



**Cabinet Report October 2019  
Private Housing Licensing in Brent**

**Appendix 5:**

**Title: Designation Area for Additional Licensing**



## **Designation of an area for Additional Licensing**

### **The London Borough of Brent Council Designation of an Area for Additional Licensing of Houses in Multiple Occupation 2019, No 1.**

The London Borough of Brent Council in exercise of their powers under section 56 of the Housing Act 2004 ("the Act") hereby designates for additional licensing of Houses in Multiple Occupation ("HMOs") the area described in paragraph 4.

#### **CITATION, COMMENCEMENT AND DURATION**

1. This designation may be cited as the London Borough of Brent Council Designation for an Area for Additional Licensing of Houses in Multiple Occupation 2019, No 1.
2. This designation is made on 14<sup>th</sup> October 2019 and shall come into force on 1st February 2020.
3. This designation shall cease to have effect on 31st January 2025 or earlier if the Council revokes the scheme under section 60 of the Act.

#### **AREA TO WHICH THE DESIGNATION APPLIES**

4. This designation shall apply to the area of the district of the London Borough of Brent as delineated and edged red on the map at Annex A.

#### **APPLICATION OF THE DESIGNATION**

5. This designation applies to all Houses in Multiple Occupation described in Annex B and within the area described in paragraph 4 unless –
  - (a) the building is of a description specified in Annex C (Buildings that are not HMOs for the purpose of the Act - other than Part 1);
  - (b) the HMO is subject to an Interim or Final Management Order under Part 4 of the Act;
  - (c) the HMO is subject to a temporary exemption under section 62 of the Act; or
  - (d) the HMO is required to be licensed under section 55 (2) (a) of the Act (mandatory licensing).<sup>1</sup>

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<sup>1</sup> For the application of mandatory licensing see SI 371/2006 – The Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2006

EFFECT OF THE DESIGNATION

6. Subject to sub paragraphs 5(a) to (d), every HMO of the description specified in Annex B and in the area specified in paragraph 4 shall be required to be licensed under section 61 of the Act.<sup>2</sup>

7. The London Borough of Brent Council will comply with the notification requirements contained in section 59 of the Act and shall maintain a register of all houses registered under this designation, as required under section 232 of the Act.<sup>3</sup>

This designation is given general approval by the Cabinet of the London Borough of Brent Council

This designation falls within a description of designations in relation to which the Secretary of State has given a general approval under section 58 of the Act, namely The Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2010 which came into force on the 30 March 2010.

EXECUTED as a Deed by affixing )  
the Common Seal of **THE LONDON** )  
**LONDON BOROUGH OF BRENT** )  
in the presence of: )

Signature  
.....

Authorised Signatory

Name of Authorised Signatory (Print Name):

\_\_\_\_\_

Date:

\_\_\_\_\_  
<sup>2</sup> Section 62 of the Act provides for certain temporary exemption. As to suitability see section 64. Note, if the house is not suitable to be licensed the Council must make an Interim Management Order - see section 10

<sup>3</sup> Section 232 of the Act and paragraph 11 of SI 373/2006

# ANNEX A – Paragraph 4: Map of Designated Area for Additional HMO Licensing



## **ANNEX B – Paragraph 5: HMOs subject to the designation;**

(1) For the purposes of the designation a building or a part of a building is a “house in multiple occupation” if—

- (a) it meets the conditions in subsection (2) (“the standard test”);
- (b) it meets the conditions in subsection (3) (“the self-contained flat test”);
- (c) it meets the conditions in subsection (4) (“the converted building test”);
- (d) an HMO declaration is in force in respect of it under section 255 of the Act; or
- (e) it is a converted block of flats to which section 257 of the Act applies.

(2) A building or a part of a building meets the standard test if—

- (a) it consists of one or more units of living accommodation not consisting of a self-contained flat or flats;
- (b) the living accommodation is occupied by persons who do not form a single household (see section 258 of the Act);
- (c) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259 of the Act);
- (d) their occupation of the living accommodation constitutes the only use of that accommodation;
- (e) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation; and
- (f) two or more of the households who occupy the living accommodation share one or more basic amenities or the living accommodation is lacking in one or more basic amenities.

(3) A part of a building meets the self-contained flat test if—

- (a) it consists of a self-contained flat; and
- (b) paragraphs (b) to (f) of subsection (2) apply (reading references to the living accommodation concerned as references to the flat).

(4) A building or a part of a building meets the converted building test if—

- (a) it is a converted building;
- (b) it contains one or more units of living accommodation that do not consist of a self-contained flat or flats (whether or not it also contains any such flat or flats);
- (c) the living accommodation is occupied by persons who do not form a single household (see section 258 of the Act);
- (d) the living accommodation is occupied by those persons as their only or main residence or they are to be treated as so occupying it (see section 259 of the Act);
- (e) their occupation of the living accommodation constitutes the only use of that accommodation; and
- (f) rents are payable or other consideration is to be provided in respect of at least one of those persons' occupation of the living accommodation.

(5) But for any purposes of the designation a building or part of a building within subsection (1) is not a house in multiple occupation if it is listed in Annex C below.

References to an HMO include (where the context permits) any yard, garden, outhouses, outbuildings and appurtenances belonging to, or usually enjoyed with, it (or any part of it).

### **Interpretation**

In Annex B —

• “basic amenities” means—

- (a) a toilet,
- (b) personal washing facilities, or
- (c) cooking facilities;

• “converted building” means a building or part of a building consisting of living accommodation in which one or more units of such accommodation have been created since the building or part was constructed;

- “enactment” includes an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30));
- “self-contained flat” means a separate set of premises (whether or not on the same floor)—
  - (a) which forms part of a building;
  - (b) either the whole or a material part of which lies above or below some other part of the building; and
  - (c) in which all three basic amenities are available for the exclusive use of its occupants.

## **ANNEX C – Paragraph 5(a): Buildings that are not HMOs for the purpose of the Act<sup>4</sup>**

### **Buildings controlled or managed by public bodies etc<sup>5</sup>**

1. A building where the person managing or having control of it is<sup>6</sup>:
  - (a) a local housing authority;
  - (aa) a not for profit registered provider of social housing;
  - (b) a body which is which is registered as a social landlord under Part 1 of the Housing Act 1996;
  - (c) a police and crime commissioner;
  - (d) the Mayor's Office for Policing and Crime;
  - (e) a fire and rescue authority, or
  - (f) a health service body within the meaning of section 9 of the National Health Service Act 2006.

#### 2A. A building—

- (a) which is social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008, and
- (b) where the person managing or having control of it is a profit-making registered provider of social housing.

### **Buildings controlled or managed by a co-operative society<sup>7</sup>**

#### 2B. (1) A building where—

- (a) the person managing or having control of it is a co-operative society whose rules are such as to secure that each of the conditions set out in sub-paragraph (2) is met, and
  - (b) no person who occupies premises in the building does so by virtue of an assured tenancy, a secure tenancy or a protected tenancy.
- (2) The conditions are—
- (a) that membership of the society is restricted to persons who are occupiers or prospective occupiers of buildings managed or controlled by the society,
  - (b) that all management decisions of the society are made by the members (or a specified quorum of members) at a general meeting which all members are entitled to, and invited to, attend,
  - (c) that each member has equal voting rights at such a meeting, and
  - (d) that, if a person occupies premises in the building and is not a member, that person is an occupier of the premises only as a result of sharing occupation of them with a member at the member's invitation.
- (3) For the purposes of sub-paragraph (1) “co-operative society” means a body that—

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<sup>4</sup> Schedule 14 of the Act and SI 373/2006

<sup>5</sup> Paragraph 2 of Schedule 14

<sup>6</sup> For the definition of “person managing” and “person having control” see section 263 of the Act

<sup>7</sup> Paragraph 2B of Schedule 14

(a) is registered as a co-operative society under the 2014 Act or is a pre-commencement society (within the meaning of that Act) that meets the condition in section 2(2)(a)(i) of that Act, and

(b) is neither—

(i) a non-profit registered provider of social housing, nor

(ii) registered as a social landlord under Part 1 of the Housing Act 1996.

(4) In this paragraph—

“the 2014 Act” means the Co-operative and Community Benefit Societies Act 2014;

“assured tenancy” has the same meaning as in Part 1 of the Housing Act 1988;

“protected tenancy” has the same meaning as in the Rent Act 1977;

“secure tenancy” has the same meaning as in Part 4 of the Housing Act 1985.]

### **Buildings regulated otherwise than under this Act<sup>8</sup>**

3. Any building whose occupation is regulated otherwise than by or under this Act and which is of a description specified for the purposes of this paragraph in regulations made by the appropriate national authority, including a tenancy, licence or occupation of a house which is regulated under the following enactments:

(a) sections 87, 87A, 87B, 87C and 87D of the Children Act 1989;

(b) section 43(4) of the Prison Act 1952;

(c) section 34 of the Nationality, Immigration and Asylum Act 2002;

(d) The Secure Training Centre Rules 1998;

(e) The Prison Rules 1999;

(f) The Young Offender Institute Rules 2000;

(g) The Detention Centre Rules 2001;

(h) The Criminal Justice and Court Services Act 2000 (Approved Premises) Regulations 2001;

(i) The Care Homes Regulations 2001;

(j) The Children's Homes (England) Regulations 2015; and

(k) The Residential Family Centres Regulations 2002;

### **Buildings occupied by students<sup>9</sup>**

4. (1) Any building—

(a) which is occupied solely or principally by persons who occupy it for the purpose of undertaking a full-time course of further or higher education at a specified educational establishment or at an educational establishment of a specified description, and

(b) where the person managing or having control of it is the educational establishment in question or a specified person or a person of a specified description.

(2) In sub-paragraph (1) “specified” means specified for the purposes of this paragraph in regulations made by the appropriate national authority.

(3) Sub-paragraph (4) applies in connection with any decision by the appropriate national authority as to whether to make, or revoke, any regulations specifying—

(a) a particular educational establishment, or

(b) a particular description of educational establishments.

(4) The appropriate national authority may have regard to the extent to which, in its opinion—

(a) the management by or on behalf of the establishment in question of any building or buildings occupied for connected educational purposes is in conformity with any code of practice for the time being approved under section 233 which appears to the authority to be relevant, or

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<sup>8</sup> Paragraph 3 of Schedule 14 and schedule 1 of SI 373/2006

<sup>9</sup> Paragraph 4 of schedule 14

(b) the management of such buildings by or on behalf of establishments of the description in question is in general in conformity with any such code of practice, as the case may be.

(5) In sub-paragraph (4) “occupied for connected educational purposes”, in relation to a building managed by or on behalf of an educational establishment, means occupied solely or principally by persons who occupy it for the purpose of undertaking a full-time course of further or higher education at the establishment.

### **Buildings occupied by religious communities<sup>10</sup>**

5. (1) Any building which is occupied principally for the purposes of a religious community whose principal occupation is prayer, contemplation, education or the relief of suffering.

(2) This paragraph does not apply in the case of a converted block of flats to which section 257 applies.

### **Buildings occupied by owners<sup>11</sup>**

6. (1) Any building which is occupied only by persons within the following paragraphs—

(a) one or more persons who have, whether in the whole or any part of it, either the freehold estate or a leasehold interest granted for a term of more than 21 years;

(b) any member of the household of such a person or persons;

(c) no more than such number of other persons as is specified for the purposes of this paragraph in regulations made by the appropriate national authority.

(2) This paragraph does not apply in the case of a converted block of flats to which section 257 applies, except for the purpose of determining the status of any flat in the block.

### **Buildings occupied by two persons<sup>12</sup>**

7. Any building which is occupied only by two persons who form two households.

### **Meaning of “building”**

8. In this annex a “building” includes a part of a building.

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<sup>10</sup> Paragraph 5 of schedule 14

<sup>11</sup> Paragraph 6 of Schedule 14

<sup>12</sup> Paragraph 7 of schedule 14