

## New City-Wide Article 4 Direction

On Monday 8th June 2020 a new City-Wide Article 4 Direction came into force. Until this date, conversions of houses to small HMOs (accommodating between 3 and 6 people) did not require planning permission as they could be done through national permitted development rights. These permitted development rights were removed through the new Article 4 Direction.

After 8<sup>th</sup> June, planning permission will be required for the conversion of houses to small HMOs (C4 Use Class). Planning applications for HMOs will be assessed against the Council's local plan policies. In addition to the city wide Article 4 Direction, the Council is seeking to create stronger local plan policies on HMOs. The existing policy on HMOs is contained in the 2005 Unitary Development Plan (UDP) (paras. 8.23-8.25). This sets out the criteria against which planning applications for HMOs will be determined, including taking into account the cumulative effect of such uses upon the residential character and appearance of the area.

It is proposed that the existing UDP policy will be replaced by a new strengthened HMO policy in the emerging Development Management in Birmingham Document (DMB), once adopted. The latest and final stage in the preparation of the DMB is the Publication Stage. The DMB Publication Document was subject to public consultation for a 6-week period in Jan-Feb 2020. All the representations received will be submitted to the Secretary of State, along with the Submission Plan, for examination by an independent planning inspector in Summer 2020.

The new HMO policy seeks to introduce new criteria against which applications for all HMOs will be assessed. The policy aims to:

- help avoid the creation of harmful concentrations of HMOs;
- ensure that where HMOs are created, they provide high quality accommodation with adequate living space; and
- ensure that the intensification or expansion of an existing HMO also meets relevant criteria having regard to cumulative impacts.

### Development Management in Birmingham DPD (Publication) (October 2019) POLICY DM11 (HMOs)

1. Proposals for the conversion of existing dwellinghouses or the construction of new buildings to be used as Houses in Multiple Occupation (HMO) should protect the residential amenity and character of the area and will be permitted where they:
  - a. would not result in this type of accommodation forming over 10% of the number of residential properties\* within a 100 metre radius of the application site\*\*; and
  - b. would not result in a C3 family dwellinghouse being sandwiched between two HMOs or other non-family residential uses\*\*\*; and
  - c. would not lead to a continuous frontage of three or more HMOs or non-family residential uses\*\*\*; and
  - d. it would not result in the loss of an existing use that makes an important contribution to other Council objectives, strategies and policies; and
  - e. would not give rise to unacceptable adverse cumulative impacts on amenity, character, appearance, highway safety and parking; and
  - f. provide high quality accommodation with adequate living space including:
    - o bedrooms of at least 7.5 sq.m. (single) and 11.5 sq.m (double); and
    - o communal living space comprising lounge, kitchen and dining space either as distinct rooms or in an open plan format; and
    - o washing facilities; and
    - o outdoor amenity space; and
    - o recycling/ refuse storage.

2. Where a) and c) has already been breached, planning permission will only be granted in exceptional circumstances\*\*\*\*.
3. Proposals for the intensification or expansion of an existing HMO should comply with (e) and (f) above, having regard to the size and character of the property.

\* Paragraph 4.17 sets out the residential properties identified for the purposes of calculating the percentage concentration of HMOs and the data sources for the purposes of identifying HMOs.

\*\* Measured from the centre point of the property

\*\*\* For the purposes of this policy a non-family residential use is defined as a HMO, student accommodation, residential accommodation within C1 and C2 Use and self-contained flats.

\*\*\*\* Exceptional circumstances are set out in paragraph 4.24.

See the attached link for the full policy document and Topic Paper on Houses in Multiple Occupation [www.birmingham.gov.uk/dmb](http://www.birmingham.gov.uk/dmb)

While the Council cannot take action against changes which have already occurred through permitted development rights before 8 June 2020, it considers that the effect of the city wide Article 4 Direction alongside the new city wide planning policy on HMOs (subject to passing the Planning Inspectorate examination in late 2020) will help better control the future growth and distribution of HMOs.

The Council will also continue to monitor licence applications for HMOs referred to it by the Private Rented Housing Team and ensure that the properties in question have prior planning permission for such residential occupation to take place. Where no permission is found, it will make further inquiries and where appropriate, initiate enforcement investigation.

In regard to the litter and noise generated from the property, residents should report these matters via the following webpage:

[https://www.birmingham.gov.uk/info/20140/environmental\\_concerns\\_and\\_requests](https://www.birmingham.gov.uk/info/20140/environmental_concerns_and_requests)