

Appendix 12 Secretary of State Approval

THE HOUSING ACT 2004: LICENSING OF HOUSES IN MULTIPLE OCCUPATION AND SELECTIVE LICENSING OF OTHER RESIDENTIAL ACCOMMODATION (ENGLAND) GENERAL APPROVAL 2015

The Secretary of State for Communities and Local Government in exercise of powers under sections 58(6) and 82(6) of the Housing Act 2004 gives to all local housing authorities in England the following general approval:

Commencement and Interpretation

1. This general approval comes into force on 1st April 2015.
2. Words and expressions used in this consent shall, unless the context otherwise requires, take the same meaning that is given to them in the Housing Act 2004 ("the Act").

General Approval

3. Subject to the condition contained in paragraph 5, every local housing authority in England that designates an area of their district or an area in their district as subject to additional licensing in relation to a description of HMOs specified in a designation made under section 56(1) of the Act has the Secretary of State's general approval of that designation for the purposes of section 58(1)(b) of the Act.
4. Subject to the conditions contained in paragraphs 5 and 6, every local housing authority in England that designates an area of their district or an area in their district as subject to selective licensing under section 80(1) of the Act has the Secretary of State's general approval of that designation for the purposes of section 82(1)(b) of the Act.

Conditions to be satisfied

5. The general approval described in paragraphs 3 and 4 is not given in relation to a designation in respect of which the local housing authority has not consulted persons who are likely to be affected by it under section 56(3)(a) or section 80(9)(a) of the Act for not less than 10 weeks.
6. The general approval described in paragraph 4 is not given in relation to a designation of an area as subject to selective licensing which falls within either of the following criteria:

Appendix 12 Secretary of State Approval

- a) the designation, either by itself, or in combination with other selective licensing designations made by the local housing authority, would cover more than 20% of the geographical area of the local housing authority; or
- b) the designation, either by itself, or in combination with other selective licensing designations made by the local housing authority, would affect more than 20% of privately rented homes in the local housing authority area, based on figures from census data.

Revocation of previous General Approval

7. The general approval given by the Secretary of State for Communities and Local Government on 30th March 2010 (“The Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2010”) is revoked from 1st April 2015.
8. For the avoidance of doubt, this revocation shall not affect the validity of designations made and published by a local housing authority in accordance with section 83(2) or section 59(2) of the Act before 1st April 2015, regardless of the date of coming into force of such designations.
Signed by authority of the Secretary of State for Communities and Local Government Lord Tariq Ahmad of Wimbledon Parliamentary Under Secretary of State Department for Communities and Local Government
26th March 2015

Application to the Secretary of State for Confirmation

Applications for confirmation of Selective licensing designations should be submitted to the Department for Communities and Local Government and should use the following structure.

- Introduction. This should cover the strategic significance of the proposed area and provide a detailed description of the proposed area (including the number and types of properties affected, and a map of the area).
- An explanation of whether the designation is for more than 20% of the local authority's geographical area; or affects more than 20% of privately rented homes in the area and how this was calculated or where the scheme is for less than 20% of the area or homes, how together with other schemes affects more than 20% cumulatively.
- Where the designation would cover over 20% of the area or 20% of properties the application should set out what the rationale for adopting a large scale scheme is.
- Current position with regards to tackling:
 - low housing demand;
 - anti-social behaviour;
 - poor property conditions;
 - an influx of migration;
 - a high level of deprivation;
 - high levels of crime;demonstrating how the area would benefit from the combination of existing policies and selective licensing.
- Conclusion, addressing the relevant issues that were raised in the stakeholder consultation and details as to what the long-term impact of the scheme will be on the proposed area.
- A copy of the consultation document and the published summary of the responses;
- Details of the fees that will be charged;

Appendix 12 Secretary of State Approval

- A copy of the Designation and minutes of the Council meeting resolving to make the designation;
- A copy of the local housing authority's strategy to ensure compliance with the scheme and enforcement against those who do not comply. It must also supply the level of compliance with other licensing schemes it operates, including mandatory House of Multiple Occupation licensing.

Department's role in the confirmation process

- The Secretary of State's role in confirmation will be exercised by officials in the Private Sector Property Division and the final decision whether to confirm or refuse to confirm the designation will be made by a senior official of the division.
- The decision will be in writing and where appropriate, will give reasons where the Secretary of State declines to give consent. There is no appeal against the Secretary of State's decision, although it can be subject to judicial review.
- We aim to make a decision in relation to an application within 8 weeks from receipt, but processing applications may take longer if we have not been given all the information required, or we require further information or research, or if the case is complex.
- We may request further information relating to the application and supporting documentation, including clarification of matters which are unclear, and we may seek further evidence of certain matters. If we do not have sufficient information to make a decision, we will let you know.
- The role of the Secretary of State is not about second-guessing the local housing authority's reasons for making the decision. As this guidance makes clear local housing authorities will know their local housing market conditions better than the Department. The approval system is concerned with ensuring that the local housing authority has carried out the requirements imposed on it through the legislation before making the designation and can sufficiently demonstrate, where a scheme will impact on a large geographical area or number of privately rented properties, that there is robust evidence to support the reasons for making the designation.
- There is no presumption towards refusal or acceptance. All applications will be considered impartially on a case-by-case basis balancing the views and interest of all parties and we will consider representations in support of the application from Government Departments and agencies, such as the Home Office.
- However, the Secretary of State will take into account in deciding whether to confirm a scheme, the robustness of the proposed measures to ensure compliance¹⁸. In particular, the Secretary of State will expect to be assured there are systems in place to monitor compliance, and enforcement measures are in place where there is non-compliance. He will also take account when considering confirmation of a new scheme whether there has been sufficient compliance with other licensing schemes operating in the local housing authority area.
- It is important that licensing schemes that exist are robustly enforced and if a local housing authority is unable to show compliance this will cast doubt on its ability to ensure compliance with the application scheme.