole in place.		needs to be put in place prior to any selective licensing implementation	progress specific projects.
4.	Level and quality of consultation that has been undertaken. Specifically related to data presented within consultation information.	Data relating to issue 1 could be new data and has not formed part of the consultation process.	Low	Consultation process was thorough and widespread and data issues have been raised as per issue 1.	
5.	Size of area considered for selective licensing.	Wider area within North Ward shows clear links between PRS and ASB. Consideration of this area and its inclusion needed.	High (reduced to low with additional analysis)	Consideration should be given to reducing the size of the area covered and focussing it based on data produced for issue 1. Survey data supports scheme between Tesco and Lea Road Station.	Report complete and supports smaller scheme for specific areas.
6.	Potential resource and cost implications for the Council to ensure the scheme is successful.	The scheme can only recover costs related to specific elements of the scheme, therefore additional elements such as enforcement and legal costs will	Medium	Via FOI requests the NLA state that the following councils have incurred the	Scheme will require support from various service areas and capital projects. True

		need to be met from the Councils general fund.		following additional costs: Leeds £100k Thanet £500k Swansea £29k	cost unknown until scheme commences.
7.	Landlord training package needs to be developed to support scheme.	If the scheme focuses on administration and enforcement it will not be effective in changing behaviours and dealing with the main issues.	Medium	Staff resource and partner resource will need to be committed to enable this.	Additional revenue agreed at 16/12 PCC.
8.	Tenant passport training scheme essential in order for scheme to be successful	Mechanisms for improving tenant behaviour and to support landlords in obtaining references to meet the licensing conditions.	High	Staff resource and partner resource will need to be committed to enable this. Potential for impact on support services (e.g. floating support).	Additional revenue agreed at PCC 16/12/14

9.	Survey responses do not support low housing demand element of scheme	Additional and more reliable data will be required to compare the ward to similar wards and areas. This needs to confirm density of empty homes, for sale periods, tenancy turnover and choice based lettings property refusals.	Medium	Scheme can still be brought in on ASB issues only, however they are linked to issue 1.	Scheme will be focussed on ASB element.
10.	The fee amount proposed and how it has been arrived at	The fee needs to be reasonable and justifiable so that it will stand up to challenge. Case law considerations need to be reviewed to ensure that the fee proposal is appropriate and is legal.	High	Legal view required on case law relating to fee setting and proposed discounts for landlords. Fee needs to be confirmed using a detailed fee calculator. Reduction needs to be considered for landlords with multiple properties to reflect time efficiencies in administering the license (e.g. fit and proper persons test)	Fee reviewed and in line with other schemes. Fee setting will be requested as delegated power so it can be amended in line with case law if necessary.

11.	Impact on rental costs in the area	Survey data suggests that if implemented landlords will pass on cost of the license to the tenant in the property in order to cover the additional costs	Medium	Proposed fee equates to £1.44 per week.	
12.	Risk of legal challenge and judicial or tribunal review	Anecdotal data from landlords and other selective licensing schemes suggests that there is a high likelihood of the Council facing a form of challenge should a scheme be introduced.	High	Legal challenge is likely and has occurred for schemes in many other areas.	
13.	Proposed license conditions must be clear	Conditions relating to property improvement need to be removed due to the Hyndburn RPT decision July 14. Conditions should not cover disrepair which will be enforced under Pt 1 of the Housing Act. Conditions have been amended in regards to inspections, disrepair	Low	License conditions can be amended to reflect case law prior to any scheme commencing.	License conditions amended to reflect Hyndburn case law. Will continue to be amended should they be required.
14.	Waste Collection	Waste services are concerned about license conditions relating to bins. It is felt that this needs a ward wide approach, not just an approach for private landlords. There are concerns that	Low	Due to the complexities in regards to waste collection and the need for an all property solution	License conditions amended to remove requirement for receptacles and reworded to ensure

		receptacles used for storage will be presented or misused.		this condition has been reviewed.	adequate space for storage is provided.
15.	Legislation amendments	Any scheme will need SoS approval if it contains more than 20% of the Districts PRS or covers more than 20% of the Districts geographic area.	Medium	Raised with Growth Board 16/6/14.	Scheme not expected to exceed this size.
16.	R (Regas) Vs LB Enfield Consultation Ruling	High Court ruling requires any proposals to consult with neighbouring areas. Initial consultation only engaged with SWW.	High	Raised with Growth Board 16/6/14	Additional consultation proposed.