

Southampton City Council

Houses in Multiple Occupation Supplementary Planning Document

Adopted

March 2012

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1 Introduction

- 1.1 Houses in Multiple Occupation (HMOs) provide much-needed housing accommodation, mainly for single people. However, a large number of HMOs in one area can change the physical character of that residential area and this can lead to conflict with the existing community.
- 1.2 The term ‘HMO’ in this document applies to both uses ‘class C4’ (commonly referred to as small/medium-sized) and ‘sui generis’ (commonly referred to as large-sized) dwellings, unless otherwise stated. Section 3 sets out a definition of a HMO under planning legislation.
- 1.3 The planning system can assist in achieving a mix of households within the city’s neighbourhoods, meeting different housing needs whilst protecting the interests of other residents, landlords and businesses. This can best be delivered by preventing the development of excessive concentrations of HMOs and thus encouraging a more even distribution across the city.
- 1.4 The City Council has resolved to make an Article 4(1) direction¹ to remove the permitted development rights of house owners to convert a single dwellinghouse (class C3)² into an HMO. This came into effect on 23rd March 2012 and applies to the whole city. Planning permission is required to convert a dwellinghouse to a small/medium HMO. Planning permission is already required to convert a property into a large HMO for 7 or more occupants. This will enable the Council to control the location of new HMOs through the planning system.
- 1.5 The SPD was adopted by the Council on 12th March 2012. Formal consultation on the draft version of the Supplementary Planning Document (SPD) was undertaken between 22nd December 2011 and 1st February 2012. The document has been amended based on the results of this consultation. A summary of consultation is available on the council’s website. A Strategic Environmental Assessment (SEA) Scoping report was also prepared.

2 Purpose of the SPD

- 2.1 This SPD is adopted as part of the Council’s Local Development Framework. The document provides supplementary guidance for all parties involved in the planning application process for both small/medium and large HMOs, explaining how the Council will assess proposals to convert properties to HMOs. Prior to changes in the permitted development rules (as explained in paragraph 1.4), the Council

¹ The government introduced ‘permitted development’ rights in October 2010 to change between use class C3 to C4, an Article 4 direction allows the Council to remove these permitted development rights within SCC boundary. Article 4 direction - <http://scc.staging.southampton.gov.uk/s-environment/planning/hmo.aspx>

² Single dwellinghouse is classed as C3 use in the Uses Class Order under The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010 (SI 2010/654) - <http://www.legislation.gov.uk/ukSI/2010/653/contents/made>

only had control over large HMOs through the planning application process.

- 2.2 The SPD is not part of the statutory development plan. However, it is accorded significant weight as a material consideration in the determination of planning applications.
- 2.3 The guidance contained in this SPD expands and provides more detail to policies in the current Development Plan Documents - **namely saved 'H4 – Houses in Multiple Occupation' of the Local Plan Review³ and 'CS16 – Housing Mix and Type' in the Core Strategy⁴**. Refer to section 4 for an extract of these policies.
- 2.4 Although the planning system can influence the location of new HMOs, the statutory powers under the planning system cannot act alone and address the existing problems in areas where high concentrations of HMOs prevail. The Council uses other statutory powers to control the nuisance caused by HMOs, as explained below.
- 2.5 The Environmental Health Housing Team provides guidance to landlords and is responsible for the licensing of larger HMOs and the preparation of guidance relating to their living standards⁵ (refer to section 6.9).
- 2.6 The Council's Environmental Health Department provides guidance and assistance in the monitoring and enforcement of local nuisance, including the impact from noise. A statutory nuisance is defined as an act that causes unreasonable disturbance to the use and enjoyment of a neighbour. Where a statutory noise nuisance exists, is likely to happen, or is likely to be repeated, officers can serve a Noise Abatement Notice⁶.

3 Definition of a HMO

- 3.1 In broad terms, a HMO under planning legislation⁷ is defined as a house or flat occupied by a certain number of unrelated individuals who share **basic amenities** and is classified by the Uses Classes Order⁸:-

- Class C4 – *between 3 and 6 residents*
- Sui Generis (of its own kind) - *more than 6 residents*

Class C4 HMO (small/medium)

- 3.2 For the purposes of Class C4 the occupation of a HMO dwelling has the same meaning as in **section 254 of the Housing Act 2004⁹** with

³ City of Southampton Local Plan Review (adopted version March 2006)

⁴ Local Development Framework Core Strategy (adopted version January 2010)

⁵ The following link provides further detail - <http://www.southampton.gov.uk/living/housing/private/landlord/hmos/>

⁶ The following link provides further detail - <http://www.southampton.gov.uk/s-environment/nuisance/noise.aspx>

⁷ Further guidance on defining HMOs under planning legislation can be found in Circular 08/2010 (Changes to Planning Regulations for Dwellinghouses and Houses in Multiple Occupation) – www.communities.gov.uk

⁸ The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010 (SI 2010/653) -

<http://www.legislation.gov.uk/ukSI/2010/653/article/2/made>

⁹ Housing Act 2004 - <http://www.legislation.gov.uk/ukpga/2004/34/introduction>

exception to **section 257** and those buildings listed in **schedule 14** (see paragraph 3.4). In summary, a HMO is defined as a building or part of a building (i.e. flat) which:

- is occupied by at least 3 persons not forming a single household; and
- the HMO is occupied as the only or main residence; and
- rents are payable or other consideration is provided in respect of at least 1 of those occupying the HMO; and
- two or more households share one or more basic amenities (or lack such amenities).

3.3 The meaning of **'basic amenities'** is defined under the Housing Act **section 254(8)**:

- a toilet;
- personal washing facilities; or
- cooking facilities.

3.4 **Schedule 14** of the Housing Act states those 'buildings which are not HMOs' as summarised below:

- social landlord registered and local authority housing;
- care homes;
- bail hostels;
- children's homes;
- occupied by students that are managed by an education establishment i.e. halls of residence;
- occupied for the purposes of religious community whose main occupation is prayer, contemplation, education and the relief of suffering;
- managed or controlled by 'fire and rescue authority' or 'health service body';
- occupied by one or more persons who are owners (either freehold or a leasehold interest granted for more than 21 years);
- occupied only by two persons who form two households.

3.5 Guidance in DCLG circular 08/2010, paragraph 14 states that "properties containing the owner and up to two lodgers do not constitute a house in multiple occupation for these purposes."

3.6 The Council proposes not to count buildings containing '1 or 2 bedroom self contained flats', as these buildings cannot physically accommodate the number of individuals which constitute a HMO.

3.7 The planning status of residential properties that have been granted a flexible permission (to be a family house and small HMO) will be treated as a HMO when assessing a planning application. This will be regardless whether the property has switched from C4 to C3. See section 6.8 for more information on flexible permissions.

Sui Generis HMO (large)

- 3.8 For the purposes of defining the occupation of a ‘Sui Generis’ HMO dwelling there is no meaning defined under planning legislation and therefore the Council will assess each case on an individual basis.

4 Policy Background

- 4.1 HMOs provide accommodation for a wide range of groups including young professionals, students, migrants, and people on low incomes, often on a transient basis. As such they fulfil a very important role in meeting housing need in the city.
- 4.2 The explanatory text of policy CS16 of the Core Strategy (see policy extract in table below) explains that the acceptability of a proposal for an HMO will take into account balancing the contribution that such a conversion will make to meeting housing demand against the potential harm that might be caused to the character and amenity of the surrounding area, and also the suitability of the property concerned (paragraph 5.2.12 refers). It goes on to commit the Council to consider ways of controlling HMOs through the planning system such as setting threshold limits and identifying areas of restraint (paragraph 5.2.14).

Policy CS16

The Council will provide a mix of housing types and more sustainable and balanced communities through:-

1. The provision of a target of 30% of total dwellings (gross) as family homes on sites of ten or more dwellings or which exceed 0.5 hectares. The appropriate percentage of family housing for each site will depend upon the established character and density of the neighbourhood and the viability of the scheme.
2. No net loss of family homes on sites capable of accommodating a mix of residential units unless there are overriding policy considerations justifying this loss.
3. Control of Houses in Multiple Occupation (HMOs) where planning permission is required, particularly those properties which provide accommodation for students.
4. Improvement of, and an increase in, the provision of homes for senior citizens and disabled people of all ages.
5. Variation in the levels of housing density (see Policy CS 5).

Family homes are dwellings of three or more bedrooms with direct access to useable private amenity space or garden for the sole use of the household. The private amenity space or garden should be fit for purpose and with the following minimum sizes:

- Flats and maisonettes – 20sq m
- Terraced homes – 50sq m
- Semi-detached homes – 70sq m
- Detached homes – 90sq m

The requirements in points 1-3 above do not apply to specialist housing schemes entirely comprised of accommodation specifically for senior citizens, supported accommodation for people with disabilities and purpose built student accommodation.

- 4.3 Policy H4 of the Local Plan Review (see policy extract in table below) provides the criteria against which individual applications will be judged to assess the impact of that specific proposal on the immediate surroundings.

Policy H 4 Houses in Multiple Occupation

Proposals for the conversion of dwellings or other buildings into shared houses will be assessed on the balance between the contribution the development could make to meeting housing demand, against the harm to the character and amenity of the area which might occur.

Planning permission will only be granted for conversions to houses in multiple occupation where:

- (i) it would not be detrimental to the amenities of the residents of adjacent or nearby properties;
- (ii) would not be detrimental to the overall character and amenity of the surrounding area;
- (iii) adequate amenity space is provided which:
 - a) provides safe and convenient access from all units;
 - b) is not overshadowed or overlooked especially from public areas; and
 - c) enables sitting out, waste storage and clothes drying.

- 4.4 The SPD principally provides guidance on how the Council will apply these HMO policies which are relevant to all planning applications for HMOs now the Article 4 direction is effective. The document also provides guidance on residential and parking standards in relation to HMOs.

5 Background and evidence base

- 5.1 This section examines the issues involved in maintaining a balanced and mixed community, having regard to balancing the housing needs of the city's population and the impact on the character and amenity of communities.

5.2 Meeting the city's housing needs

Housing supply

- 5.2.1 The Council's 'Housing Strategy 2011-2015'¹⁰ indicates that the tenure profile of housing in Southampton differs markedly from the national average in that the city has a much lower proportion of owner occupied properties (53% compared to 71%), as well as a much higher proportion of privately rented stock (24% compared to 12%). The overall level of Council housing is also higher than that found nationally (18% compared to 10%). The Strategy reported there to be 7000 HMOs across the city,

¹⁰ Housing Strategy 2011-2015, 'Homes for Growth' Strategy Context Paper, Incorporating Private Housing Renewal Strategy 2011-2015 by Southampton City Council, 2011
<http://www.southampton.gov.uk/living/housing/housingpolicies/strategy.aspx>

which represents about 9.3%¹¹ of the city's total private tenure housing stock of 75,000 dwellings (not including Registered Social Landlord and Local Authority housing), compared to approximately 2% nationally (page 25, CPC, 2008)¹². This reflects the role of Southampton as the sub-region's economic driver (delivering jobs) and a provider of higher education (with 2 universities).

Housing demand

- 5.2.2 The demand in Southampton for single occupancy accommodation is high. HMOs provide a valuable source of housing for mainly single people. The Houses in Multiple Occupation Survey (CPC, 2008a)¹³ shows that the predominant age profile of HMO residents in Southampton to be 16 to 24 years (48.6%), followed by the 25 to 34 age band (35.4%). People in receipt of state benefits made up 12% of HMO tenants (810 dwellings). Population projections, changes to Housing Benefit and the continuing problems with affordability of housing in the city are likely to increase the demand for HMOs.
- 5.2.3 The 'Housing Strategy' forecasts population growth in Southampton of 53,600 (22.9%), from a base of 236,700 (2009 mid year estimate), over the period 2008 to 2033. In particular, the 20-29 age range will grow by 12.5%. The DCA Housing Needs Update (DCA, 2010)¹⁴ shows that although this age group will grow by the smallest proportion it will still comprise the largest population sector by 2033, reaching 64,000, which is an increase of 7,100. A high proportion of these people are likely to live in an HMO due to affordability issues.
- 5.2.4 Section 1.2.7 of the 'Housing Strategy' identifies that there are issues of affordability (i.e. the cost of property in a city of low incomes particularly for first time buyers), levels of income and access to finance both for the rental and home ownership market. The Strategy outlines that the median gross annual income for Southampton is £20,462 compared to £25,900 nationally (section 1.2.1 refers), with many first time buyers unable to afford a 1 or 2 bed property. The cost of renting a property means that an income of £24,700 is needed to rent a 1 bed flat (based on a rental level being 30% of net income). The majority of HMO households (79%) have incomes less than £30,000; 40% have incomes under £15,000 (CPC, 2008a). Moreover, deprivation is a significant issue in the city. The 2010 Indices of Deprivation show that Southampton is ranked 81st out of 326 local authorities in England.
- 5.2.5 PUSH (Partnership for Urban South Hampshire) has reported that the housing market downturn has exacerbated the situation in South

¹¹ figures from the survey are estimates derived from the sample of properties inspected and are therefore subject to variation

¹² Capital Project Consultancy was commissioned by the Council to carry out a 'Housing Condition Survey' in 2008

¹³ Capital Project Consultancy was commissioned by the Council to carry out a 'Houses in Multiple Occupation Condition Survey' in 2008

¹⁴ Southampton Housing Needs and Market Study Update, Final Report October 2010 by DCA - www.southampton.gov.uk/living/housing/housingpolicies/

Hampshire (PUSH, 2010, p23)¹⁵. This trend is likely to add to the overall demand for shared housing in the city, including mid career professionals over 30 still living in private rented accommodation who lack the deposit to become first time buyers, and younger people starting employment in their 20s.

- 5.2.6 The demand for HMO accommodation is also likely to grow due to the change in housing benefits for single people under 35 years – whereby the level of benefit will be capped to the rental levels in a shared property. The Council’s Housing Needs team have reported that this is likely to affect over 400 people. Furthermore, this figure does not take into account the additional demand generated from those people moving to the city from neighbouring local authorities which have a relatively smaller supply of HMO accommodation available.
- 5.2.7 The ‘Housing Strategy’ reports that, following Lord Browne’s Review of Higher Education, there will be reductions in funding for higher education and Universities will be required to increase entry fees for courses. This will require universities to review corporate strategies (including their assets). The University of Southampton and Southampton Solent University together have a student population of almost 40,000. The University of Southampton is currently carrying out a review of their student accommodation as the universities will need to consider the impact of changes to funding on student housing. It has recently stated that it will deliver a further 1000 student bedrooms in the city through purpose built student accommodation. The CPC study found that 45% (3150) of HMOs are already occupied by students (CPC, 2008a). Although the purpose built accommodation will reduce pressure on the local housing markets, the future demand for HMO accommodation from the student population is uncertain.

5.3 The distribution of HMOs

- 5.3.1 HMOs are found across the city, with the majority found in the northern and central areas. The Housing Condition Survey (CPC, 2008) showed the following distribution of HMOs across the city in 2008:

¹⁵ Local Investment Plan: A framework for homes and communities by PUSH, May 2010 - http://www.push.gov.uk/push_local_investment_plan_-_website_document_.pdf

Table 1 Distribution of HMOs				
Areas	Wards	HMOs	%	% Total housing Stock (all tenures)
North	Bassett, Portswood & Swaythling	1,800	25.7	10.4
West	Coxford , Shirley, Millbrook & Redbridge	400	5.7	1.6
Central	Bevois, Bargate & Freemantle	4,100	58.6	18.2
North East	Bitterne Park, Harefield & Bitterne	300	4.3	0.9
South East	Peartree, Sholing & Woolston	400	5.7	1.2
	Total HMO dwellings	7,000	100	6.9

5.4 Impact of high concentrations of HMOs

5.4.1 Whether or not a dwelling is an HMO is not necessarily obvious by its physical appearance – indeed it can be difficult to discern the difference in the physical appearance between a well-managed small/medium-sized HMO and an owner-occupied property. A report by Ecotec that was commissioned by the Government entitled “Evidence Gathering – Housing in Multiple Occupation and Possible Planning Responses” (CLG, 2008)¹⁶ has studied the impact of HMOs on the character and amenity of local communities.

5.4.2 In summary, the Ecotec report stated that the poor management of rented HMO accommodation can lead to amenity and character issues which directly affect a local community. These issues can include: poor refuse management; on-street parking pressure; noise and anti-social behaviour; high property turnover; neglected gardens and lack of maintenance to housing stock. These issues tend to be exacerbated where there is a high concentration of HMOs. These are matters that are reported to the Council’s ‘Planning and Rights of Way Panel’ by objectors and are recognised by other local authorities and lobby groups.

5.4.3 The wider impacts on infrastructure and services identified by the Ecotec report, that are created by a high concentration of HMOs and arising from the changing demography of the neighbourhood are:

- decline in owner occupied stock;
- increased population densities can place a strain on existing services refuse disposal and street cleansing;
- reduction in demand for some local services;
- the decline of local school enrolment;
- underuse of community facilities; and
- increased demand for other services such as takeaway food, bars.

¹⁶ www.communities.gov.uk/publications/planningandbuilding/evidencegatheringresearch

- 5.4.4 The Ecotec report highlights that a high demand for private sector renting can lead to positive regeneration and economic benefits in some local neighbourhoods, particularly in areas where low demand has led to derelict and vacant properties. This can introduce new life and population back into a neighbourhood, and the demand for private rented accommodation can lead to improvement of the existing housing stock and bring properties back into use. However, in the long term, the decline of local services (caused by reduced demand) from a high concentration of HMOs, which serve the permanent residents and families living in the local area, will not sustain a balanced and mixed community.
- 5.4.5 The government has also recognised that a high concentration of HMOs can sometimes cause problems. DCLG planning guidance circular 08/2010 states that this is so “especially if too many properties in one area are let to short term tenants with little stake in the local community”.
- 5.4.6 The Houses in Multiple Occupation Survey (CPC, 2008a) identified that the occupants of HMOs tend to be transient in nature, with fewer than 5% of HMO residents having lived at their current address for more than 5 years. It is likely that these transient occupiers will have less of a vested interest in the sustainability of a community than owner occupiers and permanent residents.
- 5.4.7 The Council’s Environmental Health team reported that a significant number of noise nuisance notices were served on occupiers of HMO dwellings: 238 (59%) of the 403 total noise nuisance notices served in the city between 2010 and 2011. However, the majority of these notices were served on each individual resident living in only 33 HMO dwellings; representing approximately 0.5% of the total HMO dwellings in the city.
- 5.4.8 As a result of these amenity and character impacts, it will be less attractive for more permanent residents to live in a community affected by a high concentration of HMOs.

5.5 Maintaining a balanced community

- 5.5.1 It is difficult to identify precisely what constitutes a balanced and mixed community. It is evident that there are areas in the city with high concentrations of HMOs which can have a negative impact on the sustainability of the communities (especially as perceived by permanent residents).
- 5.5.2 Government advice is not clear as to what exactly constitutes a balanced community, though ‘PPS3: Housing’¹⁷ encourages the delivery of “a variety of housing, particularly in terms of tenure and price and a mix of different households such as families with children, single person

¹⁷ <http://www.communities.gov.uk/publications/planningandbuilding/pps3housing>

households and older people” (Paragraph 20 refers). Neither is there clear advice about how to identify the ‘tipping point’ when a concentration of HMOs in a local area begins to adversely change the character and balance of the community.

- 5.5.3 The ‘Mosaic database’ information held by the Council models the demographic profile of the vast majority of households across the city. It splits household types into 15 distinctive groups which highlight key features of the population. The range of these household groups illustrates the complexity of the demographic characteristics of the city’s population.
- 5.5.4 The demographic profile of all households in the city shows there is a diverse mix of different groups and tenure in terms of families with children, couples, single persons and older people, where one group generally does not over dominate another. A demographic profile of HMO households (based on a 30% sample of the total HMOs in the city) shows that the main three groups occupying HMOs are ‘young transient singles’, ‘students’, and ‘diverse renters in older terraced properties’. It also shows that the proportion of groups including families, elderly and couples are in the minority compared to these main groups who live in HMOs.
- 5.5.5 The mapping of the Mosaic information shows a relatively high proportion of ‘student’ and ‘transient young singles’ households concentrated in the Wards of Bargate, Bevois, Freemantle, Portswood and Swaythling. This correlates with the information in the Houses in Multiple Occupation Survey (CPC, 2008a) for the city which showed that 84% of the city’s HMOs were in the central (Bevois, Bargate & Freemantle) and northern (Bassett, Portswood & Swaythling) Wards (see table 1 page 9).
- 5.5.6 The average household size in England across all tenures is 2.4 persons per household. In an HMO there is likely to be a minimum of 3 persons per household rising to 6 residents living in a small/medium HMO and 7 or more living in a large HMO. The majority of these residents living in HMOs are below the age of 34. This would suggest the average population size will be higher than average within a community of a high concentration of HMOs, which is predominantly young transient singles.
- 5.5.7 As a result of this contrast in the mix of groups and population it is considered that a high concentration of HMOs will dilute the mix of groups and the proportion of owner occupier households in a community. This can lead to an imbalanced community and the associated impacts (see section 5.4).
- 5.5.8 It has been shown that the community can tip out of balance where there is a high concentration of HMOs. The demography of the city is complex and, therefore, when defining the ‘tipping point’ it is not possible to define

a 'model community' to suggest a precise mix and balance of households which can be applied uniformly across Southampton.

6 The approach

- 6.1 There is continuing pressure on the housing market in Southampton to deliver privately rented accommodation including HMOs. Moreover, the housing tenure of Southampton differs markedly from the national trend with a greater element of rented accommodation (see section 5.2). In deciding the 'tipping point' when the concentration of HMOs becomes over dominant, the Council is aiming to redress the imbalance of the city's 'communities' whilst addressing future needs for growth of HMO dwellings.
- 6.2 Defining the tipping point – threshold
- 6.2.1 This can be best achieved by setting a threshold limit for new HMOs. The limit will resist further HMOs in communities which already have concentration above this limit, and also control the growth of HMOs in communities below this limit. As a result this will encourage a more even distribution across the city.
- 6.2.2 The suitable location for HMOs outside and adjacent to the existing areas of concentrations is limited by tenure (i.e. local authority and social housing), cost of renting, and accessibility to places of work and study. It will be more unattractive for HMO households to live on the edge of the city where there are poorer transport links to these places. The thresholds applied must allow sufficient capacity for an additional supply of HMOs above the city's existing stock taking into account these constraints on the location of future HMOs.
- 6.2.3 The Council will apply a two tier threshold. A 10% threshold limit will be applied to the northern wards of Bassett, Portswood and Swaythling. The threshold limit applied to the wards in the rest of the city will be 20%. Map 1 on page 19 shows the different threshold levels.
- 6.2.4 A threshold limit of 20% is equivalent of 1 in 5 households being a HMO in a community, and 10% will be 1 in 10 households. On the other hand, if a threshold of HMOs above 3 out of 10 properties (30%) is considered, it then becomes more difficult to justify that there is a reasonable level of balance and mix of households in the community.
- 6.2.5 The number of existing HMOs in the northern wards is shown to be 10.4% out of the total housing stock of all tenures (refer to Table 1, page 9) and, therefore, already exceeds the 10% threshold limit. The higher 20% threshold across the rest of the city will ensure there is capacity for a reasonable growth of HMOs. Only 6% of the total housing stock (all tenures) are HMOs, and 18% are HMOs in the central wards. The 20% threshold to be applied in the central wards is very close to the current

level and should therefore serve to limit new HMO applications whilst recognising demand for HMOs in this part of the city tends to be the highest due to good transport links and access to employment and facilities.

6.2.6 The mosaic data (Experian, 2011) indicates that when compared to the average city profile (% proportion of total households) the northern wards have three times the proportion of owner occupied households than in the central wards. The number of HMOs located in the northern wards is less than half the amount compared to the central wards. The 10% threshold is likely to resist any further growth in the concentration of HMOs in the northern wards. This will safeguard the character and balance of the communities in these wards from the level of HMO concentration which affects the central wards and aims to prevent a decline of family housing to the level found in the central wards.

6.2.7 There may be certain streets in the city where the vast majority of properties are already HMOs, with only a very small proportion of C3 dwellings remaining. In these extreme circumstances, the conversion of the remaining C3 dwellings to a HMO would not further harm the character of the area. This matter is dealt with in more detail in section 6.6 (Exceptional Circumstances).

6.3 Measuring the area of impact – radius

6.3.1 It is considered that the negative impacts of HMOs on surrounding properties are most likely to significantly affect immediate neighbours. Therefore, the impacts associated with a HMO concentration for the application site can be best assessed at this level.

6.3.2 The Council will use a radius to apply the threshold limit. The defined area of impact will be the residential properties whose curtilage lies wholly or partly within a radius of 40 metres from the application site. The radius point is measured from the midpoint of the main external doorway to be used by all tenants. This approach is a consistent method of identifying the area surrounding the application site affected by a concentration of HMOs. A radius of 40 metres, defined in this way, will generally include the immediate neighbours to the application site.

6.3.3 In areas of the city characterised by low density residential properties or properties with large plots the radius will only capture a few properties. To ensure there is a consistent area of impact to apply the threshold, a minimum of 10 residential properties will be covered when assessing each planning application. Where the radius area does not cover a minimum of 10 residential properties, the threshold will apply to the 10 residential properties nearest to the application site located on all frontages of the street (with the same street address).

6.3.4 Worked examples provide detailed guidance on how the approach works in section 6.5.

6.4 Implementing the threshold

- 6.4.1 The Council will estimate the number of HMOs in the relevant area for each individual planning application. The applicant should undertake their own estimate of the number of HMOs to accompany the planning application and provide all their supporting data. There is a variety of evidence sources on the location of HMOs as listed in paragraph 6.4.3, and the applicant is advised to refer to these sources to build a body of evidence which will be assessed as a matter of fact and degree.
- 6.4.2 The percentage concentration of HMOs surrounding the application site will be calculated through three main stages:

Stage 1 – identify residential properties

The residential properties identified are those located within the defined area of impact surrounding the application site i.e. the 40 metre radius or 10 nearest properties. The worked examples in section 6.5 demonstrates this process. To be clear which residential properties are identified, all sub-divided properties including flatted blocks within same curtilage are counted as one whole property at the first stage (worked example 3 shows an example of this). The residential properties listed in paragraph 3.4 will not be identified.

Stage 2 – Count HMOs

Using the HMO sources listed in paragraph 6.4.3, the residential properties identified at stage 1 will be investigated whether they are an existing HMO. All separate units forming part of the sub-divided residential properties (identified at the first stage as a whole property) which are 1 and 2 bed flats will not be investigated.

Stage 3 – Calculate concentration

The concentration of HMOs surrounding the application site is calculated as a percentage of the 'total estimated number of existing HMOs' against the 'total number of residential properties'. The total number of residential properties does not include those properties listed in paragraph 3.4, and all 1 and 2 bed flats which form part of the sub-divided properties (identified at the first stage). The final figure calculated is rounded up for a percentage of HMOs greater than decimal point 0.5, and rounded down when less than 0.5.

- 6.4.3 For the purposes of the threshold, HMOs (see section 3 for the definition of HMOs) can be identified from the following sources:
- **SCC Planning register:** those dwellings with a consent or an lawful use for an HMO (either C4 or sui generis extant planning permission or lawful use, regardless of their current occupation (i.e. including those properties with a consent for C3 and C4 use occupied as C3 use). Small HMOs with a lawful flexible permission are counted as a HMO. Please see this SCC [weblink](#) for access.

- **SCC electoral register:** showing 3 or more apparently unrelated individuals, but it is recognised that this will not provide conclusive evidence that the property is an HMO. A property not registered will still be investigated under the other sources. Please see this SCC [weblink](#) for access.
- **SCC Council Tax records:** shows properties which are occupied by full time students only. This information cannot be disclosed to individual members of the public. The information will only be made public by the Council in the determination of a planning application. The details of the location of the identified student HMOs amongst other HMOs surrounding the application site will not be disclosed.
- **SCC HMO Licensing register:** shows licensed HMOs under the Housing Act which comprises 3 or more storeys and is occupied by 5 or more unrelated people. Please see this SCC [weblink](#) for access.

6.4.4 The sources listed above are not a conclusive or exhaustive record of all HMOs in the relevant area. There may be existing HMOs which are occupied but unknown to the Council. In particular, on 6th April 2010¹⁸ the Uses Classes Order introduced a class for HMOs to reclassify C3 dwellings to either the new C3 or C4 classes. The reclassification of existing dwellings to C4 use did not require planning permission and therefore will not be registered on the Council's register of planning applications. Planning permission was not required to convert from C3 to C4 under permitted development rights until the Article 4 direction came into effect on 23rd March 2012¹⁹.

6.4.5 These sources will initially provide a reasonable indication of the numbers and location of HMOs in a street. Further investigation of individual properties may be required by the planning officer to provide greater confidence in the estimate, but it is emphasised that it will not be possible to guarantee a 100% accurate count in all cases. Where there is significant doubt as to whether a property is an HMO, it will not be counted towards the threshold. There will be a number of the HMOs identified by the Environmental Health Housing Team in the category specified under section 257 of the Housing Act (refer to paragraph 3.2) which do not fall under the planning definition of HMOs and, therefore, cannot be counted towards the threshold.

6.4.6 The Council does not have a comprehensive database or register of HMOs and it would be impossible to create or maintain one with the resources available. As more planning applications are processed for HMOs, the Council will start to build up a more accurate picture of the distribution of HMOs, although it is recognised that the status of any given property will change over time.

¹⁸ The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010 (SI 2010/654) - <http://www.legislation.gov.uk/ukxi/2010/653/contents/made>

¹⁹ The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2010 (SI 2010/2134) - <http://www.legislation.gov.uk/ukxi/2010/2134/contents/made>

6.5 Threshold guidance

6.5.1 The following guidance will be used to determine a planning application to convert properties to HMOs:

Planning permission will not be granted

i) in the wards of Bassett, Portswood and Swaythling where the proportion of HMO dwellings will exceed 10% of the residential properties*; or

ii) in the rest of the city where the proportion of HMO dwellings will exceed 20% of the residential properties*;

where their curtilage lies wholly or partly within a circle of radius 40 metres from the application site.**

Where the circle does not include a minimum of 10 residential properties, the threshold will apply to the 10 residential properties nearest to the application site located on all frontages of the street (with the same street address).**

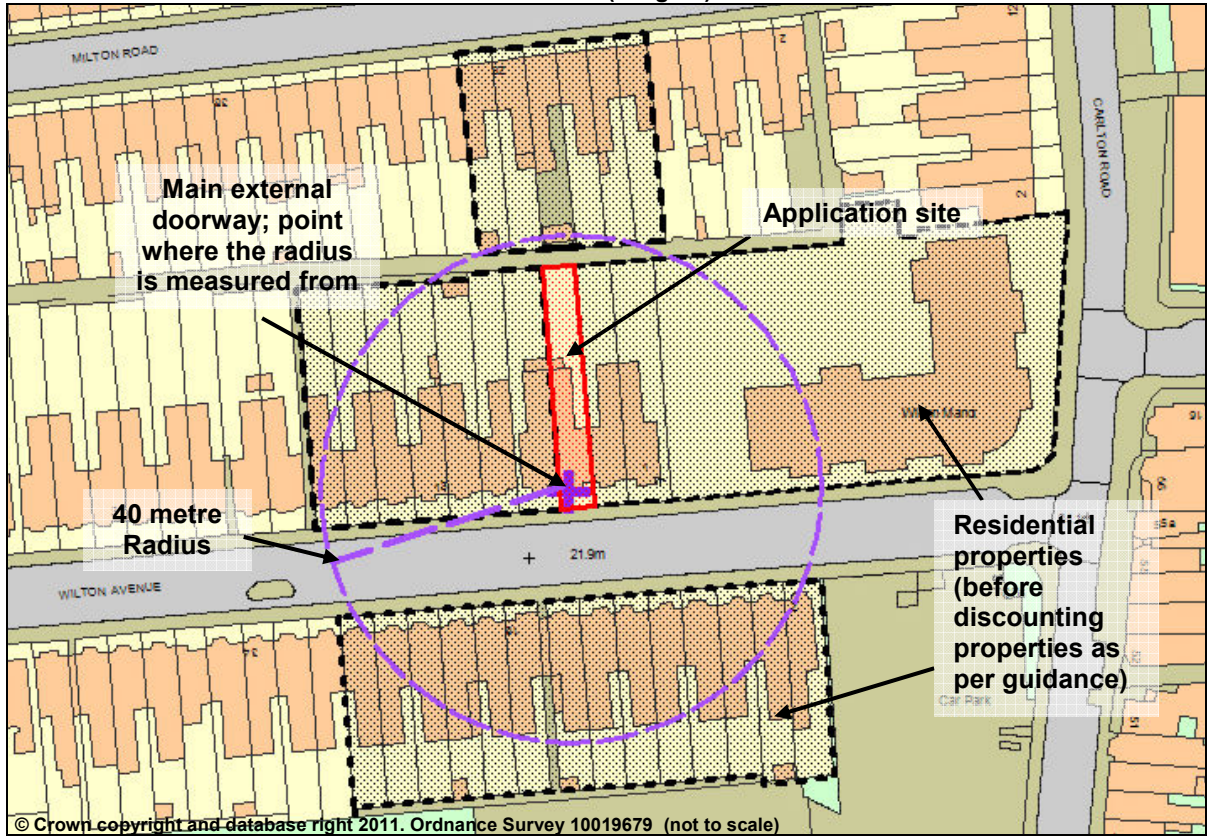
When the threshold has been breached already, planning permission will only be granted in exceptional circumstances (see section 6.6).

Notwithstanding the threshold limit and exceptional circumstances, other material considerations (such as intensification of use, highway safety, residential amenity of future and existing occupiers) arising from the impact of the proposal will be assessed in accordance with the Council's relevant development management policies and guidance.

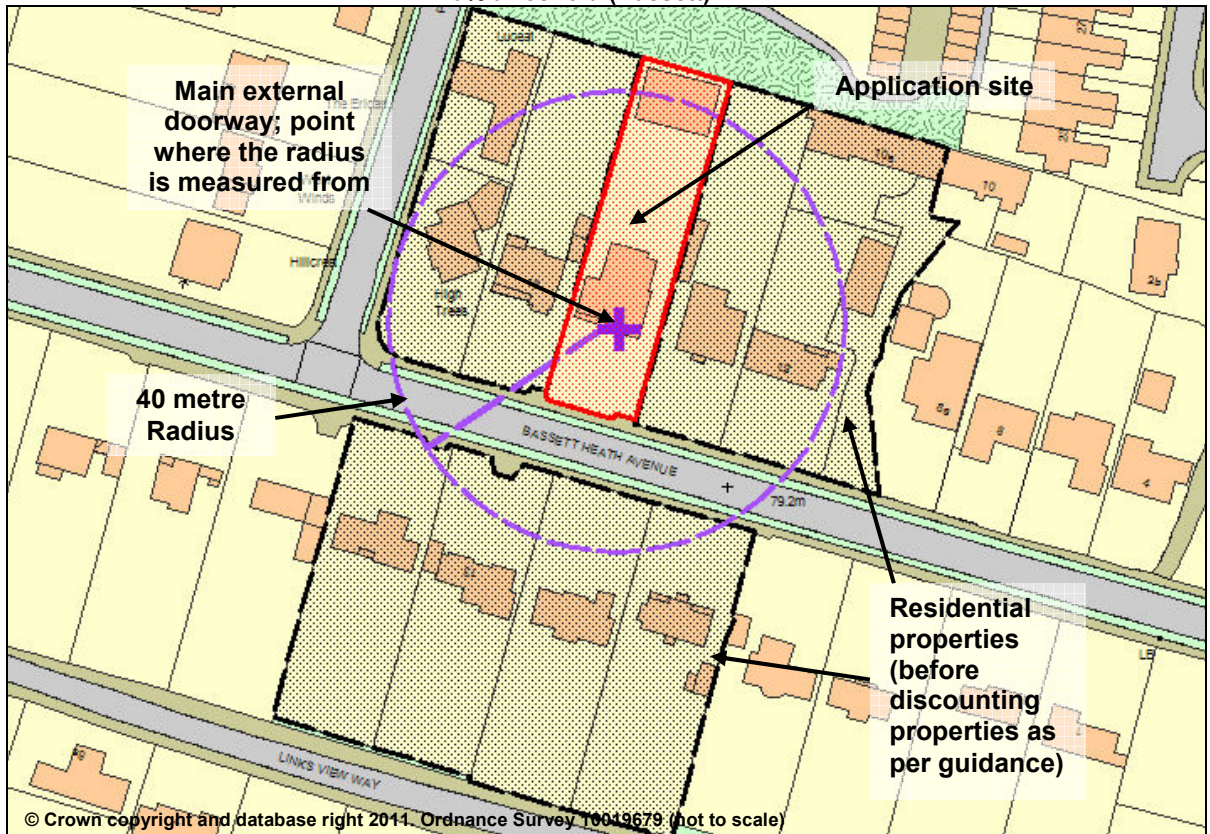
* Paragraph 6.4.2 sets out the 'residential properties' identified for the purposes of calculating the percentage concentration of HMOs.

** Measured from the midpoint of the main external doorway entrance to be used by all tenants as shown on the proposed plans submitted with the planning application.

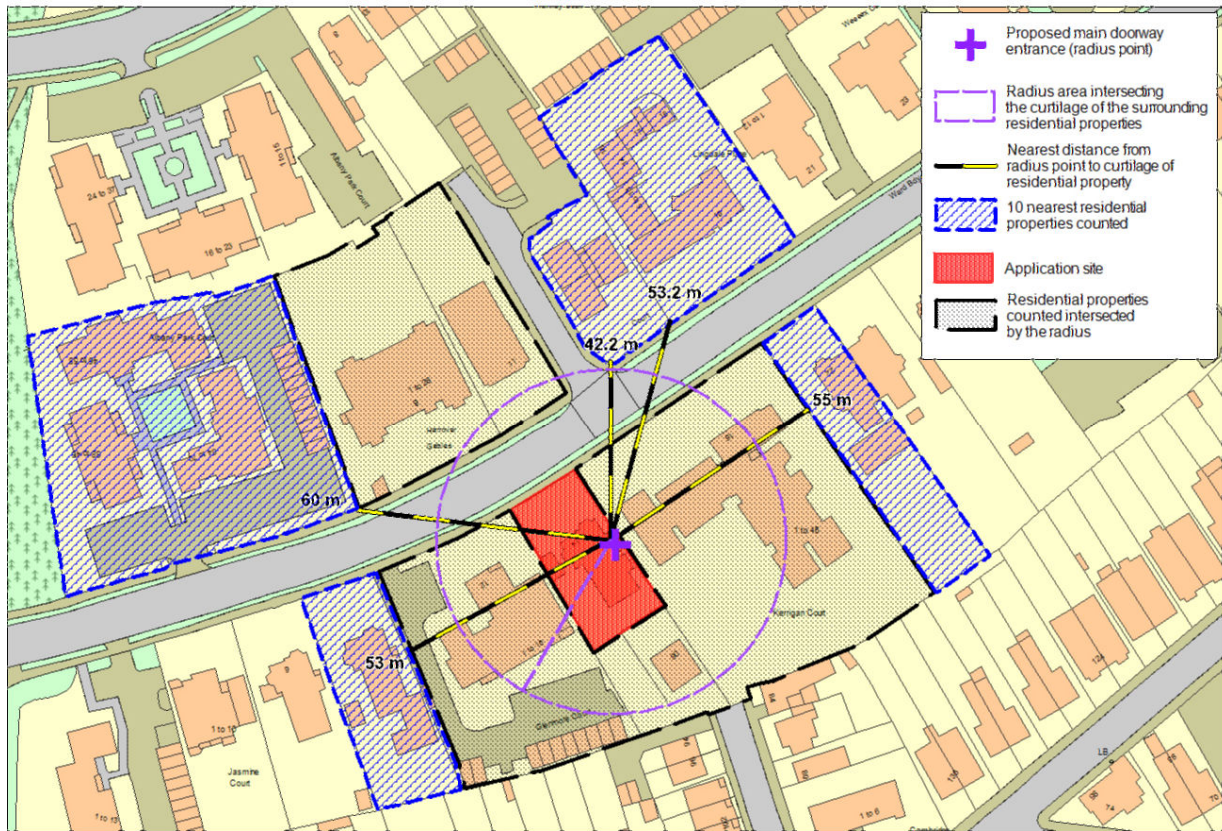
**Worked example 1: 5 Wilton Avenue
20% threshold (Bargate)**



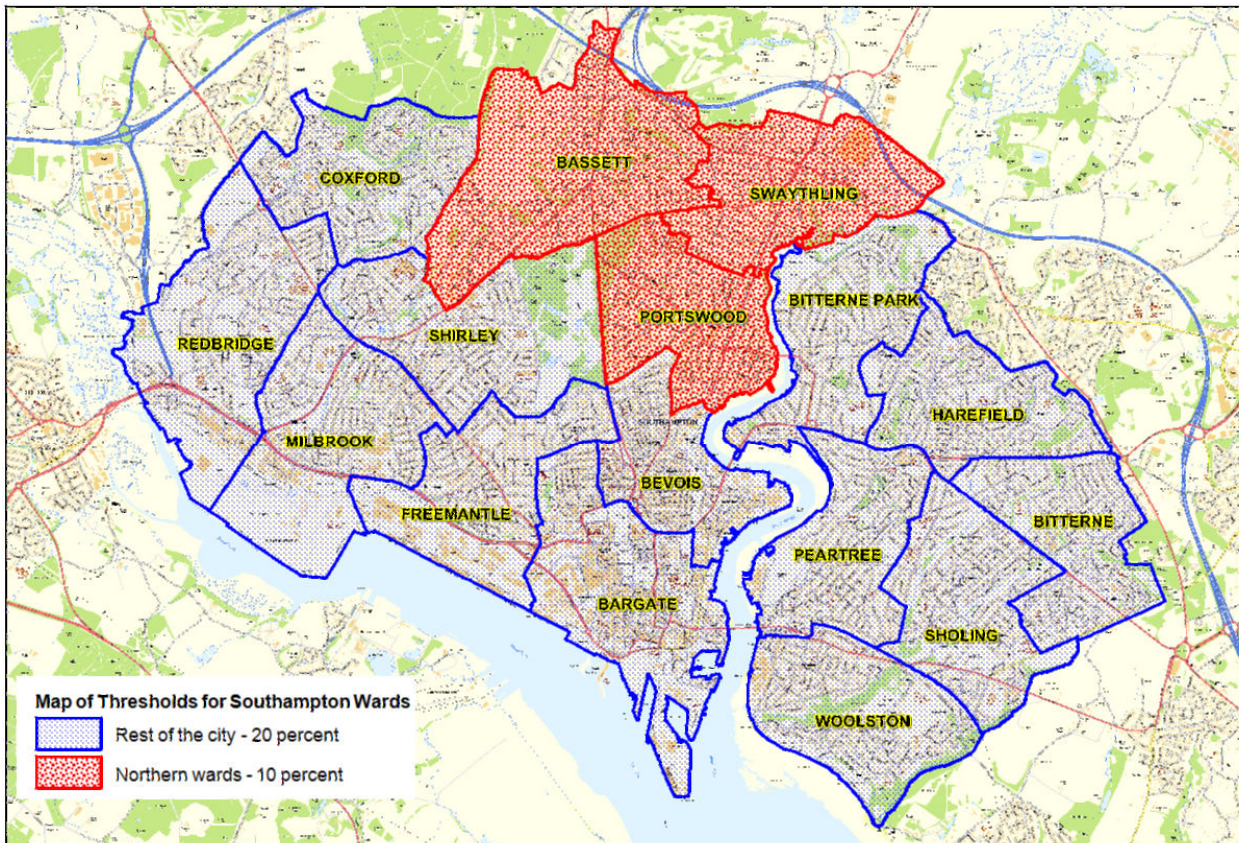
**Worked example 2: 16 Bassett Heath Avenue
10% threshold (Bassett)**



Worked example 3: 14 Westwood Road
20% threshold (Bevois) and 10 nearest residential properties



Map 1 – Threshold limits for Southampton wards



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6.6 Exceptional circumstances

- 6.6.1 There may be certain streets in the city where the vast majority of properties are already HMOs, with only a very small proportion of C3 dwellings remaining. The retention of 1 or 2 of the remaining C3 dwellings will have little affect on the balance and mix of households in a community which is already over dominated by the proportion of existing HMO households. Therefore, the conversion of the remaining C3 dwellings to a HMO would not further harm the character of the area.
- 6.6.2 There is no upper limit where the threshold ceases to have effect, though it is recognised that some owner occupiers or long term residents in this situation described above, being the last remaining residential property and wanting to leave the street, may struggle to sell their property for continued C3 use.

Each application site will assessed on its own individual merits when considering where exceptional circumstances will be a material consideration and will be determined in accordance with the following criteria:

Where the vast majority of existing properties surrounding the application site within the defined area of impact are HMO dwellings, the applicant should submit a supporting statement with the planning application to demonstrate that there is no reasonable demand for the existing residential property as continued C3 use. No reasonable demand would be demonstrated by a period of at least six months on the property market offered at a reasonable price (based on an assessment of the property market in the local area) or rental level to be verified in writing by a qualified person in a relevant profession such as estate agent.

6.7 Large HMOs (more than 6 occupiers)

- 6.7.1 Planning applications for the change of use of properties into large HMOs will be assessed using the threshold limit.
- 6.7.2 Planning permission will be required to change the use of a small HMO to a large HMO, or to intensify the use of a lawful large HMO (without any physical extension or external alteration to the property) by increasing the number of occupiers. In this instance the threshold limit will not be triggered as the HMO has already been established in the street and, therefore, have no further affect on the concentration of HMOs and balance and mix of households in the local community.
- 6.7.3 These types of planning applications will be assessed on their own individual merits on a case by case basis against the Council's relevant

policies and guidance, including standard of living conditions and parking standards set out in sections 6.9 and 7. Other impacts will be assessed as set out in paragraph 6.5.1.

6.8 Flipping use between a dwellinghouse and an HMO (C3 and C4)

6.8.1 It is permitted development (not requiring planning permission) to change the use from a small HMO to a family house. A planning condition will be applied to new C4 planning permissions to allow the flexible use of the dwelling to change in either direction between a C3 and C4 use without the need for planning permission. This will ensure that landlords have the flexibility to let their property either as a single dwellinghouse or as a HMO, dependant on the market, thus creating the opportunity to reprovide family housing from the existing HMO housing stock.

6.8.2 The flexible planning condition can only be applied to new permissions for HMO dwellings; and will not apply to large HMOs or existing C4 uses. The lawful use will be able to continuously change between C3 and C4 occupation for a maximum of 10 years from the date that the permission is granted (subject to not breaching any condition, limitation or specification contained in the permission). This is a provision under the Town and Country Planning (General Permitted Development) Order 1995 Part 3 Class E²⁰. After the 10 year period the occupied use on this date will then become the lawful use of the property. The applicant can reapply for a new flexible permission to continue flipping the use. Once granted, flexible permissions are counted as an existing HMO when calculating the concentration of HMOs.

6.8.3 It will be possible to obtain a flexible permission if the property is currently occupied as a C4 HMO. If it can be demonstrated that the property was established as a C4 HMO on 23rd March 2012, this will then be a material consideration when the Council considers the planning application (see section 8 for guidance on lawful use).

6.9 Standard of living conditions for future tenants

6.9.1 The guidance set out below expands on the following text relating to Policy H4 of the Local Plan Review:-

Paragraph 7.18

In determining any planning applications for a shared property, the Council will have regard to its standards for multiple occupation accommodation, which relate to room and space standards, range of facilities provided, fire escape provision, security and health safety requirements.

²⁰ This is a provision under the Town and Country Planning (General Permitted Development) Order 1995 Part 3 Class E - <http://www.legislation.gov.uk/uksi/1995/418/schedule/2/made>

- 6.9.2 The standard of facilities and safety for tenants is also controlled outside the planning system under the statutory provisions of the Housing Act 2004 and regulated by the Council's Private Housing team²¹. In addition to obtaining planning permission, landlords are reminded that they must apply to licence their property under Part II of the Housing Act 2004 for HMOs with *3 storeys or more and 5 or more occupants*²². Landlords who are caught without a licence, risk being fined by the courts.
- 6.9.3 A licence holder must ensure that the dwelling is compliant with the national minimum standards, in particular the level of bathroom, WC and wash hand basin provision. These standards are set out in the Council's 'Approved Standards for HMOs'²³ (see Appendix 1) according to the type of accommodation offered.. A HMO dwelling is required to have basic levels of amenities and every planning application will be expected to demonstrate that the proposal has met the standards, which include (see appendix 1 for full list):
- rooms of a reasonable size,
 - sufficient number of bathrooms,
 - suitable cooking facilities, and
 - sufficient number of toilets for the number of people living there.
- 6.9.4 The Management of Houses in Multiple Occupation (England) Regulations 2006 require owners / managers of all HMOs to ensure that the property is maintained in a safe condition, that gas and electricity supplies are maintained and that reasonable standards of management are applied²⁴.
- 6.9.5 The Council will seek to ensure that the Private Housing amenity standards are met to improve the quality of living environments across the city. The Council's Environmental Health Housing team will be consulted at the planning application stage to advise whether the proposal complies with the amenity standards (Appendix 1). It is likely that any application that fails to meet these requirements will be refused planning permission.
- 6.9.6 The floor layout and room types should be clearly labelled, indicating as well whether a room is a 'communal space' where tenants will share basic amenities (toilet, personal washing facilities, or cooking facilities) and habitable rooms.

²¹ Guidance on the Council's standards for amenities and safety -

<http://www.southampton.gov.uk/living/housing/private/landlord/hmos/safety.aspx>

²² For more information on HMO licensing, please contact the SCC Private Housing team or see the following link on the SCC website:- <http://www.southampton.gov.uk/living/housing/private/landlord/hmos/mandatory.aspx>

²³ The Council's 'Approved Standards for HMOs' -

http://www.southampton.gov.uk/Images/Guidance%20on%20HMO%20Standards%20June10_tcm46-195769.pdf

²⁴ For more information on Council's Safety and Standards for HMOs see the following link on the SCC website - <http://www.southampton.gov.uk/living/housing/private/landlord/hmos/safety.aspx>

The applicant should be aware that under the Housing Act 2004, the HMO will be required to have basic levels of amenities, and must have rooms of a reasonable size and enough bathrooms, cooking facilities and toilets for the number of people living there.

In accordance with saved policy H4 the consideration of the planning application will include assessing the advice from the private housing team and any implications for future residents. Planning applications are likely to be refused if they do not meet the standards.

- 6.9.7 The Council also works in partnership with the University of Southampton and Southampton Solent University to promote the SASSH (Southampton Accreditation Scheme for Student Housing) programme for student shared private rented sector properties advertised through a new online letting service. The Standards are not intended to be onerous and are divided into three separate categories (One Star, Two Star and Three Star) allowing landlords to achieve greater recognition for properties meeting the appropriate criteria. Current SASSH standards and registration can be viewed on the [Student Accreditation Scheme website](#)²⁵.
- 6.9.8 The standard of living conditions for future tenants will be a material consideration. This will be assessed against the Council's residential standards set out in the Residential Design Guide Supplementary Planning Document²⁶. The main considerations will be access to outlook, privacy, and daylight/sunlight to ensure that future tenants have a good quality residential environment. The applicant will be required to fully provide all communal spaces approved in accordance prior to first occupation by the tenants and, thereafter, retained unless otherwise agreed in writing with the Council.
- 6.9.9 **The relevant standards are set out in the Residential Design Guide, Section 2.2 – 'Access to natural light, outlook and privacy'.** If further advice is required at pre-application stage see section 9.

²⁵ The SASSH website (Student Accreditation Scheme for Student Housing) - <http://www.sasshstudentpad.co.uk/Landlords.asp>

²⁶ Residential Design Guide (approved version September 2006) - <http://www.southampton.gov.uk/s-environment/policy/planningdocuments/residentialdesignguide.aspx>

6.9.10 The guidance set out below expands on the following part of Policy H4 of the Local Plan Review:-

Policy H4 extract

- (iii) Adequate amenity space is provided which:
- a) Provides safe and convenient access from all units;
 - b) Is not overshadowed or overlooked especially from public areas; and
 - c) Enables sitting out, waste storage and clothes drying.

6.9.11 The Council will assess whether adequate amenity space is provided for the tenants in accordance with the criteria set out in saved policy H4. **The standards expected for amenity space are set out in the Residential Design Guide, section 2.2 – ‘Access to natural light, outlook and privacy’ and section 4.4 – ‘Private Amenity Space’.** No minimum size of the amenity space is specified for the number of tenants living in the HMO, however, it will be assessed whether the space is ‘fit for the purpose intended’ in terms of privacy, quality and usability. If further guidance is required see section 9.

6.9.12 **When assessing the physical impact of an extension (refer to section 6.11) on the existing amenity space to be used by existing and future tenants, there will be particular regard to the guidance set out in paragraphs 2.3.12 and 2.3.13 of section 2.3 – ‘Detailed design of extensions and modifications’ of the Residential Design Guide.** If further advice is required at pre-application stage see section 9.

6.10 Waste management

6.10.1 Poor waste management of a HMO can lead to unattractive eyesores which can adversely impact on the character and amenity of adjacent and nearby properties.

6.10.2 The planning drawings showing the proposed layout of the application site and its surroundings (i.e. Site Plan) must show the area where the refuse bins will be stored and presented for collection.

6.10.3 Adequate space for management of waste should be sited and designed to enable residents and collection workers to conveniently and safely manoeuvre refuse bins to the collection point. These facilities must be set up and maintained as approved on the submitted plans by the Council before the HMO is first occupied by the tenants.

6.10.4 Where appropriate the Council will require the submission of a waste management plan or statement to show in detail that tenant’s can manage their waste in an acceptable way, and this plan must be put in place once approved.

6.11 Extensions to existing HMOs

6.11.1 When the Council consider a planning application for an extension to an existing lawful HMO, the threshold limit will not be a material consideration as the HMO has already been established in the street and, therefore, have no further affect on the concentration of HMOs and balance and mix of households in the local community.

6.11.2 The HMO does not materially change use within class C4 when intensifying the occupation up to 6 people and, therefore, only the physical impact of the extension will be assessed in accordance with the Council's relevant planning policies and guidance.

6.11.3 Where the extension results in an increase of occupiers over 6 persons or more living in the HMO, planning permission must be sought in its own right for a change of use to a large HMO (see section 6.7). The threshold limit will not apply, though other impacts arising from the proposal will be assessed (see paragraph 6.5.1) including standard of living conditions and parking standards set out in sections 6.9 and 7.

7 **Parking Standards**

7.1 Specific maximum parking standards are included in the HMO SPD to assess planning applications according to the number of bedrooms per HMO household. **These standards are used in conjunction with the guidance set out in the Council's Parking Standards SPD²⁷.**

7.2 Table 2 on page 25 sets out the maximum parking that may be provided at new HMO developments. Refer to the accessibility areas map in 'Figure 5' page 16 of the Parking Standards SPD for details on the extent of the standard and high accessibility areas. The 'high accessibility' standards set out in the Parking Standards SPD will apply to the 'city centre'.

²⁷ SCC adopted Parking Standards SPD - <http://www.southampton.gov.uk/s-environment/policy/planningdocuments/parkingstandards.aspx>

Table 2 – Parking Standards		
No of Bedrooms	Maximum permitted parking provision	
	Maximum Provision	Maximum provision (high accessibility area including the city centre)
3	2	2
4	3	2
5	3	2
6	3	2
7	3	2
8	4	3
9	4	3
10	5	3
11	5	4
12+	6	4

- 7.3 Provision of less than the maximum parking standard is permissible. Developers must demonstrate that the amount of parking provided will be sufficient, if they provide a lower quantity. See section 4.2 of the Parking Standards SPD for more detailed guidance.
- 7.4 This parking may be provided via on and off-street parking subject to the conditions and recommendations set out in the Parking Standards SPD. A combination of provision is recommended for many developments, as per guidance set out in Manual for Streets (DfT, 2007)²⁸. Off-street parking should make up the majority of parking provision for most large scale developments. As per the guidance set out in paragraph 7 under section 4.2 of the Parking Standards SPD, some off street parking is expected for large HMOs providing more than 6 bedrooms. **The guidance to assess where on-street parking may count towards parking provision for development is set out in section 4.2 of the Parking Standards SPD.**
- 7.5 A minimum number of cycle parking spaces to serve the HMO residents should be made available prior to first occupation of the HMO enclosed within a secure cycle store. **Section 5 of the Parking Standards SPD sets out guidance to assess the type and design of cycle facilities to be provided.**
- 7.6 The provision of off street parking may result in the replacement of traditional front gardens with open hard standing and the removal of front and side boundary walls. This often creates a negative impact on the existing character of the street and, in some cases localised flooding, and will, therefore, be resisted.

²⁸ <http://www2.dft.gov.uk/pgr/sustainable/manforstreets/>

- 7.7 **The planning application will be assessed in accordance with the guidance set out in the Residential Design Guide, Section 2.4 - ‘Garages and Parking Areas’ and Section 3.11 – ‘Plot Boundaries’.** If further advice is required at pre-application stage see section 9.

8 Regularising established HMOS - applying for a Certificate of Lawful Use

- 8.1 A landlord may be eligible to apply for a ‘Certificate of Lawful Use’ to regularise an existing HMO dwelling which is not lawful under the Council’s planning records.
- 8.2 A certificate can be applied to regularise a large or small HMO. A small C4 HMO occupied on or before 23rd March 2012 (when the Article 4 direction becomes effective) will be deemed the lawful use after this date. Satisfactory evidence will be required to demonstrate the lawful occupation of the HMO. If further advice is required at pre-application stage see section 9.
- 8.3 If a Landlord does not want to regularise their small/medium HMO, it is strongly recommended that they retain sufficient documentation to demonstrate lawful use as a small/medium HMO on 23rd March 2012. This will reduce the owner’s risk of the Council taking enforcement action against them.

9 Pre-application

- 9.1 Prior to submitting a planning application, an available Duty Officer will be able to provide limited and informal verbal advice e.g. advice in principle about the relevant guidance in the Residential Design Guide that applies to a proposal; planning application process; and relevant planning legislation i.e. applying for a ‘Certificate of Lawful Established Use’. See the Duty Officer webpage:
<http://www.southampton.gov.uk/s-environment/planning/permission/advice/duty-officer.aspx>
- 9.2 A ‘Preapplication Advice Service’ is available. Please see the webpage for more information about the service:
<http://www.southampton.gov.uk/s-environment/planning/permission/pre-apps.aspx>

10 Monitoring

- 10.1 The effectiveness of this Supplementary Planning Document will be monitored as part of the Annual Monitoring Report process using information from planning applications and decisions

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<http://www.southampton.gov.uk/living/housing/private/landlord/hmos/safety.aspx>

Glossary

The definitions contained in this glossary give general guidance only.

Article 4 direction	The Council made a city-wide Article 4 Direction on the 14 March 2011 and, following public consultation, confirmed this on 24 October 2011. The Direction will come into force on 23 March 2012 and permitted development rights for a change of use from a Class C3 (Dwellinghouse) to a Class C4 (small HMO) will be removed from this date. This means that planning permission will be required for this type of development.
Communal facilities/space	These are spaces or facilities shared by the tenants, for example; basic amenities (toilet, personal washing facilities, cooking facilities), living rooms, dining rooms, kitchens, gardens, cycle stores, parking spaces, etc.
Curtilage	This comprises of the property and area of land surrounding the property i.e. the garden/grounds.
Flipping	The right to continuously change direction between separate use classes without planning permission i.e. C3 and C4
House in Multiple Occupation (HMO)	A house or flat occupied by a certain number of unrelated individuals who share basic amenities. The property must be occupied as the main residence. There are 2 categories of HMOs under the use classes order; Class C4 otherwise known as a small/medium-sized HMO which is occupied between 3 and 6 residents, and large-sized HMO otherwise known as Sui Generis (of its own kind) which is occupied by more than 6 residents.
Permitted development rights or rules (PD)	The rules concerning certain type of development that can be carried out without the need for planning permission subject to following any conditions set out in the regulations. This can include changing the use of a building between use classes.
Radius	This is the circular area surrounding the application site where the threshold will be applied. The radius is measured from the midpoint of the proposed main doorway entrance to be used by the future tenants.
Threshold	This is the set limit or level of the concentration of HMOs.