



## Report to Safer and Stronger Communities Scrutiny & Policy Development Committee

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**Report of:** Janet Sharpe, Director of Housing Services

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**Subject:** London / Abbeydale / Chesterfield Road Selective Licensing Update

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**Author of Report:** Catherine Hughes Team Manager, Private Housing Standards

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Cabinet gave approval on the 20<sup>th</sup> June 2018 to designate parts of London / Abbeydale / Chesterfield Road (LAC) for Selective Licensing of private rented properties.

The scheme came into force on the 1<sup>st</sup> November 2018 and will run for 5 years so will come to an end on the 31<sup>st</sup> October 2023. There are currently around 420 privately rented properties within the designation area.

The Committee previously received an update at inception of the scheme and requested a progress report 10 months on from implementation.

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**Type of item:** The report author should tick the appropriate box

Reviewing of existing policy	
Informing the development of new policy	
Statutory consultation	
Performance / budget monitoring report	
Cabinet request for scrutiny	
Full Council request for scrutiny	
Call-in of Cabinet decision	
Briefing paper for the Scrutiny Committee	
Other	X

**The Scrutiny Committee is being asked to:**

- Consider this update, matters within, comment and/or identify any issues for future monitoring or consideration by this Committee

**Background Papers:**

**Category of Report:** OPEN

**Safer and Stronger Communities Scrutiny and Policy Development Committee**  
**– 19<sup>th</sup> September 2019**

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**London / Abbeydale / Chesterfield Road Selective Licensing Update**

**1. Private Housing Standards Service**

There are around 40,000 private rented properties in the city. This is around 19% of the city's housing. The sector has doubled in Sheffield in the last 10 years, and is predicted to reach 25% of all housing by 2025.

The Private Housing Standards service is the regulatory and prosecuting authority as it is the services legal duty to address poor housing conditions in the private rented sector. We currently employ around 30 FTE people in a variety of roles.

**2. Selective Licensing - Background**

Cabinet gave approval on the 20<sup>th</sup> June 2018 to designate parts of London / Abbeydale / Chesterfield Road (LAC) for Selective Licensing of private rented properties. Appendix 1 shows the areas included in the designation.

The scheme came into force on the 1<sup>st</sup> November 2018 and will run for 5 years so will come to an end on the 31<sup>st</sup> October 2023. There are currently around 420 privately rented properties within the designation area.

Selective Licensing is a discretionary power, introduced by the Housing Act 2004. A document entitled 'What is Selective Licensing' can be found at appendix 2 which provides general information. It imposes a legal requirement for all residential landlords with the designated area to apply for a licence for each residential property they rent out in that area.

All properties (currently around 420) will be inspected by a Private Rented Standards Officer to ensure that they are safe and well managed. Where issues are identified officers will work with the licence holder (this can be the landlord or an agent) to ensure works are carried out. Where the licence holder does not comply then we will look to take appropriate enforcement action to improve the housing conditions. This could be a Financial Penalty (known as a Civil Penalty) or a prosecution.

All licenced properties also have to comply with the Selective Licensing conditions. These are set out at appendix 3.

**3. Reporting – Project Highlight Report**

In the Cabinet Report approved on the 20<sup>th</sup> June a number of Monitoring and Performance Indicators were set which will be reported on, on a quarterly basis to senior managers and the Cabinet Member for Neighbourhoods and Community Safety. This report is attached as appendix 4.

### 3.1 Progress to date

All applications should have been completed and submitted on or before the designation which was the 1<sup>st</sup> November 2018. We accepted applications from August 2018 to enable landlords to submit them in good time. We received 249 applications prior to the designation date, with 234 of those being received in October.

Where we knew that properties were privately rented but no application had been submitted officers initially focussed on investigating these for the offence of failure to licence. From this a number of Civil Penalties were issued (this is covered in section 4 of the Highlight Report).

### 3.2 Inspections to date

A total of 164 inspections have taken place, out of these a total of 156 serious hazards were identified. The top 3 being;

- Fire (55)
- Falls on Stairs (40)
- Damp and Mould (14)

From the 156 serious hazards identified (in 164 properties), 64 have been resolved (in 33 properties) with work ongoing to the remaining 92 (in 48 properties). No serious hazards were identified in 49 properties. This is in line with expectations as the inspections taking place are from the landlords who applied in good time and are the most likely to be compliant.

The top 3 hazards found to date match with the hazards found during the targeted work with the exception of falls on stairs (this came in 4<sup>th</sup>) as excess cold was 3<sup>rd</sup>.

The majority of properties within the designation area are flats over shops and the fire risk is greater in this property type due to access, particularly if the access is through the communal space underneath.

### 3.3 Civil Penalties

Parts of the Housing Act 2004 were amended by the Housing and Planning Act of 2016. Civil Penalties were incorporated into this (section 249A of the Housing Act 2004) as an alternative to prosecution for a number of offences under That Act. This law was enacted in April 2018.

A Civil Penalty is a serious matter and is imposed where there has been a failure to comply with the relevant legislation. For the Selective Licensing scheme to date all of the Civil Penalties served have been for failure to licence. Any landlord operating in the designation area that does not apply is committing an offence and we can

investigate this and either serve a Civil Penalty or we can take a prosecution. The same criminal standard of proof is required for a CP as for a prosecution.

Appendix 5 gives an overview of CPs and provides more detail about them and also the issuing of them.

### 3.4 Landlord Checks

In order to be granted a licence, landlords will need to pass a 'fit and proper' test and provide information about their managing arrangements for their property. This is to ensure that they are the most appropriate person to hold the licence and have suitable management arrangements in place.

The process is set out within appendix 2 (What is Selective Licensing). When determining whether the proposed licence holder is 'fit and proper' person, the landlord is required to provide identification and a declaration confirming their status with regard to criminal offences.

Where an application is not deemed 'fit and proper' they will not be issued with a licence and asked to nominate someone else (this could be a person or agent). They will then also have to pass the 'fit and proper' test before a licence will be granted.

### 3.5 Legal Notices Served

C21 Notice – 45 served to date

This is an **informal** letter used when writing to a landlord/manager of a single family dwelling asking them to carry outs repairs/improvements. If this is not complied with then a formal notice would be served.

C25 – 5 served to date

This is an **informal** letter which is the same as a C21 but is used when writing to a landlord/manager of a House of Multiple Occupation (HMO) asking them to carry outs repairs/improvements.

S16 – 7 served to date

This is a **formal** enforcement notice used to seek information about who is involved in a property e.g. owner, manager, mortgagee. We must establish the correct ownership information to ensure that any future legal notices are served correctly.

S235 – 8 served to date

This is a **formal** enforcement notice used to force people who are involved in a property to provide copies of documents to the local authority. Such as tenancy agreements, rent statements and other documents relating to the property that we

may need to see. This could also include safety certificates such as gas safety certificates, emergency lighting, fire alarm systems.

### 3.6 Management Breaches

3 have been identified, with 2 being resolved. All 3 relate to the management of common parts of the building, such as communal lighting in stairwells, loose handrails on communal stairs, trip hazards such as loose fitting carpet / flooring.

### 3.7 Referrals

1 – SYP

1 – Environmental services

1 – Building Control

1 – DWP benefit fraud

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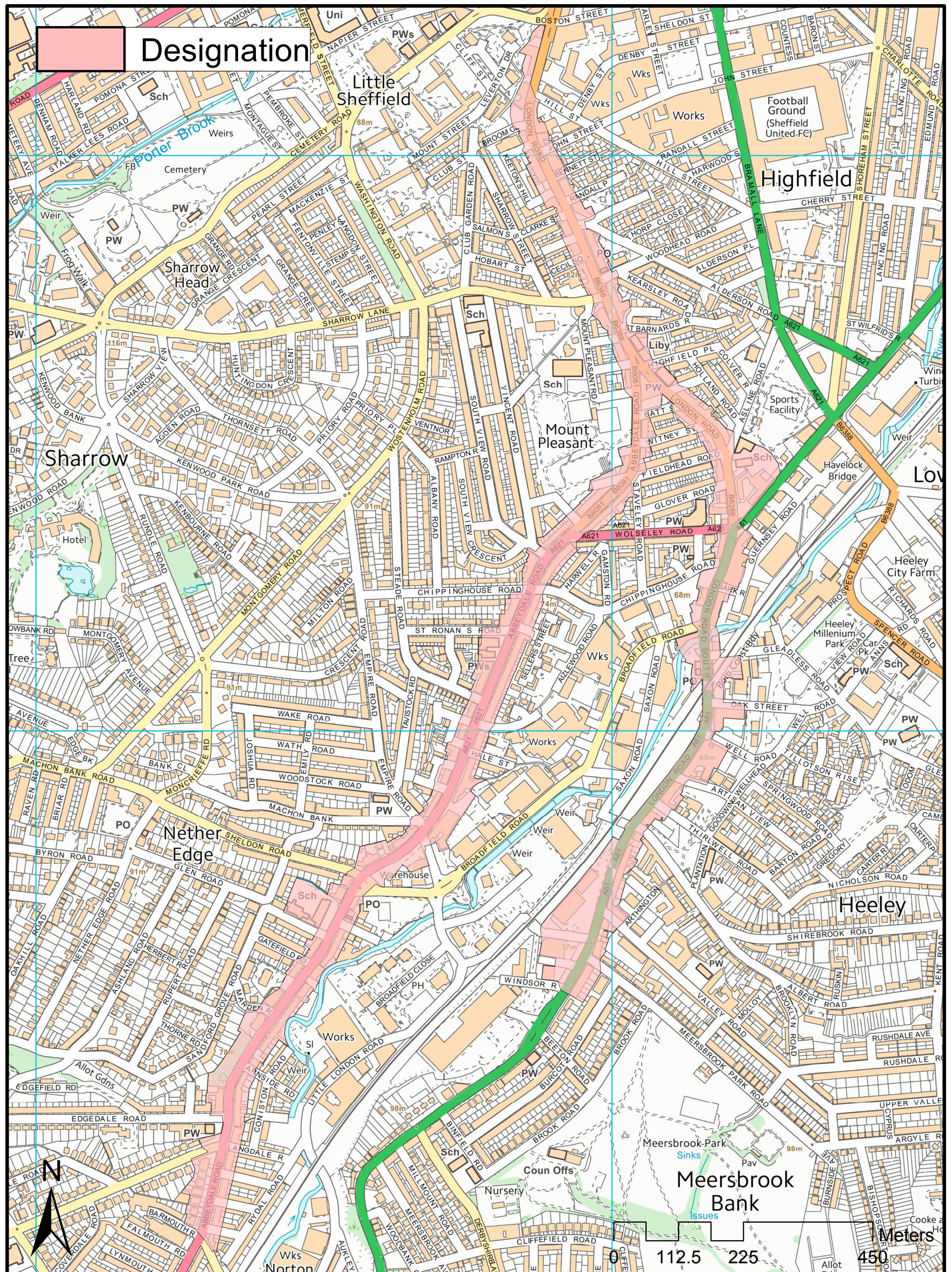
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**Date:** 05.09.2019

# **Proposed London Road, Abbeydale Road & Chesterfield Road Selective Licensing Designation**



## **What is Selective Licensing?**

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1. Selective licensing is a regulatory tool introduced by the Housing Act 2004 under Part 3, Section 80. It enables Councils to introduce licensing for landlords to help improve private rented properties which are poorly managed and in areas suffering from one or more of the following issues: poor housing condition, low housing demand, high levels of migration, high levels of deprivation, high levels of crime, and/or significant and persistent antisocial behaviour. As detailed in the report, the ground the Council relies on for this particular proposal is “poor housing conditions”.
2. The aim of selective licensing is to improve standards of property management in the private rented sector ensuring licensed properties are safe, meet basic safety standards and are managed in a satisfactory way to improve conditions for those who occupy them and residents in the local community.
3. If introduced, it imposes a legal requirement on all private landlords to apply to the Council for a licence for each property they rent out in the designated area.
4. Houses or flats that are already subject to mandatory licensing because they are a House in Multiple Occupation (HMO) do not need to apply again. Only one licence is required. There are also other Selective Licensing exemptions, which to qualify will be subject to stringent checks.
5. As part of the licence application, owners must provide details of ownership, details about the property, how it is occupied, provide certificates for gas safety etc. as well as stating who else has legal interests in the property.
6. Councils must not issue a licence unless it is satisfied that the holder is Fit and Proper. The licence also raises the standards of management by requiring the licence holder to comply with specific licence conditions. Failure to do so, can lead to enforcement action. It also drives out bad landlords by preventing them from operating in the area.

### **Fit and Proper Person**

7. In order to be granted a licence, landlords will need to pass a ‘fit and proper’ test and provide information about their management arrangements. This is to ensure that they are the most appropriate person to hold the licence and can demonstrate they have satisfactory management arrangements in place to manage property disrepair and tenancies.
8. In determining whether the proposed licence holder is a ‘fit and proper’ person, the landlord will be required to provide identification and a declaration confirming their status with regard to criminal offences.
9. The Council will have regard to this information and any other evidence relating to previous convictions held by the person applying for the licence

which impacts on their suitability to manage properties. These include any contraventions for failure to comply with housing and landlord and tenant responsibilities as well as convictions relating to fraud, drugs, sexual misconduct, discrimination and violence.

10. In Sheffield, we carry out thorough 'fit and proper' assessments of all landlords seeking property licences and Disclosure and Barring Service (DBS) checks will be requested where further evidence is required to verify information.
11. Assessments have proved highly successful in our delivery of HMO licensing and our current Selective Licensing scheme in Page Hall and have resulted in a number of landlords and agents being refused fit and proper status.

#### Satisfactory Management Arrangements

12. This is a further check which is attached to the Fit and Proper assessment. We consider issues including, but not limited to; how far away the licence holder/manager lives away from the property as this affects how they manage it. Also financial arrangements as being a landlord has financial responsibilities attached to it to make sure that repairs and maintenance are carried out properly.

#### Licence Conditions

13. When the Council issues a licence, it is able to apply a series of standards and conditions to the licence to tackle specific problems relating to the management of the property.
14. Conditions are a mixture of mandatory and local conditions which include a range of requirements aimed at ensuring properties are safe and managed in a satisfactory way.
15. Our local conditions have been proposed to tackle specific issues identified in the area and are considered appropriate to regulate the management, use and occupation of the privately rented properties in this area. The Council believes the conditions of licences are not onerous and good landlords are unlikely to need to change their practices. The proposed licence conditions are attached in **Appendix 5**.

#### Enforcement of Licensing

16. A designation may be in force for up to 5 years, which means the licence is valid for up to 5 years. We expect the scheme to last for the full term due to the problems identified and we are committed to carrying out a full and comprehensive inspection programme to ensure compliance.
17. As part of the programme, the team would target unlicensed properties and properties where landlords fail to address high risk hazards and maintain their conditions of licence. In these circumstances a zero tolerance approach will

be taken in accordance with our Intervention and Enforcement Policy and landlords are likely to risk prosecution, financial penalties and loss of their licence.

18. Letting a property without a licence and failure to comply with any licence condition are criminal offences which on conviction in court can lead to unlimited fines.
19. In addition to the above fines Councils and tenants are able to claim back up to 12 months of benefits or rent paid during the period a property has not been licensed. The Council will support the tenant application of rent repayment orders where it is satisfied that an offence has been committed. The council will also seek to recover housing benefits paid in respect of any unlicensed property.
20. Landlords who fail to obtain a licence or comply with the licensing conditions risk having control of their property taken away. In such circumstances, the Council will consider whether it is appropriate to revoke the licence which may result in the Council serving a Management Order taking over the management of the property.
21. Nationally, Councils are now allowed to issue civil penalties directly to landlords as an alternative to prosecution for certain Housing Act offences. Civil penalties up to a maximum of £30,000 will be served where the Council considers a significant penalty is the most appropriate method to deter the actions of landlords who deliberately flout the law.

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