



EAST STAFFORDSHIRE BOROUGH COUNCIL

REPORT COVER SHEET

Title of Report:	Selective Licensing Scheme Designation	To be marked with an 'X' by Democratic Services after report has been presented
Meeting of:	Corporate Management Team 12 April 2022	X
	Leader and Deputy Leaders 19 April 2022	X
	Leader's / Leader of the Opposition's Advisory Group / Independent Alliance Advisory Group 27 th & 28 th April 2022	X
	Cabinet 9 May 2022	
	Scrutiny Audit and Value for Money Council Services Committee [DATE] / Scrutiny Community Regeneration, Environment and Health and Well Being Committee [DATE]	



Is this an Executive Decision:	YES	Is this a Key Decision:	YES
Is this in the Forward Plan:	YES	Is the Report Confidential: If so, please state relevant paragraph from Schedule 12A LGA 1972:	NO []

Essential Signatories:

ALL REPORTS MUST BE IN THE NAME OF A HEAD OF SERVICE

Monitoring Officer: **John Teasdale**

Date Signature

Chief Finance Officer: **Sal Khan**

Date Signature

EAST STAFFORDSHIRE BOROUGH COUNCIL

Report to Cabinet

Date: 9 May 2022

REPORT TITLE: Selective Licensing Scheme Designation

PORTFOLIO: Regulatory Services

HEAD OF SERVICE: Mark Rizk

CONTACT OFFICER: Rachel Liddle Ext. No. x1838

WARD(S) AFFECTED: Anglesey, Burton, Eton Park, Shobnall

1. Purpose of the Report

- 1.1. To provide feedback following the selective licensing consultations on the proposed extension and expansion of selective licensing and provide recommendations for a selective licensing designation to improve the condition of private rented accommodation within East Staffordshire.

2. Executive Summary

- 2.1. Selective Licensing was designated in September 2017 following Cabinet approval in June 2017. It aims to improve the condition and management of privately rented accommodation in the eastern area of Anglesey.
- 2.2. Since the start of the scheme 359 licences have been granted and 64% of inspections undertaken have identified hazards. 35 properties were found to be unsatisfactory and 227 properties required improvements. 7 Enforcement Notices were served along with 4 Civil Penalties as an alternative to prosecution.
- 2.3. To consider the future expansion of the scheme a consultation was commenced in January 2020 to tackle high concentrations of poor property conditions in specified streets within Anglesey, Burton, Eton Park and Shobnall wards. The consultation concluded on 30 March 2020, however a meeting with Leaders of the Council was requested which was unable to be held due to Covid restrictions. In accordance with government advice, the consultation was put on

hold and landlords were advised that the requested meeting would be held once restrictions had lifted.

- 2.4. The current selective licensing scheme is due to end on 11 September 2022, at which time all granted licences will end. To consider whether the scheme should be extended for a further 5 years, a consultation was launched in January 2022 which concluded on 20 March 2022.
- 2.5. The requested meeting with Landlords and Leaders of the Council was held on 24th March 2022 to discuss these proposals and consider any feedback as part of the consultation response.
- 2.6. The consultation has highlighted opposing opinions on selective licensing. The majority of residents and tenants of the proposed areas largely support selective licensing, whilst the majority of landlords and agents are opposed to it.
- 2.7. The feedback provided useful information detailing the issues that residents and tenants experience including poor property conditions, poor management, ASB and fly tipping.
- 2.8. The majority of concerns raised were in relation to the fee, and concerns that it will be passed on to tenants, possibly increasing homelessness and suggestions that the current enforcement powers are sufficient. To date increases of homelessness and rental process have not been identified within the current scheme.
- 2.9. The concerns in relation to the fee have been considered and this has been revised to introduce a reduced fee for licence renewals and for new build properties.

3. Background

- 3.1. The Selective Licensing Scheme Pilot was approved by Cabinet in June 2017 to improve housing conditions and management of privately rented accommodation in the eastern area of Anglesey. Following a mandatory three month standstill period the designation became active on 12 September 2017 and is effective until 11 September 2022.
- 3.2. Selective licensing was introduced to protect the welfare of tenants, provide confidence in the rented sector, and ensure that standards are met. It is currently the only proactive approach that provides resources to target, monitor and improve housing conditions.
- 3.3. It is more conducive to good landlords but provides an environment that is less opportunistic and attractive for poor and criminal landlords. Since introducing selective licensing we have found that landlords become more likely to comply with standards simply by virtue of knowing that the authority are undertaking proactive work in the area. It also assists landlords in dealing with tenants that choose to cause anti-social behaviour.

- 3.4. A Selective Licensing Policy was adopted setting out how the scheme will be delivered. The policy set out an annual review of the operation of the selective licensing scheme along with a review of the licence fees to measure whether it is having the desired effect and achieving its aims and objectives.
- 3.5. The delivery of the scheme has been monitored on a monthly basis and regularly reported to the Head of Service and Deputy Leader.
- 3.6. Since the start of the scheme we have granted 359 Selective Licenses and undertaken 321 inspections. 64% of inspections have identified hazards, with fire safety, damp and mould, electrical hazards and falls being the most common hazard identified. 35 properties were found to be unsatisfactory and 227 properties required improvements. 7 enforcement notices have been served along with 4 Civil Penalties as an alternative to prosecution.
- 3.7. Since the start of the scheme 10 HMOs have been identified; 2 are licensable HMOs which have now been licensed and 8 are not licensable, but are still required to meet additional standards for HMOs. Due to the shared occupancy status, HMOs are deemed high risk properties, especially in relation to fire. They are required to meet higher standards compared to single occupancy properties, however these are often ignored. Unless we get notified of these properties or are able to find them then we are unable to ensure that the standards are sufficient.
- 3.8. There is evidence of significant growth in the amount of shared supported accommodation, which has resulted in a relatively high number of complaints and an increase in lost Housing Benefit subsidy. A project plan to maximise VFM and improve pathways out of supported housing was approved by Cabinet in June 2021 in response. An objective of this plan is to investigate and enforce where organisations in this sector are not meeting the required standards. The selective licensing scheme is recognised as supporting this objective, with the evidence underpinning the proposed Article 4 direction being used to explore potential ways that selective and additional licencing can be introduced and monitored in the borough, including addressing the impacts of increasing numbers of unregulated supported exempt providers
- 3.9. The scheme also identified issues in relation to a lack of communication between the landlord, tenant and agent and tenants reported that disrepair works that had been reported to landlords previously had been undertaken once the scheme went live. 10 HMOs were identified, 2 of which were licensable, and complaints relating to ASB and overgrown gardens have reduced. There has been no increase in homelessness and the average fee has remained low at £386.
- 3.10. Whilst selective licensing has significantly reduced the number of housing complaints in the designated area the number of complaints about disrepair in properties located in Anglesey, Burton, Eton Park and Shobnall wards have remained high, accounting for over 50% of all complaints within the borough. Specified streets within these wards have highlighted concentrations of housing

disrepair complaints and have been proposed for selective licensing designations, for which consultations were undertaken in 2020 and 2022.

4. Contribution to Corporate Priorities

- 4.1. Environment and Health & Wellbeing: The improvement of housing conditions will contribute to the provision of a strong, healthy and vibrant private sector housing market that offers security, stability and decency to tenants and landlords.

5. Selective Licensing Consultation

- 5.1. On 20 January 2020 a consultation for the expansion of selective licensing was commenced to consider the designation of specific streets where the highest amount of housing complaints are received. This included Shobnall Street, Waterloo Street, Goodman Street, Branston Road and Uxbridge Street.
- 5.2. The selective licensing proposal was detailed on the consultation pages of the Council's website along with a copy of the full consultation document.
- 5.3. The consultation period continued for 10 weeks and ended on 30 March 2020, however at the end of the consultation a meeting was requested by Landlords that wished to speak to Leaders of the Council about the proposal. Due to restrictions imposed by Covid, we were unable to arrange the meeting at that time and advised that a meeting would be held once restrictions had been lifted.
- 5.4. The designation process was put on hold in accordance with guidance issued by the MHCLG on 28 March 2020. This guidance has now been removed and therefore the process of designation can recommence.
- 5.5. On 10 January 2022 a consultation for the extension of the existing scheme in the eastern area of Anglesey was commenced. This proposed area includes Blackpool Street, Branston Road, Broadway Street, King Street and Queen Street for designation based on the high number of housing related complaints received in the last 4 years.
- 5.6. The selective licensing proposal was detailed on the consultation pages of the Council's website along with a copy of the full consultation document.
- 5.7. The consultation period continued for 10 weeks and ended on 20 March 2022.
- 5.8. The meeting that Landlords requested with Leaders of the Council in respect of the expansion of the scheme was held on 24th March 2022 following the removal of Covid restrictions.
- 5.9. A consultation response document is provided in Appendix 1. This includes and aligns responses for the 2020 and 2022 consultations along with feedback from the Landlords Meeting. This will also be published on the Council's website as part of the consultation process.

5.10. A map of the proposed streets for the Selective Licensing designation is shown in figure 1 below:

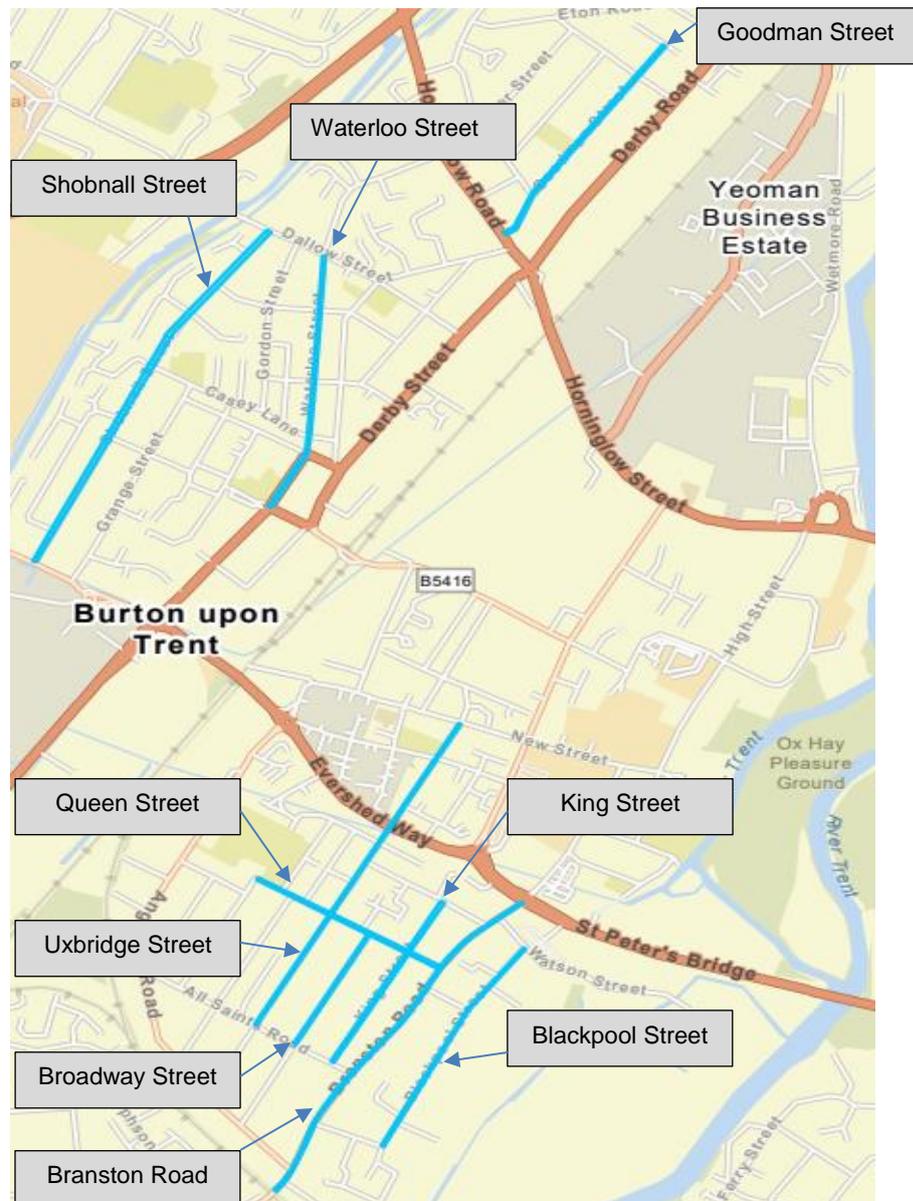


Figure 1- Map of the affected streets

5.11. The designation of the proposed streets will affect approximately 750 privately rented properties.

5.12. The key findings of the consultations are as follows:

5.13. Resident and Tenant Feedback

5.14. A total of 222 residents and tenants responded to the consultations in 2020 and 2022 with a higher proportion of responses from owner occupiers.

5.15. The questionnaire identified a high proportion of residents and tenants that have experienced a problem with private rented accommodation. Most of the

responses highlighted poor property conditions, ASB and nuisance, rubbish and fly tipping.

- 5.16. Tenants highlighted a number of concerns that they have in relation to their current accommodation, with particular emphasis on the poor condition of the property, poor management, inadequate fire safety and lack of adequate kitchen or bathroom facilities.
- 5.17. Overall, the majority of responses agreed or strongly agreed with the proposal for a selective licensing designation, indicating that it would improve standards of management and the overall area. Additional comments were provided supporting the scheme and detailing how the scheme would improve the area. However, concerns were also raised about the fee being passed on to tenants and an increase in empty properties.

5.18. Landlord and Letting Agent Feedback

- 5.19. 94 Landlords and agents responded to the online survey of which only 82 indicated that they owned property within the area.
- 5.20. 19 landlords and agents felt there was an issue with private rented accommodation reporting nuisance and ASB, poor property conditions and rubbish as the main issues identified.
- 5.21. Overall, the majority of responses disagreed or strongly disagreed with the proposal for a selective licensing designation, indicating that it would not improve property conditions. Additional comments were provided highlighting concerns that good landlords would be affected and that existing enforcement powers should be used as an alternative.
- 5.22. As detailed in para. 3.2, selective licensing is the only method to proactively improve housing standards. In the absence of selective licensing, officers respond to complaints from tenants about housing conditions. This is a reactive approach which in practice will tend to exclude more vulnerable tenants, who may fear retaliatory eviction, or simply be unaware of their right to complain about poor housing conditions. As such, these hidden, unrecognised, or unarticulated issues will be unlikely to be identified through a purely reactive approach
- 5.23. On 24th March 2022 a meeting with Landlords was held with Leaders of the Council to gain feedback from the consultations undertaken in January 2020 and January 2022. This has been included in the consultation response document and a record of the questions and answers is included. Feedback received was largely positive in relation to the current selective licensing pilot, however a number of concerns were raised as detailed below:
- New build properties less than 10 years old such as the Pipers Way development on Shobnall Street should be excluded
 - Poor/rogue landlords will sell their properties and move to other areas outside of Selective Licensing.

- If the designation is renewed then landlords will need to renew their licence and pay another fee for a further 5 years period.
- Letting agents are not currently eligible for accreditation discounts
- The scheme should also include Housing Association properties.

5.24. As a result the fees have been amended to include a reduced fee for applications to renew a licence and for letting agents that are a member of an accreditation scheme. Based on a 5 year licence the costs of a licence including the discounts are less than £5 per month. The fee has also been compared against other authorities and is significantly lower in comparison to £840 for Oadby & Wigston Borough Council and £700 in Charnwood Borough Council.

5.25. The Selective Licensing Policy has also been amended to exclude properties aged less than 10 years old from the licensing process, however Housing Association properties are unable to be included as these are listed in legislation as an exempted property. The policy also provides for an annual review of data to determine whether the scheme is having the desired effect, and as such, will review whether large amounts of properties are being sold due to rogue landlords moving out of the area; to date this has not been identified as an issue within the pilot selective licensing area. The policy is available in Appendix 2.

5.26. Key Stakeholder Feedback

5.27. Key stakeholders provided responses to the consultation in 2020, including Staffordshire Police, Staffordshire Fire and Rescue, Housing Options, Anglesey Parish Council, Residential Landlords Association, National Landlords Association, and the Member of Parliament for Burton. Whilst we received a number of queries in relation to the planned delivery and operation of the scheme we did not receive any responses for or against the proposal.

5.28. Assessment of Consultation Responses

5.29. The consultation has highlighted opposing opinions on selective licensing. The majority of residents and tenants of the proposed areas largely support selective licensing, whilst the majority of landlords and agents are opposed to it.

5.30. General comments and feedback from tenants raised concerns about an increase in empty properties and the fee being passed on to tenants. Comments from landlords suggest that existing enforcement powers should be used instead of selective licensing.

5.31. It is clear that views on the scheme will be divisive between residents and landlords, however it is important to recognise that the annual review of the current selective licensing scheme has not identified an increase of empty properties, nor has it resulted in the average rental prices being increased. It should also be noted that whilst current enforcement powers may be used-

these are only of use to react to a housing complaint, and many tenants do not feel able to complain for fear of eviction.

- 5.32. All feedback and comments received as part of the consultation are available as background papers to this report.
- 5.33. Should a decision be made to designate the specified streets for the purposes of selective licensing, the designation would become operative following a 3 month standstill period and last for a maximum period of five years.
- 5.34. If designated, the Council will undertake an annual review of the operation of the selective licensing scheme along with an annual review of the licence fees. The review will monitor the designation to measure whether it is having the desired effect and achieving its aims and objectives. Should the review indicate that the designation has worked and the issues that it intended to resolve have been resolved then the local authority may consider that the designation is no longer needed and may be revised or revoked. Alternatively if a designation is failing to tackle the issues then the designation should be revised or revoked and alternative measures may be considered to address the issues.
- 5.35. We will continue to review the housing conditions within the borough and focus on areas where concentrations increase due to landlords moving out of the current selective licensing areas. Consideration will also be given to the possibility of extending the scheme into other areas of East Staffordshire, for which a further period of consultation will be undertaken.

6. **Financial Considerations**

This section has been approved by the following member of the Financial Management Unit: Anya Murray

- 6.1. The main financial issues arising from this Report are as follows:
- 6.2. The Council proposes to recover the costs of the scheme by charging a Licensing Fee. The Licence Fee has been determined to only cover the costs associated with running the scheme and will be ring fenced for this purpose. The fees will be reviewed annually by the council.

Type of Application	Fee
Application for a new licence for a single property	£466
Application for a licence for a HMO not subject to mandatory licensing	£569
Application for a licence renewal for a single property	£300
Discounts (which may be applied to the above). These discounts are cumulative and more than one may be applied, if relevant.	
Introductory Offer	£100
Accredited Landlord/Agent Discount	£50
Multiple properties	£50

- 6.3. The selective licensing scheme shall recoup the total costs of the scheme adopted over the schemes 5 year duration. It is proposed to use the income to recruit 2 FTE Selective Licensing Officers to deliver the scheme; initially for a maximum of 2 years and on a gradual basis in line with the profile of actual application income being received. This is to help mitigate the potential risk of committing to expenditure in advance of the income being secured.
- 6.4. The costs below have been calculated in accordance with recommended accounting practice and reflect the expected time taken to complete all the identified aspects of the work required for the licensing scheme for the standard licence of £466 profiled over the 5 year duration of the scheme.

Projected Cash Flow Profile with 850 new licences (750 identified and 100 additional anticipated with the updated 2021 census).

	Yr1 £	Yr2 £	Yr3 £	Yr4 £	Yr5 £	Total £
Set up Costs	10,760					10,760
Annual Operating Costs	144,830	114,340	44,590	39,700	41,880	385,340
Total Expenditure	155,590	114,340	44,590	39,700	41,880	396,100
No of licences per year	400	280	70	50	50	850
Fee per licence						466
Total Income	186,400	130,480	32,620	23,300	23,300	396,100
Yearly surplus(+)/deficit(-)	30,810	16,140	-11,970	-16,400	-18,580	0

7. **Risk Assessment and Management**

7.1. The main risks to this Report and the Council achieving its objectives are as follows:

7.2. **Positive** (Opportunities/Benefits):

- 7.2.1. Improved housing conditions and a reduction in overcrowding
- 7.2.2. Improved image and perception of the area making it a more desirable place to live
- 7.2.3. Improved ability and assistance for landlords to deal with rogue tenants
- 7.2.4. Reduction in crime and anti-social behaviour
- 7.2.5. Improved waste management/reduction in overgrown gardens
- 7.2.6. Increased number of compliant landlords
- 7.2.7. Higher standards of management by ensuring landlords and agents are clear about their responsibilities
- 7.2.8. Increased identification and regulation of HMOs and shared accommodation

7.3. **Negative** (Threats):

- 7.3.1. Impact on neighbouring areas due to unprofessional landlords or challenging tenants moving in to surrounding areas
- 7.3.2. Increase in rented properties sold to avoid licence fee

- 7.3.3. Increase in rent due to fee being passed onto the tenant
 - 7.3.4. Higher than planned volume of licensing applications
 - 7.3.5. The fee may be insufficient to cover costs.
 - 7.3.6. Staffing costs may be incurred before income is received or is not received at all thereby becoming a charge to the council.
 - 7.3.7. Lack of compliance from landlords
 - 7.3.8. Insufficient management and monitoring of the scheme if resourcing not applied
 - 7.3.9. Large numbers of appeals are made to the Residential Property Tribunal Service
 - 7.3.10. Legal challenge through judicial review
- 7.4. The risks do not need to be entered in the Risk Register. Any financial implications to mitigate against these risks are considered above.

8. **Legal Considerations**

*This section has been approved by the following member of the Legal Team:
John Teasdale*

- 8.1. The main legal issues arising from this Report are as follows.
- 8.2. Part 3 of the Housing Act 2004 sets out the scheme for licensing private rented properties in a local housing authority area. Under section 80 of the Act a local housing authority can designate the whole or any parts of its area as subject to selective licensing. Where a selective licensing designation is made it applies to privately rented property in the area.
- 8.3. A local housing authority is required to apply to the Secretary of State for Communities and Local Government (Secretary of State) for confirmation of any scheme which would cover more than 20% of their geographical area or that would affect more than 20% of privately rented homes in the local authority area. If a local housing authority makes a designation that covers 20% or less of its geographical area or privately rented properties, the scheme will not need to be submitted to the secretary of state, provided that the authority has consulted for at least 10 weeks on the proposed designation.
- 8.4. The proposed designated area covers 10% of privately rented properties and is significantly below 20% of the geographical area of East Staffordshire. The designations have therefore been available for consultation for at least 10 weeks.
- 8.5. Should the scheme be designated then the selective licensing scheme will come into force three months after the designation has been made.

9. **Equalities and Health**

- 9.1. **Equality impacts:** The subject of this Report is a policy, strategy, function or service that is being revised. An equality and health impact assessment is attached as Appendix 3.

- 9.2. **Health impacts:** The outcome of the health screening question requires a full Health Impact Assessment to be completed.
- 9.3. The main equality or health issues arising from this Report are as follows:
- 9.4. The equality and health impact assessment identified the following actions to be carried out:

Is it a Health or Equality action?	Issue/impact identified	Recommendation/Action required	Lead officer and timescale	Resource allocation
Equality	Social Cohesion	Use of landlords forum to support landlords and assist in educating and supporting legal compliance with the scheme	Rachel Liddle Ongoing- 4 times per year	Landlord forum and associated officers
Health	Improved property conditions/ASB	Awareness raising to all tenants to educate about the scheme and to increase compliance and intelligence	Rachel Liddle Twice a year from Sept 2022	Newsletters

10. **Human Rights**

10.1. There are no Human Rights issues arising from this Report.

11. **Sustainability** (including climate change and change adaptation measures)

11.1. Does the proposal result in an overall positive effect in terms of sustainability (including climate change and change adaptation measures) Yes

11.2. Please detail any positive/negative aspects:

11.2.1. Positive (Opportunities/Benefits

11.2.2. Improved energy efficiency of private rented accommodation

11.2.3. Negative (threats)

11.2.4. None

12. **Recommendation(s)**

12.1. Consider and note the extensive efforts and findings of consultation work undertaken during January – March 2020 and 2022;

12.2. Approve the designation of a selective licensing scheme for the following streets; Blackpool Street, Branston Road, Broadway Street, Goodman Street,

King Street, Queen Street, Shobnall Street, Uxbridge Street and Waterloo Street; and

- 12.3. Approve the revised Selective Licensing Policy and recruitment of 2 FTE Selective Licensing Officers, temporary for 2 years in line with income.

13. **Background Papers**

- 13.1. Selective Licensing Proposal Consultation Document 2020
- 13.2. Selective Licensing Proposal Consultation Document 2022

14. **Appendices**

- 14.1. Appendix 1: Selective Licensing Consultation Response
- 14.2. Appendix 2- Selective Licensing Policy
- 14.3. Appendix 3- Equality and Health Impact Assessment