

**Report of Director of Resources and Housing**

**Report to Executive Board**

**Date: 26<sup>th</sup> June 2019**

**Subject: Business case for proposed Selective Licensing Designation - Harehills**

Are specific electoral wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If yes, name(s) of ward(s): Gipton and Harehills, Burmantoffs and Richmond Hill		
Are there implications for equality and diversity and cohesion and integration?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, access to information procedure rule number:		
Appendix number:		

**Summary of main issues**

1. The Council is committed to reducing inequalities as part of its Strong Economy, Compassionate City agenda with the vision to reduce poverty, providing opportunities for people and to ensure they live in a good home and a safe environment. However not everyone has benefited from the city's success. To address this the Council, with partners, has developed a number of strategies to try and tackle the stubborn inequalities affecting parts of the city such as Harehills. Selective licensing is a tool which the Council wished to consider as part of the overall housing strategy to improve the lives of those who live in the area.
2. Introducing selective licensing provides the means for the Council to support landlords and tenants as it will contribute to improved housing conditions and better management of a growing sector in the area, including helping to address issues around the environment and anti-social behaviour. It will also allow the targeting of the poor landlords who fail to meet the required standards. The scheme will enable the Council to gain access to all private rented properties, not only to ensure the safety of the families and individuals but to offer help and support around issues such as employment, health and poverty.
3. Part 3 of the Housing Act 2004 allows the Council to designate an area for selective licensing based on Government guidance. The Government has laid down six criteria by which a business case can be considered. The criteria considered for the

business case in Harehills is high levels of deprivation as well the level of the private rented sector in the area.

4. All private rented properties would need a licence to operate and that licence would have conditions to ensure they are properly managed. A fee for each licence can be charged to cover the cost of the scheme. The fee is proposed to be £825 per property for the life time of the scheme. This equates to around £3 per week. The fee covers the cost of the scheme and the Council cannot make a profit on the fee income. Any surplus at the end of the scheme would be refunded to the licence holders.
5. The Harehills, area, which consists of around 8200 properties, of which over 4500 are believed to be in the PRS, is in the lowest 10% of most deprived places in England. When compared to 2010, 80% of the area was in the lowest 10%. In 2015 the area has 3 Lower Super Output Areas (LSOA) in the lowest 1% compared to none in 2010. As well as the issues highlighted by the IMD data, the area has also seen a significant increase in the PRS. It has increased nearly from 20% in 2001 to the current estimate of 58%. This compares to a city average for the sector of around 20/22%.
6. The evidence shows that there is a high level of deprivation and a high concentration and density of private rented properties in the area and the most recent stock condition surveys shows that the area contains some of the poorest quality homes in the city, with a poor living environment and high levels of crime and anti-social behaviour. (See Appendix 2 of the business case for the detailed evidence on deprivation)
7. Whilst already using the powers available to the Council to address the quality of the housing, selective licensing will provide additional powers to address the management of properties which are not currently available. The scale of the growing market means that existing powers are not sufficient in isolation to address the issues within this area alone. There is no evidence that the landlords and managing agents will take the initiative to improve the area left themselves, with low levels of participation in the sector's self-regulation scheme, which is active in other parts of the city.
8. As part of any proposed scheme, reasonable steps have to be taken to consult with people who are likely to be affected by the designation and the Council has to consider-representations made.
9. The Council undertook consultation on the proposal between the 1<sup>st</sup> August and the 31<sup>st</sup> October 2018. This involved both city wide and local campaigns involving social media, the Council's website, adverts, drop in events, leaflets to all properties affected and attendance at various meetings. All were invited to have their say on the proposal. The main mechanism for the feedback was via questionnaires for residents and landlords. The questionnaires, which were available electronically on the Council website or in paper format, allowed people to have their say on the proposal of selective licensing; what they considered to be the issues affecting the area in relation to the criteria for high levels of deprivation set by the Government, and whether they were for, against or neutral in terms of the proposal.

10. Overall 1,126 responses were received to the questionnaires; 904 responses from residents/stakeholders and 222 from landlords/managing agents. Written feedback was also received both for and against the proposal.
11. The outcome of the consultation showed that the residents in Harehills were strongly in favour of the introduction of selective licensing as a means to improve the housing, create a better environment in which they live and to help reduce crime and anti-social behaviour. (See Appendices 8 and 9 for the feedback from the residents and stakeholders)
12. The feedback from landlords and managing agents, as with other schemes approved in the country, showed them to be strongly against the proposal for selective licensing in Harehills. The landlords and managing agents raised concerns regarding the cost of the licence fee and the likely increase in rent for tenants. They also argued that the area did not require the intervention and would lead to increases in homelessness and empty homes. (See Appendices 6 and 7 for the responses to the feedback from the landlords and managing agents).
13. The Council has to consider the representations made as part of the consultation. These have been considered as part of the business case and all those who requested feedback have received a copy of the Council's response. The Council has taken all representations into account and these have contributed to the conclusions of the business case and the recommendations of this report. (See Appendix 14 and 15 for the detailed consideration and response to the landlord and residents feedback from the consultation)
14. The £825 fee and potential increase in rent was of concern to both residents and landlords. The fee equates to around £3 per week across the five years for which the licence is granted. 43% of private rented tenants who made representations stated they would be prepared to pay an increased rent - if landlords passed on the cost - to have the benefits of a scheme. However the fee income generated can only be used to administer the scheme and not to support any other Council services. (See Appendix 17 for the Fee Structure)
15. The feedback indicated concerns regarding addressing issues such as the environment and crime. Working in partnership with other agencies, including for example the Police and Leeds Anti-social Behaviour Team (LSBAT) will better allow issues to be identified. Landlords and the community will be supported where appropriate. The scheme will help to bring in more investment and resources to address the issues affecting the area.
16. All landlords regardless of tenure have a responsibility for the behaviour of their tenants. Landlords should ensure that their tenants behave in a tenant like manner. Some tenants will choose not to and may even engage in criminal activity. It is not unreasonable to expect any landlord to work with the Council and other agencies to support them in addressing any unlawful behaviour and not simply turn a blind eye to their responsibility
17. There is always a risk of landlords leaving an area, but the previous scheme in Cross Green/East End Park and schemes in other Council's do not show a significant issue with empty homes or increased homelessness. The Council has robust strategies in place to address any issues should they arise.

18. The overall aim of the scheme is that, when combined with the other supportive actions taken, the condition and standards of the PRS in the Harehills area will improve and there will be a reduction in issues related to deprivation in the area.
19. The business case put forward for Harehills contains the evidence to show that all the criteria in relation to designating an area experiencing a high level of deprivation are met. Those criteria require that the area contains a high proportion of properties that are in the private rented sector and that the area is suffering from a high level of deprivation affecting a significant number of occupiers of the private rented sector; and that making the designation will contribute to a reduction of the level of deprivation in the area and will improve housing conditions, when combined with other measures taken in the area. The Council also needs to have consulted and considered the responses to the consultation. The Council also needs to have considered if there are other alternative measures that could achieve the same as selective licensing, that selective licensing will significantly assist with the intended aims, that a co-ordinated approach will be taken with other services in the area and that using selective licensing is consistent with the authority's overall housing strategy. It is therefore recommended that Executive Board support and make the designation of Harehills as a selective licensing area.

## Recommendations

Executive Board are requested to:

- (i) note the content of this report and the business case for Harehills, as appended.
- (ii) to approve the business case for selective licensing designation in Harehills and
- (iii) to designate the area shown on the business case map at Appendix 1 as a selective licensing area with effect from 6<sup>th</sup> January 2020.
- (iv) Note that the Director of Resources and Housing is responsible for implementing these recommendations

## **1. Purpose of this report**

- 1.1 The purpose of the report is to request the Executive Board to approve the business case for selective licensing in Harehills and to designate the area shown outlined on the map at Appendix 1 of the business case as a selective licensing area with effect from the 6<sup>th</sup> January 2020.

## **2. Background information**

- 2.1 Harehills is strategically important to the Council. As part of the Strong Economy, Compassionate City agenda the aim is to ensure that all citizens of Leeds enjoy the benefits of living in one of the country's most buoyant cities. However, not everyone has benefited from the city's success. To address this the Council, with partners, has developed a number of strategies to try and tackle the stubborn inequalities affecting parts of the city such as Harehills.
- 2.2 In February 2018 the Executive Board approved the development of a potential business case for selective licensing for Harehills which it would consider at a future date. A potential scheme, if approved, could help to improve housing in the area as well as helping to address inequalities by working with others around reducing poverty, improving health and helping with employment and training opportunities, contributing to making a difference to people's lives in the area.
- 2.3 The 2018 report highlighted the legal process, criteria and guidance from Government by which a Council could consider any potential business case. Based on that guidance, the criteria of high levels of deprivation was considered relevant based on Harehills relative deprivation when compared to the city and country as a whole.
- 2.4 When considering selective licensing other courses of action to improve the PRS in the area must also be considered by the Council. Any scheme should significantly assist the Council in achieving its objectives together with the other action the Council is taking and selective licensing should not be used in isolation.
- 2.5 As part of its strategy for the PRS the Council has approved a number of policies. Underlining all of these is the wish to work with the sector whilst targeting resources to address landlords who fail to meet the standards required. The Council and partners have used and continue to use the measures available to them to improve standards in the PRS in the area. These include working with the sector as part of an accreditation scheme (the Leeds Landlords Accreditation Scheme) and more recently a voluntary landlord self-regulation scheme (the Leeds Rental Standard). Whilst these schemes have been highly effective elsewhere in the city, they have had little impact in Harehills with few landlords in the area choosing to join the Leeds Landlords Accreditation Scheme when in existence or the current Leeds Rental Standard. Delivery models such as the Leeds Neighbourhood Approach, which require intensive support funded by the Council, are not appropriate due to the size of the area. The Rogue Landlord Unit, working in partnership with agencies such as the Police, Trading Standards, and HMRC to target criminal landlords, has had some success but despite a number of successful prosecutions of landlords with fines of up to £20k, this is also limited due to the size of the area. The Council receives around 3000 requests for assistance from the public across the city as a whole regarding their private sector rented accommodation per annum. As a result in 2018/19:
  - A total of 3,378 inspections / re-inspections of properties occurred

- A total of 4,366 people benefitted from our interventions
- A total of 1,666 hazards were removed following our interventions
- A total of 1,740 legal notices were served (all notices).

The Harehills area accounts for 2.4% of the city's residential dwellings but over the period of 2015 to 2018 has accounted for 8.5% of the complaints to the Council's Private Sector Housing Service, 8.8% of all inspections undertaken and 13.01% of all hazards identified. Despite this the houses remain poor and as the sector grows the impact of these existing actions will not have a significant impact on improving the area as a whole.

- 2.6 Whilst there has been some notable successes and recognition of the improvements in the sector, the growth of the sector in the city especially in the lower rental markets means that these actions alone have not led to any significant change in terms of improving conditions in Harehills. The introduction of selective licensing will provide a sustainable and proportionate mechanism (and funding) through which it will be possible to inspect all private rented properties in the area as part of the licensing process. It can act as a means to attract further investment and resources to allow a combination of actions to help improve the sector, its management and conditions, contributing to improvements in the area as a whole as well as the safety and well-being of those who make the area their homes.
- 2.7 Introducing selective licensing has a number of potential benefits for the area. By licensing properties, all owners will be identified, allowing better engagement and support for the landlords. This will help to improve partnership working with the sector to improve standards and help address problems with Anti-Social Behaviour (ASB) and crime in their properties. In addition, officers will have the opportunity to cross the threshold of all properties. This will allow tenants to have better engagement and support. By working in partnership it will bring access to other services to help with health, access to services, and financial hardship to meet the tenants' needs. This will make a difference to the individuals as well as the community. Better intelligence will also allow targeted action against those landlords choosing not to comply with minimum legal requirements. This will ensure they provide the required standard of accommodation which benefits their tenants by improving their safety and well-being, but also provides an even playing field in the sector for compliant landlords.
- 2.8 The Chartered Institute of Environmental Health and Chartered Institute of Housing jointly published a report based on analysis of 27 selective licensing schemes in 20 Councils across the country in 2019. Over the lifetime of the schemes they were shown to have delivered significant benefits including improved property and management standards, better opportunities to engage with local landlords and reductions in ASB.

### **3. Main issues**

- 3.1 Leeds has a strong, diverse and growing economy, and is increasingly the main driver of economic growth for the city region. The city has key strengths in financial and business services, manufacturing and health, creative and digital industries. During the recession Leeds fared better than many of its neighbours, with workplace-based employment in the city now estimated to have recovered to pre-recession levels. It is the aim of the Council via its Vision, Strong Economy Compassionate City agenda and strategies, including the Best Council Plan, the

Locality Agenda, and Housing Strategy, to improve homes, the environment and communities in which people live and to help people out of poverty. (See page 5 of the business case for the strategic fit).

- 3.2 As part of the scheme all eligible owners will be required to obtain a licence. The licence will have conditions which a licence holder will be required to comply with as part of the management of the property. These conditions include issues of safety such as electrical, furniture and gas, issues of tenancy management around addressing anti-social behaviour, crime and environmental issues such as waste and require landlords to manage tenancy records and references during the period of the scheme. ( see Appendix 18 for the Licence Conditions)
- 3.3 The cost of the licence is based on the cost of administering the licensing process and the enforcement of the scheme and is set at a level that will prove to be cost neutral to the Council. The licence fee has to be split into 2 parts based on the above. The overall cost of the licence will be £825 per property. This is split into £425 for the administration of the application and £400 for the enforcement. It is proposed to offer a £150 per licence discount to all Leeds Rental Standard members provided they are members of the scheme at the date they make their selective licence application (as is currently offered to landlords who apply for Mandatory HMO Licensing). The £150 discount will apply to the second part of the licence fee as it is based on the assumption that, as members, the time taken to inspect and ensure compliance will be less than a non-member.
- 3.4 When considering the business case relating to high levels of deprivation, the evidence shows that the area under consideration is deprived when compared to other areas in Leeds and the city as a whole. The area consists of around 8200 properties of which over 4500 are believed to be in the PRS. All of the area is in the lowest 10% of the most deprived areas in England based on the most recent 2015 IMD. This compares to 80% of the area in 2010. In 2015 the area had 3 Lower Super Output areas (LSOA) in the lowest 1% in England compared to none in 2010. Over the last couple of decades the area has seen a significant rise in the private rented sector from the Census in 2001 at 20% to a current estimate of 58%. This compares to a city wide average of 20/22%.
- 3.5 As part of the development of the business case, all stakeholders and interested parties have been invited to have their say on the proposal to designate the area of Harehills shown on the map at Appendix 1 of the business case as a selective licensing area, through the consultation process. The Council is required to take reasonable steps to consult with people who are likely to be affected by the proposal and to consider any representations made. The Government's guidance states that any consultation for selective licensing has to be for a minimum of 10 weeks. The consultation for the proposal for Harehills ran for 13 weeks from the 1<sup>st</sup> August to the 31<sup>st</sup> October 2018. It involved both local and citywide activities to maximise the opportunities for people to have their say. The full information on the consultation undertaken is set out at Appendices 3 to 5 of the Business Case.
- 3.6 As part of the local consultation activities, two leaflets were delivered to all properties in the area one in August and a second in October, to inform households about the consultation and ask them to have their say on the proposal. There were three drop in sessions organised in the locality which were publicised locally on social media and via local media outlets as well as attendance at local events. In addition, officers attended local forums and meetings to publicise the consultation and worked with partners to maximise engagement with the community, especially hard to reach groups. A community worker was engaged to directly consult with the

Roma community. Officers also regularly attended the Compton Centre to meet the community, publicise the consultation and help customers to complete paper questionnaires. Information was provided to all managing agents in the area and the local media was involved, with adverts on Fever FM and in South Leeds Life as well as articles run by the Yorkshire Evening Post.

- 3.7 The consultation was also promoted city wide. This involved creating a selective licensing page on the Council's website, which attracted 7952 hits with 1761 downloads of material. In addition, there was also a bespoke social media campaign that was mainly conducted via the Council's Facebook page. The Facebook campaign had a reach of over 125,000 via newsfeeds and created over 2,200 reactions and comments. In addition, adverts were placed on digital boards on York Road in east Leeds and on Meadow Road in the south of the city, and adverts were placed on the rear of 30 buses operated by First Bus Leeds in August and September. Officers also attended city wide landlord forums and meetings such as the Strategic Housing Board involving partners to discuss the proposal and invite feedback.
- 3.8 As a result of the proposal, a Say No to Leeds landlord campaign group was created to oppose the proposal of selective licensing in the area. Consisting of landlords and local agents, the group produced their own literature, website and campaign. They also met with the Chair of Scrutiny Board (Environment, Housing and Communities) to discuss their concerns and issues. They have provided written feedback which forms part of the business case. (See Appendices 10 and Appendix 19)
- 3.9 Whilst individuals and organisations were able to provide written feedback to inform the business case, representations were mainly received via two questionnaires (one version for landlords, letting and managing agents and one for residents and stakeholders). The questionnaires were completed online via the Council's website; via face to face interviews with the community at various Council buildings or copies were left with organisations who requested them.

### **Consultation Outcome**

- 3.10 The main form of feedback received was via the questionnaires which was available both online and as paper copies. One was for the residents and stakeholders and a second for landlords and managing agents. The questionnaires allowed people to have their say on the proposal of selective licensing, what they considered to be the issues affecting the area in relation to the criteria for high levels of deprivation set by the Government and whether they were for, against or neutral in terms of the scheme. (see Appendix 5 of a copy of the questionnaires)
- 3.11 A total of 1,126 questionnaires were completed by residents, stakeholders, landlords and agents. 904 responses were received from residents and stakeholders and 222 from landlords and agents.
- 3.12 The Council is required to consider the representations made and the representations have been included in the business case for consideration together with the Council's responses to them. The Council has taken all representations into account and these have contributed to the conclusions of the business case and the recommendations of this report.
- 3.13 All returns from the questionnaires have been validated and checked for duplication or numerous entries to ensure they are a true reflection of opinions and that no one tried to influence the outcome. The validation showed there is no reason not to have confidence in the outcome.

- 3.14 The outcome of the consultation for residents and stakeholders showed that there was a high majority in favour of the proposal to introduce selective licensing in Harehills. Overall, 84% strongly agreed or agreed with the proposal compared to 11% who strongly disagreed or disagreed with the remainder neither for nor against the proposal. This compares to all Harehills residents living in the area who were 81% in favour compared to 14% against. For private rented tenants living in Harehills who responded to the survey, 78% strongly agreed or agreed with the proposal compared to 17% who strongly disagreed or disagreed.
- 3.15 The main concerns for residents in the area were the level of crime and anti-social behaviour, poor housing conditions and environment. The feedback from the consultation was that selective licensing would help to address these issues and improve the area for all.
- 3.16 The landlords and managing agents were against the proposal for selective licensing in Harehills. 93% of landlords strongly disagreed or disagreed with the proposal compared to only 4% who are in favour of it. Agents are similarly against the proposal, 100% strongly disagreed or disagreed with the proposal.
- 3.17 The main reasons cited by landlord and agents for being opposed to the scheme were that they were already compliant with housing standards, that ASB and crime was not their responsibility and that the Council was just using this as a way of raising money and the cost of the licence fee was way too expensive.
- 3.18 The Council has to consider the response from the consultation. The licence fee and potential increase in rent was of concern to all raised. The £825 fee equates to around £3 per week across the five years to which it applies. 44% of private rented tenants stated they would be prepared to pay an increase in rent to have the benefits of a scheme if landlords passed on the cost.
- 3.19 Consideration has been given to the payment of the fee in instalments. However the concerns with this proposal is that payment of the fee cannot be linked to the revocation of the licence for none payment. This means the landlord could retain their licence without full payment being made, meaning that the Council would carry the financial risk for the scheme should there be any unpaid fees. Full payment of the fee prior to granting of a licence means that failure to pay will result in no licence being issued and a landlord will be operating without a licence and liable to prosecution or civil penalty of up to £30k.
- 3.20 As previously stated there has not been significant landlord interest in being part of the self-regulation scheme, the Leeds Rental Standard, in the area and the most recent stock condition surveys shows that it has some of the poorest quality homes with a poor living environment and high levels of crime and anti-social behaviour.
- 3.21 There is always a risk of landlords leaving an area, but the previous scheme in Cross Green/East End Park and schemes in other Council's do not show a significant issue with empty homes or increased homelessness. However the Council has robust strategies in place to address any issues should they arise.
- 3.22 All landlords regardless of tenure have a responsibility for the behaviour of their tenants. Most landlords undertake reference checks to determine the character of any tenant and have rental agreements which state the conditions and expected behaviour of any tenant renting their property. Landlords should ensure that their tenants behaviour in an appropriate manner. Inevitably however, some tenants will choose not comply with their tenancy conditions and may even engage in criminal activity. It is not unreasonable to expect landlords to work with the Council and other agencies to support them in addressing any unlawful behaviour.

- 3.23 The Council is required to have regard to the representations received and these have been included in the business case for consideration together with the Council's responses to the representations. The Council has taken all the representations into account and these have contributed to the conclusions of the business case and the recommendations of this report. (see Appendices 14 and 15)
- 3.24 It is proposed to monitor the scheme during its life time and provide an annual report up dating progress made. The monitoring will include the number of licences issued, fee income received, number of compliance checks completed, number of compliant properties, number of actions/interventions taken and referrals to other agencies for support and assistance
- 3.25 The aim is to inspect all properties within the life time of the scheme. This is to ensure that they are fully compliant with the conditions of the licence and to ensure that the occupier's needs are met. Properties may be inspected more than once depending on the conditions found, based on compliance, history of the licence holder and intelligence from partners.
- 3.26 The intended outcome of the scheme is that the licensing of properties in the PRS will, when combined with the other supportive actions taken, improve the condition of the PRS in the area as the license conditions relate to the management, use or occupation of the property. Licenses can also only be held by someone who is a fit and proper person to hold a licence which, together with the licence conditions, will ensure properties are managed properly. The proper management of properties will contribute to an improvement in the wellbeing of the occupiers and an improvement in the well-being of the wider community from the better management of ASB by landlords when combined with action from Leeds Anti-Social Behaviour Team. The intended outcomes are to contribute to a reduction in issues related to deprivation in the area and to improve standards in the private rented sector.

## **4. Corporate considerations**

### **4.1 Consultation and engagement**

- 4.1.1 The proposal has been subject to extensive consultation with people likely to be affected by the scheme as set out in paragraphs 3.5 – 3.9 and Appendices 3 to 9 of the business case.
- 4.1.2 The consultation process also requires that the responses received from the consultation have to be considered and feedback provided as to the Council's response. The feedback has been provided to all those who requested it as part of the consultation, as well as published on the Council's website.
- 4.1.3 The Scrutiny Board (Environment, Housing and Communities) had been consulted prior to the 7<sup>th</sup> February 2018 Executive Board report on the general principles of selective licensing and they endorsed the approach of considering such a designation if a business case for selective licensing can be made for the area. The Board has continued to monitor progress following the approval given by Executive Board in 2018.
- 4.1.4 Ward members have been consulted on the proposal and kept informed of progress throughout the consultation.
- 4.1.5 The various landlord associations have been consulted on the proposal and all have provided feedback which has been incorporated into the business case for the area. (See Appendices 10 and 11 of the business case.)

**4.1.6** The Say No to Leeds campaign, which has been organised locally have also been consulted with. Officers have met with representatives and the group had a presence at all of the drop in sessions. They also raised their concerns with local councillors as well as having meetings with the Chair of Scrutiny (Environment, Housing and Communities). The group has provided a written representation to the Council on their thoughts and concerns for the impact of any potential scheme in the area. (see Appendix 19 for the Say No Campaign information and publicity)

## **4.2 Equality and diversity / cohesion and integration**

4.2.1 A full Equality, Diversity, Cohesion and Integration Assessment for the scheme has been completed.

4.2.2 When deciding whether to designate the area for selective licensing the Council has to comply with the public sector equality duty. Section 149 of the Equality Act 2010 sets out the Public Sector Equality Duty. The duty is not a duty to achieve a result, but a duty to have due regard to the need to achieve the goals in Section 149. The Courts have also made it clear that the weight and extent of the duty is highly fact-sensitive and dependant on individual judgment, and that it is for the decision-maker to decide how much weight should be given to the various factors informing their decision.

4.2.3 As part of the consideration of selective licensing in the area a public consultation was undertaken to seek the views of those who would be effected by the introduction of any scheme. The Council has subsequently considered the feedback received as part of the business case as shown in Appendices 14 and 15, the risks of introducing any scheme as per appendix 16 and as part of the Equality Impact considerations.

4.2.4 Whilst there will be impacts which will affect the stakeholders in the area these have been considered as part of the of the process and, whilst not all can be removed as not all are within the gift of the Council to do so, they have been identified and where possible, actions put in place as part of the designation to help mitigate adverse impacts. By visiting all private rented properties residents' landlords and the community in general will be supported and needs addressed. These include:

- Financial impact of potential rent increases. Whilst this is for individual landlords to determine, support via financial advice, access to financial support via the Leeds Credit Union, support and advice into employment and training will all help to mitigate the financial impact of what landlords may choose to do
- Increase in homelessness is a risk due to a potential increased in evictions or proactively finding poor housing conditions. The Council has a duty to deal with homelessness and already has a strategy for supporting those who find themselves in this position. Also, any landlord who illegally evicts tenants will be subject to investigation and potential prosecution.
- The diversity of the area has been considered as part of the consultation to ensure that everyone could have a say by using various communication channels including linking with partners who work directly with communities. This will continue to be undertaken as part of the implementation and during the life time of the scheme to make sure support is given to those communities living in the area.
- Those living in poor housing conditions will be able to have improvements to their homes to ensure they live in a recent well management home. If they require

additional support to live in their homes then there will be financial help to adapt properties and where this is not possible support to move to more appropriate homes.

- Working in partnership with others such as employment and Skills, the Police, and other Council services will allow better, more coordinated, approaches to address individual needs supporting landlords with issues of ASB and crime and the environment but also target resources to those who fail to address such issues improving the area for all the community.
- 4.2.5 As part of the selective licensing process the Council has given due consideration to the issues raised and taken into account the feedback received. As part of the designation of the scheme there will be impacts on all stakeholders which the Council has evaluated these and mitigated wherever possible
- 4.2.6 Members have a personal duty to consider this duty when making this decision and they cannot be considered to automatically know what officers know, or what may have been in the minds of officers in providing their advice. Members must assess the risk and the extent of any adverse impact, and the ways in which such risk may be eliminated before making their decision. The duty must be exercised in substance, with rigour, and with an open mind, and it must not be simply a matter of “ticking boxes”. A general regard to issues of equality is not the same as having specific regard, by way of a conscious approach to the statutory criteria of the legislation. In addition, the duty requires Members to be properly informed before taking a decision, and if the relevant material is not available, there is a duty to acquire it, and this includes consultation with appropriate groups in some circumstances, in the case of selective licensing a statutory consultation exercise has taken place.
- 4.2.7 The duty is not a duty to achieve a result, but a duty to have due regard to the need to achieve the goals in Section 149. The Courts have also made it clear that the weight and extent of the duty is highly fact-sensitive and dependant on individual judgment, and that it is for the decision-maker to decide how much weight should be given to the various factors informing their decision.
- 4.2.8 Legislation - Section 149 of the Equality Act 2010 sets out the Public Sector Equality Duty whereby a public authority must, in the exercise of its functions have due regard to the need to –
- a) Eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Act.
  - b) Advance equality of opportunity between persons who share a relevant protected characteristics and persons who do not share it;
  - c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- With regard to b) above due regard must be given to the need to:
- d) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
  - e) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
  - f) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
  - g) The relevant protected characteristics include age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

### **4.3 Council policies and best council plan**

4.3.1 By targeting an area with some of the poorest housing and most deprived communities, selective licensing will help contribute to many of the Council's key priorities. The initiative seeks to contribute to the compassionate city agenda, improving housing and health, reducing crime and anti-social behaviour. The business case section on the strategic fit of selective licensing to other Councils policies also covers this.

#### Climate Emergency

4.3.2 Selective licensing will help issues affecting the climate:

- Better quality homes and standards will help to reduce energy consumption
- Empty homes in the area will be targeted to reduce the numbers but also to contribute to an overall net reduction in the city preventing the need for new build and reducing the carbon footprint these create compared to renovating the existing stock.
- Education of both tenants and landlords to help reduce waste and improve recycling in the area
- Better engagement with landlords to improve education specifically around the changing energy legislation requirements which affect the sector

### **4.4 Resources and value for money**

4.4.1 Any approved selective licensing scheme charges a licence fee which will cover the cost of the scheme. The fee covers the cost of administering the scheme and the enforcement of licences and conditions. The actual scheme is cost neutral to the Council as the fee income should cover the full cost of the scheme.

4.4.2 Resources required to run the scheme and the resultant licence fee have been based on the assumption that 10% of the sector will require full formal action, 15% more formal intervention and 75% will be compliant. These figures were based on the discussions with the sector and the experience of the Council from the previous schemes in Cross Green/East End Park. If these assumptions prove to be incorrect then it may not be possible to inspect all properties with the resources available. The Council cannot increase the licence fee to cover the need for additional resources. This may mean a revised inspection regime or consideration to extending the scheme beyond its initial 5 years, subject to a further business case. The latter is recognised by Government as an option for the Council due to the potential size of the issues to be addressed.

4.4.3 However, the fee income cannot cover other associated costs, such as complementary activities relating to the enforcement of housing conditions under Part 1 of the Housing Act 2004 or partners' contributions to issues. This has to be borne from existing resources. Any excess income at the end of any scheme has to be returned to the landlords who paid the licence fee.

4.4.4 Additional staff resources will be required to deliver the scheme and the cost is factored into the licence fee. Staff will be required to have, in the main, knowledge and experience of enforcing the Housing Act 2004. This specific experience and skills will require the external recruitment of officers as it is unlikely to be available within the Council in sufficient numbers.

## **4.5 Legal implications, access to information, and call-in**

4.5.1 The report is eligible for call in

4.5.2 Currently there are no designated selective licensing schemes in the city although Beeston is an area also under consideration for selective licensing. The Council has the power to self-designate any scheme provided that the total number of properties subject to any licensing scheme is less than 20% of the total private rented sector in the city and/or less than 20% of the total geographical area. Even if Beeston was also to be approved, the proposed total designation in the city is within the criteria set by Government that allows the Council to self-designate the scheme subject to appropriate business cases being made.

4.5.3 The legal criteria in the Housing Act 2004, the Selective Licensing of Houses (Additional Conditions)(England) Order 2015 SI. 977/2015 and the Statutory Guidance for designating an area for the condition of a high level of deprivation are that:

- the area contains a high proportion of properties that are in the private rented sector;
- that the area is suffering from a high level of deprivation affecting a significant number of occupiers of the private rented sector;
- that making the designation will contribute to a reduction of the level of deprivation in the area and will improve housing conditions when combined with other measures taken in the area;
- that other alternative measures that could achieve the same as selective licensing have been considered;
- that selective licensing will significantly assist with achieving the objectives of the scheme;
- that a co-ordinated approach will be taken with other services in the area such as homelessness, anti-social behaviour and empty properties;
- that using selective licensing is consistent with the authority's overall housing strategy; and
- that reasonable steps have been taken to consult with people who are likely to be affected by the designation and to have considered those representations.

4.5.4 When determining if an area is suffering from a high level of deprivation, the Council may have regard to the following factors in relation to the area: the employment status of adults, the average income of households, the health of households, the availability and ease of access to education, training and other services for households, housing conditions, the physical environment, and levels of crime.

4.5.5 The business case contains the evidence to show that the above legal criteria are met in relation to the proposed selective licensing area.

4.5.6 The decision could be subject to Judicial Review. Any application would have to be made within 3 months of the decision. This may delay the introduction of any scheme subject to the outcome of any legal challenge or, if successful, alter or prevent its introduction. The Government sets out the criteria by which a scheme has to be considered, including the process by which the Council has to consult. As part of the process, legal advice has been sought to ensure that the process and the business case meet the criteria for any such scheme set out by Government.

4.5.7 Prior to any designation becoming live, the Council must allow a minimum three month lead in period. Government guidance lays down the requirements for the

Council to publicise any scheme which must be followed. In addition, it is proposed to undertake additional publicity to try and ensure that all owners affected are aware of their responsibility and the consequences of failing to obtain and comply with a licence.

## **4.6 Risk management**

- 4.6.1 Introducing a selective licensing scheme has both benefits and risks. A risk assessment of the scheme can be seen at Appendix 16 of the business case.
- 4.6.2 The risks can include increased empty homes and risks of eviction, both of which can be addressed if any scheme is designated. The Council already has a robust Empty Homes Strategy which has been in place for a number of years. If there are issues with empty homes in the area then there is help and support for owners via the Empty Homes Doctor, and the Empty Homes Team will continue to proactively target empty homes, using the powers available to the Council including the potential for compulsory purchase. Similarly with the potential for homelessness, the Council has a robust strategy and ways of working to address any potential homelessness. This includes financial support for tenants with bonds/deposits-, support for landlords via the Landlords Letting Scheme, and working with partners to support families and individuals into better accommodation. It can be anticipated that there may be an increase in housing need as we find poor housing conditions which have previously gone unreported (the so called “hidden homeless”). However this means that vulnerable families and individuals will be helped to find better quality accommodation and a robust working process is already in place to ensure this can be supported. Allowing illegal housing conditions to persist to avoid these issues is not accepted as a valid argument.
- 4.6.3 As the fee income provides the funding to administer the scheme there is a risk that if the income is not collected it will become a budget pressure for the Council. The Council has a good record of collecting such income based on its previous experience of selective licensing in Cross Green/East End Park and from three phases of mandatory HMO licensing. The process of issuing a licence means that full payment has to be made to receive a licence. Failure to operate without a licence could lead to prosecution or a civil penalty of up to £30k for each property where a landlord continues to operate without one. Therefore the penalty for operating without a licence will be greater than the cost of obtaining a licence.
- 4.6.4 Additional officers are required to deliver the scheme. This is a risk if sufficient numbers of appropriately skilled staff cannot be recruited. Advertising externally on the appropriate professional sites will help to mitigate the risk. The 6 month lead in time should allow this recruitment to be completed prior to the scheme coming into force in January 2020.
- 4.6.5 As part of the scheme, other services and partners will have to realign their resources to help target assets. This model has proved to be effective in other areas who have used the existing resources differently to make a difference to people’s lives. This will have to be monitored to ensure that adequate resources are available to make the scheme a success.

## **5. Conclusion**

- 5.1 The Council has identified a number of areas in the city for more intensive intervention. Unfortunately, despite the economic growth, poverty and deprivation remain a challenge for the city. Indeed, evidence suggests that the city is

experiencing an intensification of inequalities, particularly centred in the most deprived communities.

- 5.2 Part 3 of the Housing Act 1984 provides the Council with the power, subject to a business case, to designate a selective licensing area. The Government has set out the legislation and guidance by which a Council has to consider the proposals for an area and the criteria for self-designation. The guidance has laid down six criteria under which an area can be designated. One of the criteria is high levels of deprivation which has formed the basis of the business case for Harehills.
- 5.3 The Harehills, area, which consists of around 8200 properties, of which over 4500 are believed to be in the PRS, is in the lowest 10% of most deprived places in England. When compared to 2010, 80% of the area was in the lowest 10%. In 2015 the area has 3 Lower Super Output Areas (LSOA) in the lowest 1% compared to none in 2010. As well as the issues highlighted by the IMD data, the area has also seen a significant increase in the PRS. It has increased nearly from 20% in 2001 to the current estimate of 58%. This compares to a city average for the sector of around 20/22%.
- 5.4 As part of the process, stakeholders are required to be consulted and their responses considered and taken into account. The method and results of the consultation are detailed earlier in the report in paragraphs 3.5 - 3.24. The consultation was full and robust and representations have been taken into account and have contributed to the conclusions in the business case and the recommendations of the report.
- 5.5 The Council has considered the strong evidence of high levels of deprivation in the area, together with the fact that existing strategies have not resulted in an improvement to the issues in the area relating to housing and to the condition of the stock. The Council has also considered the feedback received from the consultation and the views of the Residents and Stakeholders and Landlords and Agents. There have been views both for and against the proposed scheme which have been considered. Landlords are 93% opposed to the scheme and Agents 100% opposed. However this contrast with the residents of Harehills who are 81% in favour of the proposal and the residents of Harehills who are living in the PRS are 78% in favour. Considering results, the views of the residents of the area who are occupying the PRS being in support of the proposals, together with the strong evidence of high levels of deprivation in the area and the evidence that alternative measures have not been widely taken up by the sector when considered as a whole, on balance this indicates that there is a business case for the designation of Harehills as a selective licensing area.

## **6. Recommendations**

- 6.1 Executive Board are requested to:
- 6.2 Note the content of this report and the business case for Harehills as appended.
- 6.3 to approve the business case for selective licensing designation in Harehills and
- 6.4 to designate the area shown on the business case map at Appendix 1 of the business case as a selective licensing area with effect from e 6th January 2020.
- 6.5 Note that the Director of Housing and Resources is responsible for implementing these recommendations

## **7. Background documents<sup>1</sup>**

7.1 None

### **Appendices**

Appendix 1 Equality, Diversity, Cohesion and Integration Assessment for the scheme

Appendix 2 The Business Case for Selective Licensing in Harehills and Appendices

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.