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Subject: Selective Licensing Update Report

**Report to: Executive Leadership Team – Wednesday 20th January 2021
Housing and Neighbourhoods Committee – Thursday 4th February 2020**

Report by Kate Watts, Strategic Director and Jason Williams, Community Protection Manager

SUMMARY

This report provides an update of the Council's Selective Licensing Scheme to Members of the Housing and Neighbourhoods Committee.

Members of the Housing and Neighbourhoods Committee are therefore asked to note the content of this report and resolve to receive a further update in six months' time.

1. BACKGROUND

- 1.1 On the 13th September 2018 full Council resolved to introduce a Selective Licensing Scheme for the most challenged parts of the Nelson Ward. This scheme commenced on 7th January 2019 and will initially run for five years, until 6th January 2024 (unless extended following another stakeholder consultation and designation).
- 1.2 The Selective Licensing Scheme aims to tackle significant and persistent levels of Anti-Social Behaviour (ASB), crime, poor housing conditions, low housing demand, and high deprivation, related to the private rented housing sector within these areas.
- 1.3 Applications for a licence were received at a moderate rate and the imposition of a late penalty fee to be applied following the first 6 months of the scheme, from the 7th July 2019, provided effective. Inspections of properties commenced at the beginning of September 2019 after a short trial in July 2019.
- 1.4 The scheme is administered in partnership with the Home Safe Scheme, who deliver most of the routine inspections alongside the issuing of licenses.
- 1.5 Routine inspections were interrupted by the national lockdown imposed due to Coronavirus at the end of March 2020, and although resumed for a brief period in September 2020 they are again halted. However, there is still provision to deal with inspections and enforcement issues where there are matters of imminent risk through the Council's Environmental Health

Officers.

2. INTRODUCTION

- 2.1 This report has been written to provide Members with a progress update regarding this scheme.

3. SELECTIVE LICENCE APPLICATIONS

- 3.1 We have had 619 applications covering 1,484 properties since the commencement of the scheme with 1403 properties now licensed. However, there are outstanding matters with the remaining 81 properties such as incomplete applications or fee payments that are currently being worked through.
- 3.2 Out of the 1403 licensed properties, 1,169 have now been inspected, with 4,850 issues being identified which equates, on average, to 4.1 issues per property. These issues do range in risk from minor to imminent risk.

4. INSPECTION OUTCOMES

- 4.1 Out of the 4,850 issues identified during inspection 2,272 were defined as high priority with 78% of properties inspected containing one or more high priority issue. Follow up work has resolved 1,501 of these matters and work is ongoing with the remaining issues. Ultimately if these are not addressed enforcement will be commenced.
- 4.2 In addition to the above, 2,305 medium risk issues have been identified and 273 low risk issues. Again, compliance with these issues is being followed up, with timescales and expected actions set on a risk assessed basis.
- 4.3 Pleasingly 12.4% of properties inspected (145) had no issues identified.
- 4.4 The “top 10” issues identified are:

- 50% Windows in poor working order – decayed – do not have working latches and safety catches or opening restrictors – can’t be opened and latched shut – damaged glazing.
- 36% Damp and mould.
- 28% Not 300mm of work-top to either side of the cooker.
- 22% Insufficient number of working carbon monoxide detectors in appropriate places.
- 20% All ceiling and wall plaster is not in a sound and secure condition, capable of being decorated with no signs of leaks or possible structural damage.
- 18% Gutters not adequate or in working order.
- 15% A handrail either not accessible or securely fitted for the full length of the staircase.
- 14% Less than six electrical socket points in the kitchen – socket points free from damage – minimum of four socket points above the worktops.

- 13% Insufficient number of smoke alarms, that are either hard wired compliant with BS 14604 (or as amended) or fitted with a 10-year lithium battery in a sealed unit. All alarms must be accessible for testing, located correctly and in full working order.
- 12% Interior doors either damaged or not in full working order.
- 4.5 In working with our landlords to address these matters this scheme is helping to significantly improve the standard of living accommodation within the selective licensing area.

5. OUTSTANDING INSPECTIONS

- 5.1 The aim is to recommence and complete this first round of inspections as soon as possible, but in strict compliance with Covid regulations. As such routine inspections are currently on hold during this third period of National lockdown. However, the aim is that once we can, the outstanding properties will be inspected and then the second and third inspections will be delivered during the duration of this scheme as previously timetabled.

6. ADDITIONAL OUTCOMES

- 6.1 During the planning stage of this scheme, a focus was placed on the potential to identify and tackle wider health and social inequalities in the Nelson Ward during the inspection process. It was originally planned to employ community connectors to work alongside the inspectors to assist tenants with issues they may be experiencing.
- 6.2 However, to reduce the costs of licenses, funding for community connectors was omitted from the final Committee report to Council. It was decided instead to use existing Neighbourhoods That Work resources instead, with inspectors to identify issues during inspections, and passing these through to the Neighbourhoods and Communities team or Early Help Hub, after which existing community connectors could be used if applicable. A questionnaire-based approach where tenants could seek assistance from various health and educational partners, was discussed, but it was considered better to provide tenants with a leaflet about typical issues that the Council and its partners could help them with.
- 6.3 Unfortunately, this approach did not result in the level of engagement expected. Work is currently underway with colleagues in the Community Hub/Early Help team in identifying a more productive approach to aid tenants in need. Assistance in this may be accessible through the soon-to-be MHCLG-funded Outreach Workers but also using our current COVID Marshals resource.
- 6.4 Separately to this, we have been working with a Norfolk Councils consortium, led by Broadland District Council, to administer Green Homes Grants for properties in the Nelson and Cobholm Wards along with Park Homes (residential caravan) sites in the Borough. Working from a total pot of £1.24M, landlords and tenants of licensed properties and owner-occupiers in these areas have been approached to apply for grants to improve the energy efficiency of homes with Energy Performance Certificates rated below 'E'. These works include the installation of external wall, cavity wall and loft insulation along with air source heat pumps where possible. Where tenants have a combined annual income of less

than £30k, grants of up to £5K are available with landlords having to contribute at least 1/3 of the cost. Qualifying owner-occupiers are eligible for 100% grants of up to £10k.

7. NEXT STEPS

- 7.1 Whilst the scheme is working well in securing better living standards for tenants, work needs to be undertaken to address matters with regards to the 81 properties we are aware of but have not yet been able to issue licences for. This could result in subsequent enforcement action.
- 7.2 In addition to this there are rented properties within the selective licensing scheme area which have not been registered by their landlords. We currently estimate this to range from 80 – 100 properties. It is imperative that this issue is addressed, and again could result in enforcement action.
- 7.3 Environmental Services has recently established (Dec 20) a small Housing, Licensing and Enforcement team to deal with these properties. It was originally envisaged that enforcement work would commence earlier than this but due to the inability to recruit to an enforcement post, the existing Community Protection Team has been re-organised to accommodate this.
- 7.4 The Environmental Health Officer (EHO) in this team is taking the lead with all enforcement matters, working closely with nplaw to bring cases through to prosecution where we have failed to achieve compliance with landlords. The Housing Officer is undertaking inspections and site visits, including following up any matters of imminent risk and referring compliance issues back to the EHO. This includes the identification of properties not yet engaged with the scheme.
- 7.5 This team is being managed by the Community Protection Manager who is providing support in the development of the enforcement function and dealing with appeals made by landlords against the imposition of late fees. The Community Protection Manager has set a workplan (see Appendix 1) and performance measures (Appendix 2) to assist in the management and progression of the scheme.
- 7.6 As a result of establishing this team to focus on compliance matters within the selective licensing area it is likely that legal matters will commence within the first half of 2021.

8. CONCLUSION

- 8.1 The Selective Licensing Scheme is working well in securing improvements in living conditions for tenants in the Nelson Ward where landlords have applied for and been issued a licence. However, we have a mix of properties part way through the licensing application process and landlords not engaging at all with the scheme that we need to address. While the hope is that compliance can be achieved through the newly implemented Selective Licensing and Enforcement team it is likely that some matters will be progressed via legal action.

9. RECOMMENDATION

- 9.1 Members of the Housing and Neighbourhoods Committee are asked to note the content of this report and resolve to receive a further update in six months' time.

APPENDIX 1 – WORKPLAN

To date, all landlords identified as having outstanding license and/or late application fees have been contacted advising them that if these are not forthcoming, further legal action will be taken.

Contact has been made with the residents of properties within the Selective Licensing area where no contact has been received by landlords during the initial stages of the scheme. Responses have been received from some of these, identifying that they are indeed tenants meaning that these properties require licensing.

In addition to the above, the team is currently working to identify new properties believed to be licensable where a license has not been applied for. As stated previously, we believe there may be up to 100 of these, including unlicensed HMOs.

The above work will form the basis of our evidence for legal proceedings. Further evidence to produce legal cases will be required, at the direction of the Council's solicitors. Discussions are being held on what timescale we can put on the progression of these cases. Once we receive our solicitor's advice, a workplan with full timescales will be brought together.

Current workplan

Action	By
Send correspondence to all landlords with outstanding payments	Completed
Send correspondence to occupants of non-engaging landlords	Completed
Collate all responses and update master spreadsheet	Completed
Identify unlicensed properties potentially requiring a license	February 2021
Consider representations received	February 2021
Produce corrected master spreadsheet with all properties identified/categorised	February 2021
Present initial evidence to solicitors and agree timescales for legal processing	February 2021
Identify initial prosecution cases	March 2021
Triage further cases for prosecution / offer of civil penalty	TBC
Commence civil recovery of late fees	TBC
Commence criminal proceedings	TBC

Enforcement priorities

In respect of enforcement actions, we have 2 options

1. Direct prosecution in the magistrate's court

2. Offering the landlord a civil penalty in lieu of prosecution. This is an opportunity for landlords to accept the offence and pay the Council a set amount to avoid prosecution. If accepted and paid, court action is not required. If rejected, we may prosecute.

Potential enforcement cases can be broken down into 2 distinct sets:

1. Those already engaged with the scheme who have payments outstanding (the 81 identified above)
2. Landlords/agents believed to be either avoiding licensing altogether or are unaware of the scheme and haven't applied (the 80-100 above).

When setting enforcement priorities, it is envisaged that those cases with a greater potential impact will be tackled first and via direct prosecution. This would include those where multiple properties are involved (we have one landlord with 12) in set 1 above and those where licensing has been avoided altogether (potential rogue landlords) – set 2. This would send out a positive message and motivate landlords to accept a civil penalty. The main disadvantage when taking direct prosecution would be the time taken to make a legal case, especially where an appeal to the First-Tier Tribunal is made.

Following the initial round of direct prosecutions, civil penalties will then be considered for cases with a lower impact (e.g. involving single properties). New cases with a greater impact will continue to be dealt with via direct prosecution.

APPENDIX 2 - PERFORMANCE MEASURES

Cases

Number	Cases made	Submitted for legal action

Enforcement

Number of cases	Civil Penalty Offered	CP accepted	Direct Prosecution	Prosecutions Total

Recovery

Licence fees	£
Civil	£
Criminal	£

The above will be reconfigured to allow for performance management when timescales are agreed with nplaw