

24th January 2017



By email: [consultationteam@bexley.gov.uk](mailto:consultationteam@bexley.gov.uk)

Consultation Team  
Civic Offices  
2 Watling Street  
Bexleyheath  
Kent  
DA6 7AT

**1 Roebuck Lane,  
Sale, Manchester M33 7SY  
Tel: 0845 666 5000  
Fax: 0845 665 1845**

Dear Sir/Madam

**Bexley Additional and Selective Licensing Extension – Consultation Response**

Thank you for the opportunity to respond to the above consultation.

The RLA does not believe the Council has made a case for either borough-wide additional licensing or selective licensing.

Bexley has a very low proportion of both PRS and HMO accommodation in its housing mix, lower than the national average and considerably lower than the London average, making it difficult to justify the need for additional or selective licensing.

Both the consultation paper, and the documentation presented to the Cabinet Member for Adult Service are weak and superficial. The data provided fails to make a convincing link between HMO accommodation, poor management and anti-social behaviour. An analysis of the figures provided shows that the vast majority of properties with nuisance complaints occur in non-PRS housing – almost 9,000 – whilst just 604 HMOs are the subject of nuisance complaints. In fact, the HMO figure is likely to be inflated, as ASB complaints are used by the Council as an indicator of a property being an HMO. It beggars belief that the Council would consider blanket HMO licensing to tackle issues that could be as minor as complaints about parking, in barely 600 properties.

The Council has also failed to demonstrate that its licensing proposals form part of a co-ordinated approach to tackling homelessness, empty properties and anti-social behaviour, or that it has considered any other courses of action, as required by the Housing Act 2004.

The proposal to introduce selective licensing in the DA8 and SE28 postcode areas seems little more than an afterthought. The Council has given no proper justification – a few paragraphs and one doubtful graph. It has certainly failed to demonstrate "that the area is experiencing a significant and persistent problem caused by anti-social behaviour; that some or all of the private sector landlords who have let premises in the area (whether under leases or licences) are failing to take action to combat the problem that it would be appropriate for them to take; and, that making a designation will, when combined with other measures taken in the area by

the local housing authority, or by other persons together with the local housing authority, lead to a reduction in, or the elimination of, the problem", again as required by the 2004 Act.

While the Council asserts that the area proposed for selective licensing falls below the 20% threshold of PRS properties in the borough, that allows the use of general consent, it has not demonstrated that the area makes up less than 20% of the geographic area of the borough, meaning the scheme may yet need the Secretary of State's consent.

The Council has failed to set a fee structure for either scheme, as part of the consultation, making it impossible to consider whether the fees are appropriate. Nor has the Council published a set of licensing conditions.

The Council is premature on bringing forward proposals as the Government is extending the scope of mandatory HMO licensing, which will require more HMO properties to be licensed. Bexley should wait and assess the impact of these changes before embarking on an expensive and bureaucratic stand-alone additional licensing scheme.

The Housing and Planning Act 2016 gives local authorities substantial new powers to tackle breaches of housing legislation and drive the criminal operators from the sector. The Council should wait until the impact of these new powers can be assessed before pressing on with more regulation in the form of selective and additional licensing.

The RLA is opposed to the scheme and has a number of general objections to Licensing, which are attached as an appendix to this letter. Licensing schemes rarely meet their objectives. Good landlords will apply for licences and, in all likelihood, pass the cost on to tenants in the form of increased rents, doing nothing to address affordability, while the worst landlords – the criminal operators – will simply ignore the scheme, as they do many other regulations.

There is little evidence that licensing schemes improve housing standards. The focus of staff becomes the processing and issue of licences, while prosecutions centre on whether a property is licensed or not, rather than management standards and property conditions.

The Council already has the necessary tools to tackle poor housing management and conditions in the PRS. Rather than introduce a bureaucratic licensing scheme that will see staff time wasted processing applications, it should continue to direct its limited resources at effective enforcement activity.

To identify a particular area for the introduction of licensing highlights a belief that the area has numerous issues, potentially blighting the reputation of the area. There is also a danger that the issues that the scheme seeks to address are simply moved elsewhere, as difficult or vulnerable tenants are moved on.

Landlords, especially those with properties outside the licence area will become risk averse in terms of the tenants they let to. Tenant problems such as anti-social behaviour are impossible for the landlord to address alone and landlords will not wish to risk a breach of licensing conditions that may affect their ability to let properties elsewhere. Some may seek to evict already challenging tenants. This could mean additional costs to other council services, as they pick up the pieces created by the disruption to the lives of already vulnerable tenants. This would be a particular issue within the post code areas SE28 and DA8, where you state that 34% and 23% of properties having problems.

Likewise, if licensing costs are passed on to tenants in the form of rent increases, then some tenants may struggle, particularly those on benefits, affected by welfare reform and frozen housing allowances.

Rather than an ineffective licensing scheme, the council should use cross-departmental and multi-agency working and effective use of existing housing legislation to support tenants and landlords in maintaining tenancies, housing condition and management standards.

There are alternatives to licensing. The RLA supports a system of self-regulation for landlords whereby compliant landlords join a co-regulation scheme which deals with standards and complaints in the first instance, while those outside the scheme remain under the scope of local authority enforcement. More information can be supplied if required.

We also support the use of the council tax registration process to identify private rented properties and landlords. Unlike licensing, this does not require self-identification by landlords, making it harder for so-called rogues to operate under the radar.

Yours Sincerely,

India Cocking

## Appendix – RLA General Licensing Concerns

The RLA has several areas of concern in regards to selective licensing, namely:

- i. Worrying trends are emerging in the case of discretionary licensing. Licensing entails a huge bureaucracy and much time, effort and expense is taken up in setting up and administering these schemes; rather than spending it on the ground and flushing out criminal landlords.
- ii. Increasingly, discretionary licensing is being misused to fund cash strapped housing enforcement services. The recent Westminster sex shop Court of Appeal (*Hemming (t/a Simply Pleasure) Limited v Westminster City Council*) has brought such funding into question).
- iii. Discretionary licensing is not being used for its intended purpose of a short period of intensive care; rather it is being used by the back door to regulate the PRS.
- iv. The level of fees which are ultimately passed on to tenants to pay is a major worry so far as it affects landlords.
- v. Despite high fee levels local authorities still lack the will and resources to properly implement licensing.
- vi. Little has been done to improve property management. Opportunities to require training have been ignored. As always it has become an obsession with regard to physical standards with very detailed conditions being laid down. No action is taken against criminal landlords.
- vii. We believe that a significant number of landlords are still operating under the radar without being licensed.
- viii. As always it is the compliant landlord who is affected by the schemes. They pay the high fees involved but do not need regulation of this kind.
- ix. Licensing is not being used alongside regeneration or improvement of the relevant areas. Insufficient resources are being employed to improve the areas.
- x. Where areas are designated for selective licensing this highlights that they can be “sink” areas. This could well mean it would be harder to obtain a mortgage to buy a property in these areas.

- xi. Schemes are not laying down clear objectives to enable decisions to be made whether or not these have been achieved. Proper monitoring is not being put into place to see if schemes are successful or not.
- xii. There is little use of “fit and proper person” powers to exclude bad landlords.