



Working with HMOs – Examples from Other Local Authorities

Note for Members of the Housing and Homes O&S Committee

1 Background

- 1.1 Following a Motion to City Council in January 2018, the Housing and Homes O&S Committee took the decision to undertake an inquiry, asking the key question:

How should the City Council work with HMOs to get the best outcomes for landlords, tenants and local residents?

- 1.2 The first inquiry session will focus on hearing evidence from BCC officers from Housing, Planning and Legal Services, with a view to establishing what we already know about HMOs in Birmingham, what the current plans are for housing mix and the role of HMOs within Birmingham, and what planning and regulatory tools are available and how they should be used.
- 1.3 To supplement this, some internet research has been carried out by the scrutiny office to find examples of HMO policy in other Local Authorities.
- 1.4 This research has focussed primarily on core cities, but there are also examples from other Local Authorities.

2 Findings

- 2.1 Some Local Authorities have Article 4 Directions in place removing permitted development rights, meaning that planning permission is required to convert a C3 dwelling house into a C4 HMO.
- 2.2 In addition, Local Authorities have a discretionary power to introduce additional licensing for HMO properties that fall outside the scope of the mandatory HMO licensing scheme.

Bristol City Council

- 2.3 Some areas of Bristol have Article 4 Directions in place removing permitted development rights for change of use from C3 to C4.
- 2.4 They are also currently consulting on a proposal for an additional licensing scheme for HMOs in twelve central Bristol wards. Consultation has just started and will close in May.



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Leeds City Council

- 2.5 An Article 4 Direction came into force in 2012 across part of or the whole of some wards to help manage the existing areas of high concentration and those areas which are predicted to either experience growth of HMOs in the near future, or which are likely to suffer from a displacement of HMO demand from the areas currently experiencing significant problems.

Liverpool City Council

- 2.6 Liverpool has just completed a consultation on proposals to remove the permitted development rights for HMOs in the Dales area of the city due to concerns that there are too many HMOs and that they could put pressure on the local environment and services.
- 2.7 The Council believes that any further increase in the number of HMOs needs to be carefully managed and has consulted on a proposal to confirm an Article 4 Direction to help achieve this.
- 2.8 In April 2017 the Council's Cabinet agreed an HMO strategy, which is attached as Appendix 1.

Manchester City Council

- 2.9 An Article 4 Direction came into force in 2011, which applies to the whole of the Manchester City Council area.
- 2.10 There is a specific policy within the Council's Local Development Framework Core Strategy which sets out the approach that will be taken towards controlling further HMOs. The policy also controls change of use to HMOs which are 'sui generis' ("of its own class") – properties with seven or more tenants.
- 2.11 The policy is attached as Appendix 2.

Newcastle City Council

- 2.12 Newcastle has introduced several Article 4 Directions removing permitted development rights for change of use from C3 to C4 in certain areas.
- 2.13 The Supplementary Planning Document: Maintaining Sustainable Communities contains a policy which sets out the criteria against which planning applications for HMOs will be assessed.
- 2.14 The policy is attached as Appendix 3.

Nottingham City Council

- 2.15 There is an Article 4 Direction in place which came into effect in 2012 covering the whole of the city council area.

Sheffield City Council

- 2.16 Some parts of the city are subject to an Article 4 Direction made in 2011.



- 2.17 The website states that “in order to maintain balanced communities, changes of use to HMOs will not be considered acceptable where more than 20% of homes within 200 metres of the site are already shared housing”.

Wolverhampton City Council

- 2.18 An Article 4 Direction came into force in September 2017 for small HMOs and the Direction applies to the whole of Wolverhampton.

Portsmouth City Council

- 2.19 Portsmouth has had a city-wide Article 4 Direction in place since 2011.
- 2.20 They have an HMO Supplementary Planning Document (SPD) which was adopted in 2012 and was revised in November last year after consultation on proposed changes (mainly around large HMOs in *sui generis* use and bedroom and amenity space standards).
- 2.21 The SPD is attached as Appendix 4.
- 2.22 A second consultation is currently being undertaken (due to close on 19th March) on further proposed changes to prevent:
- three or more HMOs in a row;
 - non-HMO properties being “sandwiched” between two HMO properties; and
 - in the case of a property that is already “sandwiched” allowing in those circumstances for the property to be used as an HMO.

3 Summary

- 3.1 The above is intended as a “snapshot” and if Members require more detail to help inform the inquiry then further information can be requested from individual authorities.

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APPENDIX 1

HOUSES IN MULTIPLE OCCUPATION (HMO) STRATEGY

1. INTRODUCTION AND BACKGROUND

- 1.1 Similar to other major towns and cities across the UK, the last two decades have seen a growth in Houses in Multiple Occupation (HMO) in Liverpool.

There are a number of reasons for this growth. These include:

- Growth in Student Numbers - Liverpool, as a city with three universities, has been particularly affected by the increase in the number of younger people undertaking higher education over the last 15-20 years. There are now around 50,000 students in the Liverpool city Region with the vast majority in Liverpool itself and many having moved in from outside the city;
- Profitability of investment in private rented housing - The growth in supply of HMO has been part of the expansion in the buy-to-let market and the emergence of property investment as a major means of increasing income, particularly before 2008;
- Growth in Private Renting – since the 2008 financial crisis, mortgage lending criteria have tightened considerably and when coupled with constrained income growth has reduced the ability of many younger households to buy their own homes. This has in turn led to increased numbers of households renting housing in the private sector (as the availability of social rented accommodation has also fallen). At the same time, and within the same context of constrained income growth, the level of market rents for self-contained rented housing have become unaffordable for many younger households and consequently sharing housing has become a form of ‘affordable housing’ for an increasing number of younger households;
- Welfare Reform - Reforms of the welfare system since 2010 has driven up demand for HMO. A particular example is limiting the housing benefit available to people aged under 35 to the rent for a room in a shared house, pushing those younger people into seeking housing in multiple occupation where their rents could be met through housing benefit. It is very likely that recent and proposed welfare reform, particularly the benefit cap (which includes housing benefit), will further increase the demand for HMO; and
- Migration - There has been an increasing amount of migration to the UK and major cities like Liverpool, both from within and outside the EU. Much of this immigration has been economic and migrants to the UK for work reasons have increasingly found living in shared housing to be the most cost effective and readily available housing option open to them.

- 1.2 All of the above factors have, to a greater or lesser degree, contributed to the growth in HMO in Liverpool and it is clear that HMO are meeting a particular housing need in the city which will still require addressing. Looking forward, whilst the demand from students is difficult to predict following the UK's

decision to leave the European Union and the potential impact this could have on student numbers, it is likely that future demand for HMO as part of the city's housing offer will still require to be met in a sustainable manner.

2. THE ISSUES

- 2.1 Purpose built and / or well managed and appropriately located HMO are an important part of the city's housing stock and will continue to be so. A particular example of this is supported living accommodation and the strategy will not impact on the supply of well managed supported living housing.
- 2.2 There are, however, many instances of HMO being provided in properties not originally designed for this purpose and in neighbourhoods which are already characterised predominantly by high density terraced housing.
- 2.3 When these HMOs are not well managed then instances of anti-social behaviour can arise along with properties falling into disrepair. The cumulative impact of an over-concentration of such HMOs in neighbourhoods not originally designed to accommodate them can begin to undermine the sustainability of these neighbourhoods in terms of tenure imbalance; turnover rates and vacancies. This can be accentuated by increased pressure on community facilities and car parking which in turn adversely impacts on the quality of life of residents in the area.
- 2.4 Evidence gathered and mapped by the Council identify higher than city average concentrations of licensed HMO in the following neighbourhoods:
 - Smithdown Road area – particularly around the “Dales” neighbourhood at the south end of Smithdown Road;
 - Sefton Park periphery, particularly Ullet Road; and
 - Kensington.
- 2.5 At present, the City Council's control of HMO is somewhat limited. HMO of a certain size (three storey) currently require a mandatory license from the Council. This can mean that a number of smaller properties being converted are not necessarily falling within this licensing regime although there is a condition in the Citywide Selective Licensing scheme which states that “If the property is a house in multiple occupation, the licence holder must ensure that the house is compliant with the authority's approved standards for houses in multiple occupation”.
- 2.6 Similarly, in terms of planning control, a change of use to a small HMO, accommodating six or less occupants, constitutes permitted development and therefore a planning application is not required to obtain planning permission. Furthermore, current statutory Council planning policy does not specifically address HMO concentration.

3. HMO STRATEGY

- 3.1 Given the issues highlighted above and the need to ensure that HMO continue to meet housing need in a sustainable manner, the Council is seeking to adopt a multi-faceted strategy. This strategy will seek to control the future growth of HMO in those neighbourhoods identified as currently experiencing major concentrations of HMO and will also look to protect other neighbourhoods from uncontrolled HMO growth. Some elements of this policy (which are set out below) will be applied city-wide (such as licensing) whilst others including focused enforcement and planning policy controls will be applied initially to the specific neighbourhoods identified above.
- 3.2 This strategy recognises that HMO are a key part of the city's housing stock and are identifying a particular need. As such, it will seek to promote the sustainable provision of HMO by working closely with Registered Providers and will also include the potential strategic intervention role of the Local Authority Housing Company.

Improved Identification of HMO

- 3.3 A key element of this strategy is the improved identification of HMO which then can lead to better management and enforcement if needed. As noted above, the current mandatory licensing regime does not cover HMO which are located in properties less than 3 storeys in height. Given the prevalence of two storey terraced houses in Liverpool, it is clear that many HMOs in Liverpool fall outside the current mandatory HMO licensing requirements but are picked up under the Citywide Selective Licensing scheme.
- 3.4 The Council's Selective Landlord Licensing is proving effective in managing the quality of the city's private rented stock and in enforcing improvements. This obviously also applies to HMO which are private rented and which require a license. Thus the Landlord Licensing Scheme is also being successful in identifying HMO which may have previously not been identified though mandatory licensing given their size. As the Council continues to roll out the Licensing scheme and include more landlords and properties, this will ensure that more HMO are identified, well managed and are at an acceptable standard.
- 3.5 The growth of HMO and the issues which they can cause has also been recognised by the Government. In 2016, it consulted on extending the definition of HMO which would then thus in turn increase the number of properties requiring mandatory licensing. The following are the Government's key proposed reforms:
- Remove the storey rule so all houses (regardless of how many floors) with 5 or more people from 2 or more households are in scope – this will further enable local authorities to tackle poor standards and the problems being seen in high risk smaller properties as the sector has grown;

- Extend mandatory licensing to flats above and below business premises (regardless of the number of storeys) - as the evidence shows that these properties can have more problems; and
- Set a minimum room size of 6.52sq-m in line with the existing overcrowding standard (Housing Act 1985) to close a legal loophole which is enabling some landlords to let rooms far too small for an adult to legally occupy.

3.6 Should the Government's proposed changes be implemented, this will provide the Council with considerably greater scope over licensing HMOs. This will thus enable the Council to widen its enforcement capability in order to address poorly managed HMO and improve its evidence base to more accurately map where HMO are.

Focused Enforcement in Identified Neighbourhoods

3.7 The Council will concentrate its Planning; Environmental Health, Licensing and Housing enforcement resources in those neighbourhoods identified above in a in a focused and targeted manner.

3.8 Initially, Planning enforcement would focus on properties with 7 or more residents. These may be identified via licensing records. However, in each case it would be necessary to establish the actual number of residents. Where a planning application is invited, this would be assessed against the existing adopted Liverpool UDP and Supplementary Planning Guidance, or any Interim Planning Guidance, once adopted.

3.9 Environmental Protection and Housing enforcement would act where HMO was leading to noise complaints; general anti-social behaviour; or where properties were not being maintained to an acceptable standard. This would also build on the pro-active initiatives already being undertaken by Environmental Protection team including targeted visits to properties at certain times of the year e.g. Universities' fresher's weeks, Christmas and St Patrick's night which involved visiting all residents of targeted streets to advise of what is expected with regards to being good neighbours.

Planning Policy and the Use of Article 4 Directions

3.10 The Council will seek to use its planning powers to control HMO. As indicated above, currently much HMO development, particularly conversion from a family dwelling to HMO, is classified by legislation as 'permitted development' and so planning consent from the local planning authority is not required. As such, exercising control through the planning process is very limited. The Council in recognising this issue is proposing to apply Article 4 Directions in identified neighbourhoods which will remove permitted development rights to change the use of a dwelling to an HMO. This means that anyone wishing to operate a **new HMO after** the Article 4 direction comes into force, will need to apply for planning permission.

- 3.11 Article 4 Directions can either be introduced immediately, in which case, compensation can be sought from the City Council by property owners who have lost the right to development, or after a lead period of 12 months. Given the potential significant levels of compensation that may be needed the usual practice is to provide a 12 month lead-in period before bringing the Article 4 into force.
- 3.12 An Article 4 Direction is not a planning policy in itself and therefore the City Council will require a suitable planning policy to ensure that when the Article 4 Directions come into force it is able to effectively determine whether or not the proposed HMO should be granted planning permission.
- 3.13 To this end, in September 2016, when the City Council published its draft Local Plan, it included a draft policy designed to manage further HMO development. The elements of this policy include the identification of existing areas of concentration; imposition of a threshold ceiling; the extent of the area affected by this ceiling; identification of exceptional circumstances which may apply; and setting a maximum occupancy ceiling for individual HMO.
- 3.14 The Local Plan, however, isn't due to be adopted until late 2017 / early 2018 and so in the meantime the Council will introduce Interim Planning Guidance which will introduce Article 4 Directions in the following neighbourhoods identified in this strategy namely:
- Smithdown Road area – particularly around the “Dales” neighbourhood at the south end of Smithdown Road;
 - Sefton Park periphery, particularly Ullet Road; and
 - Kensington.
- 3.15 This Interim Planning Guidance will be approved and issued by the City Council later in 2017.

Working with Registered Providers

- 3.16 Evidence shows that in those neighbourhoods which are characterised by higher than average numbers of HMOs, the housing stock is older, tends to be poorer quality and there is a relatively high proportion of both private and social rented accommodation. Registered Providers of social housing (RPs), therefore, have a key role in maintaining the sustainability of these neighbourhoods through the meeting of housing need; the maintenance of stock; and wider neighbourhood management.
- 3.17 When RPs look to dispose of stock in these neighbourhoods this will have to be carefully managed. Accordingly, the Council will work with the relevant RPs in order to avoid the disposal of stock on the open market or via auction where this could lead to properties being acquired by private landlords and converted to HMO thus accentuating the problem. In extreme circumstances should such a joint working approach not be forthcoming, the Council may lobby the social housing regulator to refuse disposal consent to the RP in question.

- 3.18 The Council will, however, seek to work positively with RPs where they seek to meet housing need through the provision of HMO which are well managed and are sustainably located in appropriate neighbourhoods. This will include supporting RPs in bids for funding from Government and / or Liverpool City Region Combined Authority funding programmes.

Strategic Intervention by Local Authority Housing Company

- 3.19 The Mayor of Liverpool has pledged to establish a Local Authority Housing Company. This Company will be established in early 2017 with the long term objective of having 10,000 homes in its portfolio of varying types and tenure though with an emphasis on rent-to-buy.
- 3.20 The establishment of this Company will allow the Council to actively intervene in the local housing market in order to deliver its strategic corporate and housing objectives, where it is commercially viable to do so. This could include involvement in those neighbourhoods covered by this HMO policy. For example, when properties are advertised for sale in these neighbourhoods, the Company could purchase and then rent out as single properties rather than be purchased by private landlords to provide more HMO. Benefits from this are that the Company would accrue revenue profit and the property in question would remain as a single dwelling, well managed by a good quality landlord
- 3.21 Moreover, where there is evidence of strong HMO demand (for example in areas near to the Universities and the hospitals from staff working there), the Company could develop purpose built HMO itself thus meeting housing need in a more sustainable manner.

4. MONITORING AND REVIEW

- 4.1 This policy will be the subject of monitoring and review to assess its impact. It will be important to ensure that the appropriate neighbourhoods are being the subject of intervention and to identify areas of the city which may be starting to develop a problem with regards to a possible over concentration of HMO.
- 4.2 It will also be important to ensure that the implementation of this policy is not having unintended consequences for the neighbourhoods in question. For example, an increase in the number of voids and / or falls in house prices.

APPENDIX 2

MANCHESTER CITY COUNCIL

LOCAL DEVELOPMENT FRAMEWORK CORE STRATEGY

Policy H11 Houses in Multiple Occupation

Change of use from a C3 dwelling house to a C4 HMO will not be permitted where there is a high concentration of residential properties within a short distance of the application site falling within one or more of the following categories:

- Exempt from paying Council tax because they are entirely occupied by full time students.
- Recorded on Private Sector Housing's database as a licensed HMO.
- Any other property which can be demonstrated to fall within the C4 or sui generis HMO use class.

In cases where the concentration of such properties is significant but less high, the Council will examine property type and resident mix in more detail when considering an application for a change of use.

In areas of high concentration, extensions to HMOs (as defined in the Housing Act 2004) would not be permitted where this could reasonably be expected to lead to an increase in the level of occupation.

In parts of Manchester which do not have a high concentration of HMO/student housing but where the lack of family housing has threatened the sustainability of the community to the extent that regeneration activity with the specific intention of increasing the amount of family housing has taken place, there will be a presumption against changes of use which would result in the loss of a dwelling which is suitable for a family. Changes to alternative uses, including C4 and HMOs with more than six occupants, will only be acceptable where it can be demonstrated that there is no reasonable demand for the existing use.

The approach above will also be used for change of use to a HMO which is classified as 'sui generis'.

Notwithstanding the policy requirements set out above, all proposals for change of use of existing properties into houses in multiple occupation, and all proposals for conversion of existing properties into flats (which might not necessarily fall within Class C4), would be permitted only where the accommodation to be provided is of a high standard and where it will not materially harm the character of the area, having particular regard to the criteria in policy DM1 (Development Management).

5. Policy SC1- Houses in Multiple Occupation- Changes of Use

- 5.1 For the purpose of this SPD sustainable communities are defined as, “places where people want to live and work and visit because everyone can realise their full potential and enjoy a high quality lifestyle.”
- 5.2 In Newcastle upon Tyne many of the issues relating to problems associated with HMO accommodation revolve around the concentrations of students and groups of people in shared accommodation in certain parts of the City. There are currently over 42,565 students in 2014/15 in higher education students based at these institutions accommodated in 6,200 properties largely concentrated in six wards close to the City Centre. Some parts of these wards experience very high concentrations of HMO accommodation.
- 5.3 The impacts on communities of high concentrations of HMOs and temporary accommodation include:
- Anti-social behaviour, noise and nuisance;
 - Imbalanced in range of tenure and choice in local communities;
 - Negative impacts on the physical environment and streetscape through the poor upkeep of premises and gardens and the management of external environment including refuse harming the visual amenity of an area;
 - Pressures on parking provision;
 - Increased crime;
 - Fear of crime due to the influx of a transient population and perceived associated social issues;
 - Unbalanced housing market through the growth in the private rented sector at the expenses of owner-occupation; and
 - Restructuring of retail, commercial services and recreational facilities to suit the lifestyles of the predominant population at the expense of other groups in the community.
- 5.4 HMOs typically contain groups of predominantly young people living together in rented accommodation. These groups typically enjoy active social lives and have less connection to their neighbourhoods than more permanent residents. The clustering of these types of household in neighbourhoods can result in increased incidents of noise from houses through social activities, amplified music and the comings and goings with associated slamming of doors and late night taxi traffic which disturbs neighbours. In addition the noise from occupants of HMO accommodation walking through neighbourhoods late at night after returning from social events often results in disturbance to other residents.
- 5.5 The cumulative effect of HMO accommodation upon a neighbourhood has resulted in tensions within the community and on-going complaints to the Police and Council to control anti-social activities and improve the appearance of untidy properties. The concentration of this one type of residential use in a small area has led to residents who do not share a similar life style, such as families and the elderly, leaving the area. This has the effect of creating an unbalanced community to the detriment of the area and the objectives of maintaining a sustainable neighbourhood.

- 5.6 Purpose built student accommodation have less impact on the private housing market. However, they do bring large numbers of students into a small area. This can lead to noise disturbance to existing residents living adjacent to such large concentration of students. Disturbance can be in the form of: Vehicles dropping off and picking up passengers at the accommodation late at night; and from the noise from student returning back to the accommodation late at night. There can also be issues about managing parking and refuse storage.
- 5.7 Issues can also arise where there are large concentrations of accommodation providing temporary accommodation to certain sectors of the community who may or may not need a degree of support. Large concentrations of transient residents can result in many of the issues listed above, as well as existing communities developing a perceived fear of crime associated with occupants of temporary accommodation, which can have a negative impact upon an area. These factors do not assist in the creation of cohesive communities.
- 5.8 Between 2011 and 2013 three HMO Article 4 Directions were designated across the city covering approximately 18,000 households. The boundaries of the area were drawn primarily to reflect a high concentration of shared housing, but note was also taken of evidence that a set of problems already existed in particular residential neighbourhoods.
- 5.9 The SC1 policy aims to protect the character of areas of the city and protect amenity focusing on developments related to HMOs (Class C4 or sui generis).

Policy SC1: Maintaining Sustainable Communities – HMO Changes of Use

Planning permission for the erection, conversion, extension or alteration of properties to houses in multiple occupation (Class C4 or sui generis) and other forms of temporary residential accommodation¹ will be granted unless:

- A. Within an HMO Article 4 area² the proposal would result in the loss of a good quality, spacious and convenient dwellings suitable for occupation by a family by reason of its location and level of amenity and so remove the dwelling from the stock within the overall housing mix;**
- B. Within an HMO Article 4 area the development is for new purpose built student accommodation on a site not previously used for student accommodation³;**
- C. There would be unacceptable harm to the amenity of neighbouring residents caused by reduced levels of daylight, sunlight, outlook or privacy as a result of the development;**
- D. There would be harm to the amenity of neighbouring residents through the introduction of additional activity, access, traffic or parking at the property which would cause an unacceptable increase in noise and disturbance;**
- E. The proposal would be detrimental to the character and appearance of**

the locality or the existing building by reason of scale, design or loss of existing features, including trees and landscaping;

- F. Insufficient provision on site is made available for refuse storage facilities and/ or cycle storage facilities;**
- G. The proposal would result in the introduction of such additional accesses, traffic or parking as would prejudice highway safety;**
- H. The proposal would lead to a level of concentration of such uses that would be damaging to the character of the area;**
- I. The proposal does not provide good levels of amenity for future residents in terms of noise, outlook, light, privacy, access and air quality;**
- J. In the case of Tyneside flats⁴ within Article 4 areas, it would result in:**
 - (i) The change of use of an upper Tyneside flat to an HMO;**
 - (ii) The extension or alteration of an upper Tyneside flat HMO to facilitate the creation of additional habitable space within the roofspace through the insertion of new or increased size rooflights or dormer window extensions.**

For the purposes of this SPD:

¹ HMO and Temporary residential accommodation is: (i) shared houses occupied by three or more individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom and falling with Use Class C4 or a larger sui generis HMO use; (ii) residential accommodation defined as overnight or short-term accommodation which may be supervised, where people, (including sometimes the homeless) can usually stay free or cheaply. Various indicators can be used to determine if the accommodation is temporary, such as the form of occupation (such as dormitories and/or communal or shared facilities); it may be used to accommodate a specific category of people (e.g. the young or homeless), may be supervised and /or serviced, and payment may be on a nightly basis

² HMO Article 4 areas relates to an Article 4 Direction within the City under the Town and Country Planning (General Permitted Development) (England) Order 2015 or any re- enacting or revoking Order which removes permitted development rights for the change of use from Use Classes C3 to C4.

³ Purpose built student accommodation is residential accommodation used solely or predominantly by students in full time higher or further education within Use Class C4, sui generis HMO uses or studio flats within Use Class C3.

⁴ A Tyneside flat is (i) where there is a proposal to re-divide a house that had previously been Two Tyneside flats (but knocked in to one) and to convert the roof space at the same time as the re-division; (ii) to all flats of whatever age in the same configuration as a pair of Tyneside flats i.e. in a two storey building, a single flat above another single flat and with separate front doors (not necessarily side by side), and covering both terraced and semi-detached properties, but not those in a multi-storey block.

- 5.10 Within Article 4 areas there is an identified concentration of HMO accommodation that if left uncontrolled would affect the vibrancy and sustainability of the neighbourhood. There is therefore a need to retain a mix of accommodation in these areas to preserve the balanced nature of the community to ensure they remain sustainable places of quality and choice in accordance with CSUCP Policy CS9. In these areas the stock has already been significantly eroded by the uncontrolled conversion to HMO accommodation. The resultant changes to an area through increased factors such as density of occupation, subdivision of plots, building maintenance, loss of landscaping, traffic and noise and disturbance impacts can seriously affect the character of an area. For these reasons the further loss of housing suitable for families in the HMO Article 4 areas would reduce the future ability of the City to attract families to live and invest these areas and would compromise its ability to maintain the areas as mixed vibrant communities. As a result the further loss of houses which are suitable for occupation by families will be controlled in the Article 4 Direction areas under criterion A.
- 5.11 Developments for new purpose built student accommodation developments in Article 4 areas would also result in an increased density of shared housing in areas which already experience impacts associated with this form of accommodation set out above. It is therefore also necessary to control the growth of this form of development as set out in Criteria B. The form of development covered by this criteria could be in the form of new build or conversion of existing properties and cover traditional three to six person small HMO, larger HMO or accommodation that is designed specifically for student or other forms of occupation. Sites which are currently lawfully used for student accommodation would be exempt from this criterion. The impacts of any increase in numbers arising from the redevelopment of an existing student housing site would be considered against other criteria set out in the policy.

- 5.12 In relation to criterion C the impact upon neighbouring residents amenity caused by increased noise and disturbance generated by HMOs and temporary accommodation will need to be assessed. Factors to consider in terms of potential disturbance include: the historic use of the property and likely changes in noise generated by the new use, both from inside the building and from outside by comings and goings to and from the building; traffic and parking generation and its impact upon the character of the surrounding area. Any development approved under Policy SC1 will be expected to install noise insulation along part walls with neighbouring properties in order to reduce noise transfer which could impact upon neighbour's amenity. Developments will also need to ensure that there is no loss of outlook, privacy and sunlight to neighbouring resident which would harm their amenity as set out under criterion C.
- 5.13 In relation to criterion D the impact upon neighbouring residents amenity caused by increased noise and disturbance generated by HMOs and temporary accommodation will need to be assessed. Factors to consider in terms of potential disturbance include; the historic use of the property and likely changes in noise generated by the new use, both from inside the building and from outside by comings and goings to and from the building; traffic and parking generation and its impact upon the character of the surrounding area.
- 5.14 The evidence supplied on noise complaints in the wards of the city with raised numbers of HMO is set out in Appendix II. This demonstrates that HMOs, particularly those favoured by students, result in raised number of complaints about noise and activity that disturb the amenity of neighbouring residents. In addition the general lack of maintenance to properties, gardens and refuse bins and the transient nature of HMO occupation all affect the character of an area in a negative way. Outside of the Article 4 HMO areas the criteria relating to the assessment of applications for various forms of HMO accommodation and the impacts upon the surrounding area are necessary to ensure a sustainable form of development arises that would provide social, economic and environmental benefits to the area.
- 5.15 Developments creating HMO and temporary accommodation would need to ensure that they did not have a detrimental impact upon the character and appearance of the locality, including taking into account the impact upon the character of a heritage asset, such as conservation areas and buildings of historic significance. Criterion E requires the impacts of scale and design, including landscape impacts, to be assessed as part of any application. An important consideration in designing HMO and temporary accommodating is to ensure sufficient space is made available for refuse storage. This should be of sufficient capacity to handle the weekly amount of refuse generated by occupants in accordance with the Council's approved refuse storage capacity standards. The refuse storage area should be located within the site, but easily accessible to collection vehicles. It should be designed so as to be visually screened from all residents and away from habitable rooms. Cycle parking is also an important requirement for HMO accommodation. On-site provision should be made available in easily accessible locations. These requirements are set out in criteria F. Development will need to comply with City Council guidance on refuse storage and cycle parking capacity.
- 5.16 Developments occupied as HMO and temporary accommodation will need to ensure the vehicular traffic it generates, both for parking and servicing would not have a prejudicial impact upon highway safety. City Council guidance is available

For car parking levels relating to these forms of development. These matters would be assessed against criterion G.

- 5.17 Individual Street and neighbourhoods have different characteristics, ranging from streets of predominantly family housing to a mix of commercial and different types of residential accommodation. Criterion H requires the impact of developments on the character of an area to be assessed. Each application will be assessed to determine whether an additional HMO or temporary accommodation development would adversely impact on the mix of the community and character of the surrounding area. Factors to take into account would be the effect on the character of the locality, especially in the case of tightly knit and homogeneous areas of single family housing and the resultant increase in residents resulting from the proposed development.
- 5.18 In terms of criterion I, occupants of HMO accommodation need to enjoy good levels of outlook, light, daylight and privacy from all main habitable rooms. The property also needs to be insulated from external noise sources. The ventilation of properties in air quality management areas will also be required to minimise any impact upon future residents. In this regard properties would be expected to meet the Council's standards for licensable HMOs set out under the mandatory licensing scheme of the Housing Act 2004. There will also need to be safe and convenient access to the property.
- 5.19 Criterion J relates to Tyneside flats - a particular form of accommodation found in Newcastle. In ground floor flats it provides one and two person accommodation. Upper flats normally provide three bed accommodation. However a significant proportion of upper Tyneside flats have been converted to four to seven bed HMO accommodation through the conversion of the roof space into habitable accommodation. The resultant intensification in the use of the flat, with associated comings and goings, parking, traffic, noise and activity has had an adverse impact upon neighbouring residents, as well as the mix of accommodation available in these high density streets. This has been to the detriment of the character of some areas and resulted in groups of streets with significant levels of HMO accommodation. These areas have been covered within Article 4 Direction. Policy SC1 seeks to control future uses of upper Tyneside flats and extensions of these properties into the roof space to ensure a balance is retained in these streets between smaller flats and HMOs in the interests of retaining a mix sustainable community.
- 5.20 For the above reasons the SPD seeks to control the loss of larger upper Tyneside flats from Class C3 to a HMO. In addition the policy controls the insertion of roof lights and dormer windows into those upper Tyneside flats which are currently used as HMO accommodation. This would ensure a range of HMO sized accommodation in the Article 4 area and prevent the problems of noise and activity that would arise from allowing all upper Tyneside flats to be converted into large HMO accommodation. The conversion of an upper Tyneside flat roofspace for family occupation under Class C3 would still be permitted, so as to allow families to continue to live in upper Tyneside flats and thereby meet their space requirements over time. In these cases the applicant will have to demonstrate the current use of the property would fall within Class C3 of the Use Classes Order. Suitable noise insulation measures would be required.

- 5.21 A plan showing the area affected at the time of approving this SPD by relevant HMO Article 4 Directions is set out in Appendix V. If any further areas are covered by HMO Article 4 Directions in the future then applications in these areas will also be considered in relation to Policy SC1.

Houses in multiple occupation (HMOs)

Ensuring mixed and balanced communities

Supplementary Planning Document (SPD) - revised November 2017

www.portsmouth.gov.uk



Houses in multiple occupation (HMOs) - Ensuring mixed and balanced communities
Supplementary Planning Document (SPD) (as amended in November 2017)

Foreword

Shared accommodation provides an important way of meeting the housing needs of many people in Portsmouth and will continue to do so in the future.

At the same time, high concentrations of C4 and *Sui Generis* HMOs are presenting a challenge to the future sustainability of many of our city's communities. The concentration of HMOs in some areas of the city is changing the character of these areas. Further HMOs are removing some valuable housing stock, in particular removing some of the smaller dwellings from the housing stock and in doing so depriving others from entering the housing market.

Since the adoption of the Local Plan the Council has seen a significant number of properties that would have otherwise been suitable for conversion to flats being changed to HMOs and *Sui Generis* HMOs thus restricting the choice of accommodation for our residents.

This document sets out how the City Council aims to prevent the high concentration of HMOs in the future and ensure that our communities are mixed, balanced and sustainable and that there is a range of accommodation across the city to meet different housing needs. It provides a useful guide to understanding how planning applications for new HMOs in the city will be decided.

Councillor Donna Jones

Leader with responsibility for Planning, Regeneration and Economic
Development

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Purpose and scope of the SPD

- 1.1 This Supplementary Planning Document (SPD) sets out how Policy PCS20 (Houses in multiple occupation (HMOs): Ensuring mixed and balanced communities) of the Portsmouth Plan¹ will be implemented. This document amends the SPD adopted in October 2012. It details how the City Council will apply this policy to all planning applications for HMO (C4) 3-6 occupants use and for large HMOs in *Sui Generis* use for more than 6 people. The SPD will be accorded significant weight as a material planning consideration in the determination of such applications. It is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and the impacts on local communities of high concentrations of HMOs².

What is a house in multiple occupation (HMO)?

- 1.2 The Government's Circular 08/2010³ notes that the C4 (HMO) use class covers:
- small shared houses or flats occupied by between three and six unrelated people who share basic amenities such as a toilet, personal washing facilities or cooking facilities.
- 1.3 For the purposes of Class C4, a 'house in multiple occupation' has the same meaning as in section 254 of the Housing Act 2004⁴, with the exception of section 257 which applies to converted block of flats (and those buildings listed in schedule 14 of the Act). Further explanation is set out in Appendix 1.
- 1.4 Where there are more than six unrelated individuals sharing amenities, this is termed an HMO in *Sui Generis* use because it is not in any particular planning use class.
- 1.5 Where there is to be a material change of use to either type of HMO (small Class C4 or *Sui Generis*), planning permission will be required.
- 1.6 In the city of Portsmouth, this includes the need for planning permission for change of use from a Class C3 (dwelling house) to a Class C4 HMO. On 1st November 2011, a citywide Article 4 Direction came into force which removed permitted development rights for such changes⁵.

¹ Portsmouth City Council (2012) *The Portsmouth Plan: Portsmouth's Core Strategy*. Portsmouth: PCC <https://www.portsmouth.gov.uk/ext/documents-external/pln-portsmouth-plan-post-adoption.pdf>

² Portsmouth City Council (2012) Shared housing in Portsmouth – an assessment of demand, supply and community impacts. Portsmouth: PCC <https://www.portsmouth.gov.uk/ext/documents-external/pln-hmo-research-report.pdf>

³ The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010. www.legislation.gov.uk/ukxi/2010/653/pdfs/ukxi_20100653_en.pdf

Further guidance can be found in Circular 08/2010 - Changes to Planning Regulations for Dwellinghouses and Houses in multiple occupation www.communities.gov.uk/documents/planningandbuilding/pdf/1759707.pdf

⁴ The Housing Act 2004 www.legislation.gov.uk/ukpga/2004/34/contents

⁵ For more information about this Article 4 Direction see <https://www.portsmouth.gov.uk/ext/documents-external/pln-hmo-article4direction-plan-nov10.pdf>

The need to ensure mixed and balanced communities

- 1.7 The contribution of HMOs to meeting Portsmouth's current and future housing need is recognised, particularly as a source of accommodation for people on low incomes and benefit payments, young professionals, students and the growing number of one-person households. The negative impacts of high concentrations of HMOs on local communities must also, however, be considered.
- 1.8 Policy PCS19 (Housing mix, size and the provision of affordable homes) of the Portsmouth Plan¹ identifies a need for a variety of housing types throughout the city in order to deliver a choice of homes and to create inclusive and mixed communities. This includes a need for family housing (of three or more bedrooms), the supply of which has declined in the city in recent years.
- 1.9 The Portsmouth Plan notes a predicted increase in the number of people who will require larger, family sized properties in the future as well as a growth in the number of one person households for which HMOs may provide a suitable housing choice. Policy PCS20 seeks to ensure that the future supply of family housing is not jeopardised by its unchecked conversion to shared accommodation and that communities are not negatively impacted by HMO development.
- 1.10 In order to avoid high concentrations of HMOs in the city, and to ensure the future provision of mixed and balanced communities in accordance with national planning policy⁶, Policy PCS20 of the Portsmouth Plan will be the key local planning policy against which applications for HMO use will be assessed (see below).

PCS20 Houses in Multiple Occupation (HMOs): Ensuring mixed and balanced communities*

In order to support mixed and balanced communities, and to ensure that a range of household needs continue to be accommodated throughout the city, applications for changes of use to a House in Multiple Occupation (HMO) will only be permitted where the community is not already imbalanced by a concentration of such uses or where the development would not create an imbalance.

For the purposes of this policy, dwellings in use as Class C4, mixed C3/C4 use and HMOs in *Sui Generis* use will be considered to be HMOs.

* See Appendix 2 to this SPD for full text contained in the Portsmouth Plan.

⁶ See National Planning Policy Framework:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

Implementation of Policy PCS20

1.11 Policy PCS20 of the Portsmouth Plan¹ (see above) will be used to determine applications for:

- Class C4 HMOs (between three and six unrelated individuals sharing amenities);
- mixed C3/C4 use (this type of permission allows a property to be used in either way, overcoming the need for a new planning permission each time a change of use from Class C3 to C4 is required), it should be noted that 10 years from the permission the flexibility ceases and the use at that time becomes the lawful use.
- HMOs in *Sui Generis* use (seven or more unrelated individuals sharing amenities).

Other policies set out in the Portsmouth Plan will also form material considerations in respect of such applications.

How will planning applications for HMO use be determined?

1.12 In accordance with policy PCS20, the City Council will seek to refuse planning applications for HMO uses (Class C4, HMOs in *Sui Generis* use and mixed C3/C4 use) where a community is already 'imbalanced' by existing HMO uses or where granting the application would create an 'imbalance'.

1.13 A community will be considered to be 'imbalanced' where:

- more than 10% of residential properties within a 50m radius of the area surrounding the application property are already in HMO use.

1.14 The 'development' (proposed HMO use) that is the subject of the planning application will create an imbalance where:

- granting the application would 'tip' the ratio of HMOs to Class C3 residential uses within the area surrounding the application property over the 10% threshold.

1.15 Where planning permission is sought to change the use of a Class C4 or mixed C3/C4 use to a HMO in *Sui Generis* use, the City Council will seek to refuse applications 'in areas where concentrations of HMOs already exceed the 10% threshold.'

Living conditions / quality of living environment

- 1.16 In order to secure a good standard of living accommodation within HMOs (C4 and *Sui Generis* HMOs), and in accordance with Policy PCS23, the City Council will seek to refuse applications for HMO development where proposals would fail to protect the amenity of, and the provision of a good standard of living environment for future occupiers.
- 1.17 All planning applications must be supported by a full set of floor plans that include details of the bathroom sanitary ware and kitchen fitments and white goods; clearly identify whether rooms are intended to be single or double; and show the internal measurements for each room, including areas of reduced ceiling height. Whilst acknowledging that the National Described Space Standard (NDSS) relates to new dwellings, nevertheless the City Council will require that bedrooms comply with this space standard, as set out below, or any subsequent standard replacing the NDSS⁷. Planning permission will be refused for all HMOs that fail to provide adequate community or amenity space for occupiers in accordance with the standards set out below. Where proposals meet the required space standards and levels of amenity, there will be a condition on the planning permission requiring the development to accord with the approved floor plans.

Bedroom space standards

- 1.18 Single bedrooms must have a minimum Gross Internal Floor area (GIA) of 7.5m² with a minimum width of 2.15m.
- 1.19 Double bedroom or twin bedrooms must have a minimum GIA of at least 11.5m² and be at least 2.75m wide.
- 1.20 For both single and double rooms any area with a headroom of less than 1.5m is not counted in the GIA unless used solely for storage. Any area with a head room of less than 1.5m is not counted within the GIA unless used solely for storage (if an area under the stairs is to be used for storage assume a general floor area of 1m² with the GIA). Any other area that is used solely for storage and has a headroom of 900-1500mm is counted as 50% of its floor area and any area lower than 900mm is not counted at all.
- 1.21 A built-in wardrobe counts towards the GIA and bedroom floor area requirements but should not reduce the effective width of the room below the minimum widths set out above.

⁷ Nationally Described Space Standards (2015): <https://www.gov.uk/government/publications/technical-housing-standards-nationally-described-space-standard>

Amenity Space

Room	Metric ³
Dining Room (3 to 6 persons)	11m ²
Dining Room (7 or more persons)	14m ²
Living Room (3 to 6 persons)	11m ²
Living Room (7 or more persons)	14m ²
Kitchen (3 to 6 persons)	7m ²
Kitchen (7 or more persons)	11m ²
Combined living space (3 to 6 persons)	24m ²
Combined living (7 or more persons) ¹	27m ²
Bathroom ²	3.74m ²
1-4 persons	At least 1 bathroom and 1 WC (can be combined)
5-6 persons	1 Wash Hand Basin (WHB) in each sleeping room; plus 1 bathroom; and 1 separate WC with WHB (WC could be contained in second bathroom)
7-10 persons	1 WHB in each sleeping room; plus 2 separate bathrooms; and 2 separate WC's with WHB (one of WCs can be contained with one bathroom)
11-15 persons	1 WHB in each sleeping room; plus 3 bathrooms; and 3 separate WCs and WHB (two of WCs can be contained within 2 bathrooms)

NOTE: 1: Combined living space is kitchen, eating area and living area, laundry and utility space.

2: A pod bathroom which complies with the current Building Regulation will be accepted.

3: Areas based on bedrooms of 7.5m²

Amenity of neighbours and local occupiers

- 1.22 In accordance with Policy PCS23, the City Council will seek to refuse applications for HMO development where such development would fail to protect the amenity, and the provision of a good standard of living environment, for neighbouring and local occupiers. For the purpose of assessing applications for the change of use to C4 HMOs and *Sui Generis* HMOs, planning permission will only be granted where the proposal would not result in an over intensive use of the property.

Identifying 'the area surrounding the application property'

- 1.23 Points i) to viii) below and Figures 1 and 2 set out the method that the City Council will use when it is calculating the percentage of dwellings in HMO use in the area surrounding the application property (see also the worked example contained in Appendix 3).
- i) Where the application property is a house - an area with a radius of 50 metres will be identified from the mid-point of the application property's frontage (see ii and Figure 1).
 - ii) A property's frontage comprises the width of that building as it faces directly onto the street and generally includes the entrance to the property. A 'street' is defined here as any highway (including footpath) or public area which contains a property's frontage.
 - iii) Where the application property is a flat - an area with a radius of 50 metres will be identified from the mid-point of the main entrance door to the flat (see Figure 2).

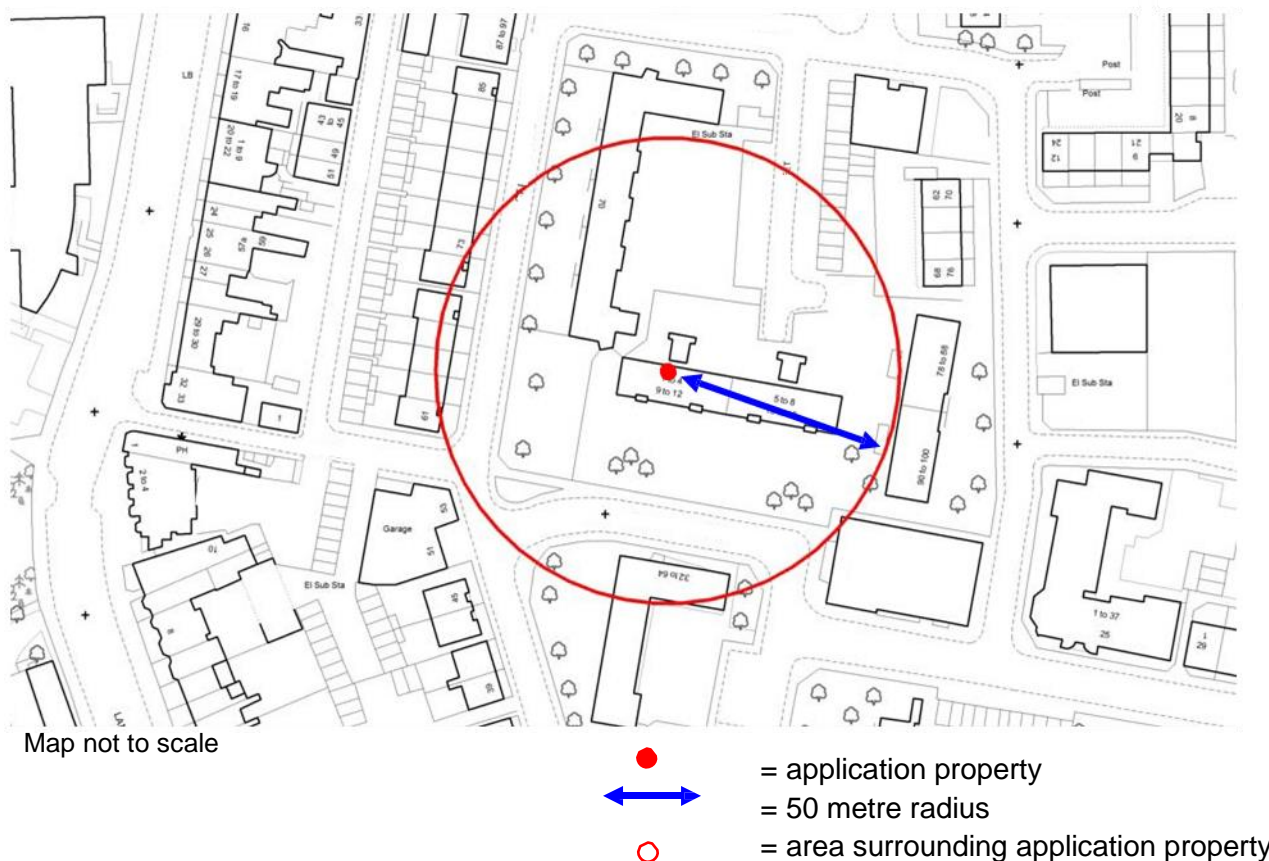
Figure 1: Houses - identifying 'the area surrounding the application property'



Map not to scale

- = application property
- ↔ = 50 metre radius
- = area surrounding application property

Figure 2: Flats - identifying ‘the area surrounding the application property’



- iv) For the purposes of implementing Policy PCS20, this area with a radius of 50 metres will be known as ‘the area surrounding the application property’.
- v) A ‘count’ will be made of residential properties that fall within the area surrounding the application property⁸ and their addresses will be checked against the council’s ‘HMO database’ in order to identify which, if any, are in HMO use (see paragraphs 1.16 – 1.20 and worked example using a 10% threshold in Appendix 3).
- vi) Only residential properties will be counted (i.e. the count will exclude properties in, for example, retail or commercial uses).
- vii) Where any part of the curtilage of a residential property (house), including the property boundary falls within the area surrounding the application property, this property will be included in the ‘count’ (see Figure 1 and worked example in Appendix 3).

⁸ In some instances, a complex street pattern or arrangement of buildings may require the City Council to use judgement in determining which properties are captured by the 50 metre radius, based on the guidance set out in paragraph 1.17

- viii) Where the 50m radius captures any part of a building containing residential flats, the City Council will endeavour to establish the number of flats that fall, in part or whole, within the 50m radius, if this proves impossible then all properties inside of this building will be included in the 'count'.

Identifying properties in HMO use

- 1.24 When identifying the number of HMOs in the area surrounding the application property, the City Council will include:
- All properties continuously in HMO use since 1 November 2011.
 - All properties with Class C4 HMO planning permission.
 - All properties with *Sui Generis* HMO planning permission.
 - All properties with planning permission for mixed C3/C4 use (regardless of whether they are in C3 or C4 use at the time of the application).
 - All Section 257 Houses in Multiple Occupation properties.
- 1.25 A list of all addresses that have been identified as being in the area surrounding the application property, which will also highlight those that the council considers to be in HMO use, will be made publicly available during the determination period of the planning application.
- 1.26 In order to identify properties in HMO use, the council will use data held on its 'HMO database'⁹ at the time of the planning application. The database is made up of records of properties with planning permission for Class C4 use, *Sui Generis* HMO use and mixed C3/C4 use, records of Class C4 HMOs submitted to the council by property owners, HMOs that have been issued a licence by the council and council tax records. A list of addresses held on this database will be published on the City Council's website and updated on a regular basis. However the City Council acknowledges that it may not have captured all of the HMOs in an area and therefore will consult Ward Members and local residents to capture further local knowledge about the way properties are being occupied in their neighbourhood.
- 1.27 Those wishing to confirm the existing lawful use of a property should not rely on the database as evidence but should seek to establish whether planning permission for HMO use has been granted or where appropriate, to secure evidence that the property was in Class C4 use prior to the 1st November 2011 when the Article 4 Direction came into force (see paragraph 1.6). An application could also be made to the City Council for a Certificate of Lawful Use. A fee is required for making this type of application together with supporting evidence to support the application.

⁹ A copy of addresses held on the City Council's HMO database can be found at:
<https://www.portsmouth.gov.uk/ext/development-and-planning/planning/planning-houses-in-multiple-occupation>

Making a planning application for HMO use

Forms and fee

- 1.28 Detailed guidance about making a planning application for change of use, including relevant application fees and information required as part of the application, can be found on the City Council's website <https://www.portsmouth.gov.uk/ext/development-and-planning/planning/planning-apply-view-or-comment>

Alternatively, applicants can visit the Planning Portal directly at www.planningportal.gov.uk to make an application online.

- 1.29 The City Council has made an Article 4 Direction removing permitted development rights which would otherwise allow changes of use from Class C3 to Class C4, consequently there will be no fee for the following types of application:
- change of use from Class C3 (dwellinghouse) to Class C4 (HMO), or
 - change of use from Class C3 or C4 to a mixed Class C3/C4 use.
- 1.30 An application fee will be payable for:
- change of use from any other use class other than Class C3 to a Class C4 or mixed C3/C4 use, and
 - change of use from any use class to an HMO in *Sui Generis* use (to accommodate seven or more unrelated people sharing amenities).

Parking and the storage of refuse and recyclables

- 1.31 Planning applications for HMO use must meet the parking standards set out in the City Council's Parking Standards and Transport Assessments Supplementary Planning Document (SPD 2014)¹⁰.
- 1.32 Planning applications for HMO use will also be expected to demonstrate that adequate storage for refuse and recyclables will be provided at the property.

Monitoring and review

- 1.33 The monitoring and review of Policy PCS20 will be carried out as part of the city's Authority Monitoring Report which it is required to produce as part of its Local Plan. The indicators that will be used to monitor this policy are contained in the full policy wording attached as Appendix 2.

¹⁰ Portsmouth City Council (2014) Parking Standards and Transport Assessment Supplementary Planning Document (SPD). Portsmouth: PCC <https://www.portsmouth.gov.uk/ext/documents-external/pln-parking-standards-transport-assessments-spd.pdf>. See also map showing public transport accessibility throughout the city <https://www.portsmouth.gov.uk/ext/documents-external/trv-74.185-public-transport-map-aug-2017-web-final.pdf>

Other issues to consider

- 1.34 In addition to the need for planning permission, those wishing to establish an HMO should consider if they need an HMO licence in accordance with the Housing Act (2004) and are also encouraged to join the City Council's Landlord Accreditation Scheme (LAS).

Licensing under the Housing Act (2004)

- 1.35 Landlords and property managing agents who intend to let large houses in multiple occupation (HMOs) may need to apply to the City Council for an HMO licence. An HMO licence will be required if the property is:
- over three or more floors, and
 - will be used to accommodate five or more tenants belonging to two or more households.
- 1.36 In these circumstances, it is a criminal offence not to have an HMO licence and an unlimited fine could be issued upon successful proceeding, or Portsmouth City Council could issue a civil Penalty up to £30,000.
- 1.37 For more information about licensing, please visit the City Council's website <https://www.portsmouth.gov.uk/ext/licensing/licensing.aspx>
You can also contact the Housing Standards team on (023) 9243 7914.

Portsmouth City Council Landlord Accreditation Scheme

- 1.38 The City Council's Landlord Accreditation Scheme aims to improve both the physical and management standards of the private rented sector within Portsmouth. Whilst it is a voluntary scheme, all private landlords who own and rent out properties in the city (PO1–PO6) are encouraged to join the LAS. For more information, and to join the scheme, visit www.las.portsmouth.gov.uk or contact the Housing Standards team (see above).

Appendix 1 – Definition of Class C4 HMO (Housing Act 2004)

- A1.1 The Government's Circular 08/2010³ notes that the C4 use class covers small shared houses or flats occupied by between three and six unrelated people who share basic amenities (see A1.4 below).
- A1.2 For the purposes of Class C4, a 'House in Multiple Occupation' does not include a converted block of flats (to which section 257 of the Housing Act 2004 applies) but otherwise has the same meaning as in section 254 of the Housing Act 2004.
- A1.3 An HMO is defined by the Housing Act 2004 as a building or part of a building (i.e. a flat) which:
- is occupied by persons who do not form a single household, and
 - is occupied as the only or main residence, and where
 - rents are payable or other consideration is provided in respect of at least one of those occupying the property, and where
 - two or more households share one or more basic amenities (or lack such amenities).
- A1.4 The meaning of basic amenities as defined by the Housing Act 2004 is:
- a toilet,
 - personal washing facilities, and/or
 - cooking facilities.
- A1.5 Schedule 14 of the Housing Act 2004 lists buildings (or parts of buildings) which are not defined as HMOs and includes those that are:
- controlled or managed by a registered social landlord or local authority;
 - controlled or managed by a fire and rescue authority, police authority or health service body;
 - occupied by students and controlled or managed by an education establishment i.e. halls of residence;
 - occupied for the purposes of a religious community whose main occupation is prayer, contemplation, education or the relief of suffering;
 - occupied solely by one or more persons who are owners (with either freehold or leasehold interest granted for more than 21 years);
 - occupied by two persons who form two households.
- A1.6 The Government's Circular 08/2010³ may also provide helpful guidance on what does and does not constitute a Class C4 use (in accordance with the Housing Act 2004). It highlights that:
- small bedsits will be classified as C4 use;
 - students, migrants and asylum seekers who do not occupy the property all year will be considered as occupying the property as their main residence;
 - properties containing the owner and up to two lodgers will be in Class C3, and
 - to be classified as a house in multiple occupation a property does not need to be converted or adapted in any way.

Appendix 2 – Policy PCS20 of the Portsmouth Plan

Houses in Multiple Occupation (HMOs): ensuring mixed and balanced communities

- A2.1 National planning policy guidance (PPS1 and PPS3) provides the context for local planning policy to ensure that mixed and balanced communities are developed in the future and to avoid situations where existing communities become unbalanced by the narrowing of household types towards domination by a particular type, such as shared housing (HMOs).

The Portsmouth Plan approach to Houses in Multiple Occupation:

- A2.2 PPS1 encourages development that ‘supports existing communities and contributes to the creation of safe, sustainable, liveable and mixed communities’ (p.3). It also requires that development plans ‘ensure that the impact of development on the social fabric of communities is considered and taken into account’ (p.7). PPS3 supports the role of development plans in promoting mixed communities and ensuring that a wide range of household needs are catered for.
- A2.3 While the contribution of HMOs to meeting the city’s accommodation needs is recognised, particularly as a source of housing for people on low incomes, those on benefit payments and those starting off in the economy as young professionals, the potential negative social, environmental and economic impacts of high concentrations of HMOs on communities have been widely discussed.
- A2.4 The City Council’s private sector house conditions survey (2008) notes that HMOs occur at a significant rate in Portsmouth, driven by the student population and residents on low incomes. In 2007/8, it was estimated that 5.1% of dwellings in the city were HMOs compared to 2.5% nationally. It is likely however, given recent economic challenges and the continuing growth of the city’s university that numbers of HMO properties in the city have increased in the past two years.
- A2.5 In order to continue to accommodate the need and demand for houses in multiple occupations, while ensuring the future balance of established communities, policy PCS20 provides guidance for developers and prospective landlords with regard to the appropriateness of future HMO schemes in the city.

PCS20 houses in multiple occupation (HMOs): Ensuring mixed and balanced communities

In order to support mixed and balanced communities, and to ensure that a range of household needs continue to be accommodated throughout the city, applications for changes of use to a House in Multiple Occupation (HMO) will only be permitted where the community is not already imbalanced by a concentration of such uses or where the development would not create an imbalance.

For the purposes of this policy, dwellings in use as Class C4, mixed C3/C4 use and HMOs in *Sui Generis* use will be considered to be HMOs.

- A2.6 This policy will be implemented through planning decisions taken in the development management process. Once an application is received, the location will be checked against a database holding all existing HMOs in order to determine if the proposed location would fall within an area of concentration. The City Council will produce an SPD setting out in greater detail how this policy will be applied. In the meantime, further advice to applicants is available on the planning pages of the City Council's website.
- A2.7 The City Council will continue to work with the University of Portsmouth to promote appropriate development of purpose built student accommodation.

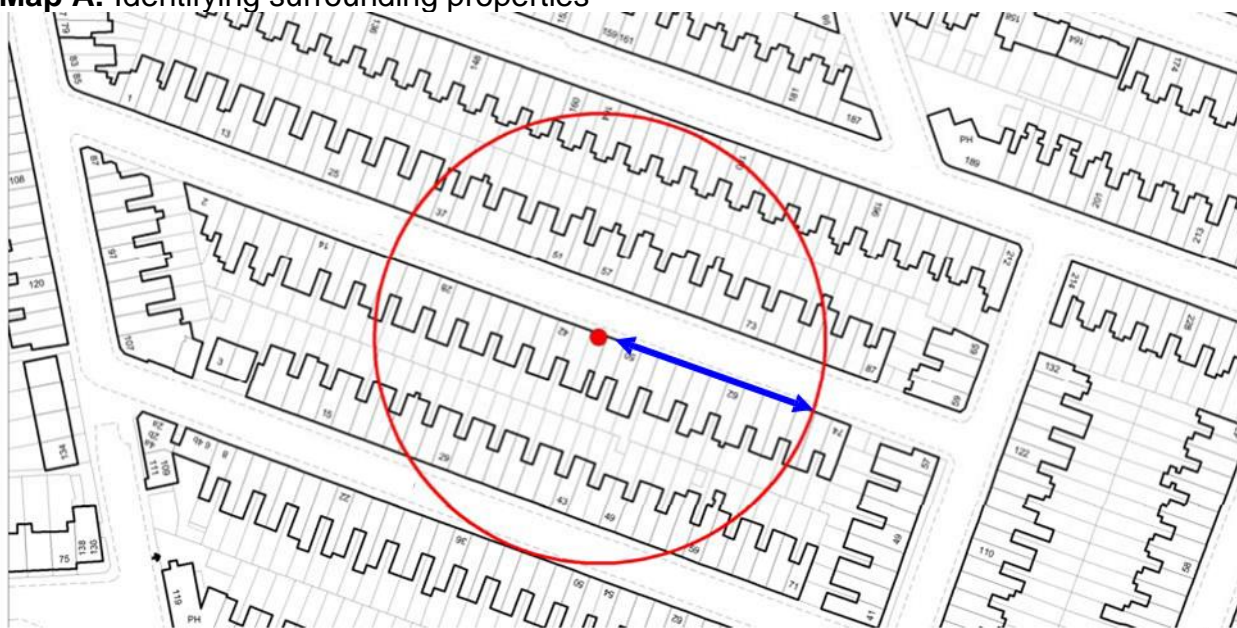
monitoring framework for PCS20 houses in multiple occupation (HMOs): ensuring mixed and balanced communities	
Policy Outcomes	Key Indicators
<ul style="list-style-type: none"> To avoid concentrations of HMOs within the city 	<ul style="list-style-type: none"> Change in number of homeless (particularly the 25 - 34 year old age group who will be affected by changes to the Local Housing Allowance which will mean they can no longer afford to rent whole properties and will increasingly turn to HMOs) Changes in the concentration of HMOs across the city Number of planning applications received for HMOs and whether approved or refused Any appeal decision relating to HMOs
Where else to look	
<ul style="list-style-type: none"> Article 4 Direction: Houses in Multiple Occupation http://www.portsmouth.gov.uk/living/19524.html 	

Appendix 3 - The 10% threshold - worked example

Worked example

- A3.1 A planning application is received for the change of use of a dwellinghouse from Class C3 to Class C4. In order to assess whether the area surrounding the application property is currently 'imbalanced' by HMO uses, or whether granting the application would create an 'imbalance', the council will first calculate how many residential properties (in total) fall within this area. (See paragraph 1.23 for full details of the method that will be used.)
- A3.2 Map A shows that, in this instance, the total number of properties in the area surrounding the application property is 93.

Map A: Identifying surrounding properties

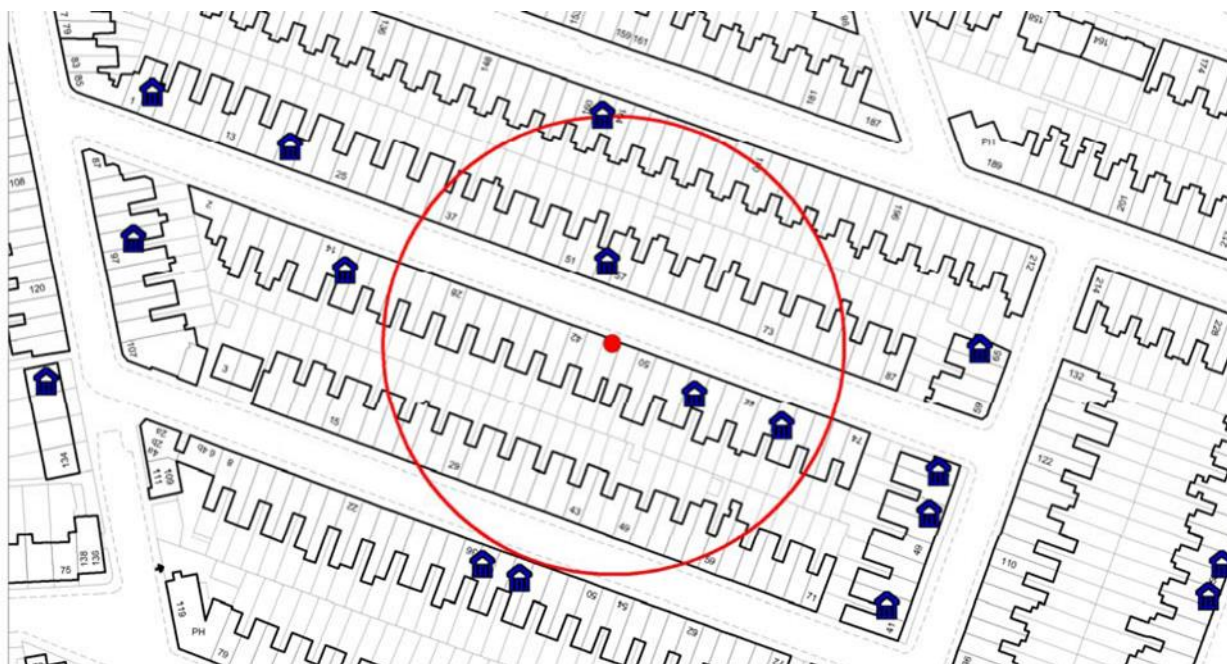


Map not to scale

- = application property
- ↔ = 50 metre radius
- = area surrounding application property

- A3.3 The City Council will then check its 'HMO database' in order to identify which of these properties it considers to be in HMO use. Map B shows that, in this instance, there are four HMOs in the area surrounding the application property.

Map B: Identifying properties in HMO use



Map not to scale

● = application property
 🏠 = properties in HMO use

A3.4 The number of HMOs as a percentage of all properties in the area surrounding the application property will then be calculated:

$$(4 \div 93) \times 100 = 4.3\%$$

So in this case, the percentage of HMOs in the area surrounding the application property is 4.3%.

A3.5 In accordance with Policy PCS20, applications for HMO use will only be allowed if the number of HMOs (as a percentage of all properties in the area surrounding the application property) is calculated to be less than 10% and wouldn't go above 10% if the application were to be granted.

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