



Doncaster Council

Report

Date: 22/09/21

To the Chair and Members of the Cabinet

Hexthorpe Selective Licensing Scheme

| Relevant Cabinet Member(s) | Wards Affected | Key Decision |
|--------------------------------------|------------------------------|--------------|
| Cllr Glyn Jones Cllr Joe Blackham | Hexthorpe and Balby North | Yes |

EXECUTIVE SUMMARY

1. Doncaster Council conducted a 10-week consultation between 1st October 2020 and 10th December 2020 on the proposal to re-introduce a selective licensing scheme in Hexthorpe.
2. The selective licensing tool was introduced 15 years ago to help councils tackle anti-social behaviour (ASB) and poor quality housing in areas with high numbers of privately rented homes. Hexthorpe was designated a Selective Licensing area in 2015 with the aim of reducing ASB and improving tenancy management in the private rented sector (PRS). Designations cease to have effect after 5 years, with the previous designation ending on 30th June 2020.
3. The purpose of this report is to examine the impact of the previous scheme, the findings of the recent consultation and inform the Council's Cabinet so they can decide whether to:
 - a) Make a designation and implement the scheme as proposed;
 - b) Make a designation and implement the scheme in a revised form; or
 - c) Decide not to designate the area for selective licensing but instead support the existing powers available to tackle the identified issues in Hexthorpe.
4. To make the designation there must be a clear and demonstrable case for doing so and there should be consideration of whether there are any other courses of action available to the Council that might achieve the same objectives.

5. Whilst the PRS accounts for just over one third (37%) of the properties in Hexthorpe, almost two thirds (64%) of the reported ASB, associated with domestic properties, is attributable to the PRS.
6. There is clear evidence that certain types of ASB in Hexthorpe are significant and persistent, with the majority of the issues being directly associated with the PRS. It is proposed to designate the area of Hexthorpe, as defined on the map in Appendix A, as an area for selective licensing, for a maximum period of 5 years. If designated, all private rented properties within the defined area, subject to statutory exemptions, will require a licence. It is considered that making the designation and adopting a revised strategy for its implementation will lead to a reduction in ASB when combined with other initiatives taken in the area by the Council and its partners.
7. The intention of this proposal is to directly address the problem of ASB in the PRS where landlords are failing to take appropriate action to address tenant behaviour through management of the tenancy. In basic terms, the intention is to continue to improve and set a minimum standard for tenancy management within the PRS.
8. There are approximately 300 private landlords affected by these proposals. A letter and an e-mail was sent to all previous licence holders advising them of the proposals for a new scheme. Through the consultation, we actively encouraged comments and representations on the proposal. Summary analysis of the representations is included within the body of this report as well as being presented graphically in Appendix B.
9. The key points arising from the consultation are that respondents were generally supportive of the need to address ASB but negative about the additional financial burden that licensing places on landlords.
10. Selective licensing is a discretionary tool available to the Council to encourage landlords to act in a manner that meets their responsibilities towards their tenants and the local community. Through the model conditions that are proposed, landlords who act responsibly will have to do no more than is already expected of them. However, it does create an enforceable requirement for them to do so. From the landlords' perspective we recognise that there are the additional burdens of having to obtain and pay for the licence and this does not differentiate between those landlords who are already acting responsibly and those who are not. Whilst targeted enforcement using existing tools can be directed where it is required, the cost and administrative burdens associated with a discretionary licensing scheme apply equally to all those required to obtain a licence.
11. The [Consultative Document and Justification Report](#), where the data available allows, compares and contrasts data relating to relevant matters in the Hexthorpe area from the year before the scheme started and annually throughout its duration. Most notably we are able to demonstrate a significant reduction in the reports of ASB that are associated with residential properties. When comparing year 4 (2018/19) of the designation (the last full year of the scheme at the time that the data was analysed) with the year before the scheme started (2014/15), we can evidence the following reductions:
 - 43% reduction in noise complaints
 - 62% reduction in nuisance type complaints

- 23% reduction in fly-tipping complaints

Although this evidence indicates reports of ASB are reducing, there are still significant concerns regarding ASB in Hexthorpe, particularly surrounding the issue of waste management.

12. The [Consultative Document and Justification Report](#) also examined the findings of an independent review of Selective Licensing commissioned by the Ministry of Housing, Communities & Local Government (MHCLG). The review concludes that Selective Licensing appears effective as part of a wider suite of community-based measures aimed at affecting change. Also, that it can lead to a more proactive approach to housing inspections, facilitate better understanding of local housing markets and encourage collaborative working with other agencies. However, the review also concludes that schemes are considerably less effective if used in isolation.
13. If re-designated, conditions need to reflect the Court of Appeal ruling (*Brown v Hyndburn Council 2018*) that indicates conditions must only regulate “management, use or occupation” of the house concerned. It is considered that conditions should focus on tenancy management as a means to control anti-social behaviour from the private rented sector.

RECOMMENDATIONS

14. To resolve to make a selective licensing designation for the area shown on the map in Appendix A. The designation will be made on 15th November 2021 and will come into force on 1st March 2022; and
 - 14.1. To adopt the model conditions set out in Appendix D to be applied, as appropriate to each individual property, on a case by case basis;
 - 14.2. The scheme to be administered, monitored for compliance and enforced exclusively by the Council;
 - 14.3. The licence fee to be as set out in Appendix E with the part 2 fee (£400) being payable prior to the licence being granted. A discount of £50 will be applied to the part 2 fee for membership of a recognised body, as detailed in Appendix E;

Licences will be issued on a pro-rata basis if a landlord requires a licence after the start date of the scheme. The cost will be reduced annually on a sliding scale to reflect the length of time for which the licence has been granted.

WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER?

15. Re-designation of the area for selective licensing for a further 5 years (maximum permitted by law) would be expected to contribute to:
 - An improvement in the social and economic conditions in the area;

- A reduction in anti-social behaviour;
- An improvement in general housing conditions;
- A reduction in the level of deprivation; and
- A reduction in crime

BACKGROUND

16. The most recent English Housing Survey shows that the private rented sector has doubled in size in just 17 years, with 20% of homes now privately rented. Analysis of recent data shows that the number of private rented properties in Hexthorpe is almost double the national average with closer to 40% of homes being privately rented.
17. Property and housing management standards are highly variable. Licensing is one tool available to local authorities to drive up standards. In Hexthorpe there has been a considerable improvement in housing standards due to the inspection regime adopted throughout the previous scheme. However, this universal approach to inspect every property on an annual basis is unsustainable and now unnecessary due to the improvements already made to housing standards. The proposal is for a risk-based property inspection programme for the new scheme with the most problematic properties being proactively targeted for housing health and safety hazards whilst continuing to proactively monitor all the other properties for compliance with the licence conditions.
18. The Chartered Institute of Environmental Health and Chartered Institute of Housing (CIEH) published a joint report on the effectiveness of Selective Licensing Schemes in January 2019. The report publicity stated:

“Local authorities need to jump many costly hurdles before setting up schemes. Moreover, the powers and mechanisms to tackle housing conditions are somewhat more limited than appears on the surface. Yet despite this, these schemes are much more effective than we imagined and are clearly making a difference in areas that need a focused approach to tackle widespread substandard housing.”
19. Over 40 local authorities are now operating at least one of these schemes.

Why designate Hexthorpe as an area for selective Licensing

20. Hexthorpe was previously designated a selective licensing area for a 5 year period running from 1st July 2015 to 30th June 2020. Prior to the 2015 - 2020 scheme, Hexthorpe was seen to be the worst affected area in the borough of Doncaster in terms of housing standards, property management and ASB. The ward had the highest instance of enforcement action reported in Doncaster with the top four streets being in Hexthorpe and the majority of cases were linked to private rented properties. In some streets all the reported ASB was directly linked to private rented properties.
21. The [Hexthorpe Selective Licensing Review 2015-2020 – January 2020](#) , which considered the effectiveness of the previous scheme, concluded that selective licensing is effective as part of a wider suite of community based measures aimed at affecting change. The proposed selective licensing scheme

combined with other measures such as the Public Space Protection Order (PSPO), the Support Engagement and Education Project, Empty Homes Initiatives, the targeted fly-tipping campaign and the CCTV project will contribute towards the goal of making Hexthorpe a more desirable place where people want to live and thrive. The current PSPO was recently extended to 9th August 2024.

22. Whilst selective licensing inevitably leads to a more proactive approach to housing inspections, facilitates better understanding of local housing and encourages collaborative working with other agencies, a future scheme would endeavour to ensure compliance monitoring is more targeted at those where intelligence suggests landlords are likely to be non-compliant. In common with the independent review of Selective Licensing (MHCLG) 2019, the review of the previous Hexthorpe scheme concluded that licensing schemes are considerably less effective if under resourced or used in isolation.
23. [The 2020 review](#) identified a case for re-designation of the area for selective licensing. There was an overall improvement in the standard of private rented housing as the scheme progressed but re-designation is important to ensure that the positive impact of these changes are sustained long-term and to ensure further improvements are made to the management of tenancies in the PRS.
24. It is generally perceived and visually apparent that the 2015 - 2020 scheme did not have a sufficiently positive impact on tackling waste offences and, in particular, fly-tipping in back alleys. It is clear that environmental issues, such as fly-tipping, littering and poor waste management are huge contributing factors to the ASB in Hexthorpe. If a further designation is made, tackling these issues will be at the forefront of the Council's priorities. Nevertheless, the Council cannot sustain change without the commitment of partnership agencies, landlords and the community.
25. The evidential basis for the proposal to re-designate Hexthorpe as an area for selective licensing is detailed in the [Consultative Document and Justification Report - 2020](#) The cornerstone of this proposal is:

Whilst the Private Rented Sector accounts for just over one third (37%) of the properties in Hexthorpe, almost two thirds (64%) of the reported ASB, associated with domestic properties, is attributable to the PRS.

The Consultation process, outcomes and responses

26. [The Consultative Document and Justification Report](#) formed the basis of a public consultation for the proposal to designate for a further 5 years. It contained the evidence required to justify the rationale that selective licensing is an appropriate response to the continuing problem of ASB within the PRS in Hexthorpe. It highlighted the benefits and disadvantages of adopting a delivery partner approach to Selective Licensing. In addition, the report detailed the licence conditions proposed to address the problems confirmed by evidence, a timeline for implementation of the proposed scheme and a transparent fee structure.
27. At the start of the consultation all parties likely to be affected by the proposal were contacted to advise of the proposal and provided with details of how they could access further information and make representations. [The 2020 review](#) of the previous scheme and [The Consultative Document and](#)

[Justification Report](#) for this proposal were published online and made readily available.

28. The consultation sought views on a number of issues including
 - 1) support/opposition for the designation
 - 2) perception of the problems in the area
 - 3) the likely impact of the designation
 - 4) the impact of the proposal on other areas
 - 5) the impact on of the proposal on local businesses
 - 6) the ability to pay the licence fee in instalments and the frequency of such payments
 - 7) the option for a discounted licence fee for membership of a recognised body
 - 8) support/opposition for the model conditions to achieve identified improvements
 - 9) the proposed area for the designation
 - 10) the delivery partner approach
29. In total 195 representations were received. Graphical analysis of the 181 responses that were received via the online survey can be found in Appendix B and the key findings are summarised below.
30. Of those who responded, 43% were residents living in the area of the proposed designation and 46% were either a landlord or letting agents.
31. 55% of the respondents were either strongly or generally supportive compared with 36% who were either strongly or generally opposed to the proposal. Taking into consideration the views of those who made written representation, the combined figures are 55% supportive with 37% opposed.
32. With regard to the issues affecting the area the notable responses show:
 - 80% consider there to be a problem with ASB (including fly-tipping)
 - 66% consider there to be a problem with deprivation
 - 56% consider there to be a problem with poor quality housing
 - 69% consider there to be a problem with crime
 - 24% consider there to be a problem with landlords being able to let their properties.
33. 56% consider that the proposal will have some form of positive impact on Hexthorpe.
34. 46% consider that it will have some form of positive impact on nearby localities with 33% considering it likely to have no impact.
35. 32% consider it will have a positive impact on local businesses compared with 25% who consider it will have a negative impact.
36. 66%, of those who had an opinion either way, were in favour of the ability to pay Part 2 of the licence fee in instalments as opposed to a one off fee, with over 72% of all respondents preferring a monthly direct debit.
37. 62% of those who expressed a direct opinion were in favour of a discounted licence fee being offered to landlords who are members of a relevant recognised body e.g. landlord association.

38. With regard to the area identified for the designation, 52% either strongly or generally agreed with the area defined in the proposal with 36% either strongly or generally disagreeing. Whilst representations were made to extend the area, ranging from extending into neighbouring localities through to the entire Borough, the justification report, consultation and this report only relates to the Hexthorpe locality. Relevant representations proposed changes to remove certain locations from the proposed area where it is suggested the issues, which justify this proposal, are not prevalent.

39. The consultation asked the following direct question with regard to the delivery partner approach:

Considering that the fundamental justification for the proposed scheme is to address high levels of anti-social behaviour (ASB) in Hexthorpe that are directly associated with the private rented sector, we would like to seek your views on whether we should consider the delivery partner option with this scheme. Would you like the scheme to include an option for the licence holder to be able to choose to be monitored by an external non-regulatory body and to only be referred back to the Council when the licence holder fails to engage with the advisory approach taken by the delivery partner?

28% were supportive of using a delivery partner compared with 39% who were opposed. 55% of those who went on to give reasons for their opinion referred to the scheme needing to be delivered by the Council, referencing the need for it to be enforced and the potential for the delivery partner approach to prolong the resolution of any identified non-compliance.

40. Consultees were given the opportunity to make any further comments on the proposal. The following is a summary of the main and recurring comments:

- Increase the use of CCTV
- Tackle ASB, fly-tipping and poor housing standards using the Council's existing statutory powers and tools with a separate focus on each
- Educate residents on waste management and acceptable standards of behaviour
- Target rogue landlords not the compliant ones
- Did not see improvements with the previous scheme so why renew it
- Increase the Council and Police officer presence on the ground
- More enforcement action is required
- The Council do not have the resources to run the scheme

41. Analysis of the written representations received are summarised as follows:

- Selective licensing can only be seen as a positive for the issues prevalent in Hexthorpe e.g. ASB
- The introduction of CCTV and the PSPO are welcome additions for tackling ASB
- The effectiveness of discretionary licensing schemes for driving up standards in the PRS is disputed
- Licensing schemes fail where they are inadequately resourced to undertake the necessary enforcement activity
- The Council should avoid implementing a discretionary licensing scheme during the coronavirus (Covid-19) pandemic

- Landlords have little influence over their tenants behaviour (e.g. ASB) and ultimately can only end the tenancy, not resolve the issue
 - The Council should embark on an education campaign regarding waste management and recycling and not put sole responsibility on the landlord
 - Rogue landlords will continue to operate under the radar and ignore the requirements
 - A better approach for the Council would be to use intelligence led enforcement to target offenders rather than introduce a scheme that applies to all landlords
 - Hexthorpe is stigmatised by selective licensing.
42. South Yorkshire Police strongly support the proposal and consider it will have a positive impact on Hexthorpe, the nearby areas and businesses. They consider that the implementation of the proposal will offer a number of positive benefits including an improvement in the social and economic conditions in the area, reduced ASB, an improvement in general housing conditions, a reduction in deprivation and a reduction in crime.
43. Home Safe Scheme Limited, who were the delivery partner for the duration of the previous scheme were invited to take part in the consultation. Whilst making no direct comments on the justification for the designation, Home Safe expressed their desire to continue to work with the Council in the delivery of a future scheme. They felt that a policy was needed to give clarity when landlords would be put into breach (and incur charges against their membership). They further added that a clear policy was needed regarding termination of membership and the point when the Council took sole responsibility for compliance monitoring. Reference was made to a new online application service for their members, which could facilitate the Council in issuing a licence, thus improving productivity. Home Safe proposed a policy on ASB and Waste Management with specific requirements for licence holders. Attention was drawn to work being carried out to allow online training that could be used to help landlords understand their responsibilities under selective licensing.
44. The representation from the National Residential Landlords Association (NRLA) neither supports nor opposes the proposal as they need to further understand how the Council will deliver against the proposals. The NRLA do give a very clear message that they are willing to work with the Council to share best practice and, using ASB and waste as examples, develop a dispute resolution service and a strategy for the disposal of household waste. At their request, the NRLA have been directed to the final review of the previous scheme which was included as a downloadable resource as part of the consultation on this proposal. The NRLA also sought further information on the proposed fee structure and how the fees would be spent, the funding that would be available to support the introduction and the net cost to the Council. The NRLA expressed disappointment in a number of matters, in particular:
- The perception that the Council failed to engage with the NRLA
 - The running of the consultation and consideration of this proposal during a global pandemic
 - The Council's failure to consider monthly payments for licence fees

- Overlooking the impact of the proposal on insurance premiums for landlords in Hexthorpe

The NRLA also raised a number of questions and concerns:

- What support would be put in place for a landlord to support a tenancy where a tenant has mental health or drug/alcohol dependency issues
 - Why are property inspections being removed as they were seen to be successful
 - Overcrowding is difficult for the landlord to manage if it is the tenant that has overfilled the property
 - With regard to tenant behaviour e.g. ASB, landlords can realistically only control the tenancy not the tenant
 - What guidance and support will be provided to landlords to comply with the terms of the licence. E.g. overcrowding, ASB caused by the tenant
 - A request for consideration to be given to the Council's policy of not allowing landlords to access household waste recycling centres
 - Will the Council develop a strategy that includes action against tenants who are persistent offenders rather than blanket licensing that affects all professional landlords
45. All the responses, representations and comments received during the consultation have been considered. The actions/proposals arising from the consideration of the representations and comments, where required, are detailed in Appendix C. The most significant change being to the proposed area for the designation. Following consideration of the representations made and further analysis of the justification evidence we have reduced the proposed area for the designation. St Leger Homes predominantly manage the properties in the area removed from the scheme with their own tenancy agreements in place. These properties are not subject to the terms of Selective Licensing and would not require a licence as part of the scheme. In addition, there are other owner occupied properties in this area and those properties that are part of the private rented sector within this area (approx.. 30 in total) haven't had any significant signs of ASB related to the premises during the previous 5 years, since the commencement of the 2015 scheme. We have removed locations where -
- the houses are not licensable i.e. social housing;
 - there is no evidence of ASB associated with the PRS; and
 - they are unlikely to be affected by displacement from the proposed area.

The Effectiveness of the Co-Regulatory/Delivery Partner Approach Adopted in the 2015 - 2020 scheme

46. Under the previous Hexthorpe scheme, all licences were granted by the Council but with the option to apply via an external partner organisation, initially termed 'co-regulator', and to be monitored for compliance by the partner for the duration of the licence. As the partner was a non-regulatory body, the term 'co-regulator' evolved into 'delivery partner'. Landlords choosing this route paid a one-off administration fee to the Council to contribute to the costs associated with determining and granting or refusing the licence. Once the licence had been granted, licence holders paid membership, inspection and breach fees direct to

the delivery partner for the duration of the licence. The delivery partner, whilst able to routinely monitor their members' compliance, were unable to enforce the conditions of the licence. In cases where they were unable to secure compliance through their support/advisory role, membership was ultimately terminated and the licence holder defaulted back to the Council.

47. The delivery partner approach has been very successful in achieving a significant number of property inspections and as a result, Home Safe brought a large number of hazards to the attention of their members. However, there is now less need for routine annual housing health and safety inspections in the proposed scheme as there has been a significant improvement in the overall health and safety standard of the PRS.
48. As the focus moves away from one dominated by physical property inspections, there is the potential for additional administration through the dual approach to compliance monitoring. This is particularly difficult in relation to the legally complex process of varying licences (for which the Council has no opportunity to charge and for which there is a right of appeal).
49. Whilst some aspects of the delivery partner approach had clear advantages to both the regulated and the Council, it presented a number of challenges including the loss of potential income from licence fees. The Council also covered the fixed costs of the scheme such as the consultation and designation requirements. This reduced the ability to meet the costs of running the scheme. With the delivery partner approach, income levels for the Council are difficult to predict whereas a scheme run without a delivery partner can be resourced appropriately, based on the total number of properties that will require licences within the scheme.
50. In the event that a licence holder leaves the delivery partner scheme either by choice or by expulsion, the mechanism for changing the terms of the licence are extremely bureaucratic and open to challenge both in terms of the change and with regard to the recovery of fees. The law allows for an application fee but does not allow for a variation fee and a complex, challengeable process of altering the terms of the licence ensues, including the calculation and recovery of monies considered due for ongoing compliance monitoring.
51. Where the delivery partner approach was successful was in undertaking a significant number of health and safety inspections of their members' properties and, as a result, bringing a significant number of serious hazards to the attention of the licence holders. The ability to task officers to concentrate on such inspections without the distractions that routinely divert Council officers from performing such tasks was a recognised advantage of the delivery partner approach. Should the scheme be re-designated, the Council will continue to dedicate officers who are solely focussed on managing the scheme effectively.

Proposed changes to how proactive housing health and safety inspections are delivered

52. On balance, it is felt that a scheme run solely by the Council would benefit all involved in the scheme. The Council would ensure sufficient resources are provided to effectively run the scheme, enforce conditions and ensure a consistent approach is taken against any breach of licence conditions.
53. It is evident that on introduction of the previous scheme in 2015, the Council

had underestimated the ongoing administration associated with changes of ownership and, in particular, licence holders who switch from being monitored by the delivery partner to the Council. With the Council as the sole operator of the scheme, this issue would be reduced significantly.

54. The intelligence gathered from the operation of the previous scheme will form part of the Council's risk-based approach to target property inspections during the proposed scheme. After 5 years of intense property inspection activity by both the delivery partner and the Council, the need for annual health and safety inspections is unwarranted for the majority of properties and is contrary to the legal principle that all regulatory activities should be targeted only at cases in which action is needed. Any new scheme will ensure that resources are concentrated on confirming the licence holders' property and tenant management arrangements are up to standard with an additional focus on non-compliant landlords.
55. The option of monthly payments was considered in the consultation on the proposed scheme but legal advice has meant this is not recommended. It is not deemed feasible to implement a condition requiring that licence holders maintain their direct debit payments throughout the duration of the licence. Section 90(1) of the Housing Act 2004 limits conditions to those regulating the management, use or occupation of the house concerned. Such a condition would not be in the spirit of the legislation.
56. Following from this, having a system of direct debit payments which cannot be enforced by the conditions of the licence creates a risk of non-payment for which the only resolution would be to take civil action. The resources required to do so are significant. This could create a situation whereby licence holders stop payments and no action is taken against them, which could critically undermine the scheme.
57. Since the start of the previous designation, case law (*Brown v Hyndburn Borough Council*) has confirmed the limited ability for selective licensing to address property conditions through licence conditions. Local authorities can introduce selective licensing to tackle poor property conditions without being able to include a directly enforceable requirement relating to property conditions as a condition of the licence itself. Whilst undertaking targeted health and safety inspections to address poor housing conditions will be integral to the new scheme, the primary aim of the scheme is to address the ASB associated with the PRS. Where the Council have discretion to apply licence conditions these will be used to ensure consistent standards of property and tenancy management with the intention of improving standards and reducing the impact on others in the locality.

OPTIONS CONSIDERED

Option 1 – Do nothing (educate, empower and enforce using existing powers)

58. The Council have considered other options to address the problems associated with the PRS in Hexthorpe before bringing the proposal for a further selective licensing scheme forward.
59. The Council continues to look for effective means of assisting and encouraging improvements in the quality of the PRS through their day-to-day service delivery. Management Orders and enforcement powers are arguably

limited in addressing management standards in the PRS.

60. Significant and persistent ASB associated with the PRS where the landlord fails to take action are the only prescribed circumstances when a Special Management Order can be used and this would limit the options to make an application for such a management order.
61. Where necessary, enforcement of property standards and management orders will continue be considered, not as an alternative to licensing, but as essential supporting tools as part of the Council's programme of measures to improve the area.
62. In addition to the alternative options referred to above, we have also considered the use and effectiveness of a landlord accreditation scheme. Due to such schemes being voluntary with no statutory basis, this alternative would not have the required impact compared with a regulated scheme.

Option 2 – Designate Hexthorpe as a selective licensing area

63. There is a clear and demonstrable case for making a designation for selective licensing in Hexthorpe as evidenced by the [Consultative Document and Justification Report - 2020](#).
64. Enforcement action using the existing tools available and the alternative options referred to above can have a positive impact on housing standards in the PRS with a knock-on effect on other landlords via publicity of the enforcement action taken. However, unlike a selective licensing scheme, it does not ensure there are effective and enforceable management standards in place for all private rented properties from the outset of every tenancy. There would only be intervention when a problem arises through enforcement and the selective licensing scheme should reduce the emergence of problems.
65. This aim for consistency in the area is paramount to ensure that housing standards and tenancy management continue to improve throughout Hexthorpe.

Recommended Option

66. Option 2 is the recommended option with the caveat that it should only take effect at a time when it is safe to do so and therefore a request for commencement 6 months after designation is considered reasonable.

Implementation of the scheme

67. Throughout the coronavirus (COVID-19) pandemic the Government's guidance for local authorities concerning discretionary licensing schemes has consistently been as follows:

Where local authorities are in the process of introducing selective or additional Houses in Multiple Occupation licensing schemes, but these are not yet in force they should:

- Continue to take a pragmatic approach and continue/commence work on licensing having regard to local circumstances.

- Local authorities may need to be prepared to pause the process completely where it is not safe and reasonable to continue or if it will conflict with latest government advice regarding the COVID-19 outbreak

(Guidance for local authorities - Covid-19 (Coronavirus) and the enforcement of standards in rented properties – Ministry of Housing, Communities & Local Government.)

68. Since the previous licensing scheme ended in June 2020, officers from the Enforcement Team have continued to work alongside landlords to improve housing conditions and address ASB from tenants with particular emphasis on tackling the continuing blight of fly-tipping in the area.
69. Use of existing initiatives and the availability of those pre-existing powers (e.g, Special Management Orders for properties where the landlord fails to address persistent ASB) has proven effective and could continue if the proposed selective licensing scheme is not introduced. However, Special Management Orders need an application made to the First tier Tribunal, which may result in an unsuccessful application. Without the scheme, there is no enforceable duty on the landlords to manage their tenancies and if a new scheme is approved, this would ensure additional resources could be provided to effectively enforce the licence conditions.
70. If there is approval for the scheme, it is recommended that the period before the designation comes into force should be longer than the minimum 3 months from the decision as is required by law. This period should be long enough to allow landlords and officers some time to recover from the effects of the Covid-19 pandemic restrictions, to ensure all the resources required to effectively operate the scheme are in place and provide landlords sufficient access to advice and guidance detailing the new requirements. The target is for all landlords to be in a position of knowing exactly how to comply prior to the scheme coming into force and this is likely to require more than 3 months.
71. The recommendation is for the scheme to be administered, monitored for compliance and enforced exclusively by the Council.

REASONS FOR RECOMMENDED OPTION

72. There is clear evidence that certain types of ASB in Hexthorpe are significant and persistent with the majority of it being directly associated with the private rented sector.
73. By designating the area of Hexthorpe, as defined on the map in Appendix A, as an area for selective licensing for a period of 5 years, all private rented properties within the defined area (subject to statutory exemptions) will require a licence.
74. It is considered that making a designation will, when combined with other measures taken in the area by the Council and its partners, lead to a reduction in the identified problem.
75. Through the consultation, we actively encouraged comments and representations on the proposal to designate a defined area of Hexthorpe for

selective licensing. Having considered the representations made, the Council's responses and proposed changes arising from them, are detailed in Appendix C. Taking into account the learning outcomes from the previous scheme the details of the main changes to the way the proposed scheme will be delivered are set out in part B of Appendix C.

76. The making of this designation is consistent with the Council's overall housing strategy. Our refreshed vision is for **homes that enhance the wellbeing of our residents and our place**. We aim to
- Enhance the safety and condition of homes, the main setting for our wellbeing throughout our lives
 - Meet housing need and aspirations, support our local economy and help revitalise town centres and communities
 - Make homes greener and more energy efficient to reduce carbon emissions and keep energy costs affordable
 - Enable and support people to plan, act and invest in their homes, to protect their independence and wellbeing for the future
77. The Doncaster Housing Strategy update 2020-2025 makes particular reference to the achievements of the previous Hexthorpe scheme, in particular the identification of health and safety hazards leading to improved housing conditions as well contributing to the reduction in the number of complaints relating to ASB. It is recognised that selective licensing plays a contributory role to the overall housing strategy and 2020-2025 update makes it clear there is a desire for the Hexthorpe scheme to be renewed.
78. The Council understands that selective licensing alone is not the answer to all the issues prevalent in Hexthorpe. The Council will continue with its co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour —
- a) by combining licensing with other courses of action available, and
 - b) by combining licensing with measures taken by our other partners.
79. The proposed selective licensing scheme combined with other initiatives such as the Public Space Protection Order, the Support Engagement and Education Project, Empty Homes Initiatives and the CCTV project will contribute towards the goal of making Hexthorpe a more desirable place where people want to live and thrive.
80. Enforcement action, using the existing tools available, can have a positive impact on the standard of the property involved with a knock-on effect on other landlords via publicity of the action taken etc. However, unlike these discretionary schemes, it does not ensure there are effective and enforceable management standards in place for all private rented properties from the outset of every tenancy. The selective licensing scheme has a preventative approach.

IMPACT ON THE COUNCIL'S KEY OUTCOMES

81.

| | Outcomes | Implications |
|--|---|--|
| | <p>Doncaster Working: Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> • Better access to good fulfilling work • Doncaster businesses are supported to flourish • Inward Investment | <p>Proactive steps taken to promote the reduction of anti-social behaviour and improved tenancy management leading to safer and healthier conditions in the private rented sector as well as safeguarding community cohesion.</p> <p>This should contribute to making the area attractive to prospective employers looking to locate into new areas.</p> |
| | <p>Doncaster Living: Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> • The town centres are the beating heart of Doncaster • More people can live in a good quality, affordable home • Healthy and Vibrant Communities through Physical Activity and Sport • Everyone takes responsibility for keeping Doncaster Clean • Building on our cultural, artistic and sporting heritage | <p>Proactive steps taken to promote the reduction of anti-social behaviour and improved tenancy management leading to safer and healthier conditions in the private rented sector as well as safeguarding community cohesion.</p> |
| | <p>Doncaster Learning: Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> • Every child has life-changing learning experiences within and beyond school • Many more great teachers work in Doncaster Schools that are good or better • Learning in Doncaster prepares young people for the world of work | <p>Proactive steps taken to promote the reduction of anti-social behaviour and improved tenancy management leading to safer and healthier conditions in the private rented sector as well as safeguarding community cohesion. The above should contribute to the desire and ability to learn.</p> |

| | | |
|--|--|---|
| | <p>Doncaster Caring: Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> • Children have the best start in life • Vulnerable families and individuals have support from someone they trust • Older people can live well and independently in their own homes | <p>Proactive steps taken to promote the reduction of anti-social behaviour and improved tenancy management leading to safer and healthier conditions in the private rented sector as well as safeguarding community cohesion.</p> |
| | <p>Connected Council:</p> <ul style="list-style-type: none"> • A modern, efficient and flexible workforce • Modern, accessible customer interactions • Operating within our resources and delivering value for money • A co-ordinated, whole person, whole life focus on the needs and aspirations of residents • Building community resilience and self-reliance by connecting community assets and strengths • Working with our partners and residents to provide effective leadership and governance | |

RISKS AND ASSUMPTIONS

82. It is assumed that re-designation of the area for Selective Licensing for a further 5 years would be expected to contribute to:

- An improvement in the social and economic conditions in the area;
- A reduction in anti-social behaviour;
- An improvement in general housing conditions;
- A reduction in the level of deprivation; and
- A reduction in crime

83. The obvious risk, therefore, is that if the area is not re-designated the council will lose an effective, additional enforcement tool. The above benefits will not be fully

realised and the improvements that we have seen to date could regress before they can become embedded and self-sustaining.

84. The risks of not designating the area can be mitigated by committing existing resources to tackling the issues using existing tools and initiatives targeted proactively at the identified issues and using intelligence gathered throughout the operation of the previous scheme to target those landlords most likely to be non-compliant. However, on balance, these risks are outweighed by the positive contributions that a selective licensing scheme would be expected to bring to Hexthorpe.

LEGAL IMPLICATIONS [Officer Initials NC Date 24/2/21]

85. The Housing Act 2004 (the Act) provides that a local authority may designate an area for Selective Licensing if it is satisfied that at least one of the conditions set out in the Act are met. The condition the Council would rely upon to designate an area as subject to selective licensing in this instance 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 the premises, or
 - (b) which involves or is likely to involve the use of such premises for illegal purposes.
86. The Act also requires a local authority to ensure that any exercise of this power is consistent with the authority's overall housing strategy as well as considering other courses of action available to them that might provide effective methods of achieving the scheme's objectives and the authority must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour, both—
- (a) as regards combining licensing under this Part with other courses of action available to them, and
 - (b) as regards combining such licensing with measures taken by other persons, before designating an area as subject to selective licensing.
87. The effect of making an area subject to such a designation is to require private sector let properties falling within the designated area to be licensed. The Act sets out matters to be considered in the licensing process and section 87 provides the Council with the power to charge a licence fee. However, this power is limited to requiring the fee to be paid at the time the application is made and therefore there is no ability under the Act to operate a scheme involving payment of the fee by instalments. When fixing licence fees the authority may take into account all costs incurred by it in carrying out its functions under the selective licensing provisions

of the Housing Act 2004. The implication of this is that only gives the Council the power to The licence conditions imposed under the designation must, following case law, be limited to those that are considered appropriate for regulating the management, use or occupation of the house concerned only.

88. 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 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 consultation must take place when the proposal is still at a formative stage, sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response by the consultees, and the product of the consultation must be consciously taken into account by elected members before a final decision is made on the proposals.
89. Should a designation be 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. The designation cannot not take effect for at least 3 months from the date of the notice.
90. In considering the proposals contained within this report, elected members are reminded of their obligations under section 149 Equality Act 2010. This section contains the Public Sector Equality Duty (PSED) which obliges public authorities, when exercising their functions, to have 'due regard' to the need to:
 - a) Eliminate discrimination, harassment and victimisation and other conduct which the Act prohibits;
 - b) advance equality of opportunity between people who share relevant protected characteristics and those who do not; and
 - c) foster good relations between people who share relevant protected characteristics and those who do not.
91. Protected characteristics are age, gender, disability, race, sex, sexual orientation, gender reassignment, religion or belief and pregnancy and maternity. Only the first aim of the PSED set out in paragraph (a) above applies to a further protected characteristic of marriage and civil partnership.
92. Having due regard to advancing equality involves: -
 - Removing or minimising disadvantages suffered by people due to their protected characteristic;
 - taking steps to meet the needs of people from protected groups where they are different to the needs of other people; and
 - encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

93. Elected members must consciously consider and have due regard to the three aims of the general equality duty when dealing with the recommendations contained within this report. It is important that the process set out above is properly followed as a designation may be challenged by way of judicial review within 3 months of the date of the designation, when the general legal principles of reasonableness, procedural propriety and proportionality will be applied. A successful challenge may result in substantial legal costs and also a delay in implementing the scheme.

FINANCIAL IMPLICATIONS [Officer Initials RT Date 02/03/21]

94. Based on the License Fee of £600 and estimated uptake of 600 licences then the scheme would generate £360,000. This would be split over the 5 years of the scheme meaning a drawdown of £72,000 a year.
95. The income drawn down each year is used to cover staffing costs associated with administering and enforcing the scheme.

HUMAN RESOURCES IMPLICATIONS [Officer Initials DK Date 17/02/2021]

96. There are no immediate HR implications to the report. However, if the designation is approved and additional resources are required then further consultation will need to take place with HR.

TECHNOLOGY IMPLICATIONS [Officer Initials PW Date 16/02/21]

97. The author has confirmed that the service currently uses the .Gov online licensing facility. However, this is being withdrawn from March 2022, meaning that an alternative solution needs to be in place by then. It is understood that an online licensing facility is available as part of the Northgate M3/Assure system, but this has not yet been introduced. Further consultation will need to take place with Digital & ICT to clarify the requirements for the implementation of the replacement solution and where applicable, a separate report will be needed for consideration and prioritisation by the Technology Governance Board (TGB).

HEALTH IMPLICATIONS [Officer Initials: RS Date 18/02/2021]

98. Homes should protect and promote good mental and physical health. A healthy house should feel like a home- regardless of type or tenure. A healthy home is safe, warm, suitable, well-maintained, part of a connected, thriving community and provides a health promoting environment. It should provide security of tenure, a sense of safety, privacy and comfort and be a source of pride. Selective licensing programmes can contribute to this and should link with wider partners and initiatives to improve homes and communities, for example, work to improve energy efficiency or to empower residents and communities.
99. Poor housing can lead to poor health and exacerbate existing health conditions. The English Housing Survey has identified a higher prevalence of poor housing in the private rented sector compared to other tenures. Hexthorpe is one of Doncaster's most deprived communities and male and female life expectancy is lower than the Doncaster average. People living in areas of high deprivation are more likely to experience poorer health outcomes than those in more affluent areas of the borough.

100. The management and quality of rented housing can play an important part in the health and wellbeing of tenants and their families and can affect community cohesion and mental wellbeing. Public Health recommends a proactive and preventative approach to working with and influencing housing partners, including private sector landlords, to improve conditions of homes in Doncaster, including selective licensing housing areas.

EQUALITY IMPLICATIONS [Officer Initials PJW Date 18/12/202]

101. The Due Regard Statement for this proposal is attached - Appendix F.

102. These proposals would be applied equally to all 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 Hexthorpe irrespective of their personal, including any protected, characteristics.

103. One potential gap identified in the delivery of these proposals is linked to language barriers during consultation and implementation for those residents and landlords who do not speak English as a first language. This has been considered and guidance in different languages of how to access the information in the consultative document in another language is available in the front of the document. The translations provided were based on information gained on the most common languages existing in the area.

CONSULTATION

104. The law is prescriptive in terms of what form of consultation should take place before making a selective licensing designation. Before make a designation the local housing authority must undertake a minimum of a 10 week consultation and –

- 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.

105. Full details of the consultation and those consulted can be found in section 25 of the [Consultative Document and Justification Report - 2020](#).

106. In particular:

- All residential and commercial addresses within the proposed area were hand delivered a letter briefly introducing the proposals and directing recipients to the bespoke web-pages and online survey. Consistent with previous consultations, the survey sought to gather views on the issues generally and selective licensing particularly with the opportunity for respondents to make comments throughout.
- All local letting/managing agents and persons/bodies that had held a licence during the previous scheme were also contacted and encouraged to take part.
- In order to ensure we consulted as widely as possible a social media

advertising campaign was undertaken. In addition to targeting people located within the proposed area, people living near to Hexthorpe were also targeted.

107. The consultation was open for 10 week period from 1st October 2020 to 10th December 2020

BACKGROUND PAPERS

108.

- [Consultation on the Proposal to Re-designate Hexthorpe as an area for Selective Licensing - Housing Act 2004 – Part 3 Consultative Document and Justification Report - October 2020](#)
- [Hexthorpe Selective Licensing Review 2015- 2020 – January 2020](#)

GLOSSARY OF ACRONYMS AND ABBREVIATIONS

ASB – Anti-Social Behaviour

CIEH - Chartered Institute of Environmental Health

FPN – Fixed Penalty Notice

MHCLG - Ministry of Housing, Communities & Local Government

PRS – Private Rented Sector

PSPO – Public Space Protection Order

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