Dear Sir/Madam

Kingston Upon Thames Additional Licensing Proposal – Consultation Response

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

Though we at The RLA respect that the London housing market is growing fast and is changing rapidly, implementing more complex and time consuming licensing schemes to the vital supply of PRS housing is not the answer.

The RLA believes that the Council is premature in bringing forward proposals. The Housing and Planning Act 2016, which commenced on 6th April, and with further measures to be introduced in October, 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 additional licensing.

I have read through your consultation documents, and though I appreciate the issues that the Council have mentioned and the effect they can have on tenants, landlords and the housing market, however licensing is not the way to tackle these issues.

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.

Within the Consultation Proposal interest is paid to addressing poor management and property standards. There is little evidence that licensing schemes improve housing standards. The focus of staff becomes the processing and issue of licenses, 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.

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.

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. Rent increases could provide very damaging to the borough’s high number of medical and student population, who are rapidly being priced out of the London rental market.

In the consultation documents the council admits that it has received 71 complaints in regards to unlicensed HMOs. However, the council has failed to reveal what enforcement action it has undertaken. This information is vital to our ability to give our advice and opinions on this scheme’s success effectively. Enforcement action is key to the success of any licensing scheme and we urge the council to consider whether it has fully prepared for the what a licensing scheme will demand of them, especially when it comes to the funding and man-power needed for enforcement.

In conclusion. 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,

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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.

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