



**Prosperous Communities
Committee**

**Tuesday 2nd November
2021**

Subject: Selective Licensing - Future Options and Proposals

Report by:	Assistant Director - Change Management and Regulatory Services
Contact Officer:	Andy Gray Housing and Enforcement Manager andy.gray@west-lindsey.gov.uk
Purpose / Summary:	To seek approval, based on the feasibility information, to consult on future proposals for Selective Licensing in West Lindsey.

RECOMMENDATION(S):

Committee are asked to:

- a) Consider and note the supporting evidence, financial information and risks in relation to the Selective Licensing proposals.
- b) Note that as per the report, alternative options have been considered in regards to improving the Private Rented Sector within the District.
- c) Approve that the preferred option for consultation to be presented to Prosperous Communities Committee is option 1; an initial designation for Gainsborough South West Ward, followed by a further designation for four additional wards; Gainsborough North, Hemswell Cliff, Wold View and Market Rasen.
- d) Approve the proposal for a consultation exercise as required by Section 80(9) of the Housing Act 2004 for Selective Licensing to consider the preferred option and proposals, draft selective licensing conditions and draft selective licensing policy.
- e) Approve, subject to the approval of c) that the specific details of the consultation (exact start dates and methods), be proposed as a sub

delegated decision for the Chief Executive in conjunction with the Chair of the Committee.

- f) Note that the report be referred to Corporate Policy and Resources Committee to seek a decision in relation to the financial commitment of £126, 921 needed to deliver phases 2 and 3 of the scheme.

IMPLICATIONS

Legal:

The Housing Act 2004 requires Local Housing Authorities to licence mandatory licensable HMOs, and allows the licensing of other HMOs or privately rented housing. This licensing can come in the form of Mandatory Licensing (mainly HMOs), Additional Licensing or Selective Licensing.

The legal framework for the Selective Licensing is found in Part 3 (Sections 79 to 100) of the Housing Act 2004. Alongside this, The Selective Licensing of Houses (Additional Conditions) (England) Order 2015 sets out additional conditions for the purposes of a designation under Section 80.

A selective licensing designation may be made if the area to which it relates satisfies one or more of the following conditions.

The area is one experiencing:

- Low housing demand (or is likely to become such an area)
- A significant and persistent problem caused by anti-social behaviour
- Poor property conditions
- High levels of migration
- High level of deprivation
- High levels of crime

This paper refers only to Selective Licensing. The Housing Act 2004 allows Local Authorities to introduce licensing for privately rented properties accommodating single households. It is intended to address the impact that poorly managed rented properties can have on the local environment and to improve housing conditions.

Part 3 of the Act sets out the scheme for licensing private rented properties in a Local Authority area. A Local Housing Authority can designate the whole or any part(s) of its area as being subject to Selective Licensing.

Where a Selective Licensing designation is made it applies to all Part 3 houses which may be houses or flats as defined by Sections 79 and 99 of the Act, which are privately rented properties in the area, subject to certain exemptions for example Registered Providers (formerly known as Housing Associations), or HMOs which are required to be licensed under Part 2 of the Act through an Additional Licensing Scheme.

Financial : FIN/120/22/TJB

The scheme will require an upfront investment of £165.6k however, £38.7k funding is currently available in the revenue budget for this scheme. The remaining £126.9k will be met from the General Fund initially, but will be offset by future income created by the scheme, and thereby replenishing the General Fund Balance.

If, after consultation, it is determined that no scheme should go ahead at all, then the Council will have incurred costs relating to the designation and consultation work which totals £122.9k. With the £38.7k of funding available in the revenue budget, £84.2k will be met from the General Fund Balance.

If the Council agrees to commence with a scheme and submits a designation to the Secretary of State, alongside an independent designation for Gainsborough SWW, that is then not successful, it will be able to recover the costs of the full designation work from the first designation for the SWW.

Initially the scheme will be run with existing staff and covered by the revenue cost already built into the Medium Term Financial plan. Additional resources will be required in line with the demand of the scheme.

The detailed financial information and assumptions are detailed at Section 5 of the report and reflect additional costs and income levels and does not include the cost of resources already within our establishment which would be attributed to this scheme.

The fee of £675 is based on total cost recovery.

Staffing :

There are no immediate staffing implications. The final proposals will detail the specific staffing requirements needed to deliver any scheme. The existing staff resource will be utilised to deliver the consultation elements of the scheme. Specifically in relation to the consultation, there will be a demand on this work area in the short term during the consultation period to cover the coordination of the consultation activity.

Equality and Diversity including Human Rights :

An Equality Impact Assessment has been undertaken for the consultation specifically. This will be developed further should the scheme be delivered to then include any implications for the actual licensing delivery.

West Lindsey has inequalities between relative affluent areas and those considered deprived. The scheme should help those that are more disadvantaged through ensuring proper tenancy arrangements are in place. The elimination of overcrowding and poor energy efficiency of properties within the private rented sector will help improve health outcomes.

Data Protection Implications :

No implications at this stage.

Climate Related Risks and Opportunities :

The improvement of property conditions can have a direct impact upon CO2 emissions and fuel poverty. A licensing scheme is one tool available to bring about improvements to property conditions and where these are achieved it will contribute to the broader climate agenda that the Council is working towards.

Section 17 Crime and Disorder Considerations :

Whilst only one of the proposed designations will be based on the anti-social behaviour criteria, selective licensing provides a tool to manage ASB related issues within the private rented sector.

An increased number of property inspections, combined with additional presence in the designated areas enables the Council to focus on the highest risk issues, which are usually then linked to properties where ASB and crime have been concerns.

As has been demonstrated by the Council's previous scheme, there is a link between unlicensed properties and criminal landlords, which can be better targeted utilising the proposed approach.

Health Implications:

The improvement of property conditions is well documented as having a positive impact on the health of occupants. A licensing scheme provides a more wholesale method for bringing about these improvements and places additional regulatory requirements on its landlords.

Title and Location of any Background Papers used in the preparation of this report:

Selective Licensing in the Private Rented Sector: A Guide for Local Authorities

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/418551/150327_Guidance_on_selective_licensing_applications_FINAL_updated_isbn.pdf

Prosperous Communities Committee, 16th March 2021 – Item 56. Approval of further work to be undertaken on future options for Selective Licensing [Agenda for Prosperous Communities Committee on Tuesday, 16th March, 2021, 6.30 pm | West Lindsey District Council \(west-lindsey.gov.uk\)](#)

Risk Assessment :

Please see appendix 2, which sets out the risks in relation to the scheme. The main risks are in relation to:

- There is currently not sufficient and demonstrable strategic alignment to Satisfy the MHCLG criteria, should consent need to be sought.
- Data in relation to ASB and Crime has not been as conclusive for wards other than in Gainsborough South West Ward.
- A two designation approach may result in only a scheme being delivered in the Gainsborough South West Ward.
- The financial modelling seeks to cover scheme costs based on delivery of a scheme in the Gainsborough South West Ward only.
- Application processing times (subject to CRM) will need to reduce in order to ensure that the scheme can be delivered within the proposed fee.

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

No

Key Decision:

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

Yes

No

1 Introduction

- 1.1 This paper sets out proposals for the consideration of a further selective licensing scheme in West Lindsey, following on from the initial scheme in Gainsborough South West Ward that ended in July 2021.
- 1.2 In March 2021 Prosperous Communities Committee approved that further work be undertaken by Officers to explore options for a further selective licensing scheme, with these options to be presented back to Committee. This report provides the options requested, which have been produced by an external consultant and then developed by Council Officers to form the set of recommendations proposed.

2 Statutory Provisions

- 2.1 The Council has a responsibility to ensure that standards are maintained in the Private Rented Sector. This is done by ensuring compliance with the relevant legislation, which can be broad ranging. Details of the legislation which the Council utilises to meet this responsibility can be found in its Private Sector Housing Enforcement Policy which is available on the Council's website.
- 2.2 The Housing Act 2004 allows Local Authorities to introduce licensing for privately rented properties accommodating single households. It is intended to address the impact that poorly managed rented properties can have on the local environment and to improve housing conditions.
- 2.3 Part 3 of the Act sets out the scheme for licensing private rented properties and a Local Authority can designate the whole or any part(s) of its area as being subject to Selective Licensing.
- 2.4 With effect from 1 April 2015 a Local Authority needs to apply to the Secretary of State for Communities and Local Government (Secretary of State) for confirmation of any scheme which would cover more than 20% of their geographical area or that would affect more than 20% of privately rented homes in the local authority area.

3 Feasibility

- 3.1 The Council has commissioned Cadence Innova to deliver the initial work on whether a selective licensing scheme is feasible based on the data and information available. As a result a full report has been provided by Cadence and is attached as appendix 1.
- 3.2 The key findings from the feasibility work undertaken are as follows;

	Findings
1.	The data and evidence supports that a further selective licensing scheme is justifiable within the District.
2.	The data supports that a designation for Gainsborough South West Ward can be strongly justified based on property conditions, ASB and deprivation.

3.	The data supports that based on property conditions, a designation can also be made for Gainsborough North, Wold View, Hemswell and Market Rasen.
4.	There is not sufficient evidence to designate all of the ex-MOD sites as individual distinct areas. Brookenby and Hemswell Cliff would be included as part of the ward based designations.
5.	A designation for Gainsborough South West Ward would fall under the SoS consent requirement of 20% of the PRS (19.36%)
6.	The further designation of an additional 4 wards would go above the SoS limit and require consent. It would total circa 49% of the Districts PRS.
7.	A licence fee of £675 will enable the scheme to be delivered based on the proposed designation option.
8.	A discount for previously licensed landlords and early-bird applications is feasible within the model.

3.3 The following risks have been identified as part of the feasibility work;

	Risks
1.	There is currently not sufficient and demonstrable strategic alignment to satisfy the MHCLG criteria, should consent need to be sought.
2.	Data in relation to ASB and Crime has not been as conclusive for wards other than in Gainsborough South West Ward.
3.	A two designation approach may result in only a scheme being delivered in the Gainsborough South West Ward.
4.	The financial modelling seeks to cover scheme costs based on delivery of a scheme in the Gainsborough South West Ward only.
5.	Application processing times (subject to CRM) will need to reduce in order to ensure that the scheme can be delivered within the proposed fee.

3.4 The risks identified will need to be mitigated prior to any designation being sought to ensure that it has the best chance of success, should it need SoS approval. An overview of risks is shown in appendix 2.

4 Designation Possibilities

4.1 The table below sets out what possibilities are available for any designations focussing on the percentage and number of PRS, alongside the criteria for designation.

	Wards	% of the PRS	No of PRS	Criteria
Designation 1	Gainsborough SW	19.36%	1,752	Poor property conditions ASB Deprivation
Designation 2	Gains N, Hemswell, Market Rasen, Wold View	29.17%	2,640	Poor property conditions
Designation 3	New Toft	0.63%	57	Poor property conditions

- 4.2 New Toft is considered alone as a third designation as it is not within the 5 wards that meet the criteria. As a standalone settlement it meets the criteria in regards to level of PRS and property conditions, however it would mean that an approach focussed on specific parts of a ward would need to be justified. This approach would be out of kilter with the approach proposed for the other 5 wards. Given that there are only 57 properties within this area, it is proposed that existing means are used to proactively inspect these properties over the time period of any designated schemes. New Toft could be revisited as a further designation in the future.
- 4.3 The data when taken alongside the criteria for designation provides an opportunity to designate Gainsborough South West Ward as a standalone scheme. The justification for this approach is as follows:
- It comes in comfortably under the 20% ruling, so can be agreed locally and implemented quickly.
 - It allows the council to continue its work in Gainsborough SWW, which has the highest levels of hazards, ASB and deprivation.
 - It is an increase on the last designation, which only included part of the ward and therefore enables greater scope for delivery of outcomes.
 - It allows the Council to scale up the service.
 - It enables initial income to support the development of the scheme.
- 4.4 The data relating to the additional 4 wards makes a strong case for designation to be made in relation to property conditions. The inclusion of the additional 4 wards as a separate designation (subject to approval), would enable the Council to include around 50% of its PRS stock across the 5 wards included.

5 Financial Information

- 5.1 A detailed financial model has been developed, which sets out scenarios and options in relation to the different designations. This model has considered all of the relevant costs associated with processing a licence and has been informed by the work undertaken within the previous scheme, alongside information from other similar schemes. The financial model covers both designations and works on the assumption that designation 1 needs to break even, regardless of whether designation 2 is delivered. The key information to note in relation to the financial model is as follows:
- The licence fee is proposed to be £675 (previously licensed landlords will be charged the same fee as paid in the previous scheme of £375).
 - 15% early bird reduction (£573.75) in first 3 months for new applicants in each designation. Assumed 40% of applicants will access this.
 - 85% of applications are required in order to break even.
 - An inspection rate of 50% of properties is proposed.
 - Provision has been made within the FTEs for an additional 0.5 FTE ASB officer and 0.5 FTE Data Analyst spread across both designations.
 - The use of Civica (Flare), will need to be made more efficient in terms of the licensing processes. This work has started to be undertaken by

officers and is achievable. This process has not been identified to be developed in CRM so will be implemented in Flare first building on the processes used for the first scheme. As the new CRM system comes online consideration will be given to where any further efficiencies can be made.

5.2 The feasibility work also makes the following recommendations:

- That efficiencies will need to be realised (e.g. within the Civica system or by improvements to the process) to be able to deliver the service within the realistic FTE levels.
- If 85% of possible applications are received and a 25% improvement of processing time can be made it provides some flexibility within the scheme in regards to the staffing resource available.
- The number of FTEs required does not take into account the existing resource. Additional FTEs will need to be employed on a flexible basis to deliver the different aspects of the scheme.

5.3 The overall scheme costs are outlined within the table below. The figures within the table are based on the estimates made for the scheme currently and may be subject to change depending on the outcome of the consultation.

Breakdown of estimated PRSL costs*

5 Year Running Costs	Designation 1 (est. 1,489 licences)	Designation 2 (est. 2,244 licences)	Designation 1 & 2 (est. 3,733 licences)
Staffing Costs	£384,194	£617,905	£1,002,099
Other Running Costs	£461,211	£595,429	£1,056,640
Consultation + Marketing	£18,000	£27,000	£45,000
Total Costs	£863,405	£1,240,334	£2,103,740
Estimated Income	£890,517	£1,341,875	£2,232,392
Recovery	£12,352	£79,300	£91,653
Recovery %	1%	6%	4%

*Based on a variable team year on year and 85% of current application processing time (a reduction of 15% from original processing time)

5.4 The key points for Committee to note are as follows:

- Designation 1 will be mitigated by the efficiencies within processing and in securing more than 85% of applications. Both of these are likely to happen.
- The small surplus shown within designation 2 and designations 1 and 2 will be used as a contingency or allocated to the relevant work areas during the scheme. For example, this could be for additional staff or for additional systems development.

- The upfront costs of £126, 921 (see below) are accounted for within the delivery of designation 1. If no designation proceeds then there is a financial risk to the Council as this will not be recoverable.
- 5.5 As the overall cost of the scheme is based on the income that will be derived from it, there is a requirement for the Council to make available funding to initiate its development subject to approval. This decision will need to be made by the Council's Corporate Policy and Resources Committee, subject to agreement by Prosperous Communities Committee. There is £38,700 already available within the revenue budget to contribute towards this work. Therefore CP and R will need to agree that a further budget of £126,921 be made available in to enable completion of the designation and submission elements of the project.
- The designation element of the work will cost £122, 860
 - The submission element of the work will cost £42,761
- 5.6 Detailed information relating to the content of phases 2 and 3 can be found in appendix 3. The submission element of the work will only be funded should the Council agree to proceed with a designation following on from the consultation and subsequent committee report. The specific details of what is being procured are available, but will be marked private and confidential for the purpose of both committees.

6 Strategic Context

- 6.1 The Council must show that any exercise of power concerning licensing is consistent with its overall housing strategy. The Council must also seek to deliver a coordinated approach in connection to dealing with homelessness, empty homes and anti-social behaviour.
- 6.2 The Council has a broad range of policies and approaches which aim to ensure that all residents of West Lindsey have a home that is safe, secure, dry and not overcrowded. The Housing Enforcement Policy alongside the Corporate Enforcement Policy and secondary policies such as the Banning Order policy and Civil Penalties policy, outline how the Council will use appropriate enforcement powers to ensure that all owners comply with their statutory obligations.
- 6.3 The Council's Corporate Plan 2019 – 2023 has three key themes; Our Council; Our People and Our Place. In relation to Our People the Council have identified three strategic focal points which are Health and Wellbeing, Vulnerable Groups and Communities and Education and Skills. Improving the quality of and access to housing, improving health and wellbeing and reducing levels of poverty and deprivation are key outcomes for this part of the plan.
- 6.4 In relation to Our Place, the three key themes are Economy, Housing Growth and Public Safety and Environment. Improving housing standards, increased tenancy sustainment and high standards or quality and compliance across regulated areas are key outcomes for this part of the plan.

- 6.5 Work is currently being undertaken to refresh and revise the Council's Housing Strategy and this will be brought back to committee before the end of this financial year.

7 Alternative Options

- 7.1 Before deciding whether to consult upon and designate a selective licensing scheme the Council must consider whether there are other courses of action available that might provide an effective means of dealing with the issues which the scheme is intended to address, and whether the scheme will significantly help them in dealing with those issues. The options considered are shown below;

7.1.1 Landlord accreditation is a measure that is largely a voluntary measure that is delivered by various agencies nationally. West Lindsey District Council has been a member of DASH (Landlord Accreditation) since 2010 and this provides an opportunity for its landlords to be accredited free of charge within the scheme. Prior to the previous selective licensing scheme there were 19 accredited landlords managing a total of 83 properties within the District. As of September 2021, there are now 8 landlords with 29 properties. Alongside this there are various national accreditation schemes, however the voluntary nature of these schemes are believed to be unlikely to ensure that the required objectives of a Selective Licensing scheme can be delivered.

7.1.2 The Council has an existing statutory powers across various areas of legislation. Whilst these powers can be effective, there is not provision or resource to utilise them on a widespread scale in the way that they can be should a Selective Licensing scheme be designated. The Council's previous Selective Licensing scheme demonstrated that when a scheme is in place, it enables additional resources to be focussed in key areas and for additional outcomes to be delivered. The higher than national average Category 1 Hazard levels across all but 1 ward of the district highlight the scale of the challenge facing the district, which cannot be met using existing powers only.

7.1.3 Mandatory licensing under the Housing Act is utilised as a tool, however the housing stock within the district means that there are less than 10 licensable HMOs which does not enable the Council to have a significant impact in relation to this type of property.

7.1.4 The Council's approach to dealing with ASB via selective licensing has shown positive outcomes within its previously designated scheme. The data relating to Gainsborough South West Ward still shows that the levels of ASB are high, even though they are reducing slightly

7.1.5 The Council's level of long term empty properties equates to less than 1.2% (500 properties) of its overall housing stock. Prior to the previously delivered Selective Licensing Scheme this number stood at 1.5% (636 properties). The specific number of properties within the ward in which

the previous scheme was designated was circa 100 prior to the scheme designation and now stands at 69. During this time period the Council have funded and delivered an empty property grant scheme and have now developed and funded a “Viable Housing Solution” with a procured partner to extend this empty homes work into a sustainable model, with scope for this to be extended across broader parts of the district.

8 Consultation

8.1 Section 80 (9) of the Housing Act 2004 states that when considering a designating an area the local housing authority must :

- take reasonable steps to consult persons who are likely to be affected by the designation, and;
- consider any representation made in accordance with the consultation

8.2 Furthermore, the consultation should include local residents, including tenants, landlords and where appropriate their managing agents and other members of the community who live or operate business or provide services within the proposed designation. It should also include local residents and those who operate businesses or provide services in the surrounding area outside of the proposed designation that will be affected.

8.3 The consultation should last for at least 10 weeks and its results should be published and made available. It should also be clear in any final decision how the consultation has been either acted upon or not. It is proposed that this will commence in January 2022, with the specific date to be confirmed.

8.4 Subject to approval, it is proposed that the consultation will be undertaken online as a default, with the use of accessible systems such as Microsoft Teams. This approach will enable a larger number of stakeholders to be represented and ensure that the consultation is accessible as possible.

8.5 The proposed activities in relation to consultation are as follows;

- Survey accessible to all stakeholders (Online based, with hard copies provided on request)
- Information Sessions for Landlords, Tenants, Estate and Managing Agents,
- Information sessions for impacted Parish and Town Councils including Parish Meetings
- Information session for previously licensed landlords
- Information session for internal stakeholders
- Information session for Councillors
- Pop up consultation at community markets or specific activities within the designated areas proposed
- Direct telephone facility for specific contacts who may not be able to access consultation digitally

9 Summary

- 9.1 There is a clear evidential case for making a selective licensing designation for the Gainsborough South West Ward along with four of the districts other wards, being Gainsborough North; Wold View; Hemswell and Market Rasen.

- 9.2 It is proposed that the statutory consultation be undertaken for a minimum of 12 weeks to explore these proposals with the relevant stakeholders to enable further consideration of their deliverability to take place.

END

Appendices

- 1- Selective Licensing Evidence Review Report
- 2- Risks
- 3- Phase 2 and 3 Submission Information (confidential)
- 4- Selective Licensing Policy (Draft)
- 5- Selective Licensing Conditions (Draft)