

Appendix 4

Designation of an area for Additional Licensing

London Borough of Havering Designation of Area for Additional Licensing of Houses in Multiple Occupation No 2, 2020

London Borough of Havering 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.

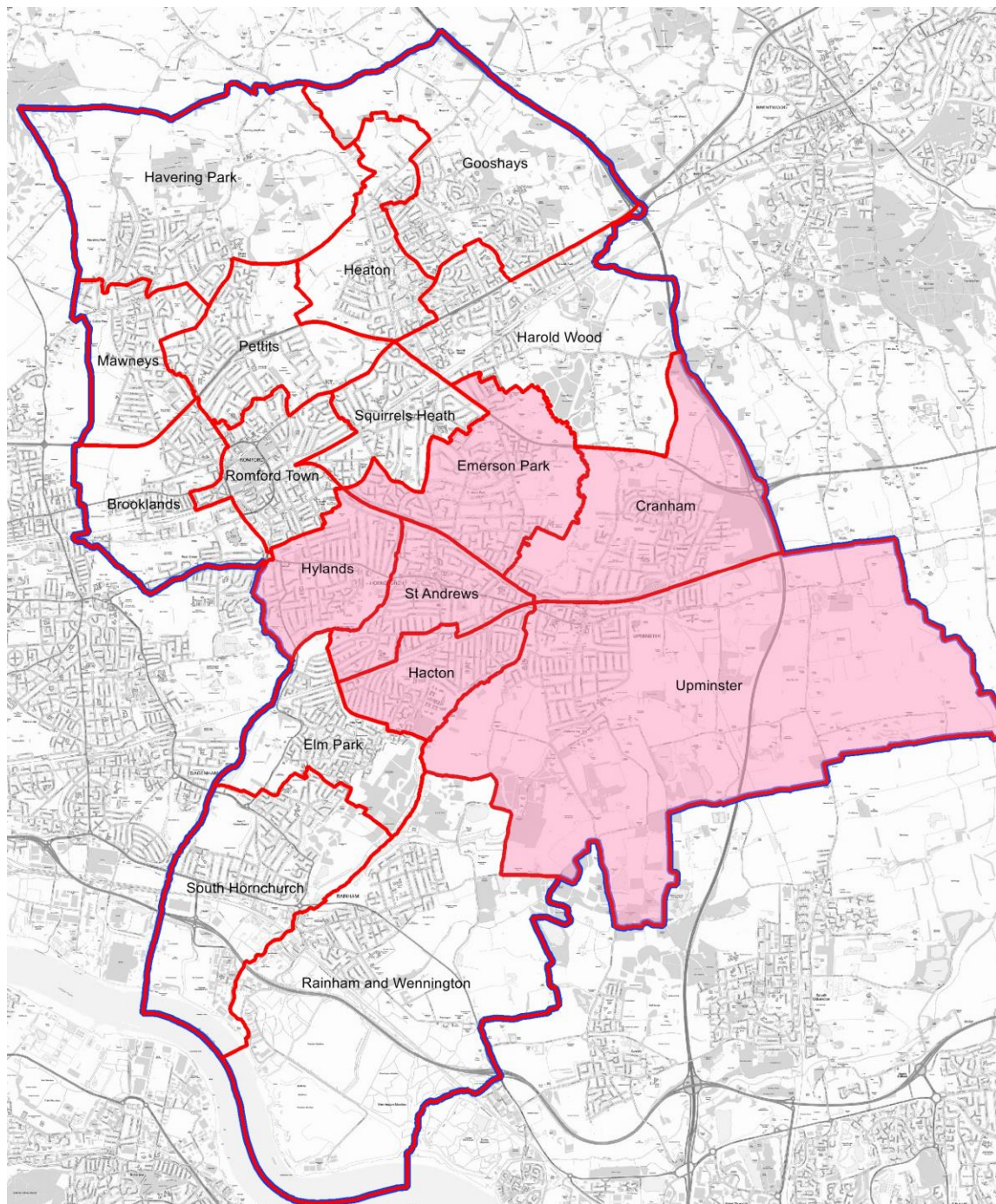
CITATION, COMMENCEMENT AND DURATION

1. This designation may be cited as London Borough of Havering Designation for Additional Licensing of Houses in Multiple Occupation No 2, 2020.
2. This designation is made on 14th October 2020 or 7 days after a general approval under section 58 of the Act applies to it, the Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015.
3. This designation shall come into force on 25th January 2021 needs to be at least 90 days from date above and shall cease to have effect on. 24th January 2026 should be 5 years from when it comes into force -1 day

DESIGNATION, AREA AND DESCRIPTION OF HMOS

4. The Council hereby designates for additional licensing under section 56 of the Act the area within the London Borough of Havering shown shaded pink on the map at Annex A in relation to all HMOs that are not subject to mandatory licensing under section 55(2)(a) of the Act.

ANNEX A – Paragraph 4: Map of Designated Area covering Cranham, Emerson Park, Hacton, Hylands, St Andrews and Upminster wards



(Please note the legislation cited is up to date as at 16th March 2020 and may subsequently be amended).

APPLICATION OF THE DESIGNATION

5. This designation applies to all Houses in Multiple Occupation within the area described in paragraph 4 unless –
- a) the building is of a description specified in Annex G (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).¹

EFFECT OF THE DESIGNATION

6. Subject to sub paragraphs 5(a) to (d) every HMO of the description specified in that paragraph in the area specified in paragraph 4 shall be required to be licensed under section 61 of the Act.²
7. London Borough of Havering 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.³

Leader of the Council and Cabinet

Date: 14th October 2020

1 For the application of mandatory licensing see SI 2006/371 – The Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2006
2 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
3 Section 232 of the Act and regulation 11 of SI 2006/37

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 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 section 21 of the Interpretation Act 1978);
- “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 Act⁴

Buildings controlled or managed by public bodies etc⁵

1. A building where the person managing or having control of it is⁶:
 - a) a local housing authority;
 - b) a non-profit registered provider of social housing;
 - c) a body which is registered as a social landlord under Part 1 of the Housing Act 1996;
 - d) a police and crime commissioner;
 - e) the Mayor’s Office for Policing and Crime;
 - f) a fire and rescue authority under the Fire and Rescue Services Act 2004; or
 - g) a health service body within the meaning of section 9 of the National Health Service Act 2006;

Buildings regulated by other enactments ⁷

4. A tenancy, licence or occupation of a house which is regulated under the following enactments:
- a) sections 87 to 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 19988;
 - e) The Prison Rules 19999;
 - f) The Young Offender Institution Rules 200010;
 - g) The Detention Centre Rules 200111;
 - h) The Criminal Justice and Court Service Act 2000 (Approved Premises) Regulations 200112;
 - i) The Care Homes Regulations 200113;
 - j) The Children's Homes (England) Regulations 201514;
 - k) The Residential Family Centres Regulations 2002.15
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4 Schedule 14 of the Act as amended and SI 2006/373

5 Paragraphs 2, 2A and 2B of schedule 14 as amended

6 For the definition of "person managing" and "person having control" see section 263 of the Act

7 Paragraph 3 of schedule 14 of the Act as amended and paragraph 6 (1) and schedule 1 of SI 2006/373

8 SI 1998/472 as amended

9 SI 1999/728 as amended

10 SI 2000/3371 as amended

11 SI 2001/238. Section 66 (4) of the Nationality, Immigration and Asylum Act 2002 provides that the reference to a detention centre is to be construed as a reference to a removal centre as defined in Part VIII of the Immigration and Asylum Act 1999

12 SI 2001/850

13 SI 2001/3965 as amended

14 SI 2001/3967 as amended

15 SI 2015/541

Certain student lettings etc ¹⁶

5. A building –
- a) which is managed or controlled by a specified educational establishment or is of a specified description of such establishments and

- b) the occupiers of the house or dwelling are undertaking a full time course of further or higher education at the specified establishment¹⁷ and
- c) the house or dwelling is being managed in conformity with an Approved Code of Practice for the management of excepted accommodation under section 233 of the Act.¹⁸

Religious communities ¹⁹

- 6. A building which is occupied principally for the purpose of a religious community whose principal occupation is prayer, contemplation, education or the relief of the suffering except if the building is a converted block of flats to which section 257 of the Act applies.

Buildings occupied by owners ²⁰

- 7. A building which is only occupied by –
 - a) one or more persons who hold the freehold or a leasehold interest granted for a term of more than 21 years of the whole, or any part of, the building
 - b) and/or any member of the household²¹ of that person or persons but this exemption does not apply to a converted block of flats to which section 257 of the Act applies, except for ascertaining the status of any flat within the block.

Buildings occupied by Resident Landlord etc²²

- 8. A building which is occupied by a person or persons to whom paragraph 7 applies (subject to the proviso therein) and no more than two other persons²³, not forming part of the owner's household.

Buildings occupied by two persons²⁴

- 9. Any building which is only occupied by two persons (forming two households)

Meaning of “building”

- 10. In this annex a “building” includes a part of a building.

16 Paragraph 4 of schedule 14

17 See the schedule to The Houses in Multiple Occupation (Specified Educational Establishments) (England) Regulations 2016/420 for the list of specified bodies

18 The relevant codes of practice are approved under The Housing (Codes of Management Practice) (Student Accommodation) (England) Order 2010/2615 and specified in paragraphs 2 - 4 of that Order

19 Paragraph 5 of schedule 14

20 Paragraph 6 of Schedule 14

21 For the definition of “household” see section 258 (2) and paragraphs 3 and 4 of SI 2006/373

22 Paragraph 6 of schedule 14 and SI 2006/373

23 Paragraph 6 (2) of SI 2006/373

24 Paragraph 7 of schedule 14 of the Act