

Agenda Item No: 6

Report to: Cabinet

Date of Meeting: 30 March 2015

Report Title: Proposed Selective Licensing Scheme for Private rented Homes in Hastings

Report By: Andrew Palmer
Head of Housing and Development

Purpose of Report

Following the statutory consultation, to consider proposals for designating a Selective Licensing Scheme for private rented homes in seven wards in the Borough, which contain higher than average levels of privately rented dwellings.

Recommendation(s)

- 1. That all privately rented dwellings in Braybrooke, Castle, Central St Leonards, Gensing, Old Hastings, Ore and Tressell wards are designated as subject to selective licensing under section 80(6) of the Housing Act 2004 on the grounds of persistent or significant anti-social behaviour associated from the private rented sector.**
- 2. That officers are instructed to urgently explore the new legislative provisions relating to the implementation conditions required for selective licensing, which is likely to come into force on the 1 April 2015 and to report back to Cabinet about the potential to introduce licensing to other wards and the requirements involved.**
- 3. That the designation comes into force on the 26 October 2015 and lasts for a period of 5 years.**
- 4. That the licensing conditions proposed at Appendix five are agreed.**
- 5. That the proposed fee structure at Appendix three is adopted.**
- 6. That the reduced rates on licence fees offered through the Additional Houses in Multiple Occupation Licensing Scheme are harmonised to match the reduced rates offered via the proposed Selective Licensing.**
- 7. That charitable organisations that own and/or manage housing in the designated area are subject to licensing but exempted from paying a fee.**

Reasons for Recommendations

Hastings has a large and expanding private rented sector (PRS) that is almost double the national average representing 29% of all tenures and comprising nearly 12,000 households. Ten of the Borough's 16 wards have levels of private renting above both the regional and national averages. As a result of a comprehensive consultation exercise and a review of the evidence base for a scheme the Council now proposes that seven wards within the borough should be designated for Selective Licensing.

Our evidence has shown that living conditions and management are often well below standard in the PRS. Also there is evidence to suggest that there is persistent and significant anti-social behaviour (ASB) arising from some households within the PRS, which is affecting other residents and local communities.

The Council intends to implement a Selective Licensing scheme to assist in addressing these problems and improve conditions for tenants and local communities.

Licensing will help create a private rental offer that as a minimum sees property offering basic standards of condition, management and tenancy arrangements. It will require landlords to help tackle ASB from their tenants.

New legal requirements relating to selective licensing are being introduced by Government and are scheduled to come into force on the 1 April 2015. These amend the criteria by which licencing schemes could be introduced beyond that date. Officers will need to investigate the impact the new provisions and consider whether they provide the basis for any extension of licencing beyond that currently proposed in this report. It should be noted that any proposal to extend selective licencing further could not form an extension of the current proposal but would have to be considered on its merits as a quite separate scheme.

Harmonisation of the reduced rates offered through the licensing schemes operated in the Borough will achieve efficiency and consistency across the schemes run by the Council.

Background

1. Discretionary licensing of private rented property is governed by the Housing Act 2004 (the Act), which gave local authorities the power to introduce Additional Licensing for small Houses in Multiple Occupation (HMOs) not covered by the mandatory HMO licensing scheme, and Selective Licensing of other private rented properties, in both cases either across the whole area or in a part or parts of the area. The legislation is supplemented by guidance on introducing discretionary licensing from Communities and Local Government: 'Approval steps for additional and selective licensing designations in England', which was updated in February 2010.
2. Selective licensing requires that all private rented property within a defined area is licensed with the Council. It is the landlord's responsibility to licence the property and keep it well maintained and managed. A landlord will need to be 'fit and proper' to hold a licence. A landlord is not permitted to evict tenants if they haven't licensed the property.
3. A licence will carry conditions pertaining to the standards of accommodation offered, how the property is managed, a landlord will have to put in place proper tenancy arrangements and there will conditions requiring landlords to reasonably deal with ASB. To not be licensed is an offence and to breach the conditions to the licences are offences.

Introduction

4. The private rented sector in Hastings is almost twice the national average. There are seven wards with a PRS higher than the national and regional average where the Council considers there is sufficient evidence of significant and persistent ASB arising from the tenure. Overall these wards contain around 8,900 privately rented dwellings. The Wards are: Braybrooke, Castle, Central St Leonards, Gensing, Old Hastings, Ore and Tressell.
5. Although many landlords operate responsibly, there are many others that let properties that fail to meet acceptable standards in terms of their condition and management. More than 49% of privately rented homes fail to meet the national decent homes standard (compared to the national average of 40.6%). Our evidence suggests that higher levels of ASB are a feature where higher densities of private renting exist within the town.
6. Designating a Selective Licensing scheme will help contribute towards the housing strategy objectives of driving up housing standards, reducing ASB and addressing issues of poor management, whilst at the same time providing tenants with better information about properties they may be planning to rent.
7. Designating a Selective Licensing scheme on the grounds of persistent and significant ASB in the seven wards is consistent with the HBC Housing Strategy and the HBC co-ordinated approach towards homelessness and tackling empty homes. It is also consistent with the co-ordinated approach adopted between partner agencies and HBC to deal with ASB.

8. Licensing will help create a private rental offer that as a minimum ensures that landlords offer basic living standards, management and tenancy arrangements. It will require that landlords, with the assistance of the Council and other partners, help address acts of ASB emanating from their tenanted properties. According to research conducted by Shelter 75% of landlords and 50% of letting agents are unaware of the law that is used to enforce the basic standards of accommodation. Licensing will therefore help improve landlord's knowledge of the requirements of running a rental business.
9. There are existing powers available to a Council relating to aspects of the private rental sector, these include the ability to require improvements in property conditions and in extreme cases even closing down a property. However these powers do not extend to a requirement for property to be managed effectively nor do they ensure that all tenants are issued written tenancy agreements, including clauses that specifically address the control of ASB. Nor do the powers contain means by which the council can effectively ensure that landlords meet the legal requirements. The Council carries out proactive inspections of property as part of bespoke projects, but does not have sufficient resources to effectively cover all areas where private renting and ASB are a feature. All too often tenants find it necessary to complain about their conditions directly to the Council before improvements are made. In many cases tenants are reluctant to do this for fear of retaliatory eviction by landlords. Licensing removes this tension and helps create a less confrontational relationship between tenants and landlords by placing the onus on the landlord to licence their property, to be 'fit and proper' person to manage it and to make sure that it meets minimum legal requirements.
10. However, licensing is not a universal panacea and the Council will need to continue to support the sector in other ways. The Council will continue to operate a confidential hotline for tenants and landlords so that advice and assistance can be given to both parties on renting property in Hastings. Landlord training events will also be continued. The Council will also be required to back the licensing scheme up by taking the appropriate enforcement action where landlords fail to licence or ignore licence conditions. This activity cannot be funded through licence fee income.
11. The proposed selective licensing scheme is broader in scope but complements the existing mandatory and additional licensing schemes covering higher risk HMOs in the town. Larger HMOs where multiple owners and tenancies are granted by different landlords are likely to require licences for individual units within the blocks. However, where a landlord owns a building designated as a HMO and all the flats within it, their existing HMO licence will be sufficient and they will not require further licences for individual flats.
12. The main report (Proposed Selective Licensing Scheme for Hastings & St Leonards) setting out the case for Selective Licensing is set out at Appendix one, which also includes the ASB mapping Annex.

Options Appraisal

13. A comprehensive options appraisal has been carried out, which considered whether there are any other courses of action available that might provide an

effective method of dealing with the problem or problems in question. It considered the following options:

- i. Do nothing.
 - ii. Do the minimum.
 - iii. Informal area action.
 - iv. Targeted use of Interim Management Orders (IMOs) and Final Management Orders (FMOs).
 - v. Area-based voluntary accreditation.
 - vi. Borough wide Selective Licensing Scheme.
 - vii. Area-based Selective Licensing scheme.
 - viii. Borough wide Additional Licensing scheme.
14. The Options Appraisal concluded that a borough wide selective licensing scheme would be the preferable option. This also received popular support in terms of the public consultation exercise. However, we do feel that there is not sufficient evidence in terms of the relationship between the PRS and anti-social behaviour to warrant a scheme in all areas of the town. It is for that reason alone that an area based scheme is being proposed.
15. The methodology applied and the full appraisal is set out in the main report (Proposed Selective Licensing Scheme for Hastings & St Leonards) shown at Appendix one.

Consultation

16. A full public consultation was carried out on the draft proposals between 20 October 2014 to the 5 January 2015 (a period of 11 weeks) in order to obtain the views of key stakeholders, including landlords, letting/managing agents, tenants, residents, businesses and stakeholder/representative organisations.
17. Just over 800 responses were received during the consultation. The results of the online survey showed that a large majority of residents (83%) support HBC's proposal to introduce Selective Licensing.
18. Strong support from resident's contrasts with opposition from many private landlords, managing agents, letting agents and landlords' associations (82% of respondents opposed licensing). Many are critical of licensing in principle as in their view it penalises good landlords unfairly; some question the legality of HBC's proposed licensing fees and proposals. They also question whether HBC's data really shows a causal link between the PRS and ASB.
19. For residents, ASB is a very real issue as indicated by the level of response on this aspect in the online survey. Whilst it is not always possible to attribute it to a particular tenure, it is clear that ASB is a feature of those areas where renting

predominates and it significantly reduces the quality of life for these local communities.

20. As a result of the consultation significant changes to the Council's proposals on Selective Licensing are recommended, which are summarised below:
- a. Reduce the size of the area covered from ten wards to seven so that resources can be focused on the areas with the greatest problems
 - b. Amend the fee structure to better recognise the contribution of responsible landlords. The fee structure is discussed elsewhere in this report.
 - c. Allow phased payments via direct debit for landlords with ten or more properties in the designated area.
 - d. Exempt registered charities that own and manage housing in the designated area from the licence fee (but not from the need to be licensed).
21. The full consultation report is shown at Appendix two.

Proposed Fee Structure

22. The Council will charge a fee to cover its costs associated with running the scheme. Based on the size of the current proposed scheme a standard fee of £460 is required to cover running costs and proposed reduced fees. For initial budgeting purposes it is assumed that licensing will be achieved at 80% of the estimated privately rented dwellings in the wards being considered, which amounts to approximately 7,100 homes. It is anticipated that the bulk of applications will be received in the early years and the income stream is modelled on this basis. The proposed fee structure is attached at Appendix three to this report for approval.
23. Three forms of reduced fee are proposed within the scheme, which recognises the contribution of responsible landlords:
- a. A lower cost for membership of a recognised professional body or national landlord accreditation scheme, reducing the cost of a licence to £330.
 - b. An 'early bird' rate in the first 6 months of the scheme, reducing the cost of a licence to £185.
24. The Council is not seeking to penalise more responsible landlords and if both these rates are applied then the cost of licence for up to five years will reduce to £150. Roughly a one third of the standard fee.
25. The cost of the proposed reduced fees is included within the financial modelling, which seeks to recoup all eligible costs over the life of the scheme.
26. In terms of simplicity and effective administration of licensing it is also being proposed that the existing reduced rates offered through the Additional HMO Licensing Scheme are harmonised to match the reduced fees offered via the proposed Selective Licensing. This will not result in any landlord having to pay more or less where they have already licensed their property.

27. It is proposed that charitable organisations that own and/or manage housing in the designated area are subject to licensing but exempted from paying a fee. It will still be a legal requirement to have a licence to operate.
28. It is further proposed that phased payments using direct debits be introduced for landlords with ten or more properties in the designated area. This will enable landlord to spread their costs over five years and manage their finances effectively.
29. The Council is not permitted to make a profit/surplus from the scheme, and it will need to regularly review the cost of running the scheme and the projected revenue stream from licences. This might mean that the fees charged may need to be adjusted upwards or downwards in future depending upon whether the applications received deviate from the assumed profiles.
30. The financial modelling of the scheme builds in assumptions of the numbers of licences that would attract reduced rates based on experience with other licensing schemes. If the number of applications received for reduced cost fees varies from the assumptions then this will impact the overall costs of the scheme and the licence fees payable. Therefore, should the number of applications received for reduced fee licences begin to move toward the assumed numbers it will trigger a financial review to reassess the financial modelling and if necessary make changes to costs and the cost of a licence.

Scheme Costs

31. Current projections indicate a 0.5 FTE Senior Management post, seven field staff (including a Team Leader) and a core team of four support staff are required to administer the proposed scheme. Up to four additional temporarily employed or contracted part-time staff may be needed in year 1 to help provide flexibility in responding to peaks and troughs in the first year and throughout the life of the scheme. It is expected that the core team of support staff will reduce towards the end of the scheme as applications taper off. A breakdown of the costs, projected income and the projected number of staff required to administer the scheme throughout a five year life is attached at Appendix four to this report. Figures have been checked and verified by a qualified accountant.
32. In light of the feedback from the consultation, a desire to keep costs to an absolute minimum and to ensure that the significant volume of applications that will need to be processed are done so efficiently and effectively, the Council is seeking to automate (as much as practicable) the application and licence generation processes, which will include online payments for the licences.

Licence Conditions

33. In addition to the specific mandatory requirements contained in the Housing Act 2004, additional discretionary licensing conditions can be applied. These will reflect more generic issues around management, maintenance, landlord and tenant practices and ASB. Information on licence conditions for the scheme can be found at Appendix five.

Reviewing Progress

34. Local authorities are required to review discretionary licensing schemes from time to time and revoke the scheme if this is considered to be the most appropriate action. A process of review will be useful to assess whether there are ways of making the scheme more effective and ultimately to determine the success of the scheme in its later stages with a view to informing the exit strategy. The intention is to carry out an initial review at the end of year two with a further review at the end of year four. Progress will be assessed against the following key outcomes:
- i. Reduction in anti-social behaviour
 - ii. Improvements in housing conditions for private tenants
 - iii. Improved management standards
 - iv. Reduction of empty properties

Equality Implications

35. An equalities impact assessment has been carried out to assess the impact of introducing Selective Licensing, which is contained in the main report (see Appendix 8 of the main report).

Legal Implications

36. Section 80 of the Housing Act 2004 places requirements on local authorities considering the introduction of discretionary Selective Licensing and the local authority must:
- a. Consider that the area is experiencing a significant and persistent problem caused by anti-social behaviour; and some or all of the private sector landlords who have let premises in the area (whether under leases or licences) are failing to take action to combat the problem that it would be appropriate for them to take.
 - b. Consider whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of dealing with the problem or problems in question; and that making the designation will significantly assist dealing with them.
 - c. Take reasonable steps to consult persons who are likely to be affected by the designation, for a period of not less than ten weeks, and consider any representations made in accordance with the consultation.
 - d. Ensure that any exercise of the power is consistent with the authority's overall housing strategy.
 - e. Seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector as regards combining licensing with other action taken by the local authority or others.

37. These issues are all addressed in the main report and annexe 1 (Appendix one) and officers believe they have complied with legislative requirements and government guidance in reaching the decision to recommend an area based Selective Licensing scheme.
38. Counsel's opinion has been sought on the robustness of the Council's approach and Counsel has concluded that the Council have a strong and robust case for introducing Selective Licensing.
39. A legal challenge is possible given that there is opposition to the scheme from landlords. Experience elsewhere is that this could result in threatened or actual judicial review if there are any perceived weaknesses in how the legislative requirements for adopting selective licensing are interpreted and implemented. Every effort has been made to ensure that Government advice and guidance in respect of the legislation has been followed on all aspects of preparing the case in order to minimise the risk of a successful challenge.
40. Once a Selective Licensing scheme has been approved there are specific requirements to issue notices to publicise the scheme and ensure landlords are made aware of it. A scheme cannot come into force any earlier than three months after the date on which the designation is finally made by Cabinet.
41. There is a requirement that the Council must from time to time review the operation of any designation made by them and if following a review they consider it appropriate to do so, the Council may revoke the designation.
42. There are a number of statutory exemptions from selective licensing. These are set out at Appendix six.
43. It is likely that a new Order will come into force on the 1 April 2015, which changes the conditions required to be met in order for a Local Authority (LA) to implement selective licensing. This compliments a new requirement that as of the 1 April 2015 secretary of state consent will be required in order to introduce a selective licensing scheme, if a scheme would cover more than 20% of the geographical area of a borough or would affect more than 20% of the privately rented homes in the LA area. This will not affect the implementation of the proposed selective licencing scheme set out in this report as the decision whether to implement the scheme will be taken prior to the new conditions and requirements for secretary of state approval coming into force. However, it is proposed that officers explore further whether the Ministers proposals provide grounds for introducing licensing to other areas of the town in the future.

Financial Implications

44. Financial implications are detailed in the main report and in Appendix 4 to this report. The annual projections will be monitored regularly and the assumptions made reviewed and updated in the light of actual revenue received and the costs of the scheme. Due to the variations in revenue generation and expenditure profiles over the five years an earmarked reserve will be established to ensure sufficient resources are available throughout the lifetime of the scheme. This will ensure efficient financial management of the scheme.

45. At this stage it is not possible to accurately assess and quantify any potential redundancy costs that might arise at the end of the proposed 5 year licence period and these have not been factored into the overall scheme costings. As no contingency is being made at this stage it will be necessary to consider this matter further through the planned scheme reviews. This could impact on the cost of a licence.

Risks

46. Potential risks associated with introducing Selective Licensing are summarised and addressed in the Risk Log contained in the main report (see Appendix 7 of the main report).

Next Steps

47. If a scheme is adopted then there are certain legislative steps that the Council are required to take. Appendix seven sets out these requirements.
48. If the Council adopt a scheme, then the date the designation of the scheme comes into force must be no earlier than three months after the date on which the decision was taken.
49. It is proposed that the designation comes into force on the 26 October 2015. This allows time for staff recruitment and training to take place, for IT systems to be in place to support the administration of the scheme and that guidance and information is available via the Council's website to support the scheme and those seeking information on the scheme.

Conclusion

50. There is a sound evidence base which supports the adoption of a selective licensing scheme. The cost of running the scheme can be met from the estimated fee income generated over five years. Consultation has demonstrated that there is a high level of public support for a scheme, although this is not shared by landlords who generally remain opposed to the scheme. Cabinet is therefore recommended to adopt a selective licensing scheme for private rented property, in Braybrooke, Castle, Central St Leonards, Gensing, Old Hastings, Ore and Tressell wards with an intended implementation date of the 26 October 2015. The scheme would last for a period of 5 years from implementation.

Wards Affected

Braybrooke, Castle, Central St. Leonards, Gensing, Old Hastings, Ore, Tressell

Area(s) Affected

Central Hastings, East Hastings, North St. Leonards, South St. Leonards

Policy Implications

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Yes
Crime and Fear of Crime (Section 17)	Yes
Risk Management	Yes
Environmental Issues	Yes
Economic/Financial Implications	Yes
Human Rights Act	No
Organisational Consequences	Yes
Local People's Views	Yes

Background Information

Additional Documents

Proposed Selective Licensing Scheme for Hastings & St Leonards Report
Annexe 1 – Anti-Social Behaviour Mapping – Incident Reports to the Police & Hastings Borough Council

Appendices

1. Main Report - Proposed Selective Licensing Scheme for Hastings & St Leonards
2. Full Consultation Report and Executive Summary
3. Proposed Selective Licensing Fee Structure
4. Selective Licensing – Resourcing, Costs and Fee Income
5. Licence Conditions
6. Exemptions from Licensing
7. Requirements for the Designation of an Area for Selective Licensing

Officer to Contact

Mark Preston
01424 451443
mpreston@hastings.gov.uk

Andrew Palmer
01424 451313
apalmer@hastings.gov.uk

Appendix one

Proposed Selective Licensing Scheme for Hastings & St Leonards Report and Annex

Appendix two
Full Consultation Report



Appendix three

Proposed Selective Licensing Fee Structure

The fee structure is to be reviewed regularly to ensure accuracy in terms of costs and revenue generation.

- Proposed standard fee - £460 per dwelling licensed.
- Registered Charities operating and managing property in the designated area to be exempt from the licensing fees, but not the requirement to be licensed.
- Phased payments (direct debits) for landlords with 10 or more properties within the designated area.
- Proposed incentives and reduced fees:
 - An 'early bird' rate in the first 6 months of the scheme, reducing the cost of a licence to £185.
 - A lower cost for membership of a recognised professional body or national landlord accreditation scheme, reducing the cost of a licence to £330.
 - If both these criteria apply then the cost of a licence will reduce further to £150 for responsible landlords.

Appendix four

Selective Licensing – Resourcing, Costs & Fee Income

Staff Resources

Staffing Resources					
	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5
Management					
Senior	0.5	0.5	0.5	0.5	0.5
Team Leader	1	1	1	1	1
Total Management	1.5	1.5	1.5	1.5	1.5
Support staff					
Number of Support Officers	4	4	4	3	3
Number of temporary staff	*4	2	0	0	0
Total Support	8	6	4	3	3
	* for 6 mths				
Field Staff					
Number of Field staff	6	6	6	6	6
Total Field	6	6	6	6	6
Total All Staff	15.5	13.5	11.5	10.5	10.5

Scheme Costs

Scheme Costs	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Totals
Salaries	£395,000	£404,875	£414,997	£425,372	£436,006	£2,076,250
Temporary staff	£80,000	£40,000	-	-	-	£120,000
10% on costs and 2% management costs	£47,400	£48,585	£49,800	£51,045	£52,321	£249,150
IT infrastructure and maintenance	£14,000	£14,000	£14,000	£14,000	£14,000	£70,000
Consultation	£6,000	£6,000	£6,000	£6,000	£6,000	£30,000
Publicity/Advertising	£7,000	£7,000	£7,000	£7,000	£7,000	£35,000
Postage	£3,600	£3,600	£3,600	£3,600	£3,600	£18,000
Stationery	£2,000	£2,000	£2,000	£2,000	£2,000	£10,000
Total	£555,000	£526,060	£497,397	£509,017	£520,927	£2,608,400



Projected Fee Income

Total Scheme Costs & Projected Fee Income						
	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Totals
Scheme Costs	£555,000	£526,060	£497,397	£509,017	£520,927	£2,608,400
Projected licences	2,800	1,900	1,200	800	418	7,118
Income from Licences	£729,003	£848,233	£525,363	£340,998	£164,803	£2,608,400
Cost of licence 'Early Bird' Accredited Landlord Combined Discount Full licence fee	£185 £330 £150 £460					

Appendix five

Licence Conditions

Section 1

Mandatory Conditions

Required by virtue of Schedule 4, Housing Act 2004

The following conditions apply only in relation to any part of the HMO over which the licence holder exercises control, or over which it would be reasonable to expect that he would exercise control.

- This condition only applies where gas is supplied to the house:
The licence holder must send the current gas safety certificate to the HMO Licensing Officer, every year on the anniversary of the issue of the licence.
- The licence holder must keep electrical appliances supplied by him in a safe condition. A declaration as to the safe condition of the appliances must be supplied to the Local Authority on demand.
- The licence holder must keep furniture supplied by him in a safe condition. A declaration as to the safe condition of the furniture must be supplied to the Local Authority on demand.
- The licence holder must ensure that smoke alarms are installed in the house. A declaration as to the positioning of such alarms must be supplied to the Local Authority on demand.
- The licence holder must ensure that the smoke alarms are kept in proper working order. A declaration as to the proper working order of such alarms must be supplied to the Local Authority on demand.
- The licence holder must supply to the occupants of the house a written statement of the terms on which they occupy it.
- The licence holder must demand and obtain references from persons who wish to occupy the house.

Section 2

Additional Conditions

Required under Section 90(1) and 90(2) of the Housing Act 2004

Section 90 allows the local authority to include conditions it considers appropriate to regulate the management, use, occupation, condition and contents of the house.

In relation to this licence, the following conditions apply:

Part 1

Notification of changes

- If your address has changed
The [Licence holder] [and/or] [the manager] must inform Hastings Borough Council (“the Council”) if they no longer reside at the address given in their application form. Furthermore, the Licence holder must provide the Council with their new address and contact details within 21 days.
- If there is a change of manager/managing agent
The [Licence holder] [and/or] [the manager] must inform the Council if there is a change in manager/ managing agent, within 21 days, or if a manager/managing agent is appointed who is not named on the existing licence.
- If the managing agent ceases to have an interest in the property
If the licence holder is a managing agent, they must inform the Council if they cease to have an interest in the property, within 21 days.
- If you plan to make changes to the property
The [Licence holder] [and/or] [the manager] must advise the Council in advance of making any changes to the layout, amenity provision, fire precautions or mode of occupation of the house

Part 2

Fit and Proper Person

The licence holder must inform the Council if, since becoming the licence holder, they contravene any of Sections 2.3(a) – (d) below. This must be done within 21 days of such a contravention.

The licence holder must inform the Council if the person named as the manager of the property contravenes any of Sections 2.3(a) – (d) below. This must be done within 21 days of such a contravention.

The following criteria are considered in the assessment of whether the licence holder or manager is a fit and proper person:-

Offences involving:

Fraud

Dishonesty

Violence

Drugs

Sexual Offences Act (Schedule 3)

Unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in connection with a business

Contravention of any provision of housing or landlord and tenant law. In particular:

Cases where proceedings are taken by any Local Authority
Cases where any Local Authority has carried out works in default
Cases where a Management Order under Housing Act 2004 has been made
Cases where an HMO licence has been refused or licence conditions have been breached
Acting in contravention of any Approved Code of Practice (ACoP) concerning housing law.

Part 3

Management and maintenance of the flat or house

- Ensure that electrical installations are inspected and tested

The [Licence holder] [and/or] [the manager] shall ensure that a periodic electrical inspection is undertaken by a competent person, in accordance with BS7671, at intervals of no more than 5 years for each installation for which they are the person having control. This shall include common parts installations, and installations in individual dwellings, where the licence holder is the person having control of the flat(s). The licence holder shall provide a valid certificate of testing within 3 months from the date the licence is issued, and thereafter at intervals of no more than 5 years, or as recommended by the contractor (whichever is the lesser period)

- Provide Portable Appliance Test (PAT) certificates for electrical appliances

The [Licence holder] [and/or] [the manager] shall ensure that all portable electrical appliances provided by him/her for the use of the tenants of any flat of which they are the person(s) having control, are maintained in a safe condition, and that a test of all such equipment is carried out annually by a competent person. The Licence holder and/or the Manager shall, within the period of 3 months from the date the licence is issued, supply to the Local Authority a copy of the most recent PAT test certificate, being not more than 12 months old on the date it is submitted. The Landlord and/or the manager shall thereafter produce a copy of the most recent PAT test certificate for the inspection of the Local Authority annually, within 14 days from the anniversary of the test date.

- Ensure that soft furnishings comply with fire safety regulations

The [Licence holder] [and/or] [the manager] shall, within the period of 3 months from the date the licence is issued, provide to the Local Authority a signed declaration confirming that all soft furnishings supplied by him/her to the tenants of any flat under his/her direct control, complies with the Furniture and Furnishings (Fire) Regulations 1988 (as amended).

- Prevent or reduce anti-social behaviour

The [Licence holder] [and/or] [the manager] shall take reasonable and practicable steps to prevent or reduce anti-social behaviour by persons occupying or visiting the flat/ house, to this end shall:

Report all incidences of anti social behaviour to the appropriate authority

Ensure adequate security arrangements are in place to prevent unauthorised access.

Further information on antisocial behaviour can be found in the enclosed guidance leaflets, provided by Sussex Police, and Hastings Borough Council.

- Enter into a tenancy agreement that includes provisions for dealing with antisocial behaviour

The [Licence holder] [and/or] [the manager] shall enter into an assured shorthold tenancy agreement with each new tenant of the dwelling for which he/ she is the person having control. The tenancy agreement will be based upon the National Landlords' Association model tenancy agreement, and will include provisions relating to forfeiture of the property in the event of a breach of the tenancy agreement terms in the following circumstances:

"That the tenant or someone living in, or visiting the premises has been guilty of conduct which is, or is likely to cause a nuisance or annoyance to neighbours; or, that a person residing or visiting the premises has been convicted of using the premises, or allowing it to be used for immoral or illegal purposes or has committed an arrestable offence in, or in the locality of the licensed premises."

In the event of a breach of the tenancy agreement in the circumstances specified above, the [Licence holder] [and/or] [the manager] shall take immediate steps to secure the forfeiture of the property. Sussex Police will assist landlords by providing supporting evidence regarding Anti-social behaviour to enable landlords to gain possession of relevant accommodation in licensed premises.

Further information on antisocial behaviour can be found in the enclosed guidance leaflets, provided by Sussex Police, and Hastings Borough Council.

[Also enclosed is a specimen NLA tenancy agreement].

- Supply of gas and electricity

The [Licence holder] [and/or] [the manager] shall not unreasonably cause a supply of gas or electricity to any resident in the flat/ house to be interrupted, where such supplies are under his/her control.

- Supply of water

The [Licence holder] [and/or] [the manager] shall not unreasonably cause a supply of water to the flat/ house to be interrupted, where this supply is under their control

- Inform us if there is a fire in the property

The [Licence holder] [and/or] [the manager] must inform the Council by telephone within 72 hours of becoming aware of the occurrence of a fire within the flat/ house.

- Notification to tenants

The [Licence holder] [and/or] [the manager] must supply to each tenant a copy of the licence and the conditions attached to it.

- Dealing with emergencies and matters out of normal working hours

The [Licence holder] [and/or] [the manager] shall give a written declaration that they shall provide to each current and future occupant with the name, address

and telephone number of the landlord's appointed local out of hours contact, who will respond to emergency situations outside normal business hours, and be able to attend or arrange for a contractor to attend the property to deal with any emergencies within 3 hours of notification.

Alternatively : The [Licence holder] [and/or] [the manager] shall, within 28 days from the date the licence is issued, register details of the property to be licensed with 'Peace for a Pound', which is the Sussex Police keyholder scheme. By registering with the scheme you can make sure that the Police have the information they need to resolve a problem at your property as soon as possible. An application form and information leaflet is enclosed with your licence pack, and you can find out more about the scheme by visiting their website at www.peaceforapound.com. The [Licence holder] [and/or] [the manager] shall thereafter provide evidence of membership of the scheme every year on the anniversary of the issue of the licence

- Energy Performance Certificates

The [Licence holder] [and/or] [the manager] shall ensure that the flat/ house has a valid Energy Performance Certificate, (EPC).

Appendix six

Exemptions from Licensing

The Housing Act 2004 and associated secondary legislation sets out a number of statutory exemptions from a selective licensing scheme. The main ones are set out below:

- Owners who reside in property they own as their main residence (owner-occupiers)
- Homes let to tenants of registered social landlords (housing associations)
- Those places specifically excluded from the legislation such as care homes, etc.
- Student accommodation directly managed by educational institutions, e.g. halls of residence [but not those where students have tenancies with private landlords]
- HMOs (houses in multiple occupation). The majority of these already require licensing through the Council's mandatory or discretionary housing licensing schemes
- Homes subject to management orders and exemption notices
- Households that act as host families for foreign students studying for a short periods in Hastings
- Homes with lodgers

Appendix seven

Requirements for the Designation of an Area for Selective Licensing

Section 83 of the Housing Act 2004, requires the Council to publish the designation. Once published the designation must remain available to the public. The designation must set out:

- (a) that the designation has been made,
- (b) whether or not the designation was required to be confirmed and either that it has been confirmed or that a general approval under section 82 applied to it (giving details of the approval in question),
- (c) the date on which the designation is to come into force, and
- (d) any other information which may be prescribed.

In addition to the requirements of the Act, the notice must also contain the following information:

- A brief description of the designated area;
- The name, address, telephone number and email address of- (i) the local housing authority which made the designation;
- The premises where the designation may be inspected; and
- The premises where applications for licences and general advice may be obtained;
- A statement advising any landlord, person managing or tenant within the designated area to seek advice from the local housing authority on whether their property is affected by the designation; and a warning of the consequences of failing to licence a property which is required to be licensed, including the criminal sanctions.

The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 places further requirements on this:

Within 7 days after the date on which the designation was confirmed:

- Place the notice on a public notice board at one or more municipal buildings within the designated area,
- Publish the notice on the HBC web site; and
- Arrange for its publication in at least two local newspapers. must be published five more times in the same two newspapers at intervals of no less than two weeks and no more than three

Within 2 weeks after the designation was confirmed, must send a copy of the notice to:

- Any person who responded to the consultation conducted by it under section 80(9) of the Act (this will be by letter and email)
- Any organisation which, to the reasonable knowledge of the local housing authority represents the interests of landlords or tenants; or

- Represents managing agents, estate agents or letting agents, and
- Every organisation within the area which the LA knows or believes provides advice on landlord and tenant matters, including; law centres; citizens' advice bureaux; housing advice centres; and homeless persons' units.