

HMOs in Birmingham: Background Information from Strategic Planning and Private Rented Sector Team

1. What do we know about HMOs in Birmingham (numbers, type, demand, trends, number of registered providers and student housing);

The Private Rented Sector has grown considerably in the last 10 years and therefore it is likely that the proportion of HMOs has also increased. The English Housing Survey 2015 showed the PRS is in the poorest condition, with only 26% of PRS obtaining energy rating of A-C compared to 48% of social housing and has the highest proportion of non-decent homes at 28%. The PRS stock is generally older and therefore will have greater disrepair and maintenance issues compared to more modern stock.

A House in Multiple Occupation is defined in Housing Act terms as any property that is occupied by 3 or more persons, of more than one household, who share facilities such as bathroom, kitchen or communal lounge. Common types of HMO are

- Hostels
- Bedsit housing
- Shared student housing

It also includes where a building is converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations and more than one-third of the flats are let on short-term tenancies.

Traditionally HMOs have been an entry level accommodation for homeless people, those on benefits or low incomes, young people, migrant workers and many vulnerable people needing support.

There is a requirement for any 3 storey + HMO with 5 or more persons to be licensed and at present the HMO Register has approx. 1800 approved licensed properties.

There is no city wide register of HMOs as this is not a legal requirement. The Government has extended the definition of HMO to be licensed to any property with 5 or more tenants sharing, which it is estimated will add up to 4,000 additional properties to the HMO Register.

With five universities and six large further education colleges, Birmingham has a large student population and a significant amount of housing demand originates from students.

Student housing

There are currently 78,224 students (full time and part time) studying at Birmingham's universities. Around 23% of students live at their parental home and 22% live in their own home resulting in a minimum demand for bespoke accommodation of around 42,000 bedspaces. Around 12,500 live in university accommodation and 5,500 live in private sector halls.¹

¹ HESA 2015/16

The city therefore currently has around 18,000 bedspaces in purpose built accommodation and a further 4,434 bedspaces in the pipeline.

Student households are included in MHCLG's household projections and as such are included in the housing requirement. In 2015/16, the most recent year for which information is available², there were 15,280 students residing in 'other rented' accommodation which could be released to the general housing market through the provision of additional purpose built accommodation.

A dwelling in the general housing market can therefore be freed up through the provision of a purpose built, one person apartment or a cluster flat containing five, six or more bedspaces.

The trend appears to show a preference by students to live in purpose built student accommodation. In 2013/14 the number of students living in purpose built accommodation increased by 1,575 on the previous year. In 2014/15 there was a further increase of 1,587 students living in purpose built accommodation. In 2015/16 there was a total of 18,011 students living in purpose built student accommodation, an increase of 1,103 since 2014/15.

There has also been an increase of students living at home due to high living costs and tuition fees.

Registered Providers and Supported Housing

Recently there has been concern raised over the growth of supported housing across some parts of the city which most often involves the use of HMOs for vulnerable people with issues such as mental health, substance abuse or criminal activity. Many of these properties are managed by Registered Providers who are regulated by Homes England but certain aspects of regulation fall to a range of partners including the Council, Fire Service, Police, Housing Ombudsman and Charity Commission. The Council is working with these partners to address some of the concerns raised by local residents about lack of effective management and targeting of certain areas for the conversion of homes to HMO use for low level hostel accommodation.

Funding for Supported Housing is intended to become the responsibility of local authorities and the Council will be commissioning Supported Housing services from 2019/20 which may impact on some of the issues raised.

2. What are the current plans for housing mix and the role of HMOs within that?

Overview

The Birmingham Development (BDP), adopted in January 2017, forms part of the statutory development plan for the City and is used to guide decisions on all development and regeneration activity in the City to 2031. The BDP sets out how and where new homes, jobs, services and infrastructure will be delivered and the type of places and environments that will be created.

The BDP replaces the Birmingham Unitary Development Plan (UDP) 2005, with the exception of those policies contained within chapter 8 and paragraphs 3.14 to 3.14D of the UDP, which will

² HESA 2015/16

continue in force until the adoption of the Council's proposed Development Management Development Plan Document (DM DPD). The saved UDP policies include a specific policy on HMOs, which will be replaced and strengthened in the DM DPD.

Overall it is recognised that shared accommodation provides an important way of meeting the City's housing needs, particularly for people on low incomes, young professionals, students and the growing number of one person households. At the same time, high concentrations of poorly managed and maintained HMOs can present a challenge to the future sustainability of our city's neighbourhoods and impact upon their character and residential amenity.

Our adopted local plan policies seek to create sustainable, mixed and balanced communities (Policies TP27 and TP30) and prevent the loss to other uses of housing which is in good condition or could be restored (Policy TP35).

It should be noted that the conversion of a dwellinghouse (C3) to a small HMO (C4) for 3-6 residents is permitted development, not requiring planning permission under the General Permitted Development)(England) (Amendment) Order 2017.

Large HMOs (6+ residents) are classified as Sui Generis Use and do require planning permission. Planning applications for conversion of dwellings to large HMOs (6+ residents) will be considered in light of the BDP policies and the saved UDP policies set out below.

Birmingham Development Plan

The City's population is projected to increase by 156,000 by 2031 which means that new homes and jobs will be required, as well as the creation of quality environments in order for residents, workers, businesses to thrive. The provision of a sufficient quality and quantity of housing to meet the City's growing population is a central part of the strategy of the BDP. The BDP promotes the creation of sustainable neighbourhoods as a means of supporting the City's increasing and diverse population in the most sustainable way possible.

This means delivering high quality local infrastructure and services, including a thriving network of local centres that provide for the local population and are accessible by a range of sustainable travel options. High standards of design in new residential areas will be expected with a strong sense of place, environmental sustainability and climate proofing, attractive, safe and multi-functional public spaces and effective long-term management ensured.

In delivering the principles of sustainable neighbourhoods, policy TP27 and TP30 of the BDP requires that new development provide a wide choice of housing sizes, types and tenures to meet community needs and ensure mixed, balanced and sustainable communities. The appropriate housing mix is evidenced by the Strategic Housing Market Assessment which underpins the BDP. This shows that the greatest proportion of housing need is for larger sized accommodation.

Policy TP35 (Existing housing stock) states that best use should be made of the existing dwelling stock and that the Council will seek to:

- Develop and implement initiatives which will improve the condition of both the older private sector stock and the City Council's own dwellings;
- Prevent the loss to other uses (through conversion or redevelopment) of housing which is in good condition, or could be restored to good condition at reasonable cost. Such loss of residential accommodation will only be permitted if there are good planning justifications or an identified social need for the proposed use;
- Bring vacant residential properties back into use.

The BDP sets out a number of key growth areas which will be the focus for new housing and employment. The importance of the provision of family housing is emphasised in a number of growth areas including Langley Sustainable Urban Extension, Greater Icknield, and Aston, Newtown and Lozells.

The Birmingham Development contains a specific policy on Purpose Built Student Accommodation (TP33). Proposals for purpose built student accommodation provided on campus will be supported in principle subject to satisfying design and amenity considerations. Proposals for off campus provision will be considered favourably where it meets a set of criteria set out in the policy. This includes:

- The proposed development is very well located in relation to the educational establishment that it is to serve and to the local facilities which will serve it, by means of walking, cycling and public transport.
- The proposed development will not have an unacceptable impact on the local neighbourhood and residential amenity.
- The scale, massing and architecture of the development is appropriate for the location.
- The design and layout of the accommodation together with the associated facilities provided will create a safe, secure and welcoming living environment.

Saved Chapter 8 Unitary Development Plan

The UDP policy (paras. 8.23-8.25) on HMOs in sets out the criteria against which planning applications will be determined which includes taking into account the cumulative effect of such uses upon the residential character and appearance of the area. Such uses also include properties converted into self-contained flats, and/or hostels and residential care homes, and/or other non-residential uses. Planning permission may be refused on the grounds that further development of such uses would adversely affect the character of the area.

Emerging Development Management Development Plan Document

The DM DPD, which is currently under preparation, will replace the saved UDP policies once it is adopted. The DM DPD will be a sister document to the BDP and form part of the City's statutory development framework, guiding decisions on all development and regeneration activity across the City.

The timetable for the production of the DM DPD is formal consultation on the Draft document in summer 2018; formal consultation on a Publication version in winter 2018; submission to the Secretary of State for examination in spring 2019.

The new DM DPD policy will add further detail to the BDP in relation to HMOs. The existing UDP policy on HMOs will be replaced and strengthened in the DM DPD, which will set out a clear and measurable approach in terms of cumulative impacts.

The draft policy, in a nutshell, is that:

“Proposals for HMOs will only be permitted where this type of accommodation is below 10% of the number of properties within a 100 metre radius of the application site.”

The National HMO Lobby identifies that 10% of properties or 20% of the population is the ‘tipping-point’ for HMO-dominance in a neighbourhood, beyond which demographic imbalance can occur. Further evidence will need to be gathered to establish a robust case for the threshold and distance set in the policy.

As stated in this document, Government is planning to introduce new legislation which will extend mandatory licensing to more properties. This will improve information about the presence of HMOs in the City and the application of the proposed policy.

This policy would apply to HMOs of 6+ dwellings or where an Article 4 direction exists.

3. What is City Council policy in relation to HMOs?

This has been answered in question 2. To reiterate:

The BDP contains policies which seek to create sustainable, mixed and balanced communities (Policies TP27 and TP30) and prevent the loss to other uses of housing which is in good condition or could be restored (Policy TP35). (See Appendix 1 for full policy wording).

The saved UDP contains a specific policy on HMOs (paras. 8.23-8.25) and sets out the criteria against which planning applications will be determined, which includes taking into account the cumulative effect of such uses upon the residential character and appearance of the area. Such uses also include properties converted into self-contained flats, and/or hostels and residential care homes, and/or other non-residential uses. Planning permission may be refused on the grounds that further development of such uses would adversely affect the character of the area. (See Appendix 1 for full policy wording).

The DM DPD, which is currently under preparation, will replace the saved UDP policies once it is adopted. The existing UDP policy on HMOs will be replaced and strengthened in the DM DPD, which will set out a clear approach to measuring concentrations of HMOs and other such uses leading to cumulative impacts. See answer to Question 2 for further detail.

4. What are the planning and regulatory tools available to the City Council in relation to HMOs?

Overview

The licensing and planning legislation for HMOs serve separate purposes and are independent of each other. Licensing exists to keep residents safe and ensure that landlords follow the necessary

building requirements. Planning regulations define what is permitted development and policies can address concentrations of HMOs and impose restrictions on the numbers of HMOs in an area.

Compliance with the provisions of the mandatory licence scheme does not confer exemption from the need to obtain any planning permission necessary for operation of an HMO or from action by the Council under other legislation.

Licencing of HMOs

The Housing Act 2004 introduced mandatory licensing for HMOs of 5 or more people in properties of 3 or more storeys. Councils have discretionary powers to extend licensing to other categories of HMO which are not covered by mandatory licensing. The public register of approved HMO licences contains 1,710 HMO's³.

Additional Licensing requires all privately rented HMOs, which are located within a designated area, to be licensed. The Council has recently undertaken consultation on additional licensing in Selly Oak Ward, where all HMOs would require to be licensed. No decision has yet been made on whether to introduce this.

The Council is also consulting on the introduction of Selective Licensing in the Stockland Green and Soho wards, where all privately-rented properties would require to be licensed.

New HMO rules - April 2018

In April 2018 Government will extend the scope of mandatory HMO licensing to HMOs of 5 or more people in properties of 1, 2 and 3 or more storeys and properties above commercial buildings (e.g. shops or restaurants). As a result, more properties will require licencing. Minimum room sizes and rules about refuse disposal and storage will also be imposed as well as tightening up of the 'fit and proper person test' for landlords and ensuring criminal record checks are carried out. It is anticipated that these new rules will help to crackdown on rogue landlords.

Planning policies

Planning applications must be determined in accordance with the Local Development Plan, unless other material considerations indicate otherwise (Town and Country Planning Act 1990 and Planning and Compulsory Purchase Act 2004). Planning policies can be area-specific, city-wide and criteria based. Planning policies, as a tool to address concentrations of HMOs, tend to be criteria based and restrictive. A policy can limit the percentage of HMOs within a certain radius of the property in question.

Planning policies, however, must be justified, effective and consistent with national policy. They are tested for 'soundness' by an independent planning inspector through an examination. As set out above, it is the intention to include such a policy in the proposed Development Management DPD,

³ https://www.birmingham.gov.uk/downloads/file/4918/public_register_of_approved_hmo_licences

which will be subject to various stages of formal public consultation, prior to its submission to the Secretary of State for examination.

Article 4 Direction

An Article 4 Direction removes the permitted development rights for change of use from a dwellinghouse (C3 Use) to a small HMO (C4 Use 3-6 person HMO). An Article 4 Direction in itself does not prohibit HMOs coming forward but simply means that planning permission is required to convert a family house to a small HMO.

An Article 4 Direction works alongside a planning policy which will set out how planning applications will be determined in these areas.

Birmingham context

5. What are the issues in relation to HMOs in Birmingham? Where do they occur?

HMOs provide a valuable housing option for many people who cannot afford to live in more self-contained accommodation. HMOs however continue to be in the worst condition within the PRS and are often in older properties which are difficult to heat and tenants on low incomes spend a higher proportion of their income on housing costs.

There is considerable demand for property and rents are increasing above local HLA rates which may be forcing people to have to choose HMOs over self-contained accommodation.

HMOs traditionally are the higher risk accommodation in terms of fire safety, overcrowding and repair.

Irresponsible or rogue landlords are probably over represented in the HMO market.

The growth of supported housing in HMOs is impacting on communities and business and their feeling of well-being and safety

There are some parts of the city with higher concentrations of HMOs in particular Selly Oak due to the student market, Ladywood, Edgbaston Erdington and Hall Green Constituencies have traditionally had higher concentrations of converted housing.

6. How should the planning and regulatory tools be used?

As stated above, the BDP already contains policies which aim to create and maintain mixed and balanced communities. The saved UDP policies include a specific policy on HMOs, which will be replaced and strengthened in the DM DPD. The new policy will rely on information about the presence of HMOs in the City being available for officers to assess if a % threshold would be breached by a proposal. Currently, there is no definitive dataset of all types HMOs in the city because some will fall outside of the licensing requirements. It will help when Government extends mandatory licensing to cover more properties, but this will not cover all types of HMOs.

An Article 4 Direction was introduced within designated areas of Selly Oak, Edgbaston and Harborne Wards in 2014. The policy which applies in the Article 4 area is that proposals for HMOs will not be permitted where 10% or more of houses within a 100 metre radius of the application site is not a single family dwellinghouse.

Provided there is justification for both its purpose and extent, it is possible to make an Article 4 Direction covering any geographic area from a specific site to local authority wide. Some authorities have introduced city-wide Article 4 Direction. Justification for an Article 4 Direction is based on whether the exercise of permitted development rights would undermine local objectives to create or maintain mixed communities. Government guidance states that the use of Article 4 Directions to remove national permitted development rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. The potential harm that the direction is intended to address should be clearly identified. There should be a particularly strong justification for the withdrawal of permitted development rights relating to wide areas.

7. How can the Council work with HMOs?

The Council has a policy of education, encouragement and enforcement for achieving proper housing standards. The Council works with the Landlord Forum, HOMESTAMP and Midland Landlord Accreditation Scheme to promote responsible renting and provides information on standards. Landlords working in the HMO sector have access to information and advice on meeting these standards and the Council continues to enforce against unlicensed HMOs, illegal evictions and failure to comply with improvement notices in HMOs.

HMOs provide an important resource for homeless people and temporary accommodation. Under the Homeless Reduction Act the Council will have to work more closely with the PRS to deliver its obligations and this may provide opportunities to work more directly with HMO providers which can ensure standards are maintained.

What happens elsewhere?

8. What are other local authorities' policies in relation to HMOs?

Some local authorities have designated areas or whole boroughs subject to discretionary Additional Licensing under the Housing Act 2004. Oxford City Council has a scheme so all HMOs in the city have to be licensed.

London Borough of Newham has designated its borough for Selective Licensing so all PRS properties in the area have to be licensed.

Coventry City Council – No Article 4 Directions. Specific HMO policy in recently adopted Local Plan: “Coventry City Council will not allow the development of purpose built HMO’s or the conversion of existing homes or non-residential properties to large HMO’s in areas where there would be material harm to the amenities of occupiers of nearby properties (including the provision of suitable parking), material harm to the appearance or character of the an area or local services or material harm to the

amenity value and living standards of future occupants of the property looking particularly at internal space and garden/shared space”.

Leeds City Council – Article 4 Directions in 17 wards with 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. Planning applications will be considered against the Core Strategy Policy H15 which states A) Within the area of Leeds covered by the Article 4 Direction for Houses in Multiple Occupation (HMOs), Development proposals for new HMOs will be determined:

- (i) To ensure that a sufficient supply of HMOs is maintained in Leeds,
- (ii) To ensure that HMOs are distributed in areas well connected to employment and educational destinations associated with HMO occupants,
- (iii) To avoid detrimental impacts through high concentrations of HMOs, which would undermine the balance and health of communities,
- (iv) To ensure that proposals for new HMOs address relevant amenity and parking concerns,
- (v) To avoid the loss of existing housing suitable for family occupation in areas of existing high concentrations of HMOs.

Manchester City Council – City-wide Article 4 Direction introduced in 2010 which works alongside a Core Strategy policy on HMOs stating that “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”

Bristol City Council – Article 4 Direction in 3 areas introduced in 2011. Planning policy in adopted DM DPD 2014 states that HMOs will not be permitted where:

- i. The development would harm the residential amenity or character of the locality as a result of any of the following:

Levels of activity that cause excessive noise and disturbance to residents; or

Levels of on-street parking that cannot be reasonably accommodated or regulated through parking control measures; or

Cumulative detrimental impact of physical alterations to buildings and structures; or

Inadequate storage for recycling/refuse and cycles.

- ii. The development would create or contribute to a harmful concentration of such uses within a locality as a result of any of the following:

Exacerbating existing harmful conditions including those listed at (i) above; or

Reducing the choice of homes in the area by changing the housing mix.

Appendix 1 – Planning Policies

Extracts from the Birmingham Development Plan (adopted 2017)

Policy TP30 The type, size and density of new housing

Proposals for new housing should seek to deliver a range of dwellings to meet local needs and support the creation of mixed, balanced and sustainable neighbourhoods. Account will need to be taken of the:

- Strategic Housing Market Assessment (or any subsequent revision).
- Detailed Local Housing Market Assessments (where applicable).
- Current and future demographic profiles.
- Locality and ability of the site to accommodate a mix of housing.
- Market signals and local housing market trends.

Policy TP35 The existing housing stock

Best use will be made of the existing dwelling stock and the City Council will seek to:

- Develop and implement initiatives which will improve the condition of both the older private sector stock and the City Council's own dwellings. Many of these initiatives involve the City Council working with public and private sector partners.
- Prevent the loss to other uses (through conversion or redevelopment) of housing which is in good condition, or could be restored to good condition at reasonable cost. Such loss of residential accommodation will only be permitted if there are good planning justifications or an identified social need for the proposed use.
- Bring vacant residential properties back into use. Whilst vacancies are highest in the private sector, the City Council will seek, through implementation of its Empty Homes Strategy, to encourage the physical improvement and occupation of vacant homes of all tenures including where necessary the use of its compulsory purchase powers.

The City Council will also encourage retrofitting of the existing dwelling stock to achieve the sustainability standards set out in other planning policies.

Policy TP33 Student accommodation

Proposals for purpose built student accommodation provided on campus will be supported in principle subject to satisfying design and amenity considerations. Proposals for off campus provision will be considered favourably where:

- There is a demonstrated need for the development.
- The proposed development is very well located in relation to the educational establishment that it is to serve and to the local facilities which will serve it, by means of walking, cycling and public transport.
- The proposed development will not have an unacceptable impact on the local neighbourhood and residential amenity.
- The scale, massing and architecture of the development is appropriate for the location.
- The design and layout of the accommodation together with the associated facilities provided will create a safe, secure and welcoming living environment.

Birmingham Unitary Development Plan 2005 Saved Policies

Houses in Multiple Paying Occupation

8.23 This policy applies to dwellings which are either let in one or more separate tenancies, or are occupied by persons who do not form a single household.

8.24 The following criteria will be referred to in determining planning applications:

- The effect of the proposal on the amenities of the surrounding area, and on adjoining premises;
- The size and character of the property;
- The floorspace standards of the accommodation;
- The facilities available for car parking;
- The amount of provision in the locality.

8.25 The following guidelines will also apply:

- Generally, the use of small terraced or small semi-detached houses for multiple paying occupation will cause disturbance to the adjoining house(s), and will *[normally]* be resisted. The impact of such a use will depend, however, on the existing use of adjoining properties and on the ambient noise level in the immediate area.*