

SUSTAINABLE COMMUNITIES SCRUTINY COMMITTEE 16 NOVEMBER 2010

HOUSING AND NEIGHBOURHOOD RENEWAL ENFORCEMENT POLICY AND UPDATE FOR SELECTIVE LICENSING SCHEME, MIDDLE HENDON.

Report of Executive Director of Health, Housing and Adult Services

STRATEGIC PRIORITIES:

CORPORATE PRIORITIES:

1 WHY HAS THIS REPORT COME TO THE COMMITTEE?

1.1 The purpose of this report is to provide members with;

- i) a copy of the Housing and Neighbourhood Renewal Enforcement Policy ('The Policy') which outlines the proposed Council response for a range of circumstances, and
- ii) an updated position statement in relation to the Selective Licensing / Neighbourhood Management Scheme which was introduced in the middle Hendon Area in partnership between the Council and back on the Map, New Deal for Communities and which became operational on the 1st July 2010.

2 BACKGROUND – THE POLICY

- 2.1 The Council has a ongoing statutory requirement to produce, review and publish a service specific enforcement policy and to seek Cabinet approval for the proposed Housing and Neighbourhood Renewal Enforcement
- 2.2 The existing policy was developed having regard to the 1998 Enforcement Concordat and the Regulator's Compliance Code. The Code is designed to complement the concordat but unlike the concordat that was voluntary, the Code **must** be taken into account by regulators such as local authorities when determining any general policy or principles about the exercising of specified regulatory functions or when exercising or giving guidance about those functions.
- 2.3 The introduction of the Housing Act 2004 provided a series of substantial new enforcement powers, many of which came into force in 2006, and the Regulators' Compliance Code ("the code") issued under section 22 of the Legislative and Regulatory Reform Act 2006 recommended that regulators publish an enforcement policy that takes account of the requirements of the Code.
- 2.4 The existing Housing Enforcement Policy was approved in February 2009 however since that time new powers in relation Anti Social Behaviour have been adopted by the Council and needed to be embedded within the Enforcement Policy. In addition, the proposed policy has been updated in relation to enforcement options and an improved layout now includes a

summary of the Council's proposed enforcement response for a range of circumstances.

3 CURRENT POSITION – THE POLICY

- 3.1 The policy applies to the Council's enforcement activities in exercising the statutory powers at its disposal in dealing with anti social behaviour, sub-standard or disused private sector housing and outlines the approach to be taken in the use of such powers including investigation, inspection, and dialogue with persons who may be affected by the enforcement activity largely vested in the Council's Housing and Neighbourhood Renewal Team.
- 3.2 The policy was developed with a view to protecting the health, safety and welfare of the residents of Sunderland and to encourage good standards in terms of maintenance and management of homes predominately in the private sector. Further aims are to support the sustainability of the housing stock and the residential environment.
- 3.3 The existing policy has generally been found to apply well for the purpose for which it was developed. However, the introduction and Council adoption of new powers in relation to Anti Social Behaviour under the provisions of the Violent Crime Reduction Act 2006 and the Criminal Justice and Immigration Act 2008 mean that the existing policy will no longer be fit for purpose. The policy therefore now includes action to tackle anti social behaviour by the use of Closure Orders and Drink Banning Orders.
- 3.4 Members will be aware that in a recent speech the Home Secretary announced a review of the tools and powers that are available to police forces and other agencies to deal with ASB. The Executive Director has raised this with Home Office staff and the following comment has been received *'this has been reported as signalling an intention to repeal the ASBO, but the review will look at all the tools and powers in the round and no decisions have yet been taken. ASBO legislation remains in force in the interim, and where practitioners feel it offers the most effective means of dealing with ASB, they should continue to use it. We're looking at tools and powers along with the measurement of ASB, and the definition itself. No changes to tools and powers are likely until mid 2011.'* The Executive Director will continue to monitor this position.
- 3.5 Additionally, the statutory duties which the Council must provide in respect to tenancy harassment as set out by the Protection of Eviction Act 1977 will transfer from the Council's Legal Services to the Strategic Housing Service within this year as part of the Council's Business Transformation Programme. When protocols are finalised these duties will also be included within the Enforcement Policy.

4 BACKGROUND – SELECTIVE LICENSING AND NEIGHBOURHOOD MANAGEMENT SCHEME, MIDDLE HENDON

- 4.1 Following Cabinet agreement Members will be aware that an application by the Executive Director secured the Secretary of States approval for the

introduction of the Selective Licensing Scheme in the 'Middle Hendon and Long Street's' Area and that this scheme came into force and operational from the 1st July 2010. The scheme is part of a "Neighbourhood Management" approach in the Hendon area in conjunction with Back on the Map, which will see a comprehensive approach to the management of the area undertaken.

- 4.2 From 1st July 2010 it is a criminal offence to manage or have control of a privately rented property which is required to be licensed under the selective licensing scheme in Hendon and is not licensed. However, the local authority must give the landlord a reasonable time frame for submitting applications before proceeding with criminal sanctions. 1st October 2010 was designated as a timescale for landlords to submit their applications.
- 4.3 Empty dwellings are not licensable however as Members are aware the Council have numerous powers to tackle issues of empty homes.
- 4.4 Before any prosecutions are sought, the local authority is "under a duty to take all reasonable steps to secure applications are made to it". Therefore, even after 1st October, further reminder letters and phone calls etc will be sent to landlords who are known to the Council and who have not yet sent in an application. However, a discounted license fee available for submitting an application by 1st October will be withdrawn from this time. The Council must also determine whether the public interest is best served by prosecuting a person for previously failing to apply for a licence although the situation may be rectified by receipt of a "late" application. Like wise, it must determine whether the Council's focus and resources should be on pursuing those who continue to evade their statutory duty and fail to submit an application.

5 CURRENT POSITION – SELECTIVE LICENSING SCHEME

- 5.1 Large numbers of prosecutions are not anticipated immediately after 1st October 2010. However, Members are assured that a sensible and calculated approach will be taken against those landlords that fail to apply and each will be dealt with on its merits. Members are assured however that the Executive Director will not hesitate to initiate legal action against those landlords found attempting to evade the law and their responsibilities. The responsibilities and purpose of this mandatory scheme are;
 - to protect those living in rented accommodation.
 - to ensure good standards of accommodation and management are provided.
 - to reduce anti social behaviour and related crime.
 - to tackle issues in the area of low demand. Members may be aware that on summary conviction a person found guilty of such an offence may be fined up to £20,000.
- 5.2 Work and research undertaken within the area has produced a list of properties which may require to be licensed.

- 5.3 There have been 402 application packs sent out covering 564 properties known to be privately rented based on best information.
- 5.4 Up to the 8th October 2010, 126 applications have been made by private landlords and this is in respect to 378 separate premises. In addition, approximately 73 applications submitted were incomplete and licensing staff are currently working with applicants to secure a full application. One landlord is transferring management of stock to a Registered Provider which accounts for approximately an additional 60 dwellings.
- 5.5 The team which will operate the scheme over the next 5 years have been recruited, mainly through the Internal Jobs Market. Only one post, that of Environmental Health Officer remains to be recruited and this is currently underway. The team will operate from an office located centrally in the licensing scheme area, in Vilette Road, Hendon.
- 5.6 Inspections to determine the condition of premises known to be in the area have also been undertaken over past weeks and up to 30th September 2010 there have been 153 carried out. These inspections will inform the next stage of process for each rented property within the area which will ensure improvement works etc. to those premises found to be unfit for human habitation and lacking in one or more of the criteria to meet the decent home standard such as, age of kitchen and bathroom fittings, no or insufficient heating, age of central heating boiler.
- 5.7 The processing of applications received is the next priority for the team and following this the next stage will be the pursuit of those landlords who have failed to submit an application. The figures set out above in paragraph 5.4 demonstrate the success of the preparatory work and effort which has gone into the scheme. Very few schemes of this type are operating in the Country (approximately 20) and none of these have resulted in such an early initial success.
- 5.8 With respect to those landlords (53 premises) which have failed to engage with the Council several approaches can and will be taken, one of which will be formal legal action.
- 5.9 One early benefit of the scheme is the increase in numbers of landlords across the City who have come forward to join the Council's Voluntary Accredited Landlord Scheme, this allows for more informed decisions in the deployment and targeting of resources toward areas of greatest need for intervention and possible enforcement of standards. The Accreditation Scheme first introduced in April 2003 is currently being reviewed and when proposals are finalised for the future landlord accreditation scheme a report will be brought to this Committee.

6 RELEVANT CONSULTATIONS

- 6.1 The Chief Solicitor has been consulted in respect to the Enforcement Policy as have members of the Council's Private Landlord Forum.

6.2 The local community, key local partners, ward members and the local Member of Parliament were consulted as part of the selective licensing feasibility study.

6.3 Appropriate entries have been made in respect to the Forward Plan in relation to the Enforcement Policy.

7 RECOMMENDATIONS

7.1 Scrutiny Committee is invited to consider this report and provide views on the Housing and Neighbourhood Renewal Enforcement Policy and the current position in respect to the Selective Licensing Scheme in the Middle Hendon Area.

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