

To the Chair and Members of Cabinet

Edlington Selective Licensing Scheme

Relevant Cabinet Member(s)	Wards Affected	Key Decision
Councillor Chris McGuinness	Edlington & Warmsworth ward	No

EXECUTIVE SUMMARY

- 1 Doncaster Council conducted a 12 week consultation between 18 April 2017 and 11 July 2017 on proposals to introduce a Selective Licensing scheme for private sector landlords, in Edlington, to reduce anti-social behaviour (ASB) emanating from properties within the private rented sector (PRS) and to improve tenancy management in that sector.
- 2 The introduction of a Selective Licensing Scheme will enable the Council to ensure all landlords in the area engage with the Authority to deliver a high level of tenancy management and take appropriate action to combat any ASB by their tenants when it is within their power to do so.
- 3 There is evidence that certain types of ASB in parts of Edlington are significant and persistent, the majority arising from tenants living in the private rented sector. The intention of this proposal is to directly address the problem of ASB within the PRS where landlords are failing to take appropriate action to combat the problem. In more general terms the intention is to improve and standardise tenancy management within the PRS.
- 4 Within the consultation, residents and landlords were asked “Do you think there is a high turnover of private tenants in your area?” 63% responded yes to this question. Respondents were also asked “Have you had any problems with privately rented properties or tenants in your area?” 67.5% of respondents answered yes to this question.

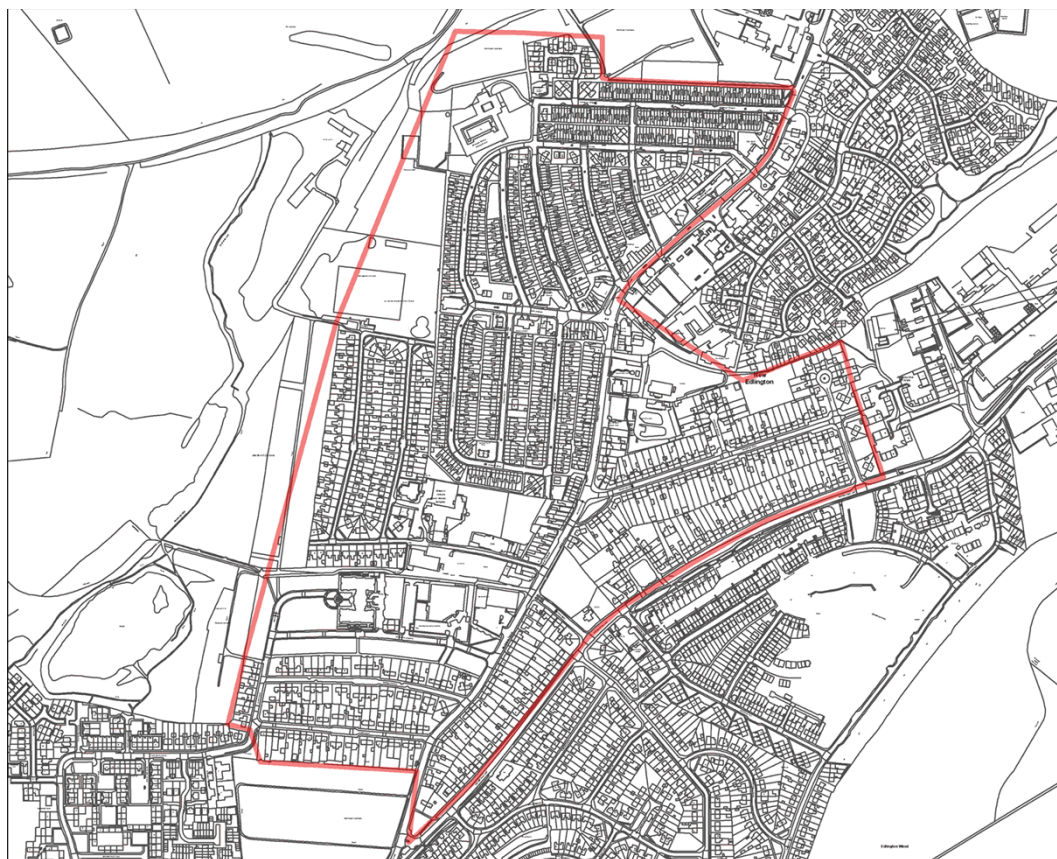
- 5 The consultation also asked 'Which area do you feel would provide the best outcome for the area?' 58% of respondents felt Option 2 (Royal Estate and surrounding streets in Edlington) would provide the best outcome for a Selective Licensing scheme.
- 6 The legislation exists as a way of supporting and encouraging landlords to meet their responsibilities to communities in which they are providing much needed housing. This has to be done in a way that is acceptable to those communities. The legislation also provides local authorities with powers to enforce, through the courts if necessary, against those landlords that do not meet those responsibilities in taking appropriate action. Selective Licensing will add to the existing powers held by the Local Authority to take action against ASB and ensure private landlords work with the Local Authority to deliver better outcomes for the community.

EXEMPT REPORT

- 7 This is not an exempt report.

RECOMMENDATIONS

- 8 To approve implementation of the selective licensing scheme as consulted on and designate the area shown edged red on the plan below as a selective licensing area. The scheme would be operated as a co-regulation scheme together with an approved partner.



WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

- 9 Doncaster Council will seek to impose regulation through legislation in certain areas where the legal criteria to do so is applicable. The levels of ASB in Edlington indicate such action is necessary and therefore selective licensing should be introduced to tackle the ASB that is affecting the local community.
- 10 Consideration for a PRS Accreditation Scheme for private sector landlords was felt to be insufficient due to the voluntary nature of the scheme with no sanctions for non-compliance or non-engagement. Selective licensing, designed in law to address low demand and/or ASB emanating from the PRS, is a possible solution to this problem. While it would include some landlords that are genuinely trying to make a positive impact, the scheme could serve to the greater good of the area under consideration for all landlords to be included. Indeed the law does not allow for any such exemption for 'good' landlords in the designated area.

BACKGROUND

- 11 Housing is the foundation upon which we build our lives. The quality of housing, how much it costs and where people live is a major influence on people's quality of life, well-being, health and their opportunity to work. Good quality housing is important for economic growth, educational attainment, public health, and community cohesion.
- 12 Doncaster Council would only consider introduction of selective licensing as an appropriate tool when other action and legislative tools have been tried extensively, but failed to deliver a sufficient and sustained improvement of an area.
- 13 There has been evidence of high levels of Anti-Social Behaviour in this area for past 5 years. As a result of this, the option of a selective licensing scheme for Edlington was first considered in 2014. However, it was felt at that time that further partnership initiatives should be attempted. In the past two years the area has benefited from a multi-agency approach to tackling neighbourhood issues with regular partnership meetings and action plans. As part of this work, all enforcement powers currently available to the Council have been considered and appropriate formal action taken whenever evidence or witnesses have supported cases to be escalated.
- 14 Although statistics for environmental ASB indicate an improvement has been achieved, there appears to be further work required to reduce ASB linked with the PRS in Edlington. A large amount of work has been done in these communities but there is a need for private sector landlords to have a role in dealing with the problem of ASB linked with their properties.

- 15 Selective licensing provides the authority with additional tools to help combat anti-social behaviour and can legally require landlords to take responsibility for tenancy management by taking “action to combat the problem that it would be appropriate for them to take” (Housing Act 2004).
- 16 Although this proposal for a Selective Licensing scheme in parts of Edlington is primarily to deal with ASB in the PRS there is also evidence of low demand (the other reason along with ASB that such a proposal can be consulted upon). There is a direct correlation between demand, price and volume of transactions. The higher the demand the higher the price and usually the volume of sales is reflected with this. Conversely in areas of low demand you would expect to see a limited number of sales at prices below the average for a particular area. Research into sales data can be found in Appendix 1.
- 17 Looking at the complaints received by the Enforcement Team in 2016 regarding environmental ASB and housing problems in Edlington, it is clear that the ASB problem is concentrated on the Royal Estate with dispersal on the surrounding streets which have a high concentration of private rented properties.

Type of ASB	No of incidents in Edlington	No of incidents on Royal Estate	% of all incidents in area	No of incidents on Royal Estate and surrounding streets	% of all incidents in area
Fly tipping	37	7	19%	11	30%
Nuisance (including Noise)	185	134	72%	156	84%
Unkempt Properties	17	14	82%	16	94%
Housing disrepair	14	10	71%	11	79%
Abandoned Vehicles	25	12	48%	18	72%

The table shows the number of complaints received by the Enforcement Team in 2016 regarding Edlington as a whole, the Royal Estate (Option 1 – area shown by red line boundary on Map 6 – Appendix 1) and the Royal Estate with surrounding streets (Option 2 – area shown by orange line boundary on Map 6 – Appendix 1).

- 18 As can be seen in the table, 72% of the nuisance incidents reported in Edlington related to the Royal Estate. If you include the surrounding streets (Option 2) this figure increases to 84%. A similar figure can be seen for reports of unkempt properties with 82% of all reports relating to the Royal Estate increasing to 94% if the surrounding streets are also included. The only complaint type not following this pattern is fly tipping where the majority of incidents reported in Edlington relate to the rural country lanes surrounding the village, rather than the estate roads.

The Area

- 19 The number of properties in this area owned by smaller private landlords is substantially higher than the local average. Bordering on to the Royal Estate to the south and also to the east across Edlington Lane, there is housing of similar age to the properties on the Royal Estate, which also have a higher than average proportion of private rented properties. This includes Markham Road, Markham Square, Cross Street, North Street, Baines Avenue, Carr Road, Bungalow Road, Hazel Road and Auburn Road.
- 20 Further south into Edlington, past the local school and also across Broomhouse Lane, the character of the area substantially changes with a large estate of properties managed by St Leger Homes and other local Housing Associations. This area also includes a large proportion of owner occupied properties. The proportion of private rented properties in this area is substantially lower than in other parts of Edlington.

Consultation Process

- 21 Letters were sent to people believed to be affected by these proposals with a link to the consultation document (Appendix 1), the online consultation survey questionnaire (Appendix 2) and invites to relevant consultation meetings. This included all residential properties in Edlington and letters to any landlord registered on local council tax records. All Edlington ward members, the police, fire service and the Communities team within DMBC were also consulted. Paper questionnaires were sent out on request and were also available at the 5 consultation meetings. A total of 41 online surveys were completed, 7 hand written questionnaires and 4 written responses. Broken down these responses were from 23 owner occupiers; 6 private tenants; 1 Registered Social Landlord tenant; 18 landlords or managing agents and 4 others (The National Landlords Association, Residential Landlords Association, a private landlord and a local Member of Parliament). 28 of the landlord/owner/agent letters were returned undelivered.
- 22 A number of options were proposed within the consultation (Appendix 1). In particular, two different areas were suggested as options for designation. Option 1 included the Royal Estate and Option 2 included the Royal Estate plus surrounding streets (see map in Appendix 1). People were specifically asked 'Which area do you feel would provide the best outcome for the area?' Of the 52 responses: 6 answered 'Option 1 (Royal Estate only)'; 28 answered 'Option 2 (Royal Estate and surrounding streets)'; 5 didn't know and 8 responded 'other'. Reasons accompanying 'other' votes included: cover the whole of Edlington; cover all private landlords; and no area - use existing and new legislation to address ASB.
- 23 South Yorkshire Police responded on request with full support to the scheme on the Royal Estate as they believe this is where the majority of the issues occur. However, the majority of respondents would like to see Option 2

implemented.

- 24 In response to the question 'Do you agree with the Council's proposals to introduce Selective Licensing in Edlington, as detailed in the consultation document?' 36 of the 52 responses answered 'yes' to this question, 14 answered 'no' and 2 didn't know. There was support for the proposals from the local MP Caroline Flint. The main point raised during the landlord consultation meetings was that the council and police have available powers to deal with ASB and agencies have not been using them fully. The landlords requested these powers be utilised before a decision whether a selective licensing scheme needs to be implemented.
- 25 Responses were received from both the Residential Landlords Association (RLA) and the National Landlords Association (NLA), opposing the scheme. Both organisations raised that they felt the Local Authority already had powers to take action against ASB and needed to consider using such powers and partnership working in the first instance. As explained in paragraphs 12 and 13, substantial resources and initiatives have been tried in Edlington, with limited success, before consideration of Selective Licensing. Both RLA and NLA also raised the view that landlords had limited powers to take action in respect to the ASB problems described in the consultation report. It was clear in the consultation report that the Council do not expect landlords to suddenly become responsible for their tenants' behaviour but instead that landlords will become more responsible for their own behaviour in how they manage their tenants. The NLA also raised concerns that the consultation report had not acknowledge the impact on the area from the stigma of becoming a Selective Licensing Area, nor considered any impact on homelessness and felt that this may indicate a substandard consultation. These issues were thoroughly considered prior to consultation and as a result a decision was taken to consult with all residents in Edlington, both inside and outside the proposed scheme area. Consultation also took place with Social Housing providers and St Leger Homes, which includes the statutory homeless provision, to ensure any impact on homelessness was fully considered. Such consultation confirmed that there is a very low demand for Social Housing properties in the proposed scheme area. Whilst it is not anticipated that there will be an increase in homelessness due to the scheme, social housing providers have confirmed they are able to house more people in the area should the need arise.
- 26 In response to the question on the survey 'Would you like to see any amendments to the conditions proposed in the consultation document?' 21 people responded 'yes' and 25 responded 'no'. Of the people who responded 'yes', most gave a reason however few of the reasons related to the conditions and were made with reference to the fees, coverage of the scheme and matters that are addressed by the police.
- 27 A summary of the consultation responses can be seen in Appendix 3.

- 28 Some of the additional comments made regarding the scheme are detailed below:

“I am all in favour of anything that can clean up our village. I feel the reason for things being as bad as they are here is down to the way things have to be reported. Many are unwilling to put in a complaint because of payback. Anonymous complaints can’t be followed up, i think this needs to change. Benefit fraud can be reported anonymously so why not anti-social behaviour?”

“This proposal is urgently needed for this community, and although it will not be the final solution this is the first and most important step to bringing peace and resolve to the residents on the affected streets”

“This is long overdue, every decent person from Edlington considers that the area in and around the royal estate is a no go area from the evening time.”

“Must emphasise the need for all parties involved in the process to cooperate and ensure the rules are implemented.”

- 29 The responses from residents indicate there is a real fear regarding the activity and ASB surrounding parts of Edlington. In this connection, it is noticeable that 39% of respondents positively indicated they did not wish their comments to be used in future publicity. Although there has been a targeting of resources and enforcement action on the locality, there is a clear public perception from the respondents that private sector landlords need to be more proactive in responding to ASB linked to their properties.

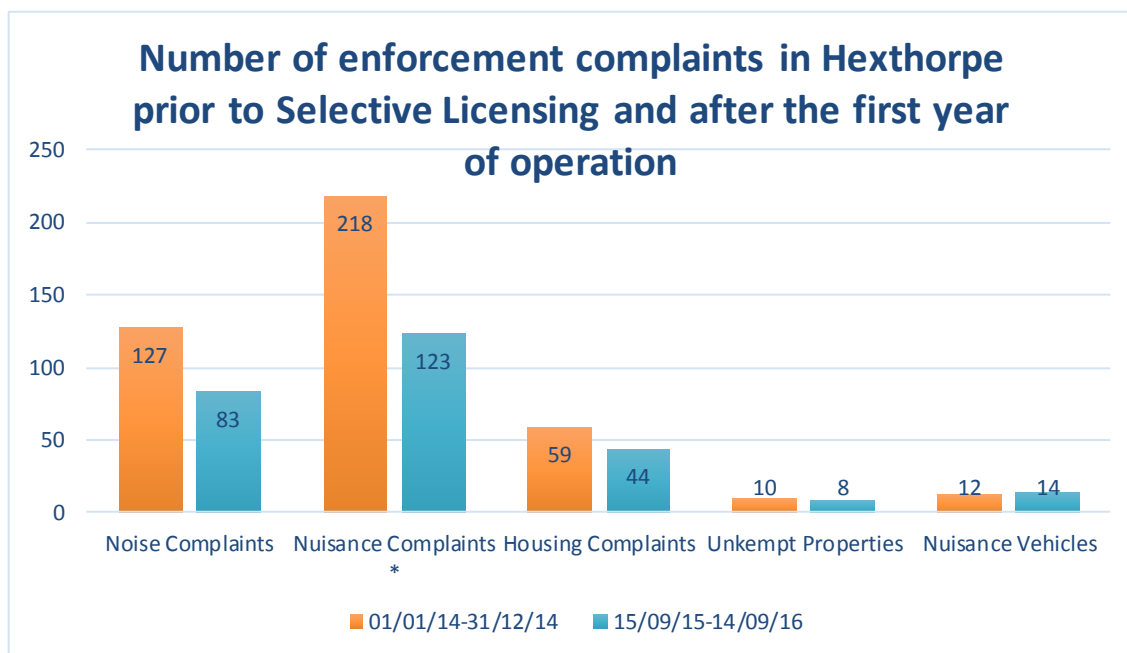
Co-Regulation

- 30 In 2014 it was considered by Doncaster Council if it would be beneficial to introduce an Accreditation Scheme for private sector landlords to raise standards of tenancy management and reduce ASB. Upon looking at the merits of such a scheme it was considered to be insufficient as the landlords most in need of support and development in this area may not engage and the problem would persist. The main problem with accreditation to deal with ASB in the private rented sector is that it is only voluntary.
- 31 The conclusion was that selective licensing would be a better solution as long as certain circumstances were evident. Although it would include some landlords that were dealing with anti-social behaviour from their tenants, a scheme that requires compliance and engagement from all landlords with properties within the area was required.
- 32 When the Council consulted on their first selective licensing scheme covering the area of Hexthorpe, several landlords approached the Council raising concerns regarding cost, lack of incentives for good landlords and lack of

flexibility provided by a traditional selective licensing scheme. The Council took on board the concerns and launched a hybrid scheme, based on the principles of co-regulation.

- 33 An offer to set up an independent landlord accreditation scheme to go hand in hand with selective licensing was published by the Council together with strict criteria for the scheme, including key performance indicators. Only one potential local accreditation scheme operator came forward and was approved in 2015. Under the co-regulation approach, landlords in the selective licensing area can either apply directly to the Council for a licence or apply to become members of an approved accreditation scheme. Meeting the set criteria of the approved accreditation scheme would ensure members exceed the minimum standard required of the selective licensing scheme. Landlords have to remain a compliant member of the scheme for the full licensing period. If at any time a landlord leaves the scheme, the licence would lapse, requiring the landlord to apply for a new licence directly to the Council. Any accreditation partner would be required to have their own system for monitoring compliance of their members which has been approved by the Council as well as the ability to terminate membership in cases of serious non-compliance. As termination of membership would result in the selective licence no longer being valid, it gives the scheme the tools and autonomy it needs to achieve its high expectations on landlords.
- 34 By introducing a scheme similar to that in Hexthorpe, based on co-regulation principles using locally approved accredited partners, the Council want to ensure the Council's, the community's and local landlords' interests are considered. Additional benefits delivered through co-regulation are expected to be:
- Make selective licensing more landlord friendly by making it fit with the reality of today's buy to let market and allow monthly membership payments rather than a large upfront fee.
 - Create a scheme which addresses irresponsible tenants as well as landlords, by sharing adverse tenancy outcomes in a regulated manner to reduce the ability of tenants who have been proven to cause ASB from moving between properties.
 - Give landlords in the area a voice and allow them to be a recognised stakeholder with whom the Council communicates regarding matters that concern the area or landlords in general.
 - Give smaller and more inexperienced landlords a local support organisation who they can trust and who can provide them with the information, guidance and support they need to run a profitable business in a responsible manner.

- Engage and educate landlords to be competent to manage their properties well, including regular effective self-assessment of compliance.
 - Reduce the amount of visits the local authority makes to private rented properties in the area by giving landlords the option to resolve complaints regarding their properties themselves with support, assistance and closely audited by the landlord scheme.
- 35 If the implementation of selective licensing is approved with the inclusion of the co-regulation scheme, the way it operates is proposed to be the same as the existing Hexthorpe scheme.
- 36 Year One Review of Hexthorpe Selective Licensing Scheme



Comparison of the number of complaints made to the Enforcement Team regarding Hexthorpe in the year prior to the selective licensing decision compared to the first year of implementation.

**Please note nuisance complaints include waste in gardens, accumulations and bonfires.*

- 37 The Hexthorpe Selective Licensing Scheme was introduced in 2015. At the end of the first year, the Hexthorpe scheme can demonstrate a positive impact on enforcement complaints. Noise complaints have reduced by 35%, nuisance complaints by 44%, housing complaints by 25% as well as a 20% reduction in reports of unkempt properties.
- 38 In the same time period in Edlington, (and with additional proactive resources provided by the council and police) noise complaints have reduced by 15%, nuisance complaints by 22% and the biggest reduction has been in unkempt properties which has almost halved. The amount of housing disrepair reports have remained the same.

Advantages of a Selective Licensing Scheme

- 39 A selective licensing scheme is not about landlords becoming responsible for the behaviour of their tenants. However, selective licensing would require all private landlords or their managing agents, if applicable, to provide certain information that would assist the authority when tackling ASB. Information such as:
- the person responsible for the management of the property
 - details of tenants (on request)
 - the conditions under which the property is let
 - in extreme cases the landlord may be required to take steps to evict the tenant in order to put an end to their ASB in the community.
- 40 This will help in making a more stable private rented sector in Edlington that would allow enforcement agencies to effectively utilise the legal powers already in existence to deal with perpetrators of ASB. The barriers to effective enforcement, examples of poor tenancy management and existing legal powers are presented in Appendix 6 to further understand why this proposal was developed.
- 41 As evidenced through the Hexthorpe Scheme, selective licensing offers the best chance of addressing this problem but recognise that all agencies must redouble their efforts in line with this to provide adequate support.
- 42 Since April 2010 there has been no need to obtain Secretary of State (SoS) approval for such schemes due to a “wider Government commitment to ensure decisions on local matters are made as close to the people affected by them as possible.” However the same guidelines apply as when SoS approval was needed and have been followed.

OPTIONS CONSIDERED

- 43 Statistics have shown there is a problem with ASB attributed to occupants of privately rented properties within the Royal Estate. This has been acknowledged by landlords and residents as well as elected members. There is evidence of similar ASB in the surrounding streets which may also benefit from the implementation of a selective licensing scheme.
- 44 Taking comments from the consultation into consideration, there are three main options to be considered:

Option 1 – Do nothing

- 45 Do not implement the selective licensing scheme. Continue to utilise the available legislation to deal with ASB on a reactive basis.

- 46 This is not recommended as the consultation has shown there is support for action to tackle the ASB that is recognised to be affecting the area. The majority of the support for the scheme is from the residents and the local MP. A number of landlords have also expressed support to implement the proposed scheme. A high proportion of landlords who provided a response did not support this scheme and believe the council and police need to utilise existing powers to address the ASB issues.

Option 2 - Implement a selective licensing scheme as proposed in Edlington

- 47 As stated, consultation results gave support to extend the selective licensing scheme to the wider area proposed in Edlington (Option 2 of the consultation). There was also significant support to include the whole of Edlington as respondents felt bad tenants and landlords would just move to the surrounding areas. Maps of the streets included in the areas for designation, along with maps showing where the ASB complaints have been received, can be found in Appendix 1.
- 48 a) Royal Estate only
The majority of ASB evidenced occurs within the Royal Estate. By targeting these streets to implement the selective licensing scheme, resources would be concentrated on the worst affected streets to effect and promote a change.
- 49 b) Royal Estate and surrounding streets (recommended area)
Over half of respondents (58%) were in support of implementing the proposed scheme in the area of Option 2. While the evidence base for the scheme shows the higher percentage of the ASB occurs within the Option 1 zone, by including the surrounding streets into the scheme, a higher percentage of addresses evidenced to be the source of ASB would be included.
- 50 It is recognised that there may be instances where as a consequence of the introduction of the scheme, displaced tenants would need to move elsewhere and if they have established links to Edlington they may remain in the surrounding neighbourhood. The support and assistance available to landlords and tenants outside the proposed area would remain available and the procedures in place to address complaints are based on the same principles as in the scheme. If it becomes apparent that level of complaints are rising in another area of the borough, due consideration would need to be given to additional licensing schemes.
- 51 The implementation of a selective licensing scheme would offer additional powers to the authority to directly address a number of the ASB issues currently affecting the area. These include waste accumulations, noise nuisance complaints, nuisance complaints not relating to noise, unkempt property complaints and housing complaints. Secondary benefits of implementing the scheme include the increased presence of enforcement

officers and partnership agencies in the affected and surrounding streets. Enforcement officers from the authority would have the right of access to licensed properties to carry out routine and reactive inspections. It is believed this would be a positive deterrent to the perpetrators of ASB in the area, resulting from an increased presence of partners and the ability to request access to licensed properties with limited or no warning. This right of entry would also offer opportunity for joint working and access to known 'problem properties' where multiple ASB complaints are received. If access is not forthcoming, a warrant of entry can be applied for under the scheme.

Review of environmental enforcement complaints

- 52 In consideration of which area to implement the selective licensing scheme, a review of the 2016 complaint figures for the whole of Edlington was carried out. If the property to which a complaint relates to is subject to selective licensing, additional powers would be available to further assist the authority in resolving the complaint and have a direct beneficial impact.
- 53 Of the 56 complaints received in relation to noise nuisance 24 (43%) were in relation to occupied properties within the Royal Estate (Option 1) and 36 (64%) were in relation to occupied properties within the Royal Estate and surrounding streets (Option 2).
- 54 Of the 129 complaints received in relation to non-noise nuisance 113 (88%) were property specific, 99 (78%) were within the Royal Estate and 108 (84%) within the Royal Estate and surrounding streets.
- 55 Of the 14 housing complaints received 10 (71%) were within the Royal Estate and 14 (100%) within the Royal Estate and surrounding streets.
- 56 Combining these three complaint types shows that of the 199 complaints received in the whole of Edlington, 133 (67%) of the complaints are in relation to properties within the Royal Estate and 160 (80%) within the Royal Estate and surrounding streets.
- 57 Although other ASB complaints (waste issues, fly tipping and nuisance vehicles) may benefit indirectly from a selective licensing scheme due to regular visits from DMBC officers, complaints regarding empty properties and ASB that is non-property specific will not directly benefit from the available additional measures. There would be a need to continue the use of other available powers to deal with these types of complaints. It is hoped that an increase in action to improve the area, by utilising the additional powers of a selective licensing scheme, will encourage the owners of empty properties to get these properties back into use and will indirectly be a benefit of such a scheme.
- 58 South Yorkshire Police Doncaster Command Team wholly support the introduction of a selective licensing scheme and have expressed their belief

that the scheme would be an important tool to assist the police in tackling ASB issues, due to the increased ability to work closely with landlords and use enforcement actions where necessary. The Head of Service for St Leger Homes and the Head of Service – Communities also support the scheme, commenting that it would be beneficial in sustaining improvements in the area and help work towards reducing the barriers for more effective enforcement.

59 Option 3 - Suspend the implementation of the proposed selective licensing scheme for 6 – 12 months

If the decision is made to suspend the implementation of the scheme, there would continue to be targeted enforcement of ASB in the area. This would be in partnership with the police and agencies would utilise all available legal powers to try and effect improvements. After this 6-12 month period, if there is still evidence that ASB is a significant concern, the selective licensing scheme would be implemented.

60 There is clear evidence of the enforcement actions taken in relation to nuisance type ASB issues emanating from a property. However, it is more difficult to gather ASB evidence relating to individuals away from properties. This has made it difficult to utilise other available powers to address the ASB not attributed to an address. There is often a reliance on the residents making referrals or complaints and then following these up with witness statements and evidence gathering, as the person is affected by someone else's actions.

61 It is acknowledged that this is not always forthcoming for fear of reprisals. The lack of available evidence may have inhibited the full use of other available powers. If the decision was to suspend the proposed scheme and target the area in partnership with the police, it is difficult to judge whether further evidence would be gathered to address ASB issues. This would delay the implementation of a selective licensing scheme with no guaranteed improvement in evidence gathered regarding ASB issues.

62 The landlords' objections to the scheme were around the use of existing powers and the fact they deemed themselves as compliant landlords. By introducing selective licensing with the option of making applications via a co-regulation scheme, this would allow compliant landlords a level of self-regulation, whilst still having the power to deal with any landlord not engaging with the scheme.

63 It is envisaged that a self-regulation implementation of a co-regulation scheme would allow officers to focus their effort on landlords not engaging and to use their time inspecting properties and taking enforcement action where issues are identified from an early stage.

REASONS FOR RECOMMENDED OPTION

- 64 Edlington has a clear problem with anti-social behaviour and this has been statistically linked to the private rented sector. Consultation responses show that residents and partner agencies approve of the proposals to implement a selective licensing scheme and there is evidence and support for extending the scheme beyond the Royal Estate.
- 65 Selective licensing represents a focused way to sanction landlords for non-engagement and poor tenancy management. The current barriers to effective enforcement and the current legislation available to deal with these issues have been discussed throughout this process and it's clear there is a need to utilise all available powers to tackle ASB issues in Edlington.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

- 66 This proposal contributes significantly to the Council's key priorities:

	Outcomes	Implications
	<p>All people in Doncaster benefit from a thriving and resilient economy.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Be a strong voice for our veterans</i> • <i>Mayoral Priority: Protecting Doncaster's vital services</i> 	<p>With appropriate licence conditions and sanctions the intention is to reduce ASB which will improve the area, creating the environment to meet this priority outcome. Such schemes aimed at improving tenancy management should be attractive to prospective employers locating in new areas.</p>
	<p>People live safe, healthy, active and independent lives.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>The reduction of ASB and improved tenancy management will meet this priority by creating safer and healthier conditions in the PRS and by safeguarding community cohesion.</p>
	<p>People in Doncaster benefit from a high quality built and natural environment.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Creating Jobs and Housing</i> • <i>Mayoral Priority: Safeguarding our Communities</i> • <i>Mayoral Priority: Bringing down the cost of living</i> 	<p>Included in the ASB affecting Edlington, is the problem of fly-tipping. Investigation of this issue will benefit indirectly from a selective licensing scheme due to increased presence in the area of officers from DMBC and partner agencies. Therefore, this proposal will indirectly contribute to this priority outcome.</p>
	<p>All families thrive.</p> <ul style="list-style-type: none"> • <i>Mayoral Priority: Protecting</i> 	<p>The reduction of ASB and improved tenancy management will meet this priority by creating safer and</p>

	<i>Doncaster's vital services</i>	healthier conditions in the PRS and promoting community cohesion.
	Council services are modern and value for money.	This proposal will be delivered by the Council's Licensing and Enforcement teams and be funded from the licence fee.
	Working with our partners we will provide strong leadership and governance.	This is the second such scheme within DMBC and to be truly successful it will need sustained strong leadership and guidance. The approach is a modern, value for money example of partnership working between all stakeholders in Edlington.

RISKS AND ASSUMPTIONS

- 67 After consulting with relevant colleagues; other local authorities who have implemented selective licensing schemes; residents; tenants; Registered Social Landlords; private landlords and agents; a risk table has been produced at Appendix 7.
- 68 The key risk centres around the resource needed to run an effective scheme. The law allowing selective licensing does not permit such schemes to make a profit, nor should they make a loss or use the income for any other reason than to run the scheme. The licence fee should cover the processing and issuing of the licence and a reasonable level of compliance monitoring thereafter. The risk is estimating what is reasonable in terms of resource to run the scheme.
- 69 After consideration of staff time, numbers and grade to administer this proposal, the one-off, 5 year, licence fee will be £515 for single and multiple occupancy premises made directly to the local authority (those that do not require a mandatory HMO licence). This is comparable with the selective licensing fee set for Hexthorpe in 2015, taking into account a 1% annual cost increase to compensate for increases in staff salary costs. This will ensure the scheme is close to self-funded, but will not make a profit for the local authority. Any application made by a landlord fully compliant with an approved partner accreditation scheme will be charged £80. This fee will be collected by the approved accreditation scheme on application and forwarded by the scheme to the local authority. Please note that individual monthly fee structure and additional fees for inspections will apply and be payable directly to the approved partner scheme. It is felt this is set fairly to reflect the time needed to run a meaningful scheme and compares well with other schemes across the country. The licence fee breakdown and comparisons can be found in Appendix 5.

- 70 Discount - £15.00 will be deducted from any second and subsequent applications from the same applicant.
- 71 Penalties – Applications that require a reminder, ie after 3 months, will have an additional £50.00 added to the fee to cover searches to determine ownership and contact. If implementation of selective licensing is approved, landlords with tenanted properties in the area would be given 6 months to apply for a licence or face prosecution. Prosecutions would start after 6 months.
- 72 The key assumption is that this will succeed in reducing ASB in Edlington if all partners and stakeholders work together. This will be measured at least annually throughout the licence period and at the end by comparing data with that used in the consultation document (Appendix 1). In this way a like-for-like comparison can be made before, during and after to evaluate success.

LEGAL IMPLICATIONS

- 73 The Housing Act 2004 provides that for a local authority to designate an area for Selective Licensing it must be satisfied that at least one of the two sets of general conditions are met. The set of conditions the Council relies upon in respect of these proposals is that the area is experiencing a significant and persistent problem caused by anti-social behaviour; and some or all of the private sector landlords who have let premises in the area are failing to take action to combat the problem that it would be appropriate for them to take; and that making a designation will, when combined with other measures, lead to a reduction in, or the elimination of, the problem. Anti-social behaviour is defined in section 57(5) of the Act as —conduct on the part of occupiers of, or visitors to, residential premises - (a) which causes or is likely to cause a nuisance or annoyance to persons residing, visiting or otherwise engaged in lawful activities in the vicinity of such premises, or (b) which involves or is likely to involve the use of such premises for illegal purposes.
- 74 The Act further provides that the proposed Selective Licensing scheme needs to be consistent with the Council's housing strategy and requires a local authority to consider other courses of action available to them that might provide effective methods of achieving the scheme's objectives. The Council considers that in respect of the designated area, as demonstrated in this report, these additional statutory requirements are met.
- 75 The Act provides that private sector let properties falling within the designated area for a Selective Licensing scheme are required to be licensed. The Local Authority is required to consider applications, deciding whether to approve and issue a license or to refuse to issue a license. The authority must impose some statutory licence conditions. In addition, the authority may impose other conditions relating to the management, use and occupation of the property.

The authority must apply a 'fit and proper person' test to applicants for licences and may include in any licence such conditions as it considers appropriate for regulating the management, use or occupation of the house concerned. In the instance of a dispute, the applicants will have a right of appeal to the Residential Property Tribunal. Also the authority may charge a licence fee reflecting the administration costs of the scheme. When fixing licence fees the authority may take into account all costs incurred by it in carrying out its functions under the additional and selective licensing provisions of the Housing Act 2004.

- 76 The maximum period that an area may be designated as subject to selective licensing is five years. The Council intends that the selective licensing scheme detailed in this report shall run for five years. However the Council shall keep the Scheme under review and if it considers it appropriate to revoke the Scheme; it may do so at any time.
- 77 The Act provides that before making a selective licensing designation a local authority must take reasonable steps to consult persons who are likely to be affected by the designation and consider any representations made in accordance with the consultation. The outcome and response to the consultation is detailed within this report and a summary of the consultation responses is provided at appendix 3. It is not considered that the consultation can be successfully challenged.
- 78 The Act requires that a selective licensing scheme cannot come into force unless it is confirmed by government or a general approval has been issued. In 2010, the government issued a general approval giving all local housing authorities in England approval to designate an area as being subject to selective licensing, subject to a condition that the local authority undertakes a consultation process of no less than 10 weeks. The Council has complied with that condition and so is not required to seek specific confirmation of the designation.
- 79 As soon as a designation is confirmed or made, the authority must publish a notice containing prescribed information stating that the designation has been made. The authority must also make copies of the designation and information available to the public for as long as the designation is in force.
- 80 A designation may be challenged by way of judicial review within 3 months of the date the designation is made, the general legal principles of reasonableness, procedural propriety and proportionality will be applied. A challenge may result in substantial legal costs and also a delay in implementing the scheme.
- 81 The decision maker must be aware of their obligations under the public sector equality duty (PSED) in s149 of the Equality Act 2010. It requires public authorities when exercising their functions to have due regard to the need to

eliminate discrimination, harassment and victimization; advance equality of opportunity; and foster good relations between people who share relevant protected characteristics and those who do not.

The relevant protected characteristics under the Equality Act are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The duty also covers marriage and civil partnerships, but only in respect of eliminating unlawful discrimination.

- 82 The decision maker must ensure that they have seen the due regard statement which is included at Appendix 4. The duty must be exercised in substance, with rigour, and with an open mind and is not a question of ticking boxes. It is for the decision-maker to decide how much weight should be given to the various factors informing the decision, including how much weight should be given to the PSED itself.
- 83 In this instance the due regard statement indicates that 'the selective licensing scheme is aimed at all private sector landlords irrespective of their personal, including any protected, characteristics'. The consultation did offer translation services so there was no potential barrier to responses by means of language and no additional issues were raised within the consultation in relation to the PSED and the proposed licensing scheme.

FINANCIAL IMPLICATIONS

- 84 The intention is to manage the implementation process from existing staffing budgets from the Enforcement Team, either from existing post holders or appointment to a vacant post.
- 85 Should the decision to introduce selective licenses go ahead, the additional license fee income should cover any additional staffing costs.

HUMAN RESOURCES IMPLICATIONS

- 86 There are no HR implications to this report as current staff will be used to carry out this work. If further recruitment is required it will need to be done in line with the Council's Recruitment and Selection Policy and Procedure, including consideration of any redeployees.

EQUALITY IMPLICATIONS

- 87 Public Sector Equality Duty (PSED) Due Regard Statement (Appendix 4).
- 88 The PSED was created by the Equality Act 2010 and replaces the race, disability and gender equality duties. The duty came into force in April 2011 and places a duty on public bodies and others carrying out public functions. The aim of the PSED is to embed equality considerations into the day to day work of public authorities, so that they tackle discrimination and inequality and contribute to making society fairer.

- 89 The Equality duty covers the following protected characteristics:
- Age
 - Disability
 - Gender reassignment
 - Pregnancy and maternity
 - Race
 - Religion or belief
 - Sex
 - Sexual orientation
- 90 It also applies to marriage and civil partnership, but only in respect of the requirement to have due regard to the need to eliminate discrimination. The PSED consists of a general duty, with three main aims (set out in section 149 of the Equality Act 2010). The specific duties are designed to help public bodies meet the general duty.
- 91 'Due regard' is a legal term that requires proportionality and relevance. The weight given to the general duty will depend on how that area of work affects discrimination, equality of opportunity and good relations. For example, decisions on social care or community safety are likely to be more relevant and have greater impact on equality than those on waste disposal or indeed this proposed selective licensing scheme.
- 92 This proposal is aimed at private sector landlords irrespective of their personal, including any protected, characteristics. Similarly, the improved standards of property and tenancy management with the intention of reducing ASB, through compliance with licence conditions, apply to all properties and tenants in the designated area of Edlington irrespective of their personal, including any protected, characteristics. Furthermore, one licence condition specifically (condition 12ix) highlights the requirement to not discriminate against any person, including tenants and residents, with protected characteristics under the Act.
- 93 One potential gap identified in the delivery of these was linked to language barriers during consultation and implementation for those residents and landlords who do not speak English as a first language. This was considered and guidance in different languages of how to access the information in the consultation document in another language was provided in the consultation letter.
- 94 The translations provided were based on information gained of minority languages existing in the local primary schools. During consultation events, officers also had access to telephone translation to ensure any questions could be made and answered in any language. No person requested a translation service.

- 95 If the scheme is introduced, a condition in the licence (12vii) states that the licence holder must ensure that all information and documents, such as tenancy agreements, are provided to tenants in a language/form they can understand.
- 96 Being a legal requirement on the Council this would have to be included in any co-regulation scheme.

TECHNOLOGY IMPLICATIONS

None.

CONSULTATION

- 97 The legislation that permits selective licensing is quite specific in what we must do to consult properly in stating that:
“Before making a designation the local housing authority must—
(a) take reasonable steps to consult persons who are likely to be affected by the designation; and
(b) consider any representations made in accordance with the consultation and not withdrawn”.
- 98 All residential addresses within the proposed areas and surrounding streets of Edlington were sent a letter briefly introducing the proposals, directions to the specifically designed website and included a link to the online survey. Consistent with consultations conducted by other local authorities, the questions sought to elicit views on the issues generally and selective licensing particularly but to also confirm information we hold and possibly tease out any other issues, such as overcrowding.
- 99 Edlington landlords living outside of the Edlington area were also contacted where we held their contact details. Local estate/managing agents also received the consultation letter and links to the survey as did landlord associations, Registered Social Landlords, Tenants and Residents Associations, Elected Members, the Police, Fire Service and colleagues across the Council affected by this proposal such as the Communities Team, Enforcement Team and Licensing Team. The Council’s website advertised the proposal, had links to the full consultation document and an opportunity to respond to the survey on-line and also featured an ongoing question and answer section. Furthermore, two open consultation meetings were arranged for landlords and managing agents plus three for tenants, residents and businesses (all other affected people) in the community to better inform responses.
- 100 Reverting to our legal obligations to consult therefore, we feel we have
(a) taken reasonable steps to consult persons who are likely to be affected by the designation;
and before making a designation this report does

(b) consider any representations made in accordance with the consultation and not withdrawn.

BACKGROUND PAPERS

None

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