

Selective Licensing

REPORT TO THE EXECUTIVE



DATE	19/01/2022
PORTFOLIO	Housing and Development Control
REPORT AUTHOR	Clare Jackson
TEL NO	01282 477231
EMAIL	cjackson@burnley.gov.uk

PURPOSE

1. To update the Executive on the results of the selective licensing consultation in the following areas:
Burnley Wood with Healey Wood
The Leyland Road Area
2. To consider further selective licensing designation areas in Burnley Wood with Healey Wood and the Leyland Road area for the reasons set out in the Statement of Case (Appendix A), along with the fee structure, budget implications and licence conditions.

RECOMMENDATION

3. That the Executive approves the areas detailed in plans A and B and Street lists A and B as selective licensing areas for a maximum period of 5 years for the reasons detailed in Appendix A, Burnley Borough Council's Statement of Case for Selective Licensing Areas.
4. That the Executive approves the making and submission of an application to the Secretary of State for the confirmation of the Burnley Wood with Healey Wood and Leyland Road selective licensing designation areas.
5. That the Executive approve the Fee Structure and Charging Policy in Appendix B to this report.
6. That the Executive approves the Licensing Conditions detailed in Appendix C to this report.
7. That the Executive recommends to Full Council the approval of the financial implications detailed in this report and creates a budget of £148,090 for 2022/23 which will be recovered through the fee income.

REASONS FOR RECOMMENDATION

8. The Council have satisfied the statutory tests in Section 80 of the Housing Act 2004, in relation to the conditions required to designate an area for selective licensing in that; the proposed designation areas are suffering from low housing demand.
9. Making a designation will when combined with other measures taken in the area by the local authority or by other persons together with the local authority, contribute to the improvement of the social, environmental and economic conditions in the area.
10. Although improvements have been made in the private rented sector there are properties that are of poor condition and poorly managed, contributing to low housing demand. Selective licensing will help to address the problems associated with low demand by compelling those landlords that are not operating to minimum required standards to improve the management practices and the condition of their properties. This will improve the housing offer which in turn will continue to improve demand and sustainability of tenancies within the neighbourhoods.
11. The continued introduction of selective licensing areas in Burnley is key to the Council's strategy to tackle low demand, improve the quality of homes within the borough and create a balanced housing market to support social and economic improvements.
12. Housing plays a fundamental role in delivering sustainable neighbourhoods, facilitating social and environmental improvements and promoting economic growth. The Council believe that selective licensing has an important role to play and offers valuable support to existing initiatives to tackle empty homes, prevent homelessness, create high quality neighbourhoods and reduce anti-social behaviour.
13. An option appraisal detailed in paragraph 7 of appendix A to this report looks at other powers and options that are available to the Council with the reasons why they could not be used as an alternative to the proposed selective licensing designations. They will be used as support tools as part of an integrated programme of measures to improve the social, economic and environmental conditions of the areas.
14. The Council have taken all reasonable steps to consult persons likely to be affected by the proposed designations and have considered all representations made.

SUMMARY OF KEY POINTS

Background

15. Nationally, there are many examples of licensing schemes operating when there is a potential threat to public health, including food sales, taxis or car ownership, yet there is no such national licensing scheme when providing a home for someone. There is however selective licensing of private rented properties which was introduced in The Housing Act 2004. The legislation enables local authorities to designate areas for selective licensing if

that area is eligible based on low demand or other factors. In 2015 further legislation expanded the criteria in which local authorities could introduce a designation area.

16. If an area is designated for selective licensing, all landlords of privately rented properties in that area must apply to the local authority for a licence. To be granted a licence it must be shown by the applicant that they are a “fit and proper” person and that they have satisfactory arrangements in place to effectively manage the property and their tenancies. Failure to apply for a licence is a criminal offence.
17. The Council have been operating selective licensing since October 2008, as part of a wider regeneration strategy for the Borough; the first designation area being in Trinity. Burnley Wood with Healey Wood and Leyland Road areas were designated on the 15th November 2016 and ended on the 15th November 2021.
18. At the same time, the Council designated the Ingham and Lawrence Street selective licensing area which also ended on the 15th November 2021. This area has not been included in further proposals as the analysis shows that the low demand for housing has improved sufficiently across the area.
19. On 14th July 2021 the Executive approved the consultation and evidence gathering for a potential further designation in the Burnley Wood with Healey Wood and Leyland Road area.
20. During the proposed designation process the Council has had regard to the legislative requirements and Government guidance (Selective licensing in the private rented sector 2015). In particular:
 - a) That the two proposed designation areas of Burnley Wood with Healey Wood and Leyland Road show signs of low demand when compared to similar areas and the Borough;
 - b) That further designation areas will continue to help address the problems associated with low demand in the designated area
 - c) That selective licensing forms part of a wider regeneration strategy to reduce the problems associated with low housing demand and poor property conditions.
 - d) Consideration has been given to compliance within the selective licensing areas
 - e) Consideration has been given to other options as a possible alternative to selective licensing;
 - f) Consideration has been given to the representations received during the consultation process.

Low Demand

21. Throughout the first designation areas, Officers have monitored several key indicators of low housing demand. As the designations were coming to an end, these indicators were assessed to determine the effectiveness of the scheme, and whether the areas, or other similar areas, would benefit from a further selective licensing designation.
22. While both Burnley Wood with Healey Wood and Leyland Road have seen improvements over the last 5 years, there are still streets showing levels of low demand. Officers zoned the existing boundaries, allowing officers to look at problems on a more granular level, to ensure that the tools that licensing gives us are appropriate for the particular problems.
23. While on a reducing trend, low demand in the proposed selective licensing areas is most clearly manifested in higher vacancy rates, lower property values and higher numbers of private rented properties. In addition, there are relatively high incidents of environmental

crime and reports of anti-social behaviour, which have a negative impact on demand within the areas, weakening the housing market.

24. The table below is a snapshot of the statistics detailed in appendix A to this report. It summarises the statistical evidence in relation to low housing demand in the proposed selective licensing designation areas. Although not all the designation areas follow ward boundaries, or fall entirely within one ward, the table compares each designation to the ward where the majority of the designation is situated. The table looks at the statistics at the beginning and of the designations.

	Burnley Wood & Healey									
	Rosehill with Burnley Wood	Burnley Wood & Healeywood SL Area		Proposed Area 22- 27		Bank Hall	Leyland Road SL Area		Leyland Road Proposed Area 22- 27	Burnley
		Start	End				Start	End		
No. Properties			1268	914				675	772	
% PRS	19.4 (2011 Census)	33	49	54		29.6 (2011 Census)	43	62	61	23 (2018 ONS)
Property Values	£108,334	£38,941	£47,446	£43,703	£68,737	£39,570	£47,909	£51,008		£114,189 (All) £75,138 (Terrace)
Empty Properties	155	13%	8%	10%	280	13%	9%	8%		1907 (4.6%)
ASB (Resident Complaints to BBC)	41	34	25	26	35	16	10	11		0.9%
Envi Crime	118	205	107	95	101	165	46	49		919
Disrepair Cases	27	48	24	18	64	28	18	18		393

25. As can be seen from the table above the proposed designation areas are exhibiting the accepted factors of low demand and in most areas at a greater concentration than the relative wards:

- a) Both proposed areas have a significantly higher percentage of private rented properties compared to the Borough and the ward that they are situated in.
- b) Both proposed areas have a lower average house price than the Borough and the ward that they are situated in.
- c) Both proposed areas have a higher number of vacant properties compared to the Borough.
- d) Both proposed areas are situated in a ward that is ranked in the top 4 for the highest incidents of anti-social behaviour reported to the Police and the top 3 for the highest number of reports to the Council.
- e) Both proposed areas are situated in a ward that is ranked in the top 3 for the highest incidents of environmental crime reported to the Council.

Selective Licensing as Part of a Wider Regeneration Strategy

26. Selective licensing is one aspect of a wider economic, social, environmental, and housing regeneration strategy that includes multiple initiatives. Through a

combination of these initiatives there is an improving picture (table detailed in paragraph 25) in both designation areas. House prices have risen moderately, empty properties have reduced and anti-social behaviour along with environmental crime is showing a downward trend.

27. Notwithstanding these improvements, the proposed designation areas are still in low housing demand. Not continuing with selective licensing at this stage would present a risk that the improvements seen will not be sustained or built on without new selective licensing designations in place for a further five years.

Results of the Statutory Consultation

28. Before a new designation area can be approved, it is a legal requirement for any authority considering the introduction of selective licensing to undertake a full public consultation for a period of not less than 10 weeks. The Council's consultation process started on the 9th August 2021 and ran until 24th October 2021.

29. The consultation included the hand delivery of questionnaires, online questionnaires, drop-in sessions and representations from key stakeholders such as the landlord associations and the Police.

30. Looking at both areas that have been proposed for selective licensing, 388 responses were received in total, comprising 345 from surveys, 19 emails, 9 phone calls, 1 letter and 14 face to face conversations. The 388 responses represent a relatively high return when compared to the last consultation exercise for selective licensing which took place in 2018 for the four selective licensing areas of Trinity, Gannow, Queensgate and Daneshouse with Stoneyholme. During this consultation exercise 338 responses were received.

31. During the analysis of results it was evident that the Council had received multiple survey responses from recurring IP addresses, which was an error with the Survey Monkey system, the system should not have allowed this to happen. The full results including the duplicate IP address responses are contained in appendix A to this report. The tables below summarise by area the results (excluding the reoccurring IP addresses) of the consultation in relation to the question "Do you agree or disagree with the Council's proposals to introduce selective licensing?"

Designation	Respondent	Num of Responses	Agree num	Agree %	Disagree num	Disagree %
Burnley Wood with Healey Wood	Landlord	106	9	9	97	91
	Managing Agent	7	2	29	5	71
	Local Business	1	1	100	0	0
	Private tenant	10	8	80	2	20
	Housing Association tenant	4	4	100	0	0
	Home Owner	72	47	65	25	35
	Other	2	1	50	1	50
	Total	202	72	36	130	64

Designation	Respondent	Num of Responses	Agree num	Agree %	Disagree num	Disagree %
Leyland Road	Landlord	58	3	6	55	94

	Managing Agent	8	5	63	3	37
	Local Business	2	1	50	1	50
	Private tenant	13	3	24	10	76
	Housing Association tenant	6	6	100	0	0
	Home Owner	29	22	76	7	24
	Other	1	1	100	0	0
	Total	117	41	35	76	65

32. In Burnley Wood with Healey Wood the majority of landlords and managing agents disagree with the Council's proposals whereas homeowners, private tenants and housing association tenants agree with the proposals.

33. In Leyland Road the majority of landlords disagree with the Council's proposals whereas the majority of managing agents that responded did agree with introducing selective licensing. The majority of homeowners and housing association tenants agreed with the Council's proposals yet the majority of private tenants disagreed.

34. During the consultation the Council received a petition from a landlord and managing agent dated the 25th October. This petition contains 439 signatures. The text of the petition reads as follows;

"To Burnley Borough Council, we the undersigned being local residents of Burnley, request the Council to cease their plans to reintroduce selective private housing licensing within the Burnley Wood, Healey Wood and Leyland Road areas which have failed to achieve much up to now and concentrate instead on getting productive jobs into the area which would create demand for local housing. "

35. Part 5.4 of the Council's constitution deals with Petition Schemes. <https://burnley.moderngov.co.uk/documents/s28244/part%205.4%20Councils%20Petition%20Scheme.pdf>

For both completed paper petitions and e-petitions, an acknowledgement will be sent to the petition organiser within 5 working days of receipt. It will let the organiser know what we plan to do with the petition and when they can expect to hear from us again. The Council will endeavour to assist petitioners by providing details of Council policy and procedure, and the reasons behind decisions, so that petitioners are fully informed of the Council's position in creating their petition. If we can do what your petition asks for, the acknowledgement may confirm that we have taken the action requested. The petition will then be closed. If the petition has enough signatures to trigger a Full Council debate or a senior officer giving evidence (for further details please see below), then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take. Other procedures apply if the petition relates to either:

- a planning or licensing application;
- an issue for which there is a petitioning process set out in law (for example requesting a referendum on having an elected mayor);
- a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates; or
- a matter which is part of ongoing legal proceedings. "

36. The number of signatories on the petition fall short of the number required for it to be debated at Full Council (minimum of 1500 signatures) or for an officer being required to give evidence at Scrutiny Committee (minimum of 750 signatures).

Next Steps

37. Should the Council's Executive approve the designation of selective licensing in the proposed areas an application will be submitted to the Secretary of State for confirmation by the end of January 2022. The guidance states that the Secretary of State will aim to decide in relation to an application within 8 weeks. For the purposes of the project plan 3 months have been allocated for this process. If the areas are confirmed within 3 months the proposed designation areas will come into force in July 2022.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

38. It is proposed that in the main the administration of the new designation areas will be self-financing through the fee structure. There is a risk that the Council will not receive or recover all the fee income to cover all of the costs associated with administering the schemes. This has not however been the experience in the current selective licensing areas.

39. A total budget of £148,090 to administer the two proposed designation areas will be required in 22/23; this will then be recovered through the fee income.

POLICY IMPLICATIONS

40. The Council's Strategic Plan has a key priority of making the borough a place of choice and a central commitment to realising this ambition is to improve the management of the private rented sector. Selective licensing will be delivered under this existing policy framework and will contribute towards Aim 2 of the Housing Strategy "To deliver transformational improvement of the private rented sector".

DETAILS OF CONSULTATION

41. Private Rented Sector Forum

BACKGROUND PAPERS

42. None

FURTHER INFORMATION

PLEASE CONTACT: Clare Jackson – 01282 477231

ALSO: Lauren Dickens 01282 425011