

HMO LICENSING, ARTICLE 4 DIRECTIONS AND PLANNING POLICY: POSSIBLE WAYS FORWARD FOR FALMOUTH

Note for the Falmouth Neighbourhood Plan
Stakeholder Group (V.6)

Abstract

This report is intended to provide material for a Stakeholder Group discussion on the possible ways to tackle the HMO issues experienced in Falmouth through the forthcoming Falmouth Neighbourhood Plan.

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HMO LICENSING, ARTICLE 4 DIRECTIONS AND PLANNING POLICY: POSSIBLE WAYS FORWARD FOR FALMOUTH

1. INTRODUCTION

This report is intended to provide material for a Stakeholder Group discussion on the possible ways to tackle the HMO issues experienced in Falmouth through the Neighbourhood Plan. It summarises current HMO regulation and various proactive approaches adopted elsewhere, then looks at the intelligence we have on the position in Falmouth, before looking at possible ways forward, finishing with some initial draft planning policies for further development.

2. THE ISSUES

The issues associated with HMOs (whether student accommodation or otherwise) include:

- anti-social behaviour, noise and nuisance
- imbalanced and unsustainable communities
- negative impacts on the physical environment and visual amenity (untidy gardens, proliferation of letting boards, student fly-posting etc)
- harm to the historic environment
- pressures upon parking provision
- increased crime
- growth in private rented sector at the expenses of owner-occupation
- pressure upon local community facilities
- restructuring of retail, commercial services and recreational facilities to suit the lifestyles of the predominant population
- problems around community cohesion
- Public health risks through accumulations of rubbish

Further details can be found in chapter 2 of the DCLG's 2008 evidence gathering report on HMOs)¹.

Traditionally HMOs have tended to be located in older housing stock and at their worse are likely to be poorly maintained, in disrepair, overcrowded, and lacking amenities.

It appears that the negative aspects are perceived very sharply by local communities in areas subject to what has been rather derogatively called 'studentification'.

¹ Evidence Gathering – Housing in Multiple Occupation and possible planning responses: Final Report, DCLG 2008

The issues associated with high concentrations of student HMOs was considered by Julie Rugg and David Rhodes in their Government commissioned review of the private rented sector². They noted that the concentration of student rentals in the vicinity of higher education institutions has attracted a great deal of policy attention, and that it was argued that student renting ‘destabilises’ communities, ‘prices out’ owner occupiers and first-time buyers in particular, and subjects longer-term residents to noise and rubbish nuisance.

However, the issues are not all negative. HMOs can make a valuable contribution to private rented sector stock and provide an essential housing tenure for predominately young and single people and those on low incomes and in receipt of benefit. Recently introduced housing benefit rules limit single people under 35 to a level of benefit based on a room in a shared house, so if they seek to rent a self-contained flat, their housing benefit is restricted and they may have a shortfall. For this reason, they often resort to HMOs as the most affordable privately rented accommodation.

In some previously low demand areas the emergence of pressure from students has helped to revive and sustain housing markets, and has spurred on neighbourhood revival. However, the rent level impact of this may reduce affordability for those on low incomes.

3. DEFINITIONS: WHAT IS AN HMO?

This can be complex! The definition of an HMO is now contained in sections 254-259 of the 2004 Housing Act. A building or part of a building is an HMO if it satisfies ‘the standard test’, the ‘self-contained flat test’ or the ‘converted building test’, or if an ‘HMO declaration’ is in force under section 255 of the 2004 Act, or it is a ‘converted block of flats to which section 257 applies.’

To put that into (somewhat) plainer language, a Unit of Self-Contained Accommodation³ is a House in Multiple Occupation (HMO) if the following apply:

1. at least 3 tenants live there, forming more than 1 household⁴ (for example, 3 single people with their own rooms, or 2 couples each sharing a room)
2. Each tenant shares the toilet, bathroom or kitchen facilities with the other tenants (or the accommodation is lacking in one or more of these amenities)
3. They occupy the living accommodation as their only or main residence
4. Their occupation constitutes the only use of that accommodation
5. At least one of the occupiers pays rent or some other consideration in exchange for the occupation.

Properties let to students and migrant workers are usually treated as their only or main residence and the same applies to properties which are used as domestic refuges of various forms.

² The Private Rented Sector: its contribution and potential October 2008

³ A self-contained unit of accommodation is one which has a kitchen (or cooking area), bathroom and toilet inside it for the exclusive use of the household living within the unit. Therefore can be a single house, a flat converted within a bigger property, or a flat within a purpose built block of flats. If the occupiers need to leave the unit to gain access to any one of these amenities then that unit is not self contained.

⁴ A household is either a single person or members of the same family who live together. A family includes people who are:

- married or living together - including people in same-sex relationships
- relatives or half-relatives, eg grandparents, aunts, uncles, siblings
- step-parents and step-children

Any domestic staff are also included in the household if they are living rent-free in accommodation provided by the person for whom they are working

HMOs can therefore include a range of different types of residential use, for example:

- **Shared houses:** An entire house or flat which is let to 3 or more tenants who form 2 or more households and who share a kitchen, bathroom or toilet.
- **Bedsits:** A house which has been converted entirely into bedsits or other non-self-contained accommodation and which is let to 3 or more tenants who form two or more households and who share kitchen, bathroom or toilet facilities.
- **Blocks of converted flats:** A converted building which contains one or more flats which are not wholly self-contained (i.e. the flat does not contain within it a kitchen, bathroom and toilet) and which is occupied by 3 or more tenants who form two or more households etc.
- A building which is converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 or subsequent Building Regulations and more than one-third of the flats are let on short-term tenancies.
- **Purpose built blocks of Individual flats:** if an individual flat within a block of flats is occupied by multiple households.
- **Seasonal accommodation:** A house used in the summer for a holiday let, but for the rest of the year the house is let to tenants (see below).

So HMOs can also include:

- B&Bs with long term tenants
- Lodgings (previously referred to as common lodging houses)
- Hostels (e.g. 'Halfway Houses' for ex-offenders)
- Student 'lets'
- Halls of residence (privately operated)
- Asylum seeker/migrant accommodation
- Accommodation for workers/employees
- Refuges and Shelters (eg for victims of domestic abuse)

These are not HMOs:

- Two person flat share - a property, or part of a property, lived in by no more than two "households" each of which consists of just one person
- A property where the landlord and their household lives with up to two tenants
- A purpose built block of flats. However, an individual flat within it might be if it is let to 3 or more tenants (at least one of whom is unrelated)
- A building predominantly owned by owner-occupiers (the appropriate level is specified in regulations)
- Buildings controlled or managed by public sector bodies e.g. Registered Social Landlords, Police Authorities etc
- Buildings regulated by other legislation e.g. care homes, detention centres etc
- Buildings controlled or managed by an educational establishment and occupied by the establishment's students i.e. Halls of Residence⁵.
- Buildings occupied by religious communities whose principal occupation is prayer, contemplation, education or the relief of suffering

⁵ Accommodation managed by colleges of higher and further education is only exempt from the definition of an HMO, and the various controls that this implies, if they comply with a code of practice approved under section 233 of the Act. See The Housing (Codes of Management Practice) (Student Accommodation) (England) Order 2010 (2010/2615)

Declared HMOs. Sometimes a property can move in and out of the HMO definitions over short periods of time. For example a Bed and Breakfast establishment providing accommodation for homeless people and asylum seekers and for holidaymakers. In such cases the local authority may, in order to remove doubts about a property's status, make an HMO declaration that a building is an HMO if it is satisfied that the occupation by persons as their only or main residence is a significant use of the building, or part of the building,

4. THE CONTROL AND MANAGEMENT OF HMOs

Management of HMOs is in the first instance the responsibility of the provider of the accommodation under the terms of various acts and regulations (see below).

Oversight by public authorities falls under the Housing and Planning acts, and operates in the form of Housing licensing and Planning permissions. In a nutshell, Housing licensing controls their quality and safety for the occupants, whilst Planning can control the numbers of HMOs and make requirements for certain land-use arrangements (e.g. amenity space, refuse storage and car and bicycle parking provision for the benefit of both occupants and adjoin residents).

However, some smaller HMOs fall outside the control of these regimes.

4.1 Housing Licensing

The Housing Act 2004 introduced three different types of licensing, two of which specifically relate to HMOs:

- Mandatory HMO Licensing
- Additional HMO Licensing
- Selective Licensing of all privately rented housing in specific areas (further criteria apply).

Mandatory HMO Licensing is required for all prescribed⁶ HMOs. These are those which are

- at least 3 storeys⁷ high
- where at least 5 tenants live, forming more than 1 household
- each tenant shares toilet, bathroom or kitchen facilities with other tenants

Converted blocks of flats are not subject to mandatory licensing.

To be clear: two storey HMOs do not require to be licensed.

Mandatory licensing was restricted by Government to these larger properties as they were considered to be where the greatest risk to occupiers existed in terms of fire hazard, fire prevention and rescue, quality of building management, internal design standards etc., taking into account that they were often occupied by vulnerable and less cognisant residents.

⁶ The Licensing of Houses in Multiple Occupation (Prescribed Descriptions) England Order 2006 (SI 2006/371)

⁷ This is not just the number of storeys with living accommodation. Also included are:

- Basements and attics if they are occupied or if they have been converted for occupation by residents or if they are used in connection with the occupation of the HMO by residents e.g. a basement with a residents' laundry room and no other living accommodation would count as a storey
- Any storeys occupied by a resident landlord or the landlord's family
- All the storeys in residential accommodation, even if they are self-contained
- Any business premises or storage space on the ground floor or any upper floor. Basements used for business or storage are not counted unless the basement is the only, or principal, entrance to the HMO from the street.

4.2 Mandatory Licensing Requirements

Each licensable HMO will need its own licence.

In order to grant a licence for an HMO a local housing authority has to be satisfied that:

- The proposed licence holder and any manager of the property is a fit and proper person⁸
- The proposed licence holder is the most appropriate person to hold the licence
- Proper management standards are being applied at the property and
- That the HMO is reasonably suitable, or can be made suitable, for occupation by the number of tenants allowed under the licence with at least the minimum prescribed standards of amenities and facilities. These include the number, type and quality of shared bathrooms, toilets and cooking facilities.

Minimum amenity standards have been set by the government relating to requirements for kitchens, bathrooms and toilets in an HMO, but a local council may use their own local standards if these are at least the same as or higher than the minimum prescribed standards.

If an HMO does not have the minimum standards the local authority has a number of options. It can:

- Grant a licence with conditions that extra amenities will be put in within a specified timeframe; or
- Grant a licence for a smaller maximum number of occupants based on the amenities which are installed; or
- In properties with the worst conditions they may decide not to grant a licence at all if they cannot be brought up to required standards.

Not all HMOs will need to be inspected prior to a licence being granted, but there will be some occasions where an inspection is necessary to assess suitability. All licensable HMOs have to be inspected within five years.

Obviously there are times when the owner of a property manages it himself, makes letting arrangements with tenants, organises repairs and collects rent. In other cases the owner of a property will engage an agent or manager to take of the property. Both the licence holder and the person who manages the property (these may both be the same person) will both need to be a "fit and proper person" to hold a licence.

⁸ To be able to hold an HMO licence a person has to be considered to be "fit and proper". Each applicant for a licence will be asked details of:

- Any unspent convictions for offences involving fraud or other dishonesty, or violence or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003
- Any unlawful discrimination on grounds of sex, colour, race, ethnic or national origins, or in connection with the carrying on of a business
- Any contravention of any provision of the law relating to housing or of landlord and tenant law (including any civil proceedings that resulted in a judgement against you).

Any applicant who does not declare unspent convictions will be committing an offence and liable to a fine of up to £5,000. A licence could also be denied or revoked in such cases. Each application will have to be considered individually by the local authority and the declaration of an unspent conviction would not necessarily mean that the applicant was not a fit and proper person. If the council does not consider that he or she is suitable to hold the licence e.g. because he is not fit and proper or the management arrangements are inadequate, it can agree that the licence be held by someone more appropriate, such as a managing agent

Once a licence is granted it cannot be transferred to another property or to another person. If the HMO is sold the new owner and/or manager will need to apply for a new licence. A licence will normally last for 5 years.

Sanctions for licence breaches include revocation of a licence, fines up to £20,000, requiring that an alternative manager be put in place, making an interim management order or a final management order which will place the longer-term management of the property in the hands of the authority.

4.3 Licensing Conditions

A licence it will come with conditions attached to ensure that the standards in the HMO continue to be kept. These are mandatory conditions which require the licence holder to:

- Specify the maximum number of occupants who may occupy the property. The number will depend upon the location, number and size of rooms available for sleeping and living purposes and the adequacy of kitchen and bathroom facilities
- Produce an annual gas safety certificate
- Keep electrical appliances and furniture supplied by the landlord in a safe condition and to supply declarations of their safety to the local council on demand
- Install smoke alarms and keep them in proper working order and to supply to the local council, on demand, a declaration of their positioning and condition; and
- Give the occupiers a statement of the terms on which they occupy the HMO.

The council may also specify conditions such as those relating to the facilities in the HMO, its condition and the management of the building, including how the licence holder deals with the behaviour of occupiers.

4.4 Controlling non-licensable HMOs

Local authorities have some powers available to them to control conditions in properties that are defined as HMOs but which are not required to be licensed.

The Housing Health and Safety Rating system – This is a risk assessment method of rating health and safety hazards within dwellings, and covers all HMOs (whether or not they are licensable). It is not a pass or fail test, it is concerned with avoiding or, at the very least, minimising potential hazards. It covers 29 hazards including fire, excess cold and entry by intruders. Following inspection, the Local Authority has a legal duty to take action when category 1 (serious) hazards are identified and may choose to take action when category 2 (less serious) hazards are found.

Regulations made under the Housing Act 2004⁹ apply to all HMOs (whether or not they are licensable) and impose certain duties on managers and occupiers of such buildings, and will be taken into consideration in licensing decisions. They apply to all HMOs and are the means through which poor day to day management is tackled.

The Regulations place a duty on the HMO manager to the effect that he/she must:

- ⇒ Provide his or her contact details to the occupiers
- ⇒ Keep means of escape from fire free from obstruction and in repair and maintains firefighting equipment and alarms
- ⇒ Take reasonable measures to ensure that the occupiers of the HMO are not injured on account of its design and structural condition

⁹ The Management of Houses in Multiple Occupation (England) Regulations 2006. Statutory Instrument 2006 / 372

- ⇒ Ensure there is adequate drainage from the HMO and an adequate water supply and such supply is not unreasonably interrupted
- ⇒ Supply annual gas safety certificates (if gas is supplied) to the council when requested, carries out safety checks on electrical installations every five years and ensures the supply of gas (if any) and electricity is not unreasonably interrupted
- ⇒ Keep in repair (including decorative repair) and good order the common parts (including any fixtures and fittings within it)
- ⇒ Maintain any shared garden and keeps in repair any structures belonging to the HMO
- ⇒ Keep in repair the occupiers' living accommodation within the HMO, including fixtures and fittings; and
- ⇒ Provide suitable facilities for the disposal of rubbish.

The occupiers of HMOs have a duty under the regulations to:

- ⇒ Do nothing to hinder or prevent the manager from carrying out his or her duties under the regulations
- ⇒ Take reasonable care not to damage anything for which the manager has a duty to repair, maintain, keep in good order or supply under the regulations 33
- ⇒ Dispose of rubbish in accordance with the arrangements made by the manager; and
- ⇒ Comply with all reasonable instructions from the manager relating to fire safety.

Further regulations¹⁰ detail standards of management applicable to all HMOs, (except converted blocks of flats), whether or not they are licensable and require that minimum standards are achieved for bathroom, WC and kitchen facilities in converted blocks of flats and that there are suitable fire precaution facilities and equipment located in appropriate areas and in sufficient numbers. They also extend the duties imposed on the manager in the running of the HMO.

The “manager” in these regulations includes the landlord or a person responsible for the management of the HMO. There is no formal enforcement regime for these regulations, (other than when a license is required) although local Authorities may take action under them when considered appropriate.

If a manager, or occupier, fails to comply with any management regulation without a reasonable excuse they may be prosecuted and liable to a fine of up to £5,000. Before prosecuting, a Local Authority is expected normally to provide an opportunity to remedy the breach and may monitor the situation to ensure continued compliance. However, the a Local Authority does not have to give this opportunity to comply and may decide not to if it is satisfied the breach is serious or has caused harm, is persistent or has happened before.

Additional HMO Licensing of other types of HMOs which are not subject to mandatory licensing (e.g. two storey) can be introduced at the Local Authority's discretion. The Local Authority can do this if it considers that a significant proportion of these HMOs are being managed sufficiently ineffectively so as to give rise to one or more particular problems, either for the occupants of the HMOs or for members of the public, for example through significant anti-social behaviour.

¹⁰ The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 – Statutory Instrument 2006 / 373

The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 - Statutory Instrument 2007 / 1903

The Houses in Multiple Occupation (Certain Block of Flats) (Modifications to the Housing Act 2004 and Transitional Provisions for S 257 HMOs) (England) Regulations 2007 - Statutory Instrument 207 / 1904

Before designating an area to be subject to additional licensing, a local council must consider that a significant proportion of HMOs in that area are causing problems for tenants or the neighbourhood due to poor management. The use of this power will also be subject to consultation with those who would be affected by the designation, and approval from Government. Once an additional licensing designation has come into force it is a requirement that HMOs that are subject to it are licensed.

Additional Licensing may be in a defined geographical area or across the whole of a council's area. This approach has been adopted by Brighton and Hove, Nottingham and Oxford Councils for wards where the HMO related issues are particularly acute (e.g. the number of HMOs being greater than other forms of housing).

In 2015 the Govt began to consider the mandatory licensing of HMOs, saying that 'whilst there was a clear rationale for introducing mandatory licensing in 2006 to cover larger HMOs, over the last decade the nature of the HMO market in England has changed. With a larger student population in the private rented sector and more families, foreign nationals, illegal immigrants and vulnerable people living in the sector, it is an increasing priority to ensure smaller HMOs are adequately protected and properly managed'.¹¹ The outcome of consultations on the precise form of this extension is awaited.

Selective Licensing does not specifically relate to HMOs, being intended to tackle a broader range of issues. For example, it may be used in areas of low demand housing or areas with significant anti-social behaviour problems. All privately rented properties within a selective licensing area have to be licensed, regardless of whether or not the property is an HMO.

Other methods. In certain very limited circumstances authorities can take enforcement action against properties that are not licensable using other tools. These are

- Interim/Final Management Orders: Special management orders made by Residential Property Tribunals in respect of HMOs or other houses that are not licensable if they consider that there is a risk to the health, safety or welfare of the occupiers of the HMO or other persons within the vicinity.
- Overcrowding notices: Under the 2004 Housing Act, when it is considered, having regard to the number of available rooms, that there are, or are likely to be, an excessive number of occupants in the house.

4.4 Planning

HMOs are covered by Planning Use Class¹² '**C4 Houses in multiple occupation**' - small shared houses occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom. Large HMOs, i.e. occupied by more than 6 residents are in a class of their own, or in Planner language 'sui generis'¹³.

Change of use from Use Class C3 (i.e. an ordinary dwelling house) to C4 is a 'permitted development', for which a planning application and formal planning permission is not required. Equally, change from C4 back to C3 is also 'permitted development'. (Note: The term 'permitted development' doesn't mean that planning permission isn't required: rather it is best viewed as a 'national grant of planning permission' that is made through the General Development Order¹⁴).

¹¹ 'Extending mandatory licensing of Houses in Multiple Occupation (HMOs) and related reforms: A technical discussion document'

¹² Town and Country Planning (Use Classes) Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) Order 1995 (as amended)

¹³ 'Of its own kind; in a class by itself; unique'.

¹⁴ Town and Country Planning (General Permitted Development) Order 1995 (as amended)

If more than 6 occupants are involved, than as a 'sui generis' use a planning application and planning permission is always required.

Thus, it is possible for property owners to convert an entire property into accommodation for up to 6 individuals without the need for a Planning application and the scrutiny that goes with the planning process.

If a Local Planning authority wishes to bring HMOs under local planning control, to positively manage the location of new HMOs in order to create sustainable, healthy and inclusive communities and to avoid further increases in concentrations in certain streets, it can use an Article 4 Direction, often referred to as an 'A4D'.

An A4D is a direction under article 4 of the General Permitted Development Order which enables the local planning authority to withdraw specified permitted development rights across a defined area. In deciding whether an article 4 direction is appropriate, local planning authorities can consider several interests that the use of permitted development rights might impact upon, including the visual amenity of the area, damage the historic environment, and harm to local objectives to create or maintain mixed communities. These are clearly interests of concern in areas where HMOs are concentrated.

A4Ds have been used to bring HMOs under local Planning control by Exeter, Brighton and Hove, Leeds, Charnwood (Loughborough Uni), Nottingham, Oxford and Cheshire West and Chester Councils

As Planning Permission will be required for new HMOs, there needs to be Planning criteria against which such proposals can be assessed. Most councils have adopted policies in their Local Plans specifically focused on HMOs, with some adding Supplementary Planning Guidance, and in one example at Exeter St James, a Neighbourhood Plan has included policy on HMOs. See Appendix 1 for more details).

The use of A4Ds to control HMOs may have the unintended consequence of reducing the supply of lower cost accommodation for non-students, leading to increased rent levels and housing stress, more rough sleeping, 'dossing' or 'sofa surfing', squatting, and poorer standards of HMO provision.

Therefore, it is important that the specific planning policies riding with an A4D requiring planning permission for HMOs should be carefully balanced, to ensure that whilst further HMOs in 'saturated' areas may be resisted, they will be permitted in other areas where there is the capacity for more, subject to conditions.

Appendix 2 attached summarises the controls described above.

5. PROACTIVE MANAGEMENT APPROACHES

Some local authorities have adopted positive interventions to run in parallel with licensing and planning measures, or to tackle issues associated with 'smaller HMOs' without formally going through the additional licensing process.

Where the issues relate to the condition of the buildings used as HMOs, some councils have found it beneficial to target the properties through the local authority's **Private Sector Renewal policy**, to deal for example with heating and insulation schemes, as with Newcastle under Lyme BC. Similarly other schemes, such as Partnership Schemes in Conservation Areas (PSICA) and Townscape Heritage Initiative (THI) grant could be lined up alongside HMO improvement programmes.

Partnership and Voluntary schemes. These may be general schemes applicable to all residential landlords and rented accommodation, or more focused schemes tackling specific issues associated with HMOs. Examples include partnership arrangements with University and Student bodies (e.g. Dedicated student liaison officers and off campus wardens), good practice guides, landlord and tenant focus groups, 'helpline' services to report issues, information events for students, small grant schemes to fund clean-up initiatives, landlord accreditation schemes, university disciplinary procedures and joint work with Community Safety Partnerships focusing on anti-social behaviour and crime/disorder and various forms of activity campaigns (e.g. jointly managed volunteer clean-up days).

Initiative	Description
University Housing Strategies	Guide the development of the University's accommodation strategy and its wider relationship with the community
Community Relations Officer and off campus wardens	To help address the problems associated with the high percentage of students living in neighbouring communities and to ensure wider community engagement; off-campus wardens or university security can sometimes access university database to see if students are registered at a particular address; can offer a response service to local residents, e.g. at night. Loughborough has also given a senior manager responsibility for community relations, to ensure issues are taken to the top of universities
Neighbourhood Help lines	Single point of contact for issues raised by members of the community.
Disciplinary Procedures for anti-social behaviour	Agreements on behaviour on and off campus, with potential disciplinary sanctions; can also have mechanism for writing back to complainant, so keeping residents informed
Housing Awareness Weeks	Increase awareness among students, can include promoting accredited properties or how to be a good neighbour for students
Information sharing protocol	Sharing information on student properties between the local authority and university
Student Accommodation Handbook	Promoting awareness of community cohesion and importance of good behaviour and residential responsibilities in a straightforward handbook
Promoting volunteering among students	Engaging students in voluntary work in and preferably with the local community
Landlord association sessions on 'studentification'	Make landlords aware of issues
Landlord association code of practice	A code establishing property standards and ethics, with the possibility of sanctions for offenders
Community Safety Partnership	For example, 'Safe Routes Home' initiatives at the start of the academic year and aims to ensure that student receives advice regarding the safest routes home

	Sensible drinking and anti-social behaviour reduction initiatives
Freshers' Week	Engage students with long-term residents; offer long-term residents something constructive to do; raise student awareness of their local area
Welcome packs	Available for student tenants via landlords - information to students about the local area; start to engage students with long-term residents
Landlord accreditation scheme	To bring up the property and management standards of private rented properties, often among student landlords but sometimes more widely. Sometimes run training on relevant issues (e.g. property standards)
Community charters	Asking residents to sign up to a charter around noise, rubbish, parking and other forms of acceptable behaviour; possibility of informing university if charter is breached
Small grant schemes	To fund clean-up initiatives
Neighbourhood action weeks	Provide interaction between long-term residents and students; additional waste collection; tidying up area; makes street look better, as it get local people to take better care of their area
Police Community Support Officer	A role funded by the LA and university for particular areas
Street Scene activity	Targeted cleaning initiative
Fly posting Initiative	Provision of advertising drums located in student areas where fly-posters can be displayed. Fly posting is prohibited elsewhere.
Flyer Control Zone	A bye-law requirement for all businesses to require a licence to distribute flyers. This initiative aims to curb the amount of flyers that are handed out and on the spot fines are imposed for anyone without a licence.
Skips at the end of academic year	Provide skips in student areas at the end of the academic year for bulk of rubbish
Student/HMO forum	Bring together all the different parties involved, often with people at a high level; gets residents involved in decision-making.

Local Strategies. In several 'university towns' (e.g. Newcastle under Lyme and Keele Uni, Loughborough, and Nottingham) local partnership strategies¹⁵ have been developed which combine statutory planning and housing management measures with partnership and voluntary schemes and activity, and measures to promote integration of students into local communities. These provide for co-ordination of effort and resource sharing, and result in greater effectiveness.

¹⁵ Evidence Gathering – Housing in Multiple Occupation and possible planning responses: Final Report, DCLG 2008 Chap 3, pp 23

6. PURPOSE BUILT ACCOMMODATION

Purpose-built student accommodation usually forms an essential element of university accommodation and expansion plans. Functionally such additional accommodation would be best provided on campus and/or in areas which were in close proximity to the university and to relevant services and public transport. However, the development of purpose-built accommodation has the potential to encourage the wider regeneration of other parts of towns and cities, and the direction of purpose built developments to locations away from the areas which have experienced a high concentration of students has been seen as a planning policy lever which could potentially restore more balanced communities over a period of time.

Most forms of purpose built student accommodation are in the form of self-contained flats with communal social areas. They are technically not HMOs, so do not require licensing as HMOs, but do require formal planning consent, which can deal with and control development impacts through planning conditions and S106 agreements.

7. THE SITUATION IN FALMOUTH.

HMOs occur in Falmouth primarily in the form of dwellings which have been let to multiple households driven by the demand for student accommodation resulting from the arrival and expansion of the Universities of Falmouth and Exeter within the town and at nearby Penryn. However, some HMOs occur as a result of other drivers, such as the lack of affordable housing for young people and those otherwise not well positioned within the housing market.

Number, type, and distribution of HMOs in Falmouth. Data exists in housing, planning, council tax data and accommodation listings from letting agencies, 'Student Pad' and the University support services. As personal information Council Tax data is covered by Data Collection rules it cannot be accessed below postcode data. Furthermore, it would be iniquitous to publish specific listing/mapping of HMO locations given the community tensions that attach to the issue. Therefore, this report, and the Neighbourhood Plan, will only give generalised numbers and mapping in support of its policies, mainly at postcode level.

In April 2014 there were 74 properties in Falmouth *licensed* as HMOs, and by April 2016 this had increased to 123 properties, an increase of 66.2%. At that time of the total of 131 licensed HMOs in Falmouth and Penryn, 93.9% were in Falmouth, whilst a total permitted occupancy of 754 people.

However, as it is the general nature of residential development in Falmouth to be two storeys, many other HMOs could fall into the 'small' category which are exempt from Mandatory licensing and would not appear in these figures. Accommodation listings such as Student Pad showed 318 dwellings available for 2015/16, increasing by 19.8% to 381 for 2016/17. of which 54 are licensed HMOs, leaving 327 that are non-licensed, with a potential occupancy of 1,353.

Buildings tend to fall in and out of use as HMOs as time progresses. Between January 2015 and October 2016, the total number of dwellings that were used as HMOs was estimated as approximately 495 with a potential occupancy of 2,350.

In addition, there will be some HMOs which have not appeared in the licensing or accommodation lists, and additional student population will be present in non-HMOs (ie couples sharing self-contained flats, small houses, and purpose built accommodation such as Tuke House and Maritime Apartments, etc), but which may add to the unbalancing effects associated with HMO proliferation. An indication of the distribution of this population may be gained from Council Tax 'disregards' awarded because of student occupation. From Oct 2016 data, and excluding disregards from known

HMOs, the total number of such properties was 451, which probably supported up to a further 1,000 students. Together this amounts to about 3,350 student bedspaces.

Evidence presented to and accepted by the Inspector for the 2018 DPD Examination that this had grown by 2018 to 3,800 HMO bed spaces ‘mainly within the residential areas of Falmouth’.

The focus of licensed and un-licensed HMO use is in the area of mostly Victorian, Edwardian and mid 20th century housing to the east of the A39 (Dracaena Avenue, Wellington Terrace and Melvill Road), although more are now appearing to the west of this road. Particular hotspots are around Budock Terrace, Killigrew Street, Marlborough Road, Trevethan Road, Tregenver Road, Penmere Hill, and Wellington Terrace, as illustrated in the ‘heatmap’ below.



Figure 1: Distribution of Licensed and Un-Licensed HMOs in Falmouth 2016 at postcode level. Source: Licensing and Accommodation Lists.

Council Tax ‘disregards’ for student occupation are similarly distributed, but also show where non HMO student households are generally located.

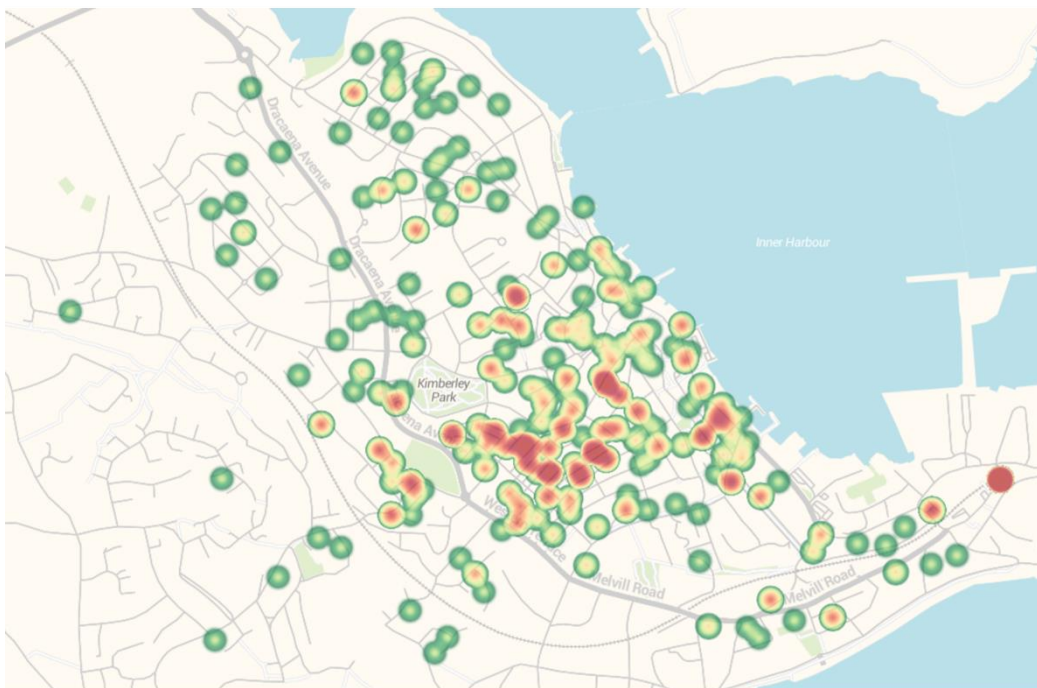


Figure 2: Distribution of Council Tax Student Disregards. Source CT records at postcode level.

The local impact of the proliferation of HMOs. The Neighbourhood Plan Stakeholder Group used the May/June 2015 Community Engagement to gather information on the community views of HMO issues. The initial questions were carefully drafted not to point specifically to student HMOs but to the identification of ‘any areas of Falmouth where the balance of the community or character of the area are at risk of being harmed by changes in accommodation and occupancy type’.

Respondents were asked to score what aspects did they think harm the character of the area? Choices were Parking Conflict, Care and maintenance of buildings, Conflicting hours of activity, Refuse storage, Care and maintenance of gardens and communal areas, and Other.

Finally, respondents were asked whether they would support the principle of an Article 4 direction that would control the spread of houses of multiple occupation in Falmouth.

Those replying to the question on whether there are areas affected by HMOs was 696 (53.2%). Of those commenting on which aspects were affected, 91% said that community balance was harmed, and 81% said the character of the area had been harmed.

With regard to the main areas where the problems associated with student HMOs are most experienced, clear 'hot-spots' such as Marlborough Road, Trelawney Rd, Budock Terrace, Albany Road, Kiligrew Street, Trevethan Road, Wood Lane, Old Hill, New Street, and Lister Street come through. These correlate well with the known distribution of HMOs.

Respondents also identified individual streets all across the town, and 25% said the whole town was affected. There would not seem to be any areas which are perceived as being immune to the pressure for subdivision into HMOs. The fact that 826 (63% of all respondents) expressed support the A4D also suggests it's a fairly widely recognised issue, and that those so far not affected fear that the issue will spread to their areas.

Some 659 respondents (50.4%) answered the question on the issues involved, scoring each on a Likert scale where 1 is low level of harm and 5 is high level. The result is a weighted average for each issue as follows:

- Care and maintenance of gardens etc: 4.2
- Care and maintenance of buildings: 4.1
- Conflicting hours of activity: 3.9
- Refuse storage 3.9
- Parking conflict 3.8

Comments added to these responses add some further detail, referring to the seagull problem from unmanaged refuse areas, damaged or missing curtains which add a sense of dereliction, general littering, and proliferation of letting boards.

Some 1069 (81.7%) respondents answered the question 'would you support an A4D?' Of these 77.3% were in favour of the A4D.

Bedspace Supply and Future Requirements. The private rented sector of housing has an increasingly important role. Changes brought about by welfare reform are increasing the pressure for HMOs from the non-student population. The Council of Mortgage Lenders¹⁶ suggests that decline in social housing means the private rented sector is now housing many people who would perhaps otherwise have been in social housing, whilst mortgage affordability issues means that would-be first-time buyers now need to save for longer for a deposit, with many staying in rented accommodation for a longer period of time. Others may, for life-stage and job mobility reasons, not want the responsibilities of home ownership. The sector is now very diverse, helping to house those living alone or with others, with or without dependents, retired or still working. The demand for housing from these groups has increased and does not look likely to abate in the medium term.

Overlaid on this in Falmouth is a huge and growing demand for student accommodation. In 2010 a University accommodation strategy forecast growth of 800 new students between September 2011 and September 2015, against which only about 460 beds were delivered through purpose built schemes. Continued growth in student numbers is anticipated. The recent planning permission to vary condition 19 of the planning permission for Tremough (PA08/01579/OM), allows an increase in the total number of full time equivalent (FTE) students studying at Penryn Campus from 5,000 to 7,500, with the maximum number being reached in 2020/2021 or shortly thereafter (nb the DPD refers to 'over the next 6 to 8 years'). The Section 73 statement accompanying the planning application anticipated that additional accommodation to house approximately 2,375 students will be needed, of which approximately 1000 units are planned to be on-campus. The draft Cornwall Local Plan Allocations DPD suggests that purpose built accommodation sites located elsewhere in the area could meet the need for the remaining 1,375 bed spaces.

A modification to the DPD adds 400 student bedspaces to the Falmouth Road allocation (FP-H4) which is partly in this NDP's designated area.

The potential supply of PBSA has increased, through 4 appeal decisions (adding 560 beds within Falmouth – see Table 1 below), the decision of the LPA to approve Penvose student village, and modifications to the DPD proposed by Cornwall Council, to 6000 student beds which according to the Inspectors will cater 'for several more years of predicted expansion, without departing from the essential strategy for the location of PBSA'.

Site and Appeal Reference	No of Beds Permitted
Ocean Bowl, Falmouth (APP/D0840/W/17/3182360)	190

¹⁶ see <https://www.cml.org.uk/news/news-and-views/should-we-celebrate-a-fall-in-the-private-rented-sector/>

Fish Strand Hill (APP/D0840/W/17/3177902);	119
The former Rosslyn Hotel, Falmouth (APP/D0840/W/17/3175637)	117
Falmouth Coachwork's (APP/D0840/W/17/3178389)	135
<i>TOTAL</i>	<i>561</i>
TABLE 1: ALLOWED PBSA APPEALS IN FALMOUTH	

However, unless these purpose-built schemes come on stream quickly in line with the expansion of student numbers, then the unmet demand for student accommodation will significantly impact on the local private rental housing market. Given the availability of the retail, leisure and community infrastructure found within Falmouth, and the relative freedom from rules and lower rents associated with the private rented sector, it is likely that many students will choose to live in the town within reasonable walking distance of public transport routes to Tremough and Woodlane.

The application to vary condition 19 and the associated announcements has also alerted the market to the potential for property conversions to meet the anticipated new demand. Some of this is in the form of sporadic speculative proposals from purpose built accommodation, but inevitably where there is strong demand for rented accommodation, the market responds vigorously: if it responds at the current ratio of HMOs to students then another 260¹⁷ HMOs might be generated (+65.8%). The market also responds quickly: the risk is that many HMO conversions that would not require planning permission could now come forward rapidly as owners seek to avoid the strictures of the proposed A4D, in anticipation of what may be perceived of as a guaranteed market. This risk is exacerbated if the request to vary Condition 19 is allowed, but there are then delaying issues with the Local Plan Allocations DPD, in which case the provision of purpose-built accommodation to meet the growing student numbers may be restricted, leading to even greater pressure on the private rented sector. There is also a risk is that there could be a reaction from residents in hot-spot areas where more HMOs appear, who decide to sell up and leave, exposing more properties to the potential for conversion.

All of this can be expected to squeeze the private rented sector housing supply for the non-student population, and to worsen the social balance and environmental issues already picked up in the 2015 Community Engagement.

The Cornwall Responsible Landlords Scheme. The Cornwall Responsible Landlords Scheme is designed to support, recognise and promote private sector landlords and lettings agents in Cornwall. The scheme aims to help those who have a responsibility for private rented housing to provide safe and well managed housing which is in compliance with housing legislation. The scheme introduces a rental standard for the private rented sector. The 'Cornwall Rental Standard' generally reflects the minimum threshold the Council will accept to demonstrate legal compliance. Landlords who fall well short of the standard or choose to ignore it altogether will be more likely subject to enforcement action.

Accommodation Services provided by the Universities, The Universities employ a Private Sector Liaison Officer, within their Accommodation Office, to give advice and support to students, and work with local landlords and letting. The Office also runs an interactive online resource of private rented

¹⁷ In April 2016 our count identified at least 390 licenced and unlicensed HMOs most of which accommodated students, generated from 4,500 FTE students, so looked at simplistically 7,500 FTE student could generate a demand for 650 HMOs.

accommodation called Falmouth and Penryn Student Pad and run house hunting sessions in December and January as well as drop-in sessions every week in term-time and produce a house hunting checklist.

The Student Union (FXU) represents all students from Falmouth University and the University of Exeter in Cornwall, and works closely with both to provide a range of welfare services, including advice on accommodation.

Overall Growth in Student Bedspaces in Falmouth. A frequently asked question is how many students currently live in Falmouth. As noted above, HMO bedspaces have been reported to have grown to at least 3,800 in 2018, to which can be added the 561 bedspaces coming from the allowed appeals, and 400 from the Falmouth Road DPD allocation, leading to a total of approximately 4,761 bedspaces. This is equivalent to 26% of the 2011 adult population of Falmouth.

8. A FORWARD STRATEGY

Taking the response recorded above into account, the need to ensure that an adequate supply of private rented accommodation and to ensure that the likely growth in student numbers is absorbed in ways that are sustainable and work to the benefit of both Falmouth and the Universities, a partnership strategy is appropriate. To be effective this must match planning and licensing control with positive steps to provide additional purpose built accommodation where it can make a contribution to Falmouth's sustainability (for example by reinforcing bus services, supporting existing services and providing new facilities and infrastructure) and joint projects which resolve local issues.

The key aims of the proactive strategy would be to:

- optimise the availability of private rented accommodation to meet the housing needs of all its residents,
- stabilise the balance of community in the affected areas,
- maintain a proper balance in other areas by ensuring that needs and impacts are rationally assessed,
- tackle existing and any new social and environmental problems, and
- Maintain and improve the standard of private sector houses in multiple occupation.

To achieve this key tasks could be to:

- Maintain intelligence on the number, location and condition of HMOs within the Neighbourhood Plan area.
- Introduce an A4D to require formal Planning Permission for change of use to HMO (of whatever size) – **this is now in place.**
- Introduce a Neighbourhood Plan policy approach that:
 - prevents further changes of use to HMO in the core HMO areas to prevent further harm to amenity or community balance;
 - sets positive criteria for planning permissions for changes of use to HMO in other areas, subject to an upper limit;
 - set positive criteria for development of purpose built student accommodation, and in context of master planning, supports the Allocations DPD in bringing forward sites for such accommodation.

- Include 'Good Practice Guidance' relating to HMOs in Neighbourhood Plan (focusing essentially on design issues but bringing attention to licensing and regulations issues also)
- Continue to implement Housing Act duties in relation to HMO licensing
- Report regularly to the local resident community on activity carried out by Cornwall Council to meet the legislative obligations for HMO licensing under the Housing Act 2004
- Develop and link existing initiatives into a joint project for Falmouth, to be noted in the Neighbourhood Plan, which:
 - Promotes recruitment of Falmouth landlords and letting agents to the Cornwall Responsible Landlords Scheme (CRLS), and promotion of the Cornwall Rental Standard
 - Provides, through the CRLS, information and training for Falmouth landlords and letting agencies, including signposting of grant and funding opportunities
 - Educates and informs tenants about their rights and responsibilities, including standards of behaviour, through work with the Universities Accommodation Office and Student's Union (FXU), the Private Sector Liaison Officer, and the Community Safety Partnership
 - Secures small scale funding for local campaigns and events
 - Organises local campaigns and events to jointly tackle issues and help integrate the student population in local communities (e.g. clean-up sessions)
 - Examines and develops appropriate new initiatives (e.g. community based wardens)

Additional Licensing in Falmouth may be possible if the extension to mandatory licensing expected in 2016 does not occur.

Para 7.43, page 129 of the CLP Allocations DPD recognises that 'unmanaged growth would have significant detrimental impacts upon the local housing market, with the loss of further housing within Falmouth...displacing local residents'. To enable the benefits of the Universities expansion to come forward, whilst addressing the potential negative impacts, a three-pronged approach is proposed:

1. The introduction of an Article 4 Direction and Neighbourhood Plan, which will be able to prevent further loss of the existing houses stock to student accommodation;
2. Lifting the student cap at the Penryn Campus only lifted in a phased manner, directly linked to the delivery of bespoke, managed, student accommodation
3. The identification of a small number of sites that could appropriately deliver managed student accommodation; with sites identified both off-site AND on-site to satisfy future needs.

9. PROPOSED NEIGHBOURHOOD PLAN POLICIES

The proposal is for the introduction of Neighbourhood Plan Policies that:

- Prevent further changes of use to HMO in the core HMO areas to prevent further harm to amenity or community balance;
- Sets positive criteria for planning permissions for changes of use to HMO in other areas, subject to an upper limit generous enough to meet general housing needs.

- Set positive criteria for development of purpose built student accommodation, and in context of master planning, support the Allocations DPD in bringing forward sites for such accommodation.

Examples.

Examples of planning policy approaches that could be adopted are given in Appendix 1 attached. With regard to HMOs, the policies fall in to three broad categories:

1. Those that work on the basis of general criteria within specified 'areas of restraint' within the plan area;
2. Those that work on the basis of general criteria across the whole plan area;
3. Those that work on the basis of thresholds above which permission will be refused.

The thresholds operate on the basis of the number of properties within a 100m frontage either side of an application site that are already HMOs or student accommodation, with an agreed percentage being the trigger point for refusal. This involves the use of relatively easy to collect and current data on each occasion that a planning application is submitted. Locally there is agreement that the point at which harm to community balance and other negative impacts begin to occur is when the proportion of student accommodation exceeds 5% of properties in a 200m frontage.

An alternative approach is to focus on the presence of student households, rather than HMOs, and apply restrictive criteria in areas with a significant proportion of student households, using council tax and other data to define the areas. This involves a considerable amount of research and monitoring, using data which will become obsolescent. Furthermore some of the data is covered by data collection privacy controls and must be aggregated to ensure privacy.

Some combination of approaches is evident, for example, thresholds being used within general criteria to set an upper limit.

The criteria used in the policies cover the following issues:

- Visual character and appearance of the neighbourhood
- Social and physical character of the neighbourhood
- Creation and maintenance of sustainable, inclusive and mixed use communities
- Mix of housing types, tenures and sizes
- Supply of HMOs/affordable accommodation
- Loss of existing housing suitable for family occupation
- Intensity of use
- Introduction of additional activity, access, traffic or parking
- Noise and disturbance
- Reduced levels of daylight, sunlight, outlook or privacy
- Highway and traffic impacts
- Amenity space, refuse storage and car and bicycle parking
- Appropriately located off and on street car and cycle parking
- Wider regeneration benefits
- Cumulative impact
- Amount of existing HMOs and purpose built provision within the immediate vicinity

Policies for purpose built student accommodation may include ‘strategic allocations’, but essentially are criteria based, including issues such as:

- Respect for existing street patterns, form, scale and massing
- Location along sustainable transport corridors
- Preference for adjacency to University educational buildings or town/city centre locations
- Role within regeneration strategy
- Safe and secure design but respecting local character and permeability
- Occupied solely as student accommodation
- Not to be provided on allocated residential sites
- No excessive concentrations of student accommodation
- No student parking

Suggested approach for Falmouth

The heat maps identified from the 2016 analysis and the spring 2015 Community Engagement indicate that the maximum distribution of HMOs is to the east of the A39, and this should form the ‘area of restraint’ in which no further HMOs would be permitted. Elsewhere HMOs would be permitted, subject to criteria, up to a level of 10% of properties within 100m being HMOs. Further policies for purpose-built HMOs and encouraging additional purpose-built accommodation in preferred locations should follow.

Draft policies based on this reasoning are shown in below.

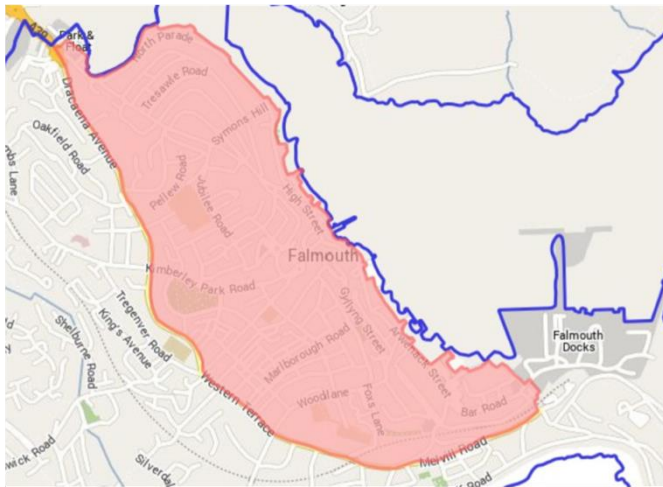
Supporting justification for the policies would need to be added referring to the evidence from the 2016 surveys and community engagement results, and include advice on how applicants can provide the appropriate information to enable proper assessment of their applications. As an appendix to the Neighbourhood Plan ‘Good Practice Guidance’ relating to HMOs, focusing essentially on design issues but bringing attention to licensing and regulations issues, would be added. Finally, in a separate section dedicated to ‘Projects’ there should specific reference to a priority project that focuses and coordinates partnership and community action on tackling the issues associated with HMOs in a positive manner.

Policy for Houses in Multiple Occupation

Policy HMO1 – POLICY FOR AREAS WITH HIGH CONCENTRATION OF HMOs

The change of use of residential properties in Class 3 to a Class C4 (Houses in multiple occupation) use, or to a mixed C3/C4 use, or to a sui generis House in Multiple Occupation use (more than six people sharing) will not be permitted in the area to the east of the A39 road shown on Map HMO1.

Map HMO1



POLICY HMO2 – POLICY FOR OTHER AREAS

Outside the area identified in Policy HMO1, the change of use of residential properties in Class 3 to a Class C4 (Houses in multiple occupation) use, or a mixed C3/C4 use, or to a sui generis House in Multiple Occupation use (more than six people sharing) will be permitted providing that:

- 1. The proposal would not harm the visual character and appearance of the neighbourhood and street scene;***
- 2. The proposal would not harm the character and appearance of the building;***
- 3. The scale and intensity of the use proposed would not have an unacceptable impact on neighbouring residential amenities through increased levels of activity, noise and disturbance;***
- 4. Any associated extensions or external alterations required as part of the change-of-use would not have an unacceptable impact on neighbouring residential amenities through reduced levels of daylight, sunlight, outlook or privacy;***
- 5. Amenity space, refuse storage and car and bicycle parking are provided at an appropriate quantity and standard of design, and management arrangements for them is agreed through a S106 agreement;***
- 6. The proposal conforms to the current accessibility standards;***

7. *The proposal site is located along sustainable transport corridors where the accommodation will be easily accessible to the university campuses or other educational establishments by walking, cycling, rail services and existing or proposed bus routes;*
8. *The proposal will not generate a demand for on-street car parking that would prejudice the safe operation of the highway, or cause detriment to amenity.*
9. *The proposal provides acceptable levels of amenity for its occupants in terms of noise, outlook, light, privacy, access and air quality ;*
10. *In the interest of maintaining a sustainable, inclusive and mixed use community, the proportion of buildings used in full or part as an HMO within 100 metres of street length either side of the application site does not exceed 10%**

EXPLANATION OF POLICY HMO2 IMPACT AREA

The buildings highlighted in the example below would all be included in assessing whether the 5% threshold has been exceeded.



It should be noted that, for the purposes of applying these guidelines:

- buildings containing flats are counted as an HMO only if any one of the flats within the building are being used as an HMO;
- non-residential buildings are counted as an HMO only if any part of the building is in residential use as an HMO;
- buildings NOT counted as an HMO include all single dwellings that are occupied by a family, a homeowner together with up to two lodgers, or by up to 6 people receiving care (e.g. supported housing schemes for people with disabilities, social housing, care homes, children's homes, religious communes, and all buildings occupied by students and managed by the educational establishment (this includes student accommodation).
- any building that lies partially within the 100 metres will be included in the calculation.

In counting individual properties, the Local Planning Authority will have regard to the

*For the purposes of this policy, street length is defined as: the frontage either side of the proposed development, including frontage that wraps around corners or that is broken by a road or footpath, and the frontage either side of the point directly opposite the proposed development, including frontage that wraps around corners or that is broken by a road or footpath, and all buildings opposite the frontages described above.

In order to encourage landlords to consider converting smaller HMOs to single household private rented sector use a flexible C3/C4 permissions for new and existing C4 HMOs may be granted. This will enable a C4 HMO to convert to a C3 dwelling house without losing the potential to revert back to C4 use (otherwise prevented by policy HMO 1 and 2) within a fixed period of 10 years. If a property has a lawful C4 use when applying for a flexible permission this will then be a material consideration when the planning application is considered. The permission will enable flexibility to let a property between C3 and C4 uses during the specified period. On expiry of the dual use period, the use of the property at that time would become the permitted use of the property.

Policy for Purpose Built Student Accommodation

The Cornwall Local Plan Allocations Development Plan Document identifies sites within this Neighbourhood Plan's area. This Plan concurs with those Allocations and makes further policy provisions for them (see Policy ...).

Other proposals for unallocated sites may emerge. Policy HMO3 sets criteria for the consideration of such proposals.

POLICY HMO3 –NEW BUILD STUDENT ACCOMMODATION

Purpose built student accommodation will be permitted providing that:

- 1. It is located:***
 - a. On sites close to the town centre and along sustainable transport corridors easily accessible to the university campuses or other educational establishments by walking, cycling, rail services and existing or proposed bus routes; or***
 - b. On sites identified within the Cornwall Local Plan Site Allocations Development Plan Document and***
 - c. Where it will not exacerbate any existing excessive concentration of student accommodation;***
- 2. The design:***
 - a. shows respect for existing street patterns, form, scale and massing; and***
 - b. would not have an unacceptable impact on neighbouring residential amenities through reduced levels of daylight, sunlight, outlook or privacy; and***
 - c. ensures that servicing and parking requirements can be achieved without impacting unacceptably on the residential amenities of neighbouring residents; and***
 - d. provides for the safety and security of occupants whilst respecting local character and permeability of the area via footpaths, cycleways, opes and traditional routes.***
- 3. Twenty-four hour/seven-day week on site management presence is provided.***
- 4. On sites accommodating more than 199 students, contributions to fund off-site policing/street angels will be provided;***
- 5. The development is occupied solely as student accommodation (including on-site management staff accommodation);***
- 6. For developments that includes 10 or more flats a financial contribution is secured towards delivering affordable housing for rent elsewhere in Falmouth.***

APPENDIX 1: EXAMPLES OF POLICY APPROACHES

EXETER

Since 2011 an A4D has applied to parts of 6 wards in the city, supported by planning policy in both its own Local Plan and the St James Neighbourhood Plan

Exeter Local Plan Policy H5 (b): The conversion of dwellings to flats, self-contained bedsitters or houses in multiple occupation and the development of special needs or student housing will be permitted provided that: (b) the proposal will not create an over concentration of the use in any one area of the city which would change the character of the neighbourhood or create an imbalance in the local community.

Exeter St James Neighbourhood Plan

C1: Houses in Multiple Occupation:

Changes of use to houses in multiple occupation (HMO) will not be permitted unless;

- a) The proposal would not harm the character and appearance of the building, adjacent buildings or local landscape context;***
- b) The design, layout and intensity of use of the building would not have an unacceptable impact on neighbouring residential amenities;***
- c) Internal and external amenity space, refuse storage and car and bicycle parking would be provided at an appropriate quantity, and would be of a high standard so as not to harm visual amenity***
- d) The proposal would not cause unacceptable highway problems; and,***
- e) the proposal would not result in an over concentration of HMOs in any one area of the ward, to the extent that it would change the character of the area or undermine the maintenance of a balanced and mixed local community.***

The Neighbourhood Plan supporting text adds that ‘The term ‘community balance’ ...refers to the desire of the residents of St James to have a diverse population which includes people at all stages of their lives and which is not dominated by a single group of the population. Exeter City Council has defined ‘balance’ using the number of council tax exemptions in a given area as a proxy for HMO and student accommodation. When over 20% of properties in a defined area are council tax exempt it is generally considered that additional HMOs would change the character of the area and undermine the maintenance of a balanced and mixed community.’

C2: Large Scale Purpose Built Student Accommodation

Large scale purpose built student accommodation will be permitted in areas where it can be properly integrated into the urban area. This means locations:

- a) That are not predominantly characterised by intact streets of traditional terraced, semi-detached and detached forms of 2-3 storey residential development;***
- b) Where the servicing and parking requirements could be achieved with no unacceptable impact on the amenity of the adjacent area for residents;***
- c) Where the scale and massing of any purpose built accommodation proposed would be broadly similar to that of surrounding buildings.***

C3: Small Scale Purpose Built Student Accommodation

The development of small scale purpose built student accommodation will be permitted provided that the proposal would not prejudice the objective of creating a balanced community.

The City Council has also produced Supplementary Planning Guidance, which can be viewed here: <http://www.exeter.gov.uk/CHttpHandler.ashx?id=19501&p=0>

In 2014 the Exeter City Council also introduced a "Signboards Protocol" the purpose of which is to secure agreement from letting agents to display less signboards in an area of the City where there are complaints that there are excessive numbers and to avoid the need for the Council to seek additional controls on signboards. This can be viewed here: <http://www.exeter.gov.uk/CHttpHandler.ashx?id=20394&p=0>

Brighton and Hove

This Council has had an Article 4 Direction removing permitted development rights to convert dwelling houses to HMOs since 2012, relating to 5 wards in the city. The accompanying Planning Policies are given below.

Houses in Multiple Occupation (HMO's)

In order to support mixed and balanced communities and to ensure that a range of housing needs continue to be accommodated throughout the city, applications for the change of use to a Class C4 (Houses in multiple occupation) use, a mixed C3/C4 use or to a sui generis House in Multiple Occupation use (more than six people sharing) will not be permitted where:

- ***More than 10 per cent of dwellings within a radius of 50 metres of the application site are already in use as Class C4, mixed C3/C4 or other types of HMO in a sui generis use***

Purpose Built Student Accommodation

A) The council will encourage the provision of purpose built accommodation to help meet the housing needs of the city's students. Proposals for new purpose built student accommodation will need to demonstrate that the following criteria have been addressed:

- 1. Proposals should demonstrate that there will be no unacceptable impact upon residential amenity in the surrounding area through issues such as increased noise and disturbance;***
- 2. High density developments will be encouraged but only in locations where they are compatible with the existing townscape (see CP12 Urban Design);***
- 3. Sites should be located along sustainable transport corridors where accommodation is easily accessible to the university campuses or other educational establishments by walking, cycling and existing or proposed bus routes;***
- 4. Proposals should demonstrate that they would not lead to an unacceptable increase in on-street parking in the surrounding area;***
- 5. Proposals should be designed to be safe and secure for their occupants whilst respecting the character and permeability of the surrounding area;***

6. Schemes should have the support of one of the city's two Universities or other existing educational establishments within Brighton and Hove. The council will seek appropriate controls to ensure that approved schemes are occupied solely as student accommodation and managed effectively;

7. Permanent purpose built student accommodation will not be supported on sites with either an extant planning permission for residential development or sites identified as potential housing sites.

B) Strategic Allocations for Purpose Built Student Housing

In conjunction with the Universities and City College, the council will allocate the following sites for purpose-built student accommodation:

- 1. Varley Halls, Coldean Lane, Brighton***
 - Redevelopment of the remaining parts of the site wholly for student accommodation***
 - 150 bedspaces***
- 2. Preston Barracks and the University of Brighton, Lewes Road, Brighton (See DA3 Lewes Road Area)***
 - Delivery of this site as part of a wider mixed use scheme***
 - 750 bedspaces***
- 3. Pelham Street, Brighton (See DA4 New England Quarter and London Road Area)***
 - Delivery of this site as part of a wider mixed use scheme***
 - 300 bedspaces***
- 4. Circus Street, Brighton (See DA5 Eastern Road and Edward Street Area)***
 - Delivery of this site as part of a wider mixed use scheme***
 - 400 bedspaces***
- 5. East Slope and land adjoining to the east, University of Sussex, Brighton (See DA3 Lewes Road Area)***
 - Redevelopment of existing accommodation and development of adjoining land for student accommodation providing a net increase over the existing 592 bedspaces in the East Slope Residences, subject to positive enhancement of the visual appearance of this part of the campus within the surrounding landscape***

LEEDS

This Council has had an Article 4 Direction removing permitted development rights to convert dwelling houses to HMOs since 2012, relating to 15 wards in the city. The accompanying Planning Policies are given below.

Leeds Local Development Framework Adopted 12th November 2014

POLICY H6: HOUSES IN MULTIPLE OCCUPATION (HMOs), STUDENT ACCOMMODATION AND FLAT CONVERSIONS

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.*

B) Development proposals for purpose built student accommodation will be controlled:

- (i) To help extend the supply of student accommodation taking pressure off the need for private housing to be used,*
- (ii) To avoid the loss of existing housing suitable for family occupation,*
- (iii) To avoid excessive concentrations of student accommodation (in a single development or in combination with existing accommodation) which would undermine the balance and wellbeing of communities,*
- (iv) To avoid locations which are not easily accessible to the universities by foot or public transport or which would generate excessive footfall through residential areas which may lead to detrimental impacts on residential amenity,*
- (v) The proposed accommodation provides satisfactory internal living accommodation in terms of daylight, outlook and juxtaposition of living rooms and bedrooms.*

C) Development proposals for conversion of existing houses into flats will be accepted where all the following criteria apply:

- (i) The property is not a back--to-back dwelling,*
- (ii) The property is of sufficient size (min. 100 sqm gross) and the internal layout is shown to be suitable for the number of units proposed,*
- (iii) The impact on neighbouring dwellings is not likely to be detrimental to the amenity of their occupants by virtue of the conversion alone or cumulatively with a concentration of converted dwellings, HMOs, or residential institutions,*
- (iv) Where there is a demand for family sized accommodation and the property has (or has the potential for provision of) good access to suitable space for private recreation, provision is normally made for at least one family sized unit in the proposed mix of flats,*
- (v) Sufficient easily accessible and appropriately located off and on street car and cycle parking is incorporated,*
- (vi) The proposed dwellings provide satisfactory internal living accommodation in terms of daylight, outlook and juxtaposition of living rooms and bedrooms,*
- (vii) Each dwelling has safe and secure (and where possible, level) access from the street and any parking areas and suitable accessible enclosures are provided for refuse storage.*

The reasoned justification for these policies includes the following:

5.2.24 Leeds has a diverse housing stock ranging from large Victorian terraces to modern City Centre flats. Some houses tend to be more suitable for families and when these are in areas with high concentrations of HMOs they should remain available for occupation by families. Factors to consider include the size of the dwelling, the amount of garden and private amenity space available, location of the property and any prolonged period of vacancy. In the interpretation of H6A iii) it is recognised that some streets (or a part of a street) may already have such a high concentration of HMOs that the conversion of remaining C3 dwellings will not cause further detrimental harm. Also, in the interpretation of H6A v) it may be the case that the remaining C3 dwellings would be unappealing and effectively unsuitable for family occupation. In such circumstances Policy H6A would not be used to resist changes of use of such dwellings to HMOs.

5.2.25 In order to encourage landlords to experiment with lettings of HMOs to non-HMO occupants, the Council will consider granting flexible C3/C4 permissions for new and existing C4 HMOs. This will enable a C4 HMO to convert to a C3 dwelling house without losing the potential to revert back to C4 use within a fixed period (normally 10 years). If a property has a lawful C4 use when applying for a flexible permission this will then be a material consideration when the Council considers the planning application. The permission will enable flexibility to let a property between C3 and C4 uses during the specified period. On expiry of the dual use period, the use of the property at that time would become the permitted use of the property.

5.2.26 The period between 2001 – 2012 witnessed considerable development of new purpose built student accommodation particularly in and around the north west sector of the City Centre. Growth in this accommodation is to be welcomed in order to meet need and to deflect pressure away from private rented houses in areas of over-concentration. Nevertheless, care is needed to ensure that purpose built accommodation does not itself become over-concentrated and is located with good access to the universities.

5.2.27 Conversion of houses into flats will be one of the means of meeting need for smaller households. However, this has to be reconciled with the importance of protecting local amenity and creating good standard dwellings with sufficient parking space and security. Factors to take into account when assessing sufficiency of parking include:

- The amount of parking available on and off site
- Existing parking pressures
- The number of units proposed

‘Deconversion’ of previously converted flats back into dwelling houses is sometimes sought in order to cater for large families. This will usually be considered acceptable and, if involving only 2 units to 1, does not normally need planning permission.

CHARNWOOD

In 2011 Charnwood Borough Council removed permitted development rights across Loughborough for the change of use from a family dwelling to a HMO so to be able to exercise planning control over such developments. The accompanying Planning Policies are given below.

POLICY CS4 Houses in Multiple Occupation

We will support the well-being, character and amenity of our communities by managing the proportion of houses in multiple occupation. We will do this by preventing houses in multiple occupation that, either in themselves, or cumulatively with other houses in multiple occupation:

- damage the social and physical character and amenity of a street or residential area; or***
- generate noise and disturbance which is detrimental to the amenity of the street or residential area; or***
- generate a demand for on-street car parking that would prejudice the safe operation of the highway, or cause detriment to amenity.***

We will also prepare a Supplementary Planning Document on Houses in Multiple Occupation.

POLICY H/13

Planning permission for the conversion of properties within primarily residential areas to hostels, self contained flats, cluster flats or to any use within Class C1 (hotels) of the Town and Country Planning (Use Classes) Order 1987 (as amended) will be granted provided the proposal would not:

i) introduce a potential source of noise and disturbance greater than that normally associated with a dwelling to the detriment of neighbouring residential amenities which could not be mitigated by careful planning of room layout and the use of sound insulation; and/or

ii) adversely affect the general character and appearance of the surrounding area; and/or

iii) necessitate associated extensions or external alterations inconsistent with the appearance of the property or its setting to the detriment of the street scene or neighbouring residential amenities; and/or

iv) lead to a concentration of such uses damaging to the character and amenity of a street or residential area; and/or

v) provide an external layout, design, and space standards which do not meet the needs and safety of residents, including people with mobility problems.

CHARNWOOD's SPD MAY BE FOUND HERE:

http://www.charnwood.gov.uk/files/documents/student_housing_in_loughborough_spd/studenthousinginloughboroughspd.pdf

NOTTINGHAM

The City Council has a multiple approach, including extended licensing, an A4D covering the entire area of the Council, and planning policies.

**Nottingham City Council Preferred Option Land and Planning Policies Development Plan Document
September 2013**

Policy DM32: Houses in Multiple Occupation (HMOs) and Purpose Built Student Accommodation

- 1) Planning permission for the following development will be only granted where it does not conflict with Policies DM27 and DM28 above and does not undermine local objectives to create or maintain sustainable, inclusive and mixed communities:***

a) Changes of use and / or the erection of buildings to create new Houses in Multiple Occupation (HMOs)*;

b) Extension / alteration of existing HMOs including development that facilitates an increase in the number of occupiers / bedspaces;

c) Changes of use and the erection of buildings to create residential accommodation for exclusive occupation by students** (i.e. purpose built student accommodation);

d) Extension / alteration of buildings resulting in an overall increase in the number of student bed spaces.

In assessing a development's impact on local objectives to create or maintain sustainable, inclusive and mixed use communities, regard will be given to the following:

- i. The existing proportion of HMOs and / or other Student Households*** in the area and whether this proportion amounts or will amount to a 'Significant Concentration' (calculated using the methodology shown in Appendix 5);***
- ii. The individual characteristics of the building or site and immediate locality (e.g. size, location, nature of and relationship of the site to neighbouring uses, availability of / scope for external amenity space, parking provision, and any other special character or attributes that, having regard to the scale and intensity of the proposal, could facilitate/limit suitability for that purpose, or for alternative uses);***
- iii. Any localised evidence of existing HMO uses and purpose built accommodation provision within the immediate vicinity of the site that already impact on local character and amenity;***
- iv. The impact of the development on the character and amenity of the area or site having particular regard to the criteria set out in Policies DM33 and DM34;***
- v. Whether the proposal would incorporate adequate management arrangements, and an appropriate level of car and cycle parking having regard to the location, scale and nature of the development.***
- vi. Whether the proposal would result in the positive re-use of an existing vacant building or site that would have wider regeneration benefits; and***
- vii. Whether the proposal is located within one of the locations set out in Policy DM31.***

* Houses in Multiple Occupation – Use Class C4 and larger 'sui generis' residential units with 7 or more occupiers sharing basic amenities where no care is provided

** Students – Persons enrolled on a full time course of education for at least one academic year at an educational establishment providing further or higher education.

*** Student Households – Households which can claim student council tax exemption including those within halls of residence / purpose built accommodation

Nottingham City Council Preferred Option Land and Planning Policies Development Plan Document Appendix 5: 'Significant Concentration' methodology

Areas with a 'significant concentration' of HMOs / Student Households are identified using Council Tax information to map the properties where student exemptions apply combined with Environmental Health records of properties known to be in use as HMOs.

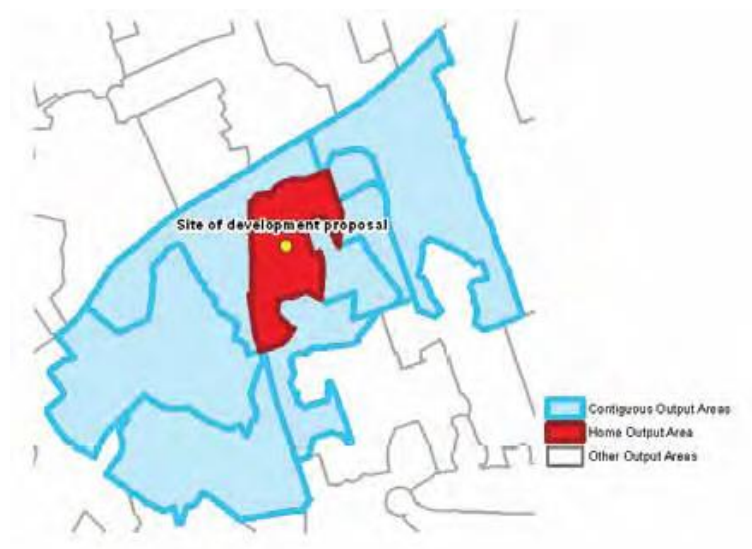
The map overleaf shows those Output Areas comprising of 10% or more HMOs / Student Households, along with contiguous Output Areas. (Output Areas are defined by the Office for

National Statistics and provide the only independently defined and convenient geographical units for the purposes of this approach. An Output Area comprises relevant data for approximately 125 households).

The map reflects data at a specific point in time and is for illustrative purposes only. Calculations for individual sites are based on latest available data.

A weighting factor is applied to Council Tax exemption data in respect of Halls of Residence / Purpose Built Student Accommodation of similar formats, based on the application of an average student household size of 4 persons. Therefore a 100 bed space Hall of Residence would equate to 25 student households.

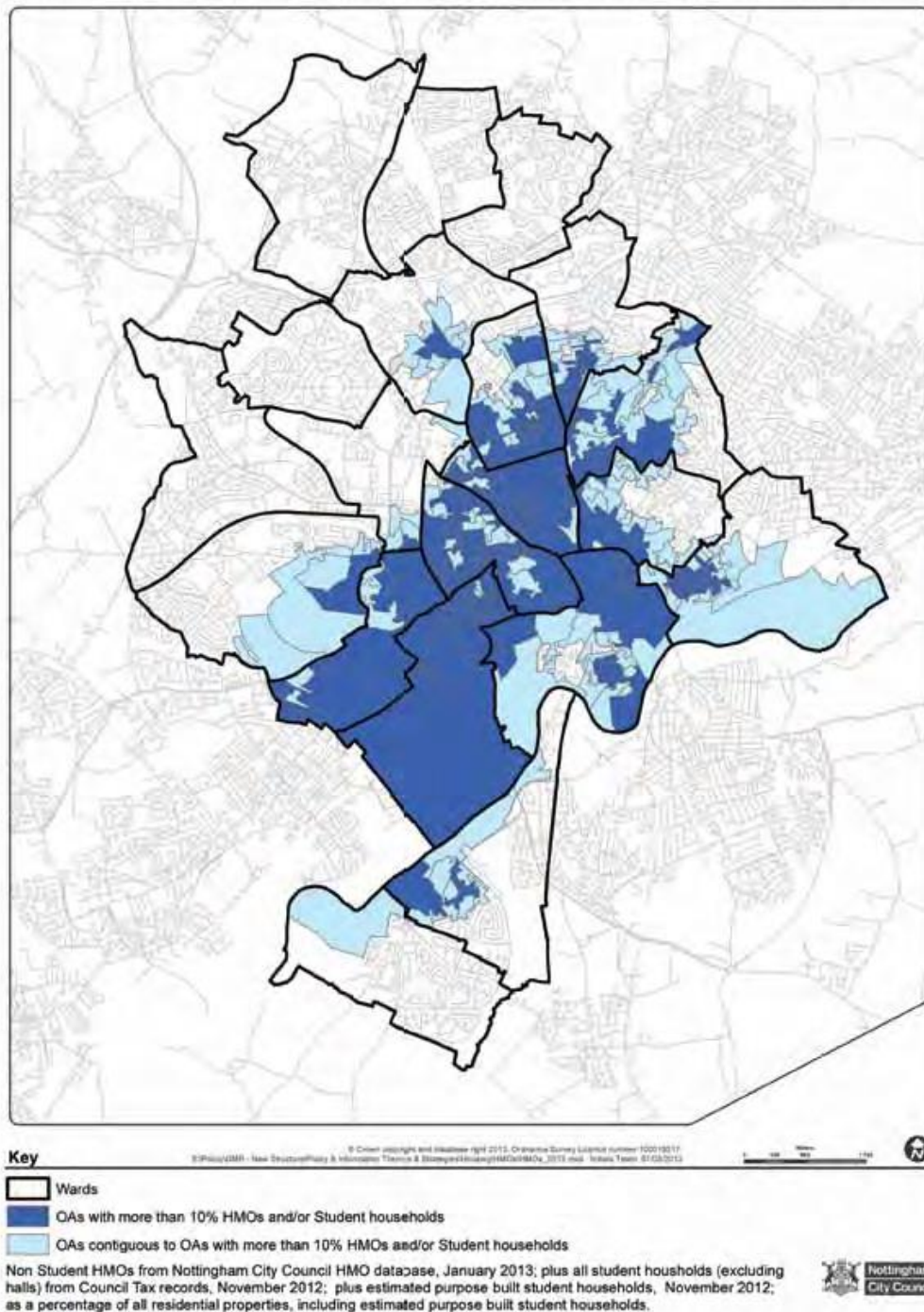
The area of measurement for determining whether there is a 'significant concentration' includes the Home Output Area within which a development proposal falls and all Contiguous Output Areas (those with a boundary adjoining the Home Output Area), thereby setting the development proposal within its wider context. (This is illustrated in the diagram below).



Having defined the relevant Output Area Cluster, Council Tax data and Environmental Health records are then used to provide a combined total for HMOs / Student Households within the Cluster. Essentially the information will show that there are 'x' Households within the cluster (taken from Ordnance Survey Address Point data and cross-checked with Council Tax Household data) of which 'y' are HMOs / Student Households (taken from the Council Tax and Environmental Health data). This is expressed as a percentage.

A percentage of 10% or more will determine that the area concerned has a 'Significant Concentration

Census Output Areas with more than 10% HMOs and/or Student households



Please note that the above map reflects data at a specific point in time and is for illustrative purposes only. Calculations for individual development proposals are based on latest available data and comprise a combined percentage for the Output Area Cluster (i.e. the Home Output Area plus Contiguous Output Areas).

Nottingham's Guidance note may be found here:

<http://www.nottinghamcity.gov.uk/CHttpHandler.ashx?id=43776&p=0>

OXFORD

The City Council also has a multiple approach, including extended licensing, an A4D covering the entire area, and planning policies.

Oxford Sites and Housing Plan 2011 – 2026

Policy HP7 Houses in Multiple Occupation

Planning permission will not be granted for any purpose-built house in multiple occupation (HMO). Planning permission will only be granted for the change of use of a dwelling in Use Class C3 to an HMO where:

- a. the proportion of buildings used in full or part as an HMO* within 100 metres of street length either side of the application site does not exceed 20%, unless the City Council agrees to make an exception based on other site- specific considerations, and***
- b. the applicant has demonstrated compliance with the City Council's good practice guidance on HMO amenities and facilities.***

For the purposes of this policy, street length is defined as:

- the frontage either side of the proposed development, including frontage that wraps around corners or that is broken by a road or footpath, and***
- the frontage either side of the point directly opposite the proposed development, including frontage that wraps around corners or that is broken by a road or footpath, and***
- all buildings opposite the frontages described above. Appendix 5 illustrates how Policy HP7 should be applied.***

Oxford publish an 'Amenities and Facilities for Houses in Multiple Occupation: Good Practice Guidance' to support this policy. It also has a more detailed planning guidelines statement:

Guidelines for applying Policy HP7 – Houses in Multiple Occupation

1. Policy HP7 states that planning permission will only be granted for the change of use of a dwelling in Use Class C3 to an HMO where the proportion of buildings used in full or part as an HMO within 100 metres of street length either side of the application site does not exceed 20%.
2. The illustration below shows what is meant by this. The buildings highlighted in the example below would all be included in assessing whether the 20% threshold has been exceeded. It should be noted that, for the purposes of applying these guidelines:

- i. buildings containing flats are counted as an HMO only if any one of the flats within the building are being used as an HMO;
- ii. non-residential buildings are counted as an HMO only if any part of the building is in residential use as an HMO;
- iii. buildings NOT counted as an HMO include all single dwellings that are occupied by a family, a homeowner together with up to two lodgers, or by up to 6 people receiving care (e.g. supported housing schemes for people with disabilities). Also NOT counted as HMOs are social housing, care homes, children's homes, religious communes, and all buildings

occupied by students and managed by the educational establishment (this includes student accommodation), as well as all buildings entirely used for non-residential purposes;

iv. any building that lies partially within the 100 metres will be included in the calculation.

3. In counting individual properties, the City Council will have regard to the number of houses, flats or buildings that are licensed HMOs, or for which a licence application is pending. The Council may also count any other property for which reasonable evidence exists that the property is in use as an HMO.

4. Full guidance on the classification and interpretation of HMOs is set out in the Department of Communities and Local Government Circular 08/2010 (or any document published in future that superseded this)



Black lines = 100m distance

Red = application site

Yellow = buildings within 100m of applicationon same side of road as application site

Blue = buildings within 100m of application on opposite side of road as application site

Green = buildings within 100m that wrap around corner from application site

Policy H P 5 Location of Student Accommodation

Planning permission will only be granted for student accommodation in the following locations:

a. on or adjacent to an existing university or college academic site#, or hospital and research site (and only if the use during university terms or semesters is to accommodate students being taught or conducting research at that site), or

- b. in the City centre or a District centre, or*
- c. located adjacent to a main thoroughfare*, or*
- d. on a site which is allocated in the development plan to potentially include student accommodation.*

Also, planning permission will only be granted for student accommodation if:

- e. for developments of 20 or more bedrooms, the design includes some indoor and outdoor communal space, and*
- f. a management regime has been agreed with the City Council that will be implemented on first occupation of the development (to be secured by a planning condition or planning obligation), and*
- g. the developer undertakes to prevent residents from parking their cars anywhere on the site, and anywhere in Oxford. Planning permission will not be granted for any proposal that results in a net loss of purpose-built student accommodation.*

Policy H P 6 Affordable Housing from Student Accommodation

Planning permission will only be granted for new student accommodation that includes 20 or more bedrooms if a financial contribution is secured towards delivering affordable housing elsewhere in Oxford.....

CHESHIRE WEST AND CHESTER

Article 4 Direction in relation to houses in multiple occupation (HMOs) in the Garden Quarter area of Chester was made in 2012

Applications are judged using Policy SOC 3 of their 2015 Local Plan, and retained policies from a 2006 predecessor Local Plan.

SOC 3 Housing mix and type

In order to support mixed, balanced and sustainable communities, the Council will seek to provide a mix of housing types, tenures and sizes of both market and affordable housing.

Proposals for new housing should take account of the needs of that particular area and especially of:

- *the provision of small family homes to assist households into home ownership and for older people who may wish to downsize.*
- *the provision of a range of accommodation types to meet the long term needs of older people. This could include the provision of Lifetime Homes, bungalows and extra care housing.*

The Council will support the provision of specialised student accommodation within Chester in appropriate, accessible locations, convenient for the facilities at the University of Chester.

The Council will work with organisations such as Community Land Trusts to help bring forward land and schemes for self-build groups and individuals.

Policy HO 16

Where planning permission is required for a change of use to a House in Multiple Occupation, permission will be refused where the change of use would lead to the deterioration of the general standards of amenity in the area.

In determining whether or not a proposal is likely to lead to deterioration in the general standard of amenity, the Council will have regard to:

- ***whether the type and size of property would be suitable for multiple occupation***
- ***whether the number of properties in multiple occupation in the area has already led to a deterioration in the general standard of amenity***
- ***whether the existing roads are capable of accommodating “on-street” parking***
- ***whether there is space to provide a bin store***
- ***whether it is possible to carry out any necessary alterations to the external elevations of a property without damaging the character of the building or the locality***

Policy HO 17

Proposals for the conversion of a dwelling to student accommodation will be granted provided that the following criteria are met:

- ***it does not result in the net loss of existing family dwellings***
- ***the floorspace of the dwelling is greater than 200 square metres measured externally***
- ***the college/university which the student(s) attends can demonstrate a need for such accommodation which it cannot meet by more acceptable means, particularly purpose-built accommodation***
- ***any proposal will not detract from the amenities of the area***

Where a dwelling is less than 200 square metres permission will be refused unless:

- ***overriding reasons or benefits to the area can be demonstrated***
- ***the dwelling no longer provides living accommodation for a single household occupation to a satisfactory standard or is situated in an unsatisfactory environment***
- ***it can be demonstrated that no other way is practicable to preserve the property***

In the reasoned justification, the Plan states that ‘Any permission granted for student accommodation as a special case where reduced car parking standards are accepted must be subject to a Section 106 Agreement under the provisions of the Town and Country Planning Act 1990 restricting the occupancy to students of a college/university acceptable to the Council.

Newcastle

Newcastle City Council have successively introduced A4Ds covering 8 wards since 2011. No Local Plan policy was developed specifically to cover HMOs, decisions being based upon general policies relating to residential amenity of existing dwellings; protection of large, traditional, good quality dwellings; and design standards. However Supplementary Planning Guidance was introduced which sets out nine criteria against which planning applications for HMO accommodation will be assessed:

Policy SC1: Maintaining Sustainable Communities

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

- A. Within an Article 4 area 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. 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;***
- C. 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;***
- D. 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;***
- E. Insufficient provision on site is made available for refuse storage facilities and/ or cycle storage facilities;***
- F. The proposal would result in the introduction of such additional accesses, traffic or parking as would prejudice highway safety;***
- G. The proposal would lead to a level of concentration of such uses that would be damaging to the character of the area;***
- H. The proposal does not provide good levels of amenity for future residents in terms of noise, outlook, light, privacy, access and air quality ;***
- I. In the case of Tyneside flats within Article 4 areas, it would result in: (i) the change of use of an upper Tyneside flat to an HMO where the property is capable of providing more than 3 bedrooms, and; ii) The extension or alteration of an upper Tyneside flat HMO to facilitate the creation of additional habitable space within the roofspace.***

For the purposes of this SPD:

- the definition of Article 4 area relates to an Article 4 Direction within the City under the Town and Country Planning(Development Management Procedure) Order 2010 or any reenacting or revoking Order which remove permitted development rights for the change of use from Use Classes C3 to C4;***
- the definition of forms of temporary residential accommodation is as set out in DCLG Circular 3/2005: Changes of Use of Buildings and Land, the Town and & Country Planning (Use Classes) Order 1987***
- the definition of a Tyneside flat¹⁸ as set out in criteria SC1 I 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.***

¹⁸ Pairs of single-storey flats within a two-storey terrace, a common type of Victorian housing in NE England. Their distinctive feature is their use of two separate front doors onto the street, each door leading to a single flat.

A copy of the SPD can be viewed here:

www.newcastle.gov.uk/sites/drupalncc.newcastle.gov.uk/files/wwwfileroot/planning-and-buildings/planning/maintaining_sustainable_communities_spd_25nov2011.pdf

APPENDIX 2: HMO Controls summarised.

	Licensing Controls	Other Controls	Planning	Issues Not Covered
LICENSABLE (5 OR MORE RESIDENTS, 3 STOREYS OR MORE)	The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Order 2006 <ul style="list-style-type: none"> ○ Licence holder & manager must be fit and proper person ○ Licence holder must be most appropriate person to hold the licence ○ Proper management standards are being applied at the property ○ HMO is reasonably suitable, or can be made suitable, for occupation by the number of tenants proposed ○ Can be conditional on improvements ○ Minimum prescribed standards for heating, washing facilities, kitchens, fire precaution ○ Inspection within 5 years ○ Mandatory conditions which require the licence holder to: <ul style="list-style-type: none"> ● Produce an annual gas safety certificate ● Keep electrical appliances and furniture in safe condition ● Install smoke alarms and keep them in proper working order 	The Housing Health and Safety Rating system risk assessment of: <ul style="list-style-type: none"> ○ Damp and mould growth ○ Excess cold ○ Excess heat ○ Asbestos and MMF ○ Biocides ○ Carbon monoxide and fuel combustion products ○ The ingestion of lead. ○ Radiation ○ Un-combusted fuel gas ○ Volatile organic compounds ○ Crowding and space ○ Entry by intruders ○ Lighting ○ Noise ○ Domestic hygiene, pests and refuse ○ Food safety ○ Personal hygiene, sanitation and drainage ○ Water supply ○ Falls associated with baths etc ○ Falling on level surfaces etc ○ Falling on stairs etc ○ Falling between levels ○ Electrical hazards ○ Fire ○ Flames, hot surfaces etc ○ Collision and entrapment ○ Explosions ○ The position, location and operability of amenities, fittings and equipment. 	<p>If below 7 residents then CoU is Permitted Development ('PD'), and no planning controls possible</p> <p>If Above 7 residents Planning Permission for CoU is required. Planning controls cover land-use issues only, e.g.:</p> <ul style="list-style-type: none"> ○ Visual character and appearance of the neighbourhood and street scene; ○ Character and appearance of the building; ○ Impact on neighbouring residential amenities through increased levels of activity, noise and disturbance; ○ Impact on neighbouring residential amenities such as levels of daylight, sunlight, outlook or privacy; ○ Highway and traffic impacts ○ Amenity space, refuse storage and car and bicycle parking ○ Management arrangements for amenity space etc ○ Current accessibility standards; ○ Amenity for occupants in terms of noise, outlook, light, privacy, access and air quality. <p>No specific Planning Policy exists, so standard policies would be applied. Cumulative impact and</p>	<ul style="list-style-type: none"> ○ Anti-social behaviour outside premises ○ Community safety ○ On-street parking management ○ Littering ○ Fly-posting

	<ul style="list-style-type: none"> • Give the occupiers a statement of the terms on which they occupy the HMO. <ul style="list-style-type: none"> ○ The council may specify additional conditions relating to the facilities, condition and management of the building, including how the licence holder deals with the behaviour of occupiers. 	<ul style="list-style-type: none"> ○ Structural collapse and falling elements <p>Management of Houses in Multiple Occupation (England) Regulations 2006</p> <p>HMO manager must:</p> <ul style="list-style-type: none"> ○ Provide contact details to the occupiers ○ Keep means of escape from fire free from obstruction and in repair ○ Maintain firefighting equipment and alarms ○ Take reasonable measures to prevent injury on account of design and structural condition ○ Ensure adequate drainage ○ Ensure adequate water supply ○ Ensure supply is not unreasonably interrupted ○ Supply annual gas safety certificates when requested ○ Carry out safety checks on electrical installations every five years ○ Ensures the supply of gas & electricity is not unreasonably interrupted ○ Keep in repair (including decorative repair) and good order the common parts (including any fixtures and fittings within it) ○ Maintain any shared garden and keeps in repair any structures belonging to the HMO 	<p>letting boards difficult to control as only larger HMOs covered.</p> <p>Where PP is required, some management issues (e.g., maintenance of gardens, window display etc) may be able to be controlled through S106 agreements.</p>	
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		<ul style="list-style-type: none"> ○ Keep in repair the occupiers' living accommodation including fixtures and fittings ○ Provide suitable facilities for the disposal of rubbish (Seagull proof?) 		
NOT LICENSABLE (3 OR MORE RESIDENTS, NO MORE THAN 2 STOREYS)	The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Order 2006 <ul style="list-style-type: none"> ○ None 	The Housing Health and Safety Rating system risk assessment of: <ul style="list-style-type: none"> ○ As above Management of Houses in Multiple Occupation (England) Regulations 2006 <ul style="list-style-type: none"> ○ As above 	If below 7 residents then CoU is 'PD', and no planning controls possible, unless Article 4 Direction removes PD rights and PP becomes required. However cannot be retrospective. Specific Planning Policy could be created through Neighbourhood Plan which would cover the issues identified above, plus cumulative impact and letting boards for all new HMOs.	

Nb in all cases involving more than 1 household sharing of basic amenities