

THE WORCESTER CITY COUNCIL DESIGNATION OF FIVE WARDS FOR ADDITIONAL LICENSING OF HOUSES IN MULTIPLE OCCUPATION 2020

Worcester City Council ("the Council") in exercise of its powers under section 56 of the Housing Act 2004 ("the Act") hereby designates for additional licensing of Houses in Multiple Occupation ("HMOs") the area described in paragraph 4.

CITATION COMMENCEMENT AND DURATION

1. This designation may be cited as the "Worcester City Council Designation of an Area for Additional Licensing of Houses in Multiple Occupation 2020"
2. This designation is made on 26th May 2020 and shall come into force on 1st September 2020. The designation falls within the description of designations for which the Secretary of State has issued a General Approval dated 26th March 2015.
3. This designation shall cease to have effect on 31st August 2025 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 wards of St John, Bedwardine, St Clement, Cathedral and Arboretum as delineated and edged red on the map at Annex A ("the Area").

APPLICATION OF THE DESIGNATION

5. This designation applies to HMOs of the description specified in Annex B within the Area unless –
 - a. The building is of a description specified in Annex C;
 - 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;
 - d. The HMO is required to be licensed under section 55 (2)(a) of the Act (Mandatory licensing)
 - e. The HMO is specifically excluded from the scheme in Annex B

EFFECT OF THE DESIGNATION

6. Subject to paragraph 5 above every HMO of the description specified in that paragraph in the Area shall be required to be licensed under section 61 of the Act.
7. The 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 by section 232 of the Act.
8. Landlords, persons managing or a tenant within the Area should seek advice from the Council by contacting them as specified in paragraph 14 to ascertain whether their property is affected by this designation.

CONSEQUENCES OF FAILING TO LICENCE A HMO

9. A person who fails to licence a property which requires licensing by virtue of this designation or allows a licensed property to be occupied by more households or persons other than as authorised by a licence, is liable to prosecution and upon summary conviction is liable to an unlimited fine by virtue of Section 72 of the Act . The Council may, as an alternative to prosecution, impose a financial penalty of up to £30,000.00 by virtue of section 249A of the Act.
10. A person who breaches a condition of a licence is liable upon summary conviction to a level five fine (section 72 of the Act). The Council may as an alternative to prosecution impose a financial penalty of up to £30,000 (section 249A of the Act).
11. The tenant(s) and/or the Council may apply to the First-Tier Tribunal (Residential Tribunal) under the provisions of section 41 of the Housing and Planning Act 2016 for a rent repayment order.
12. No section 21 notice pursuant to the Housing Act 1988 (recovery of possession on termination of shorthold tenancy) may be given in relation to a shorthold tenancy of a part of an unlicensed HMO so long as it remains unlicensed.

INSPECTION OF THE DESIGNATION

13. The Council is the Local Housing Authority which made the designation. Subject to paragraph 15, the designation may be inspected at:
Customer Service Centre, 89 High Street, Worcester, WR1 2EY
14. Information, advice and applications relating to HMO licensing, including additional licensing, should be made to the Council's Private Sector Housing Team as follows:

Post: Private Sector Housing Team, Worcester City Council, Guildhall, High Street, Worcester, WR1 2EY

Telephone: 01905 722288

Email: privatehousing@worcester.gov.uk

Website: <https://www.worcester.gov.uk/housing/landlord-advice/additional-licensing-of-hmos>
15. Due to the Covid-19 Coronavirus pandemic the Council's offices are currently closed. Until the Council's offices are opened the Council will ensure copies of the designation are available for members of the public to view by emailing digital copies of the designation upon receipt of a request to the private sector housing team detailed above. Copies of the designation are displayed on the Council's website.

26th May 2020

Signed: Georgina Coley, Deputy Monitoring Officer

Annex A – Map of the Area subject to the designation

Annex B – HMOs subject to the designation

For the purpose of this designation and subject to paragraphs 6 to 10 below a building or part of a building is a HMO if it falls into any of the categories detailed in paragraphs 1 – 5 below.

1. A building or a part of a building is a HMO if:-
 - a. It consists of one or more units of living accommodation not consisting of a self-contained flat or flats; and
 - b. The living accommodation is occupied by persons who do not form a single household (see paragraph 6 and section 258 Housing Act 2004); and
 - 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; and
 - d. Their occupation of the living accommodation constitutes the only use of that accommodation; and
 - e. Rents are payable or other consideration is to be provided in respect of at least one of those person' 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.
2. A self-contained flat is a HMO if paragraphs 1(b) to 1(f) apply.
3. A converted building or a part of a converted building is an HMO if:-
 - a. It is a converted building; and
 - 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); and
 - c. The living accommodation is occupied by persons who do not form a single household; and
 - 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; and
 - 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's occupation of the living accommodation.
4. It is a converted block of flats to which section 257 of the Act applies (further detail is contained within said section of the Act)
5. A HMO declaration is in force in respect of the building under section 255 of the Act
6. Persons are to be regarded as not forming a single household unless:-
 - a. They are all members of the same family, or
 - b. Their circumstances are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.
7. A person is a member of the same family as another person if:-

- a. Those persons are married to each other or live together as husband and wife (or in an equivalent relationship in the case of persons of the same sex);
 - b. One of them is a relative of the other; or
 - c. One of them is, or is a relative of, one member of a couple and the other is a relative of the other member of the couple.
8. For those purposes:-
- a. A "couple" means two persons who are married to each other or otherwise fall within 7a;
 - b. "relative" means parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew, niece or cousin;
 - c. A relationship of the half-blood shall be treated as a relationship of whole blood; and
 - d. The stepchild of a person shall be treated as his child.
9. A person is still to be treated as occupying a building or part of a building as their only or main residence even where it is occupied by the person:-
- a. As the person's residence for the purpose of undertaking a full-time course of further or higher education;
 - b. As a refuge; or
 - c. For occupation by a migrant or seasonal workers (where the occupation is provided by their employer or agent); or
 - d. For occupation by asylum seekers and their dependents when such accommodation is provided under section 95 of the Immigration and Asylum Act 1999 and provided on behalf of the UK Board Agency.
 - e. In any other circumstances which are circumstances of a description specified for the purposes of this section in regulations made by the appropriate national authority.
10. "Refuge" means a building or part of a building managed by a voluntary organisation and under wholly or mainly for the temporary accommodation of person who have left their homes as a result of:-
- a. Physical violence or mental abuse, or
 - b. Threats of such violence of abuse, from persons to whom they are or were married or with whom they are or were co-habiting.

Annex C: Buildings that are not HMOs for the purpose of the Act (other than HMOs under Part 1 of the Act) in accordance with Schedule 14 of the Act

Buildings controlled or managed by public sector bodies etc⁵

1. A building where the person managing or having control of it is⁶.
 - (a) a local housing authority
 - (aa) a non-profit registered provider of social housing
 - (b) a police and crime commissioner under section 1 of the Police Reform and Social Responsibility Act 2011 or the Mayor's Office for Policing and Crime under section 3 of the same 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 9 of the National Health Service Act 2006
 - (e) a body which is registered as a social landlord under Part 1 of the Housing Act 1996.
 - (f) a profit-making registered provider of social housing where it is social housing within the meaning of Part 2 of the Housing and Regeneration Act 2008

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Buildings controlled or managed by a co-operative society⁸

2. A building where:
 - (a) the person managing or having control of it is a co-operative society whose rules are such as to secure that each of the conditions set out below is met, and
 - (b) no person who occupies premises in the building does so by virtue of an assured tenancy, a secure tenancy or a protected tenancy⁹
 - (c) The conditions are:
 - (i) that membership of the society is restricted to persons who are occupiers or prospective occupiers of buildings managed or controlled by the society,
 - (ii) that all management decisions of the society are made by the members (or a specified quorum of members) at a general meeting which all members are entitled to, and invited to, attend,
 - (iii) that each member has equal voting rights at such a meeting, and
 - (iv) that, if a person occupies premises in the building and is not a member, that person is an occupier of the premises only as a result of sharing occupation of them with a member at the member's invitation.
 - (d) For these purposes "co-operative society" means a body that is registered as a co-operative society under the 2014 Act or is a pre-commencement society (within the meaning of that Act) that meets the condition in section¹⁰ 2(2)(a)(i) of that Act, and is neither:
 - (i) a non-profit registered provider of social housing, nor
 - (ii) registered as a social landlord under Part 1 of the Housing Act 1996.

4 Schedule 14 of the Act and SI 2006/373

5 Paragraph 2 of schedule 14 of the Act.

6 For the definition of "person managing" and "person having control" see section 263 of the Act.

7 Paragraph 2A of Schedule 14 of the Act.

8 Paragraph 2B of Schedule 14 of the Act.

9 "assured tenancy" has the same meaning as in Part 1 of the Housing Act 1988; "protected tenancy" has the same meaning as in the Rent Act 1977; "secure tenancy" has the same meaning as in Part 4 of the Housing Act 1985.

10 the 2014 Act" means the Co-operative and Community Benefit Societies Act 2014.

Buildings regulated by other enactments¹¹

3. 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 1998¹²
- (e) The Prison Rules 1999¹³
- (f) The Young Offender Institute Rules 2000¹⁴
- (g) The Detention Centre Rules 2001¹⁵
- (h) The Criminal Justice and Court Service Act 2000 (Approved Premises) Regulations 2001¹⁶
- (i) The Care Homes Regulations 2001¹⁷
- (j) The Children's Homes (England) Regulations 2015¹⁸
- (k) The Residential Family Centres Regulations 2002¹⁹

Certain student lettings etc. 20

4. A building —

- (i) which is managed or controlled by a specified educational establishment or is of a specified description of such establishments and
- (ii) the occupiers of the house or dwelling are undertaking a full time course of further or higher education at the specified establishment²¹ and
- (iii) 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.²²

Religious communities 23

5. A building which is occupied principally for the purpose of a religious community whose principal occupation is prayer, contemplation, education or the relief of suffering except if the building is a converted block of flats to which section 257 of the Act applies.

Buildings occupied by owners²⁴

6. A building which is only occupied by:

- (i) 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
- (ii) and/or any member of the household²⁵ 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.

¹¹ Paragraph 3 of Schedule 14 of the Act.

¹² SI1998/472 as amended by 2003/3005

¹³ SI1999/728 as amended by SI 2000/1794, SI 2000/2641, SI 2001/1149, SI 2002/2116, SI 2002/3135, SI 2003/3301 and 2005/869

¹⁴ SI2000/3371 as amended by SI 2002/2117, SI 2002/3135 and 2005/897

¹⁵ SI 2001/238 NB 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.

¹⁶ SI2001/850

¹⁷ 2001/3965 as amended by SI 2002/865, SI 2003/534, SI 2003/1590, SI 2003/1703, SI 2003/1845, SI2004/664, SI 2004/696, 2004/1770, 2004/2071 and 2004/3168

¹⁸ SI 2015/541

¹⁹ SI 2002/3213 as amended by SI2004/664, 2004/865 and 2004/3168

²⁰ Paragraph 4 of Schedule 14 of the Act

²¹ Houses in Multiple Occupation (Specified Educational Establishments) (England) Regulations 2013/1601

²² Housing (Codes of Management Practice) (Student Accommodation) (England) Order 2010/2615

²³ Paragraph 5 of Schedule 14 of the Act

²⁴ Paragraph 6 of Schedule 14 of the Act

²⁵ For the definition of "household" see section 258 (2) and paragraphs 3 and 4 of SI 373/2006 Paragraph 6 of Schedule 14 of the Act

Buildings occupied by resident landlord²⁶

7. A building which is occupied by a person or persons to whom paragraph 6 applies (subject to the proviso therein) and no more than two²⁷ other persons, not forming part of the owner's household.

Buildings occupied by two persons²⁸

8. Any building which is occupied by only two persons (forming two households)

Meaning of "building"²⁹

9. A "building" includes a part of a building

26 Paragraph 6 of schedule 14 of the Act and SI 2006/373

27 Paragraph 6(2) of SI 2006/373

28 Paragraph 7 of Schedule 14 of the Act

29 Paragraph 1 of Schedule 14 of the Act