



## **PUBLIC NOTICE**

NEWHAM LONDON BOROUGH COUNCIL

### **DESIGNATION OF AN AREA FOR ADDITIONAL HMO LICENSING**

Section 56, Housing Act 2004

On 22<sup>nd</sup> June 2022 in the exercise of its powers under section 56 of the Housing Act 2004 (“the 2004 Act”), Newham London Borough Council (“the Council”) of (1000 Dockside Road, London, E16 2QU) made the London Borough of Newham Designation for Additional Licensing of Houses in Multiple Occupation No.1 2023 (“the Designation”).

The Designation does not fall within a description of designations for which the Secretary of State’s confirmation is required under the Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2015.

#### **The Designation**

The Designation will come into force on 1<sup>st</sup> January 2023 and unless previously revoked, shall cease to have effect on 31<sup>st</sup> December 2027. The Designation applies to the area outlined in red on the map at Annex A and excludes the areas shaded in pink. The Designation applies accordingly to all wards in the London Borough of Newham excepting and excluding Royal Victoria and Stratford Olympic Park.

**Wards included in Designation:** Beckton, Boleyn, Canning Town North, Canning Town South, Custom House, East Ham, East Ham South, Forest Gate North, Forest Gate South, Green Street East, Green Street West, Little Ilford, Manor Park, Maryland, Plaistow North, Plaistow South, Plaistow West & Canning Town East, Plashet, Royal Albert, Stratford, Wall End & West Ham

**Wards excluded from Designation:** Royal Victoria & Stratford Olympic Park.

The Designation applies to any building or part of a building in the Designation area if (a) it is occupied by three or more persons living in two or more households, (b) it satisfies the standard test, the self-contained flat test, or the converted building test, as defined by section 254 of the 2004 Act (see Annex B below), or a HMO declaration has been made in respect of it, pursuant to sections 254(1)(d) and 255 of the 2004 Act (see Annex B below), and (c) it does not fall within a description of buildings, or parts of buildings, that either (i) are not HMOs for the purposes of additional licensing under Part 2 of the 2004 Act (see Annex C below) or (ii) require a licence under section 55(2)(a) of the 2004 Act, as prescribed by Article 4 of the Licensing of Houses in Multiple (Prescribed Description) (England) Order 2018 (see Annex D below).<sup>1</sup> The Designation will not apply to HMOs as defined by section 257 of the 2004 Act, i.e. certain converted blocks of flats (see Annex B below).

#### **HMOs requiring a licence and statutory exceptions**

Every HMO to which the Designation applies (above) must be licensed under Part 2 (S.61) of the 2004 Act unless either (a) a temporary exemption notice is in force in relation to it under section 62 of the 2004 Act, or (b) an interim or final management order is in force in relation to it under Chapter 1 of Part 4 to the 2004 Act.<sup>2</sup>

The London Borough of Newham 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>

### **Consequences of failing to license an HMO, comply with licence conditions etc.**

Unless a statutory exception applies, as set out above, the HMO will require a licence under Part 2 of the 2004 Act. A person who manages or has control of it without a licence will commit an offence under section 72(1) of the 2004 Act, and will be liable upon summary conviction or penalty to an unlimited fine or, as the case may be, a financial penalty not exceeding £30,000 per offence. A person who breaches a condition of a licence, or who knowingly allows an HMO to be occupied by more than the number of persons or households permitted by the licence, will be similarly liable. The landlord of such a property may also be liable to a rent repayment order under the Housing and Planning Act 2016, or in certain circumstances to entry on a database of rogue landlords, or to a banning order.

### **Inspecting the designation**

The Designation may be inspected by prior appointment between 9.00 and 17:00 on weekdays at: London Borough of Newham, First Floor West Wing, Newham Dockside, 1000 Dockside Road, London, E16 2QU

### **Important notice: Where to obtain advice**

If you are an owner, a landlord, an agent, or a person otherwise managing or occupying a property in the Designation area you are strongly advised to seek advice from the Council about the need to license the property. If you wish to do this or you require a licence application or general advice about the Designation you are advised to contact:

Private Sector Housing Standards Team:

- by telephone on 020 3373 1950
- online at [www.newham.gov.uk/propertylicensing](http://www.newham.gov.uk/propertylicensing)
- by e-mail: [propertylicensing@newham.gov.uk](mailto:propertylicensing@newham.gov.uk)
- by writing to Private Sector Housing Standards, London Borough of Newham, First Floor West Wing, Newham Dockside, 1000 Dockside Road, London, E16 2QU.



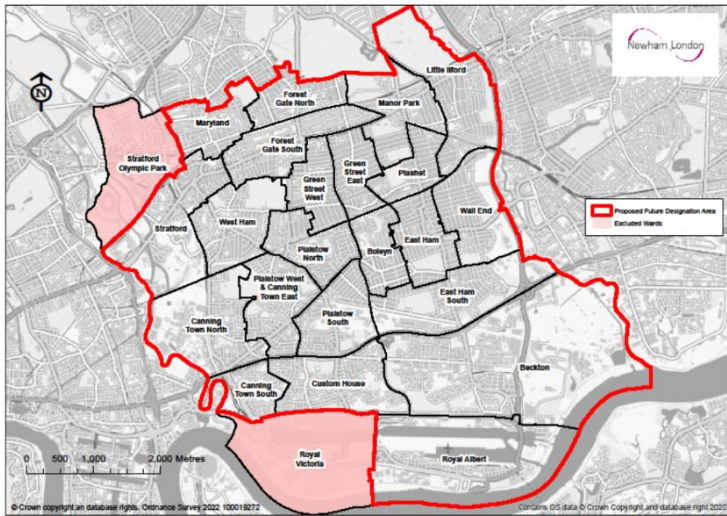
**Darren Levy | Director of Housing Dated: 16th September 2022**

<sup>1</sup> Section 55 of the Act defines which Houses in Multiple Occupation are required to be licensed under the Act. See also The Licensing of Houses in Multiple Occupation (Prescribed Descriptions) (England) Order 2005 (SI 2006/371)

<sup>2</sup> Schedule 14 Housing Act 2004 describes the buildings that are not HMOs other than for the purpose of Part 1 [HHSRS]

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

**ANNEX A- Map of wards included and excluded from the Designation:**



## 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<sup>ll</sup> means—
  - a) a toilet,
  - b) personal washing facilities, or
  - c) cooking facilities;
- converted building<sup>ll</sup> 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<sup>ll</sup> includes an enactment comprised in subordinate legislation (within the meaning of section 21 of the Interpretation Act 1978);
- self-contained flat<sup>ll</sup> 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 4**

##### **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;
  - 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<sup>7</sup>**

4. A tenancy, licence or occupation of a house which is regulated under the following enactments:
  - sections 87 to 87D of the Children Act 1989;
  - section 43 (4) of the Prison Act 1952;
  - The Secure Training Centre Rules 1998 <sup>8</sup>;
  - The Prison Rules 1999 <sup>9</sup>;
  - The Young Offender Institution Rules 2000<sup>10</sup>;
  - The Detention Centre Rules 2001<sup>11</sup>;
  - The Criminal Justice and Court Service Act 2000 (Approved Premises) Regulations 2001<sup>12</sup>;
  - The Care Homes Regulations 2001<sup>13</sup>;
  - The Children's Homes (England) Regulations 2015 <sup>14</sup>;
  - The Residential Family Centres Regulations 2002 <sup>15</sup>.

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

<sup>5</sup> Paragraphs 2, 2A and 2B of schedule 14 as amended

<sup>6</sup> For the definition of —person managing<sup>II</sup> and —person having control<sup>III</sup> see section 263 of the Act

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

<sup>8</sup> SI 1998/472 as amended

<sup>9</sup> SI 1999/728 as amended

<sup>10</sup> SI 2000/3371 as amended

<sup>11</sup> 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

<sup>12</sup> SI 2001/850

<sup>13</sup> SI 2001/3965 as amended

<sup>14</sup> SI 2001/3967 as amended

<sup>15</sup> SI 2015/54

## **Certain student lettings etc<sup>16</sup>**

### **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 establishment 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.

## **Religious communities**

**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**

- 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 household 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 etc.**

- 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 persons, not forming part of the owner's household.

## **Buildings occupied by two persons**

- 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.  
See Paragraph 4 of schedule 14

- See the schedule to The Houses in Multiple Occupation (Specified Educational Establishments) (England) Regulations 2016/420 for the list of specified bodies
- 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
- Paragraph 5 of schedule 14
- Paragraph 6 of Schedule 14
- For the definition of household see section 258 (2) and paragraphs 3 and 4 of SI 2006/373
- Paragraph 6 of schedule 14 and SI 2006/373
- Paragraph 6 (2) of SI 2006/373
- Paragraph 7 of schedule 14 of the Act

**ANNEX D-** Article 4 of the Licensing of Houses in Multiple (Prescribed Description) (England) Order 2018, *(as in force on the date of designation)*

**Description of HMOs prescribed by the Secretary of State**

4. A HMO is of a prescribed description for the purpose of section 55(2) (a) of the Act if it—

(a) is occupied by five or more persons;

(b) is occupied by persons living in two or more separate households; and

(c) meets;

(i) the standard test under section 254(2) of the Act;

(ii) the self-contained flat test under section 254(3) of the Act but is not a purpose-built flat situated in a block comprising three or more self-contained flats; or

(iii) the converted building test under section 254(4) of the Act.