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Housing & Neighbourhoods
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Our Ref
Your ref
Date 4th March 2014

Dear xxxxx,

Re: Queensgate – A proposed Selective Licensing Scheme for HMOs in Burnley

Thank you for your detailed letter of the 23rd December 2013. For clarity the proposal for Queensgate is for selective licensing for Part 3 Houses under the Housing Act 2004 not for Houses in Multiple Occupation (HMO).

I will first respond to the RLA objections to the proposed designation:

Point 1 – The Fee Structure

The proposed selective licensing fees have been checked with the Council's Legal Department for compliance with the European Services Directives and the ruling of the Hemming V Westminster City Council Court of Appeal Case.

Point 2 – Selective licensing is ineffective at reducing incidents of anti-social behaviour

Everyone has the right to live safely and peacefully without worrying about being annoyed or harassed through antisocial behaviour which causes or is likely to cause fear, alarm or distress. Whilst the Council appreciate that the tenant is responsible for their behaviour Landlords also have a responsibility to prevent their tenants behaving in an antisocial way in and around their homes. If their tenants are acting in a way that causes or is likely to cause alarm, distress, nuisance or annoyance to anyone living near their home, the landlord must take action.

Steps the Council would expect a landlord to take include:

- Investigating complaints about their tenants' behaviour;

- Writing to tenants to explain that their behaviour is causing concern and asking them to modify it;
- Giving advice on noise reduction;
- Ending the tenancy.

Through Selective Licensing the Council and Police will support the landlords and tenants to address anti-social behaviour. Subsequently since the beginning of the Trinity designation area the number of calls to the Police about anti-social behaviour has reduced by 60% in the designation area. Detailed below is a report from the Community Beat Manager for the Trinity area.

“The Neighbourhood Policing Team has been reduced to 2 x PC and 2 PCSO and Trinity is still classed as one of the most deprived areas in the country and the busiest in the county with regards to crime and anti social behaviour

We highlighted in the previous annual report that our main partner in tackling anti-social behaviour within the Trinity Ward was with the Selective Licensing Team. We have continued to work with the team during the last year and this has assisted us by reducing reported incidents by a further 14% in the selective licensing area.

Due to the often complex nature of anti-social behaviour issues there requires a multi-agency approach to tackle the problem. A good example of this from the last 12 months was where; the police were aware of a property where anti social behaviour was a massive problem to local residents. Police attended the address on numerous occasions and identified the property as a HMO and one resident in particular was having parties involving local youths who practically took over the property. The police would collate evidence in order to obtain a Closure Order at great expense to the public purse and very time consuming which would affect other residents as the behaviour would have continued. The police and selective licensing team had meetings with the landlord of the property and gave him the opportunity to take action as was his responsibility, the pressure put on the landlord under selective licensing regulations forced the landlord to take action through the court system, this was a far quicker method than a closure order and dealt with the situation quickly.

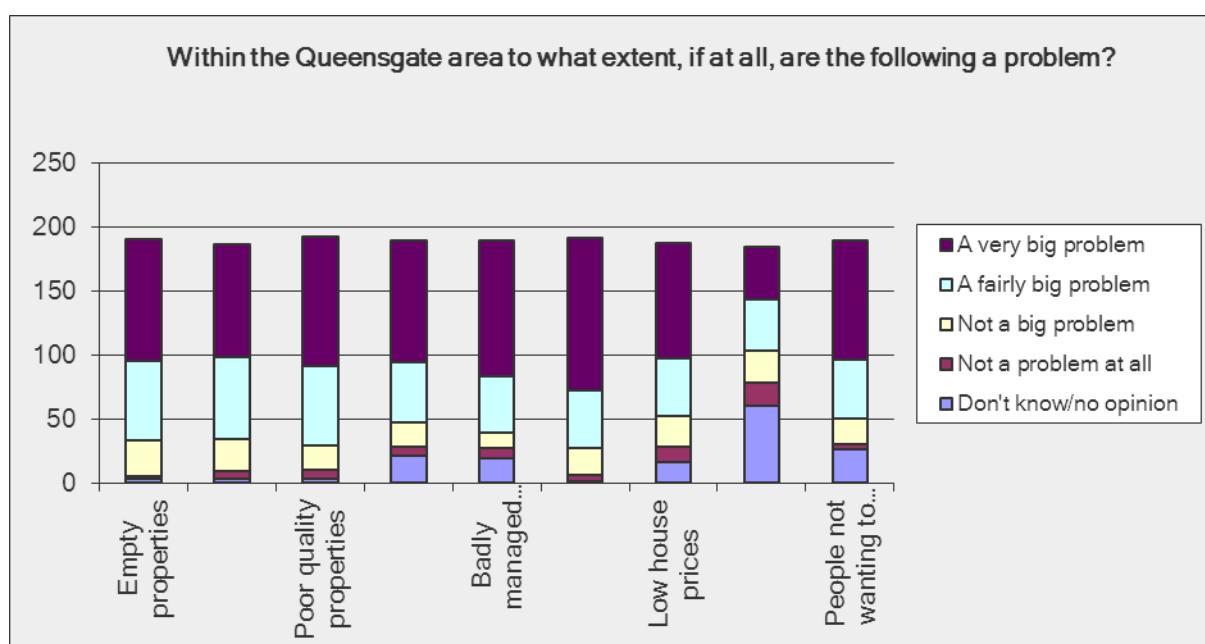
As I have stated previously Trinity ward still has a volume of anti-social behaviour reports, Selective licensing only covers approx 75% of the rented properties on the ward, by expanding selective licensing to cover the whole of the ward I believe that we could reduce these figures further”.

Point 3 – Denigrating the area/mortgage loans

It is the residents of the area that are reporting to the Council and their Ward Councillors that there are problems within their neighbourhood. Extracts from the consultation show that residents think that the top three biggest problems in the proposed designation area are rubbish dumping, badly managed privately rented houses and poor quality properties. These problems are then followed by empty properties and people not wanting to stay in the area. It also shows that the majority of respondents felt that significantly more problems are caused by privately rented properties than by other properties.

Within the Queensgate area to what extent, if at all, are the following a problem?

Answer Options	A very big problem	A fairly big problem	Not a big problem	Not a problem at all	Don't know/no opinion	Response Count
Empty properties	95	62	28	2	3	190
Nuisance and anti-social behaviour	88	64	25	6	3	186
Poor quality properties	101	62	19	7	3	192
High turnover of private rented tenants	95	47	19	7	21	189
Badly managed privately rented houses	106	44	12	8	19	189
Rubbish dumping	119	45	21	5	1	191
Low house prices	90	45	24	12	16	187
Low rent levels	41	40	25	18	60	184
People not wanting to stay in the area	93	46	20	4	26	189



Which of the following statements best sums up your view of private rented properties and problems in the neighbourhood?

Answer Options	Response Percent	Response Count
Privately rented properties are no better or worse than other properties (privately owned homes or rents from a social landlord).	16.7%	27
Significantly more problems are caused by privately rented properties than by other properties.	51.2%	83
Problems tend to be caused more by privately rented properties than by other properties.	27.2%	44
No problems are caused by privately rented properties.	4.9%	8
Don't know/No opinion	0.0%	0

An example of a comment received from a resident of the proposed Queensgate designation area during the statutory consultation period:

“I have lived here 27 years and most of the problem tenants, householders are from rented properties, and this has been the case all these years”.

The Council have no evidence that mortgage companies will not make loans on properties located in a selective licensing area.

Point 4 – Outcomes

Point 5 – Resources and Other Measures

As detailed in the consultation document for Queensgate the Council are proposing selective licensing as part of a wider regeneration programme for Burnley and East Lancashire which includes improvements to education such as the new Technical College on Trafalgar Street; improvements in transport and connectivity such as the Todmorden Curve, heritage lead regeneration such as the Weavers Triangle and concentrated initiatives around business growth. All of which aim to attract people into the town to work and live.

For people to want to live and remain in Burnley there needs to be a choice of good quality homes in a mixed tenure neighbourhood that is well managed and affordable. To assist in this there are new housing developments being built adjacent to the proposed designation area to expand the range of properties on offer in the area. There is the empty homes programme within the proposed designation area which is investing Council resources into empty properties through either a loan to a landlord or through acquisitions and refurbishment. There are environmental improvements being proposed to the Brennand Street area of the proposed designation and there are ongoing Alley gate schemes. In addition Council resources will be used to proactively inspect properties within the proposed designation area.

The private rented sector is a key component of providing a sustainable mixed tenure neighbourhood if it is of good quality and well managed. Undermining these neighbourhoods is the poor quality, poorly managed properties which cause “good” tenants “good” landlords and owner occupiers to leave an area.

Selective licensing is the only sanction that compels poor landlords to have satisfactory management practices in place to manage their properties and tenancy agreements in a way which does not have a detrimental impact on neighbouring residents. Thus driving up standards in the Private Rented Sector and helping to regenerate an area.

Point 6 – Monitoring

If the proposed designation area is approved by the Council there will be measurable performance targets which will be reported to the Private Rented Sector Forum and published annually.

I note your comment about a control area; the Council will look to introduce this as part of the monitoring process.

Point 7 – Size of the Areas

This point has been noted.

Point 8 – Displacement effect

Through the risk assessment process it is an identified risk of selective licensing that both “bad” tenants and “bad” landlords could relocate to neighbouring areas where selective

licensing is not operating. This is taken into account when looking at the proposed designation boundary.

The cases of anti-social behaviour are dealt with through a joint approach involving the landlord or agent, licensing team and the anti-social behaviour officer. Where problems persist the cases are referred to the multi-agency licensing team to discuss what action needed to be taken and to see what other support could be provided to resolve the problem. In the main this joint intervention results in the residents addressing their behaviour and enables the landlord to deal with anti-social behaviour effectively. However were a problem persists the tenant may be evicted and relocate in other neighbourhoods. Housing already has established partnerships with the Anti-social behaviour team and the Police, through this multi-agency work the Council will monitor the activity of any displaced tenants.

Point 9 – Comments on the consultation document

Detailed below is numbered responses to the RLA critique, this number responds to the number provided in the first column of your inserted table:

1. The Council states in the consultation document that the private rented sector plays a significant role in meeting people's housing need. It is a key component of providing a sustainable mixed tenure neighbourhood if it is of good quality and well managed. Selective licensing will raise the standard of management and contribute to improvements in property condition.
2. There is nowhere in the legislation or guidance for selective licensing that states that it should be a last resort. The Council have been operating voluntary accreditation throughout the Borough since 2001, from the administration of this scheme it is evident that there are limitations in its remit in that only committed, more responsible landlords will join. The option appraisal in the consultation document demonstrates that the Council have considered other options to improve the private rented sector in the proposed designation areas.
3. The private rented sector represents 45% of the housing stock in the proposed designation area. Whilst the Council recognise that a well-managed and maintained private rented sector contributes to a mixed community it is important that the current owner occupation is maintained in this area and that further owner occupation is encouraged. Through the empty homes programme the Council are encouraging first time buyers to the area by offering a Purchase Assistance Loan, the objective of which is to assist people in getting onto the property ladder.
4. The Communities and Local Government guidance for the approval of additional and selective licensing designations in England requires the Council to consider several factors when determining whether an area is suffering from or likely to suffer from low demand. One of these factors is empty homes; the vast majority of these empty homes are in the ownership of private individuals. Any empty properties owned by the Council in the proposed designation area are undergoing renovation work for re-sale to owner occupiers or accredited landlords.
5. Within the designation area 15.7% of the houses are empty compared to a Borough average of 7%; this is a significant difference. The empty homes scheme is proposing to bring 101 empty properties back into use in the proposed designation area through a selective acquisition and loans programme. The proposed selective licensing designation area will ensure that those properties brought back into use as private rented accommodation achieve the desired standards of management and make a positive contribution to the neighbourhood.

6. The experience of the Trinity Selective Licensing area is that licensing fees have not been passed onto tenants.
7. The Council are not assuming that low value housing means that they are of a poor condition. The House Condition survey highlights that the private rented sector and pre 1919 properties have a higher percentage of category 1 hazards. The proposed designation area is dominated by privately rented properties and pre 1919 terraced properties indicating that the housing stock in the area will be of a poorer condition.
8. Please see the response in point 5.
9. Please see the response in point 7.
10. Point noted.
11. The Council have a duty to review the Housing Stock of the Borough from time to time. A stock condition survey is a recognised way of achieving this. In addition from the Council experience of stock within their Borough pre 1919 terraced properties are more likely to experience a Category 1 hazard for excess cold. As the proposed designation area is dominated by pre-1919 terraced properties there will be an increased risk of the presence of Category 1 hazards. To help address the Council are undertaking a pilot in the area to determine whether the hard to treat cavities can be treated with internal wall insulation. In addition a joint initiative working alongside the proposed selective licensing area will be a timetable of proactive HHSRS inspections.
12. The Communities and Local Government guidance for the approval of additional and selective licensing designations in England states that Local Authorities should consider property condition.
13. See the response in this letter under Point 2 - Selective licensing is ineffective at reducing incidents of anti-social behaviour.
14. The index of deprivation is further evidence that the Queensgate area is in low demand.
15. The Council are not asking Landlords to introduce a second adult into the property. Paragraph 103 of the consultation document is simply showing the demographic profile for the Queensgate area.
16. Paragraphs 102 to 110 of the consultation document are showing the profile of the households living within the proposed designation area. The Council appreciate that private landlords do not have an obligation to house tenants in receipt of benefits; this is however a characteristic of the area, a large proportion of the tenants within the proposed designation area are in receipt of housing benefit and are living in private rented accommodation.
17. Point 105 of the consultation document is showing the profile of the households in the area.
18. Point 106 of the consultation document is showing the profile of the households in the area.
19. Please refer to paragraph 2 of point 9 Comments on the consultation document.
20. There is no evidence to suggest that selective licensing restricts the choice of private rented sector accommodation. Responsible landlords continue to invest in the Trinity area of the Borough. Selective Licensing will improve the management and reputation of the private rented sector making it a tenure of choice rather than circumstance.
21. The Trinity Selective Licensing area has not seen the costs of the selective licensing fee being passed onto the tenants. The Council will tackle the criminal landlords through prosecutions, management orders and rent re-payment orders.
22. The private rented sector is a key component of providing a sustainable mixed tenure neighbourhood if it is of good quality and well managed. Undermining these

- neighbourhoods is the poor quality, poorly managed properties which cause “good” tenants “good” landlords and owner occupiers to leave an area. The Council is proposing selective licensing as one initiative in the wider regeneration programme as the only sanction that compels poor landlords to have satisfactory management practices in place to manage their properties and tenancy agreements in a way which does not have a detrimental impact on neighbouring residents. Thus driving up standards in the Private Rented Sector and helping to regenerate an area.
23. The Trinity Selective Licensing Area has not seen fees being passed onto tenants or responsible landlords stopping their investment in the area.
 24. The Council agree if the private rented sector is managed responsibly and provides quality accommodation.
 25. The Trinity Selective Licensing scheme has not seen responsible landlords stopping their investment in the area. Selective Licensing has provided powers to deal with the negative results of speculative buying through irresponsible or inexperienced landlords.
 26. Please refer to the point 25 above.
 27. The Council are supporting landlord investment in the proposed area by way of an empty homes loan. This is an interest free loan to a maximum of £20,000 repayable over 10 years. In return the landlord must be or become a member of the Good Landlord and Agent Accreditation Scheme.
 28. It is to reduce the impact of poorly managed private rented accommodation.
 29. Point noted.
 30. Point noted and a reason for introducing selective licensing as well as accessing the “Rogue” Landlord funding for the Government. This scheme will start in March 2014 and support selective licensing.
 31. The Council’s proposed case for selective licensing in the Queensgate area of the town is based on low demand. Anti-social behaviour is an indicator of low demand. The Council do not state in the Queensgate proposal document that there is a low level of Anti-social behaviour. Paragraph 111 states that “Queensgate has relatively high levels of crime when compared with Burnley, the rest of Lancashire and similar areas in inner Burnley suffering from low demand”. Paragraph 112 states “.... The rate of reported incidents per thousand population at 115.6 is significantly higher than for Burnley (90.9) and Lancashire (64.2)....”.
 32. The properties in the proposed designation will be proactively inspected through the use of current Council resources as was the case in the Trinity Selective Licensing area. Selective licensing is not a standalone tool it is being proposed as one part of a wider regeneration strategy. The proactive inspections will support selective licensing, licensing improving the management of the private rented sector and the proactive inspections improving the condition of the private rented sector.
 33. The Council have been operating the Good Landlord and Agent Scheme since 2001, there are list of accredited landlords and managing agents available on the Council’s website. There is however a limitation to accreditation; as it is voluntary only committed and responsible landlords will join the scheme. There is a discount of 30% from the selective licensing fee for accredited landlords.
 34. There are a small number of accredited landlords in the proposed designation area; their properties will not require further HHSRS inspections. Due to the nature of the selective licensing legislation they cannot be exempt from licensing but as detailed above there is a discount to the fees.

35. That is why Selective Licensing is being proposed as it compels those landlords that will not engage through voluntary schemes to have satisfactory management practices in order to receive a licence.
36. For a number of years the Council provided grants for housing repairs to accredited landlords. This significant financial incentive did not encourage the poorer landlords to join.
37. The Development Days are available to accredited landlords. It is however a condition of the licence that landlords within the proposed designation area attend the training event.
38. There is no other legislation enforceable by local authorities that compels landlords to be fit and proper persons and to improve their **management** practices as selective licensing does.
39. The Council do not state that landlords cannot house tenants that have had a previous history of anti-social or criminal behaviour but that they ensure as far as possible that they are aware of it and have the necessary management practices in place to try to address this behaviour should it occur again.
40. The other options do not allow a condition to be placed upon a landlord to attend a training event. Through accreditation experience shows that the poorer landlords will not engage with the Council or attend any time of development or training. Selective Licensing compels a landlord to do so.
41. The HHSRS does not address property management only property condition.
42. Point noted.

Point 10 Freedom of Information Request

There are no staff employed in the licensing team for the proposed areas of Gannow and Queensgate as this is the statutory consultation period. The decision as to whether the areas will become licensing areas will be taken in March 2014.

The Council looked at the task timings per application and the total number of applications to be processed per year, this enabled a calculation to be made for the total hours required to process the applications. The Council then looked at all the monitoring of conditions functions that are to be covered as part of the designation, and based on officer experience an average task time, per property for the 5 years was calculated, this then gave an indication of the likely level of staffing resources required for the scheme.

The associated revenue costs of delivering the project is approximately £417,000 for the 5 years. The proposed fee is £750 for 1 landlord with 1 property and £670 for each additional property.

It is proposed that a 30% discount is awarded to landlords who have joined the Good Landlord and Agent Scheme (GLAS) prior to the designation being awarded by the Executive, in recognition of the standards they have already achieved and their willingness to engage with the Council.

Examples of the fees

One landlord with one property would pay a fee of £750 over a five year period. This equates to £13 per month. The fee can be paid in four instalments of £188.

One accredited landlord with one property would pay a fee of £525 over a five year period. This equates to £9 per month. The fee can be paid in four instalments of £131 per year.

Yours sincerely

Private Sector Housing Manager