



Designation of an area for Additional Licensing

The London Borough of Barking and Dagenham Council Designation of an Area for Additional Licensing of Houses in Multiple Occupation 2014.

The London borough of Barking and Dagenham 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 (“HMSs”) the area described in paragraph 4.

CITATION, COMMENCEMENT AND DURATION

1. This designation may be cited as the London Borough of Barking and Dagenham Council Designation for an Area for Additional Licensing of Houses in Multiple Occupation **No.2. 2014.**
2. This designation is made **on 19th February 2014** and shall come into force on **1st September 2014.**
3. This designation shall cease to have effect on **31st August 2019** 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 Barking and Dagenham as delineated and edged red on the map at Annex A. This excludes the existing licensing designation cited as the London borough of Barking and Dagenham Designation for an Area for Selective Licensing No1 2009.

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 c (Buildings that are not HMOs for the purpose of the Act – other than Part1);
 - (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. The London borough of Barking and Dagenham 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.³

This designation is given general approval by the London Borough of Barking and Dagenham Council

Assembly

Date: 19th February 2014

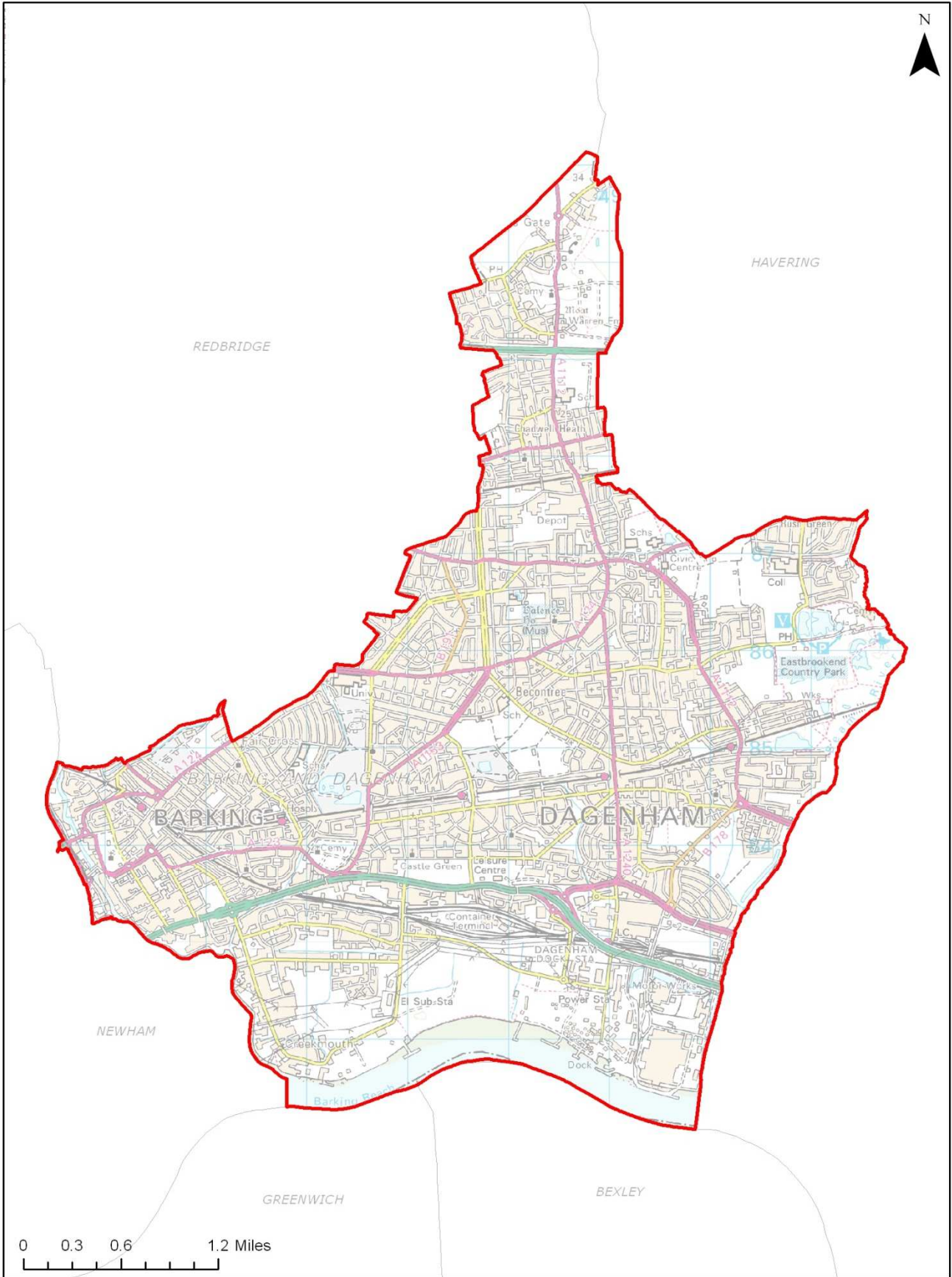
This designation falls within a description of designations in relation to which the Secretary of State has given a general approval.

¹ For the application of mandatory licensing see SI 371/2006 – 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 paragraph 11 of SI 373/2006

ANNEX A – Paragraph 4: Map of Designated Area



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 person who do not form a single household (see section 258 of the Act);
 - (c) the living accommodation is occupied by those person 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 consist 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 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 person 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 person’ 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 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 police authority established under section 3 of the Police Act 1996 or the Metropolitan Police Authority established under section 5B of that Act;
 - (c) a fire and rescue authority under the Fire and Rescue Services Act 2004;
 - (d) a health service body within the meaning of section 4 of the National Health Service and Community Care Act 1990;
 - (e) a body which is registered as a social landlord under Part 1 of the Housing Act 1996.

Buildings regulated by other enactments⁷

2. 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 1998⁹;
 - (f) The Young Offender Institute Rules 2000¹⁰;
 - (g) The Detention Centre rules 2001¹¹;
 - (h) The Criminal Justice and Court Service Act 200 (Approved Premises) Regulations 2001¹²;
 - (i) The Care Homes Regulations 2001¹³;
 - (j) The Children’s Homes Regulations 2001¹⁴;
 - (k) The Residential Family Centres Regulations 2002.¹⁵

⁴ Schedule 14 of the Act and SI 373/2006

⁵ Paragraph 2 of schedule 14

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

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

⁸ SI472/1998 as amended by SI 3005/200

⁹ SI 728/1999 as amended by SI 1794/2000, SI 1149/2001, SI 2116/2002, SI 3135/2002. SI 3301/2003 and SI 869/200

¹⁰ SI3371/2000 as amended by SI 2117/2002, SI 3135/2002 and SI 897/20

¹¹ SI 238/2001. 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 850/2001

¹³ SI 3965/2001 as amended by SI 865/2001. SI 534/2003, SI 1590/2003, SI 1703/2003, SI 1845/2003, SI 664/2004, SI 696/2004, SI 1770/2004, SI 2071/2004 SI and SI 3168/200

¹⁴ SI 3967/2001 as amended by SI 865/2002, SI 2469/2002, SI 664/2004 and SI 3138/2004

¹⁵ SI 3213/2002 as amended by SI 664/2004, SI 865/2004 and SI 3168/2004

Certain student lettings etc¹⁶

3. 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 communities¹⁹

4. 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 owners²⁰

5. 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

6. A building which is occupied by a person or person to whom paragraph 5 applies (subject to the proviso therein) and no more than two other persons²³, not forming part of the owner's household.

¹⁶ Paragraph 4 of schedule 14

¹⁷ See the schedule to The Houses in Multiple Occupation (Specified Educational Establishments) England) (No 2) Regulations 2006 for the list of specified bodies

¹⁸ The relevant codes of practice are approved under SI 646/2006 – The Housing (Approval of Codes of Management Practice) (Student Accommodation) (England) Order 2006

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 373/2006 Paragraph 6 of Schedule 14

²² Paragraph 6 (2) of SI 373/200

²³ Paragraph 6 (2) of SI373/200

Buildings occupied by two persons²⁴

7. Any building which is only occupied by two person (forming two households)

Meaning of “building”

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

²⁴ Paragraph 7 of schedule 1