

A Better Quality Private Rented Sector for Nottingham: Proposal for an Additional Licensing Designation

Information report for consultation

The consultation concerning this proposal will run from

1st May 2018 to 10th July 2018

1. Summary

This consultation is designed to inform citizens and stakeholders about the Council's proposal to introduce an additional licensing designation (the Designation) and scheme of licensing (the Scheme) for privately rented Houses in Multiple Occupation (HMOs) in the City. These are proposed to run for five years from the end of the current designation on 31st December 2018 until 31st December 2023... The full background to the decision to pursue a Designation is given in the report that was considered by the Council's Executive Board on April 17th 2018.

The Executive Board Report dated April 17th 2018, (which can be found on the Council's website¹ summarises the information which councillors considered at that meeting, namely:

- Why the Council believes the Designation and Scheme is necessary
- The ways in which the scheme will fit with the Council's overall approach to housing
- How the scheme will help the Council achieve its objectives
- The evidence to show that the Designation is needed (using the conditions laid down by the legislation)
- How the Designation and Scheme will operate, and how much it will cost
- The outcomes sought from the Designation and Scheme

Additional licensing is a regulatory tool provided by the Housing Act 2004. Section 56 of the Act allows local housing authorities to designate areas, or the whole area, within their district, as subject to additional licensing in respect of some or all of the HMOs in its area that are not already subject to mandatory licensing.

Nottingham City Council is proposing to implement the Additional Licensing Designation shown in Appendix 1 that covers the areas shown there and, at on a larger scale, at in Appendix 2.

Under the proposed Designation, most privately rented HMOs not already covered under the mandatory scheme, will require a licence. Landlords who own

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<http://committee.nottinghamcity.gov.uk/documents/s71103/18.04.06%20Additional%20Licensing%20Consultation%20Final%20for%20Upload.pdf>

more than one property within the designated area will need to apply for a licence for each of the HMOs they rent out.

2. What is Additional Licensing?

The Housing Act 2004 currently requires local housing authorities to license houses in multiple occupation (HMOs) if they are over 3 storeys and accommodate more than five people who form two or more households. This is called **mandatory licensing**.

The Act also gives authorities the power to introduce licensing schemes for other **HMOs** if certain conditions are met. This is called **additional licensing**, and the Council has operated a scheme of additional licensing since January 2014. This consultation relates to the Council's proposals to make a further Designation to commence once the existing designation and scheme end.

From October 2018, the definition of HMOs covered by Mandatory Licensing is changing, with the storeys element removed. This will mean that some properties that currently of the type covered Additional Licensing will move scheme.

The other discretionary form of licensing permitted by the Act is called **selective licensing**. This enables authorities to license all other privately rented houses. The Council has recently successfully applied to the Secretary of State for confirmation of a Selective Licensing Designation and that scheme will start in August 2018.

3. Why does the Council think licensing is necessary?

There are approximately 6,270 HMOs; 2,147 covered by the current Mandatory Licensing Scheme, 2,200 licensed under the current Additional Licensing scheme and 1,923 that are located outside of the current Additional Licensing scheme or are suspected of requiring a licence but do not have one.

The Council acknowledges that there are some excellent landlords operating in the City who provide very good quality homes and treat their tenants and the communities where they own properties with respect and professionalism. At the same time concern remains for the poor conditions in the private rented sector and that persist in HMOs in particular and believe that regulation is required alongside other initiatives to bring deliver the improvement required.

Nottingham introduced a 5 year Additional Licensing Designation for HMOs in 2013, which is due end in December 2018. The current scheme of Additional Licencing has succeeded in improving standards and management of HMOs, but this work is far from done and issues of poor condition, poor management and a lack of engagement with licensing persist.

The current Additional Licensing scheme has:

- ✓ Processed 2,458 licences in total to date (April 2018)
- ✓ Improved the conditions of HMOs with the issue of specific conditions and inspections

- ✓ Helped take rogue landlords out of the market and move properties into responsible ownership and management.
- ✓ Reduced ASB in areas that have had a combination of licensing, police and community protection enforcement work.

However

- × The majority of HMOs were below standard at first inspection
- × The majority of HMOs required further conditions to be added to their licence
- × The scheme is still receiving around 30 applications a month in year 5
- × 265 licences have been refused or revoked
- × Landlords of 9 HMOs have been prosecuted and 3 have received Civil Penalty Final Notices

The Council believes that to continue to make improvements in the HMO sector as well as maintain those already achieved, that a further Additional Licensing Designation is required in Nottingham and that this, along with Mandatory and Selective Schemes will provide a consistent and robust approach to improving the private rented sector overall. Having reviewed the effect of the current designation and assessed the evidence available to it the Council is satisfied that despite some improvements all the statutory tests are still being met to enable the proposed Designation to be confirmed and brought into effect.

4. How does additional licensing fit with the Council's overall approach to Housing in Nottingham?

Nottingham is committed to delivering housing offer that provides quality housing for all, across tenures, in new and existing housing and in all affordability ranges. A key part of achieving this is to ensure improved and consistent safety and management standards in the private rented sector, which continues to accommodate a large number of Nottingham residents from different communities and of different needs and means.

The 'Council Plan' states that it wants all Nottingham citizens to be able to access a good quality home – that regardless of whether you own, are buying or renting your home that it should be safe, warm, and meet modern standards - and sets out its key objectives for achieving this. The Council believes that Additional Licensing needs to be part of a long term strategy for improving property and management standards across the private rented sector alongside schemes, initiatives and partnerships such as:

- Mandatory and Selective Licensing Schemes
- The Nottingham Standard
- Safer Housing, ASB and Enviro-Crime Teams
- Community Protection and Police Partnership
- Nottingham Private Rented Accommodation Scheme
- Rogue Landlord Programmes
- Nottingham Together

5. How will the scheme help the Council achieve its objectives?

The Council believes that Additional Licensing will support the achievement of and housing and neighbourhood aims and align with wider plans and strategies.

The scheme fits with Nottingham's wider plans and strategies:

- **The Housing Strategy**
Entitled "Quality Housing for All" the Council is about to consult on its new housing strategy for 2018-21, there is an overall objective that all Nottingham's citizens should be able to access a good quality home irrespective of its tenure and recognises the role of Licensing in this.
- **Homelessness**
Decent and affordable accommodation is key to addressing and preventing homelessness, which has increased considerably in the past 2 years. To meet its relief duties within the Homelessness Reduction Act the Council will be looking to the Private Rented Sector as a source of accommodation. Shared accommodation is particularly for younger, single people. Tackling poor property conditions and poor tenancy management can help people stay in their homes and reduce homelessness. Housing Aid will work closely with the Housing Licensing and Compliance and Safer Housing Teams in a new "Housing Hub".
- **Empty Homes**
Additional Licensing will enable HMOs that come back into use to ensure decent, well-managed accommodation.
- **Anti-social behaviour**
The Council works to reduce anti-social behaviour (ASB) across the City. Additional Licensing is key tool to help ensure landlords manage their properties and tenants in an appropriate way that help reduce and reduce ASB. Licensing also helps Community Protection to identify problematic properties.

Additional Licensing will significantly assist in achieving improved property conditions and standards as well as reducing ASB. Also, the administrative practicalities of the scheme (e.g. having access to landlord details) allows for improved communication and problems to be solved more quickly.

6. What evidence is there to support the proposal?

The data and methodology used to arrive at the proposed Designation is as follows and the Council is satisfied that it complies with the CLG guidance.

To comply with the Housing Act 2004 and the CLG guidance, both of which require that a *significant proportion* of the HMOs of the proposed description in the area are being managed sufficiently ineffectively, the following methodology was used.

The proposed designated area is based around census output areas containing at least 10 or more HMOs that would be covered under the current definition of additional licensing, where 20% or more of those properties have received a complaint or service request (dates) concerning:

- Waste and refuse (fly tipping, refuse accumulation, bins on streets)
- Noise
- Housing disrepair, conditions and detriment to amenity
- Overcrowding, fire safety, HMO licensing

This is the same test as was used for the 2014-18 designation, which was upheld at Judicial Review.

The proposed Designation also covers areas with a high number of complaints against HMO address, where progress in effective management is felt to depend on Additional Licensing, or where councillors or stakeholders have raised concern.

The resulting area has been further defined so that it clear and coherent, using natural and physical boundaries that are familiar or understandable for people.

The proposed Designation covers the same area as the 2014-2018 designation plus some additional areas of Sherwood, St Ann's, New Basford and the City Centre that have met the statistical test. These "new" areas contain approximately 150 HMOs of the type licensable under Additional Licensing

7. How the scheme will operate, and how much it will cost?

It is proposed that the Additional Licensing Designation will last for 5 years from 1st January 2019 to 31st December 2023. The draft Designation is contained in Appendix 1 and a larger scale plan of the designated Area is shown in Appendix 2. The exemptions within the Designation are the same as for the 2014-18 designation but with an additional exemption for certain older converted blocks of flats which fall within s257 of the Act which are now likely to fall under one of the other licensing schemes.

Under the Designation landlords of HMOs of the type licensable will be required to apply online for a licence for every property they rent out and that if all necessary information is received with the application and there are no immediately obvious reasons to refuse the application that it will be granted.

There will be compliance checks carried out once a licence has been granted in order to ensure that the properties that have been licensed fulfil all of the conditions of the licence. The proposed licence conditions are available as part of the Executive Board Report dated 17th April 2018²

Fees will be reviewed annually and are also referred to in the Executive Board Report.

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<http://committee.nottinghamcity.gov.uk/documents/s71103/18.04.06%20Additional%20Licensing%20Consultation%20Final%20for%20Upload.pdf>

Summary of the licensing process:

- Online application to be received with **all** necessary information
- Assess if the landlord is fit and proper, **if so**
- Issue the licence with the standard conditions and any necessary specific conditions tailored to the application. The licence conditions are the key to achieving improvements in property conditions and management that will be the major driver to achieve the scheme outcomes **or**
- Refuse licences or reduce the licence period if there are concerns about the proposed licence holder and / or manager not being fit and proper, or property conditions and management
- Encourage and require landlords to adhere to the property conditions
- Carry out compliance checks and hazards safety assessment
- Advise and support landlords and tenants
- Take enforcement action as appropriate
- Work with partners and stakeholders to add value and benefit

Summary of fees and charges:

The licence application fee for HMOs under the proposed Additional Licensing Scheme is set out as follows and is based on 1,500 properties being licensable, with 75% applying and 25% requiring locating and potentially enforcement action by the Council.

The fee will now be applied in two parts; A & B: Part A is payable upon application and covers the cost of processing and determination and Part B becomes payable upon the issue of the licence and covers the cost of compliance, enforcement and other activities associated with the ongoing licensing scheme as per the Local Government Association Guidance. If no licence is issued the Part B fee will not become payable.

Licences will be issued for **up to 5 years**. Nottingham City Council may issue licences for less than 5 years where there are, for example, concerns about the management and use of the property.

Licences issued under the current scheme will remain in force until the date specified on the licence, only after which will another licence be required.

Table 1: Fees and Charges

The Council sets the fee for HMO licence applications taking into account all of their costs in administering and carrying out the licensing functions. The Council uses the nationally recognised Local Government Association (LGA) model in determining this fee and the (LGA) Open For Business guidance. If a decision is made to confirm the proposed Designation the fee will be determined at that time in the light of any changes to the proposals that may have arisen out of consultation.

The standard fee equates to £5.27 per week per property. For a 4 bedroom/4 person HMO being let at £100 per person per week, it would be 1.3% of rental income.

Tier or Charge	Fee
Standard fee - Non accredited landlords with 100% compliance history	Part A payment £860 Part B payment £510 Total £1370
Less compliant fee – non accredited landlord with a history of non-compliance	Part A payment £860 Part B payment £860 Total £1720
Accredited fee – Landlords accredited with Nottingham Standard (DASH or UNIPOL)	Part A payment £860 Part B payment £140 Total £1000
Additional bedrooms (9+)	£100 per 5 bedrooms
Finder's fee – where the Council has to do extra work to ensure an licence application is made	£150
Part 1 Housing Act 2004 – Charges for enforcement work administered as a local land charge on the property	£350
Extra correspondence to obtain or provide information or documents	£50
Application to vary a licence e.g. manger, contact address or number of occupants.	No charge

Fees may vary, for example depending on how many applications are received and processed, and licences issued. Any changes to the fee are unlikely to be more than 20% of proposed in this document. It should be noted that the licence fee can only be used for the administration of the Scheme. The Council cannot earn income from a licensing scheme.

8. What outcomes are sought?

In the Council's view, the following benefits are expected should the proposal proceed:

- A reduction in the number of complaints and problems of the types identified.
- Protection of the health, safety and welfare of tenants through improved management of the HMO;
- Reduced negative impacts from HMOs that will benefit the whole community;
- Improved management and, in the longer term, improved conditions of privately rented accommodation will provide quality and choice for residents;
- Licensing will require absentee or unprofessional landlords to employ a professional property management approach to actively manage their properties and ensure suitable arrangements are in place to deal with any problems that arise;

- Good private landlords would also benefit from not having to compete with poor landlords as the Council is looking to promote licensed and accredited landlords and the quality accommodation they offer.
- As with mandatory licensing, additional licensing will bring a number of properties to the Council's attention that would otherwise have gone undetected.
- The new, tiered fee structure will encourage compliance and good landlords whilst ensuring those landlords who are less compliant and require the most resources, rightly and fairly, pay more.

9. How can you have your say on this consultation?

You can do this by completing a simple online questionnaire at:

www.nottinghamcity.gov.uk/additionalhmo

Alternatively, you can contact us in any of the following ways to request a printed copy of the questionnaire. You won't need a stamp to reply

Email: hmo@nottinghamcity.gov.uk

Telephone: 0115 8763400.

At the end of the consultation the Council has three options:

- To do nothing and leave the situation as it is and not implement the proposed Designation on the expiry of the current one;
- Amend the proposal after consideration of the consultation responses before seeking Executive Board confirmation; or
- If the proposal remains unchanged by the consultation, proceed to seek Executive Board confirmation of the Designation.

Appendix 1:

Nottingham City Council

Designation of an Area for Additional Licensing of Houses in Multiple Occupation 2018

Nottingham City Council in exercise of their 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 Nottingham City Council Designation for an Area for Additional Licensing of Houses in Multiple Occupation 2018.
2. This designation is made on [date] 2018 and shall come into force on 1 January 2019
3. This designation shall cease to have effect on 31 December 2023 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 areas delineated and shaded red on the map at Annex A.

APPLICATION OF THE DESIGNATION

5. This designation applies to all HMOs within the area described in paragraph 4 unless -
 - (a) the building is of a description specified in Annex B (Buildings that are not HMOs for the purpose of the Act - other than Part 1)
 - (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) , or
 - (e) the HMO is of a type which complies with an Approved Code of Practice under the The Housing (Codes of Management Practice) (Student Accommodation) (England) Order 2010 (or any Order subsequently amending or replacing the same) and which are administered by ANUK
 - (f) HMOs as defined by Section 257 of the Act (certain converted blocks of flats)

EFFECT OF THE DESIGNATION

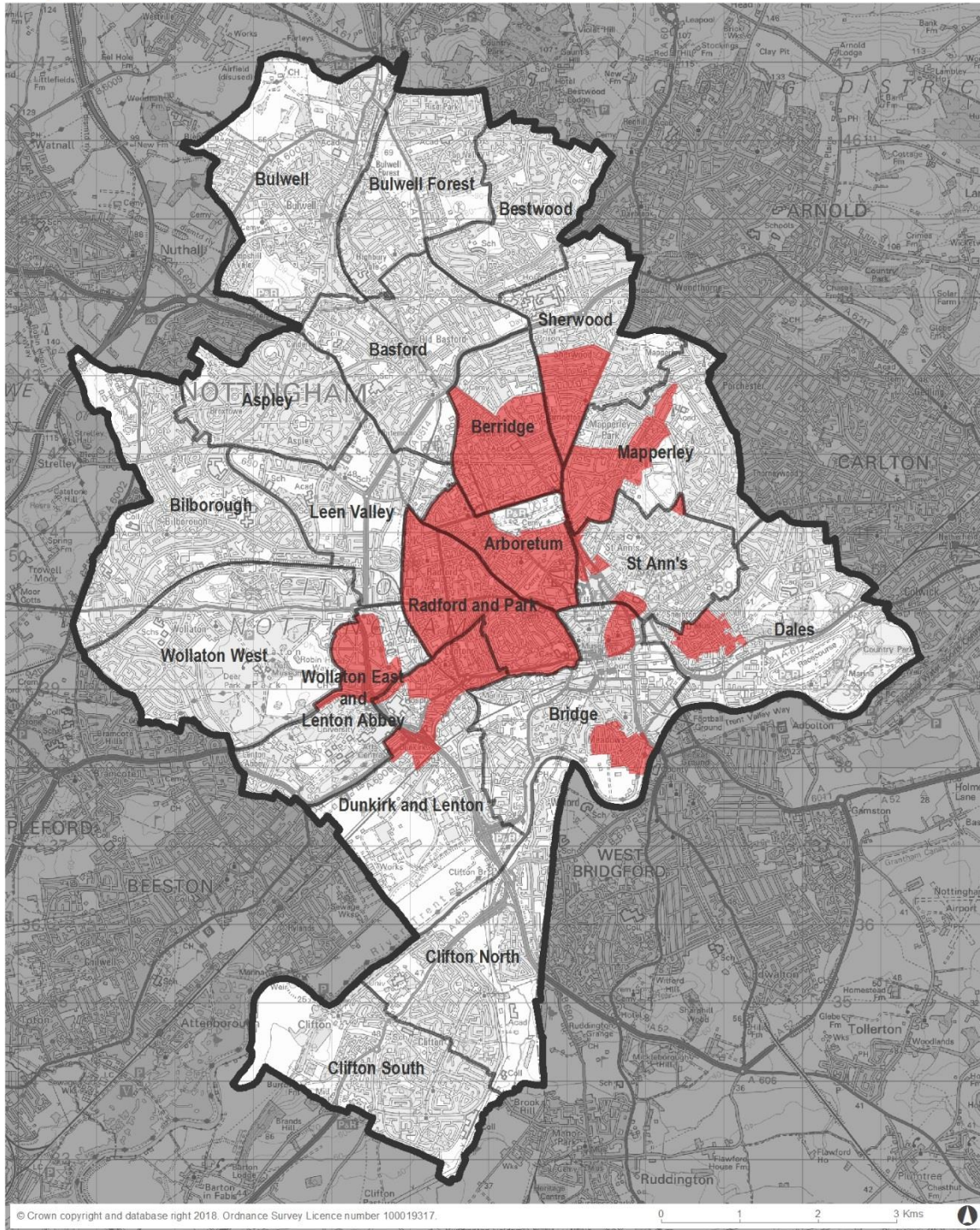
6. Subject to sub paragraphs 5(a) to (e) every HMO of the description specified in that paragraph in the area specified in paragraph 4 shall be required to be licensed under section 61 of the Act.
7. Nottingham City Council will comply with the notification requirements contained in section 59 of the Act and shall maintain a register of all houses registered under this designation, as required under section 232 of the Act.

This Deed is given under the Common }
Seal of NOTTINGHAM CITY COUNCIL:

Authorised Signatory

Date:

Proposed Designation for Additional HMO Licensing 2019-2023



Proposed Designation for Additional HMO Licensing 2019-2023

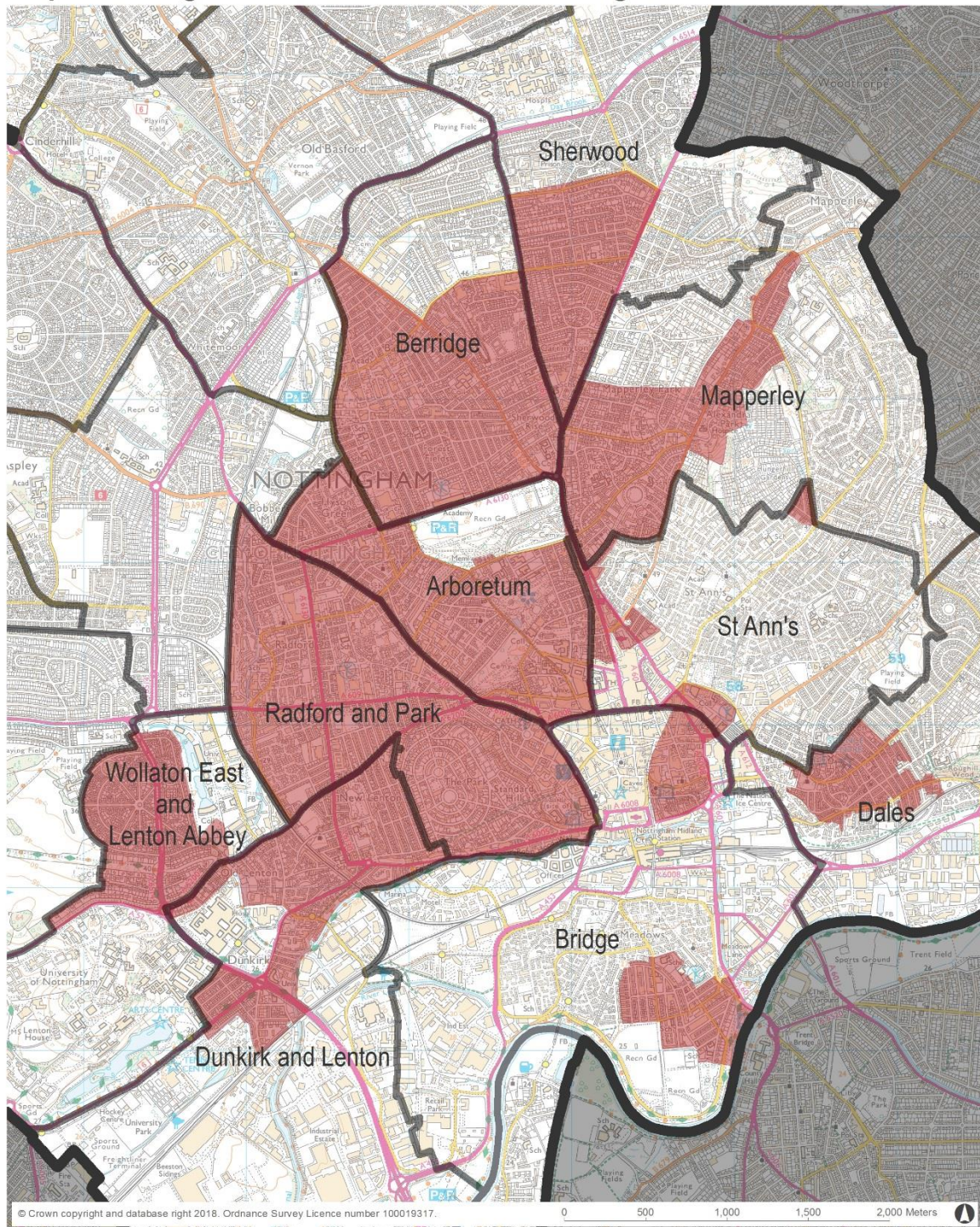
Nottingham City boundary

Nottingham City Ward boundaries



Appendix 2

Proposed Designation for Additional HMO Licensing 2019-2023



-  Proposed Designation for Additional HMO Licensing 2019-2023
-  Nottingham City boundary
-  Nottingham City Ward boundaries

