



Ministry of Housing,  
Communities &  
Local Government

Rt Hon Robert Jenrick MP  
Secretary of State for Housing,  
Communities and Local Government

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18/05/2021

By email: [REDACTED]

Dear [REDACTED]

Thank you for your application on behalf of Hastings Borough Council (the Council), seeking Secretary of State confirmation to designate the Council's district as subject to selective licensing under section 80 (1) of the Housing Act 2004.

The Council has applied to the Secretary of State for Housing, Communities and Local Government for confirmation of a selective licensing designation 6 wards on the ground of poor housing conditions. In its application the Council considers that the additional conditions in s.80(2)(b) and s.80(7) of the Housing Act 2004 as specified in Article 3 and Article 4 of the Selective Licensing of Houses (Additional Conditions)(England) Order 2015 are satisfied in relation to the area;

**Article 3 (Conditions specified for the purposes of Section 80(2)(b) of the 2004 Act)**

(1) The following conditions are specified as additional conditions for the purposes of section 80(2)(b) of the 2004 Act, which a local housing authority must consider are satisfied in relation to the area before making a selective licensing designation under this provision -

- a. that the area contains a high proportion of properties in the private rented sector, in relation to the total number of properties in the area;
- b. that the properties referred to in sub-paragraph (a) are occupied either under assured tenancies or licences to occupy; and
- c. that one or more of the sets of conditions in articles 4 to 7 is satisfied.

The Secretary of State is satisfied that the Council have met the statutory criteria in Article 3 Selective Licensing of Houses (Additional Conditions) (England) Order 2015.

#### **Article 4 (Conditions in relation to housing conditions)**

The first set of conditions is -

- a. that having carried out a review of housing conditions under section 3(1) of the 2004 Act, the local housing authority considers it would be appropriate for a significant number of the properties in the PRS to be inspected, with a view to determining whether any category 1 or category 2 hazards exist on the premises;
- b. that the local housing authority intends to carry out such inspections with a view to carrying out any necessary enforcement action and
- c. 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, contribute to the improvement in general housing conditions in the area.

The Council did not provide sufficient evidence of a review of housing conditions under s.3(1) of the 2004 Act. In reviewing the data provided by the Council, the age and reliability of the data were considered, in particular that the stock survey relied upon was old, had not been conducted for the purposes of the selective licensing designation and did not reflect the changes to boundaries or conditions in that time.

The Council did not provide sufficient information in relation to how they intend to enforce any breaches of the licence conditions or breaches of category 1 and category 2 hazards.

The Council have a wide range of tools available to them to tackle poor housing conditions in their area, the Council did not detail what other measures had been considered, they were therefore unable to demonstrate how selective licensing combined with other measures taken by them will contribute to the improvement in general housing conditions in the area.

#### **Consultation requirements (s.80(9) of the 2004 Act).**

Before making a designation, the local housing authority must:

- a. take reasonable steps to consult persons who are likely to be affected by the designation; and
- b. consider any representation made in accordance with the consultation and not withdrawn

The Secretary of State considered that respondents to the Consultation had queried the necessity of a selective licensing scheme as the Council have existing powers and tools to improve housing conditions. The Council did not evidence that they had considered these representations, whilst the Council did meet the statutory criteria of s.80(9)(a) they did not meet the statutory criteria of s.80(9)(b) of the 2004 Act.

**Section 81 of the 2004 Act (Designations under section 80: further considerations)**

- (2) The authority must ensure that any exercise of the power is consistent with the authority's overall housing strategy.
- (3) The authority must also seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour-
  - (a) as regards combining licensing under this Part with other courses of action available to them, and
  - (b) as regards combining such licensing with measures taken by other persons.
- (4) The authority must not make particular designation under section 80 unless-
  - (a) they have considered whether there are any other courses of action available to them (of whatever nature) that might provide an effective method of achieving the objective or objectives that the designation would be intended to achieve, and
  - (b) they consider that making the designation will significantly assist them to achieve the objective or objectives (whether or not they take any other course of action as well).

The Council did not provide sufficient evidence that the exercise of the power to designate is consistent with the Council's overall housing strategy. The Secretary of State considered the housing strategy (2015 – 2019) and the draft housing strategy (2020-2025); the appropriate weight was given to the 2020-2025 housing strategy as it is in draft form.

The Council did not provide sufficient evidence of a co-ordinated approach in connection with dealing with other strategies (on homelessness, empty properties and anti-social behaviour). The extended 2015 – 2019 housing strategy and 2020 – 2025 draft housing strategy do not provide complete or comprehensive evidence how other measures or other courses of actions would be a co-ordinated approach alongside other strategies.

The Council did not provide sufficient evidence to demonstrate what other courses of action have been considered or actioned previously, they have not specified why any previous interventions did not work. The evidence provided by the Council did not provide a level of detail to satisfy the Secretary of State that the alternative options have been sufficiently considered.

The Council did not provide an up to date comprehensive housing strategy, the overall objectives did not provide the level of detail necessary to satisfy the Secretary of State how the Council considers that making the designation will significantly assist them to achieve the objective(s) (whether or not they take any other course of action as well).

After careful consideration and for the reasons set out above, the Secretary of State has decided **not to approve** the application.

The Secretary of State has decided that the application **fails to satisfy the criteria set out in s.80(9)(b) and s.81 of the 2004 Act and Article 4 of the Selective Licensing of Houses (Additional Conditions) Order 2015.**

It is not incumbent on the Council to publish a notice informing its populace that an application for a selective licensing designation has not been successful. However, it is best practice, and the Secretary of State, therefore, encourages the Council to take reasonable steps to publish the outcome of this application.

A handwritten signature in black ink that reads "Robert Jenrick." The signature is written in a cursive style. Below the signature is a single horizontal line.

**Rt Hon Robert Jenrick MP**