

## Frequently Asked Questions to the Housing in Multiple Occupation Supplementary Planning Document

115 responses were received (8 after the consultation period ended) - mainly from residents & landlords.

### 1. Status of the document

- i) Query the status of the document. Consider it is too significant an issue to be dealt with by an SPD & should be a statutory DPD which is independently examined. The Core Strategy was prepared before the recent changes to the Use Classes Order and does not include reference to HMOs. Local Planning Authorities, such as Manchester City Council and Portsmouth City Council, which have included HMO policies in their Core Strategies, have been closely questioned by Inspectors on the evidence and detail of their policies.

#### SCC response

It is considered that the draft SPD has been prepared in accordance with paragraph 6.1 of PPS12 'Creating strong, safe and prosperous communities through Local Spatial Planning' and provides greater detail on Core Strategy policy CS16 and saved policy H4 from the local Plan Review. The question of whether the content should be contained in a DPD or SPD is complex, as reflected in the different approaches taken by the inspectors examining the Portsmouth Core Strategy and the Manchester Core Strategy. The inspector for the Portsmouth Core Strategy (which is now adopted) supports our approach whereas the inspector for the Manchester Core Strategy recommended that, in that case, the detail should be contained in a DPD. It is our view that the SPD provides guidance in the application of the detailed HMO policies provided in the Core Strategy and Local Plan Review and that this is a defensible and legitimate approach.

An advantage of producing a SPD rather than a statutory development plan document is that an SPD can be more easily reviewed and amended if it is found that circumstances have changed and that the guidance needs to be revised.

Although the Core Strategy was adopted before the revision to the Use Classes Order policy CS 16 - Housing Mix and Type does include reference to HMOs.

- ii) The 'policy' is not compliant with the Human Rights Act or the Equality Act

#### SCC response

With regard to the Human Rights Act in so far as any planning policy may amount to a fetter or restriction on the private use or development of land, it is considered that the proposed PSD is necessary and proportionate having regard to the need to control development for the benefit and needs of the wider community.

Response below deals with the Equality Act

- iii) Has an Equalities Impact Assessment had been prepared, particularly for the Article 4 direction?

SCC response

An Equalities Impact Assessment was prepared for the Core Strategy. This SPD provides further guidance on Policy CS 16 of the Core Strategy. The Equalities Impact Assessment found that policy CS 16 had a positive impact on disability, race, gender, faith and age.

An Integrated Impact Assessment has been completed for the SPD (and the associated Article 4 Direction). This shows that the guidance may lead to a reduction in the supply of HMOs in some parts of the city thus affecting the distribution of housing opportunities for young people. However, the University of Southampton is looking for an extra 1000 residential spaces in the city which is likely to reduce the demand for HMOs for students

**2. Definition of an HMO**

Is a property with lodgers counted as an HMO?

SCC response

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.” This text has been added to the SPD.

**3. Background Evidence**

- i) No quantification has been made of the demand for HMOs in the future.

SCC response

It is difficult to put a precise figure on the demand for HMOs in the future but it is accepted within the SPD that, overall, the demand is likely to increase to some degree. The Council’s Housing Needs team have indicated that the changes to the Local Housing Allowance for those under 35 years old are likely to affect over 400 people. However, demand from professional people and from students for HMOs is unknown. It is for this reason that a threshold figure of 20% has been proposed for all the city’s wards (outside Bassett, Portswood and Swaythling) as this will enable growth in HMOs. Currently HMOs comprise 9.3% of the city’s total private tenure housing stock.

- ii) Production of the SPD should be delayed until the council has a better evidence base.

SCC response

The SPD has been produced based on a substantial evidence base including a recent city-wide survey of HMOs.

It is important to adopt the SPD now as it means there is detailed guidance available on how planning applications for HMOs will be determined when the Article 4 direction becomes operative on 23<sup>rd</sup> March 2012.

- iii) HMOs provide a source of accommodation for professional people who cannot afford to buy in the current economic climate. These properties are helping to solve the future housing market.

SCC response

This is recognised in the SPD. A 20% threshold outside the northern wards is intended to meet future demand for HMOs. A more restrictive threshold has not been proposed for the city centre as this area is popular for single, working people who want to be close to employment and facilities. A 20% threshold here will allow for some growth in HMOs

- iv) Consider that there are more HMOs than figures given in SPD.

SCC response

Numbers of HMOs are likely to have gone up since 2008. This provides more evidence for the need for some control over HMOs.

- v) Query demand for future student accommodation. Also say universities should provide more accommodation.

SCC response

Acknowledge that the future demand for student accommodation is uncertain at the moment. University of Southampton is looking to provide an extra 1000 student bedspaces.

- vi) The SPD will constrain future HMOs. HMOs play a vital role in the community and the economy. Say restraining supply will lead to higher rents. Also have an impact on private house prices. Prices will fall for those in areas of HMO concentration if cannot change to HMOs.

SCC response

The purpose of the document is to prevent new concentrations of HMOs and encourage a more even spread across the city. The council's intention is to build stronger communities across the city. A 20% threshold in the parts of the city outside the northern wards will allow for a reasonable amount of growth above the city's existing stock of HMOs. The new planning regime is not retrospective and rental levels for the large HMO market in the city will continue to be determined largely by levels of demand for the existing stock.

**4. The Approach**

- i) Spreading HMOs across the city is impractical. There will be an adverse impact on student communities as they will have further to travel, could lead to more car ownership plus issue of safety.

SCC response

Students naturally prefer to live close to the universities but both universities are highly accessible by sustainable transport modes. Students in any case only account for part of the demand for HMOs in the city and there remains a very large stock of HMOs which are very close to the two Universities. The aim of the guidance in the SPD is to prevent new concentrations of HMOs and to assist in achieving a mix of households within the city's neighbourhoods meeting different housing needs. Other council policies and university policies promote sustainable travel for students and discourage car use.

- ii) Council should be saying which areas & properties should be used for HMOs.

SCC response

The SPD is proposing a 20% threshold for the rest of the city outside the northern wards, where mostly there are lower proportions of HMOs. It would not be appropriate for the Council to seek to micro-manage the HMO market, but we do need to take action to prevent the further development of excessive concentrations in particular locations. The purpose of the document is to prevent new concentrations of HMOs and encourage a more even spread across the city.

Many types of property in a wide range of locations within the city are capable of conversion to HMO use. The guidance sets down parking standards and other advice affecting amenity which will impact on the type of properties that are capable of successful conversion.

The purpose of the document is to prevent new concentrations of HMOs and encourage a more even spread across the city.

**5. Thresholds**

- i) Queries about the thresholds proposed.
- What is the evidence for the northern wards being 10% - different from the rest of the city? No clear justification for this.
  - Bevois, Bargate & Freemantle will suffer at the expense of the northern wards.
  - 10% in northern wards will harm Shirley & Woolston.
  - 20% threshold in parts of the city is condemning areas to suffer disturbance.
  - Bevois should have 10% threshold.
  - Some want 10% across the city - others want 12 - 15% across the city. Others have suggested 50% threshold.
  - Wards should not be grouped together
  - Consider 10% been agreed as national tipping point.

SCC response

These thresholds are designed to provide a mix of housing types in each area and to reduce to a minimum any further loss of family homes across the city, whilst taking account of the character and amenity of each area. The northern wards (Bassett, Portswood and Swaythling) and the central wards of the city (Bargate, Bevois and Freemantle) are the areas with the highest numbers of HMOs. The lower threshold in the northern wards 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 the further loss of family homes in these areas. The overall impact of additional HMOs is somewhat reduced in the central wards where the range of properties is greater, the density higher and the population is more transient. The threshold of 20% in these areas (and elsewhere across the city) will serve to provide a mix of housing types in each area.

It is considered that a threshold lower than 20% should not be applied across the city as this will not allow for any further growth in HMOs in the city.

Currently some 9.3% of the properties in the city are HMOs. There will continue to be a demand for further HMOs due to the recent changes in Local Housing Allowance affecting single under 35s and the impact of the current economic climate affecting the cost of property, particularly for young single people although it is acknowledged that future demand for student accommodation is uncertain. Conversely it is considered that a threshold as high as 50% is not likely to prevent more properties being converted into HMOs in the existing areas and streets of the city where there are already high concentrations of HMOs. Taking into account the need for other household types, such as families, it is considered that this threshold would not sustain a balanced and mixed community.

A 20% threshold for all areas outside the northern wards will disperse HMOs around the city and prevent new concentrations from establishing. Reducing the concentration of HMOs will reduce the opportunity for disturbance and help to sustain mixed and balanced communities.

Individual wards have not been used as the area to set the threshold level because there is little correlation between ward boundaries and the distribution of impacts arising from potential new HMOs. Any new HMO will primarily affect the immediate locality around the property, so it is appropriate that the threshold is set at this level.

The HMO Lobby group figure of 10% is a figure proposed by a lobby group. Other respondents to the consultation have queried the statistical validity of their analysis. Some local planning authorities have gone with the 10% figure. In the case of Portsmouth City Council and Manchester City Council their Core Strategy inspectors questioned the use of the 10% figure in their policies. In Southampton the council has decided to not just go with the 10% figure but fit the threshold to the circumstances pertaining in the city.

- ii) A reduction of HMOs in the northern wards will mean that rents will go up. Students will not be able to afford them and this will drive them out of the city. This will also affect other types of occupants of HMOs.

#### SCC response

The intention of the SPD is to disperse the impact of HMOs across the city. Therefore, the supply of HMOs in the rest of the city, outside the northern wards should, over time, increase. Rents will primarily be determined by levels of demand for the existing very large stock of HMOs, which is likely to continue to grow citywide.

## **6. Radius**

- i) The thresholds will never be met when considering number of properties within the radius due to rounding up or down.

#### SCC response

Due to the size of the radius, the proportion of HMOs allowed will be calculated from small groups of residential properties with a minimum of 10 properties. The final proportion of HMOs allowed under the given threshold must be calculated as a whole number of dwellings to avoid any doubt on the number allowed. This figure is rounded up above 0.5, and rounded down below 0.5.

## 7. Implementing threshold

- i) It is an unreasonable demand on applicants to identify HMOs which do not fall foul of the rules.  
Queries whether applicants will provide accurate data.  
Query about availability of information to all parties.  
Suggestions for other sources of information that could be provided.

### SCC response

It is proposed to amend some of the information included in paragraph 6.4.3 of the SPD to reflect whether the information is publicly available.

- ii) Council must create & maintain HMO database.  
Planning needs a map of all HMOs.

### SCC response

It is not practical or feasible for the Council to set up and maintain a comprehensive database of all HMOs in the city, given the available resources. The Council will continue to maintain the best records possible from available information sources.

- iii) 2-bed flats should be included as can be HMOs.  
Whole blocks of flats should be counted.

### SCC response

1 and 2 bed flats are excluded as it is considered that they are unlikely to be used as HMOs. Including 1 and 2 bed flats would considerably increase the scope for the amount of HMOs in some mixed use roads.

- iv) Student halls of residence should be counted in equation.

### SCC response

With regard to the inclusion of halls of residence only residential properties will be counted in the area surrounding the application site. Planning guidance in Circular 08/2010 and the Housing Act excludes halls of residence from the buildings which are defined as HMOs. If they were to be counted they would only count as one property.

- v) There should be no sandwiching of family homes.

### SCC response

It is not proposed to specifically state that there will be no sandwiching of dwellings. These applications will be assessed against the guidance and if the number of HMOs is already above the threshold proposed for that area then they will be refused, unless there are exceptional circumstances. If they are below the threshold then they will be assessed against the other guidance in the SPD that relates to amenity, parking and the Council's relevant development management policies and guidance.

- vi) Not clear whether a property with a flexible permission will count as a HMO under the threshold calculation, and this may lead to fixing of the permissions by applicant's controlling the use of their other properties with flexible permissions to meet the threshold limit. Not clear how the

Council will monitor whether it is in C3 or C4 use at the time of the application.

#### SCC response

Residential properties with a flexible permission should be counted as a HMO in the threshold calculation regardless of whether the lawful use has changed between C3 or C4 use. It is recommended that this is made clearer under section 6.4. Under this approach it will not be necessary to monitor the current use of a property with a flexible permission or require applicants register the use once it has flipped. The SCC planning register will identify whether a property has a flexible permission for the purposes of calculating the threshold for future applications. It will be the duty of the applicant to ensure they are complying with the requirements of their flexible permission once the 10 year period has ended. The Council would consider whether it is expedient to take enforcement action against a breach of the flexible permission.

Once a property has been given permission as a C4 HMO it will be established in the street, and will be counted towards threshold in future applications. This approach will avoid properties with flexible permissions being purposefully flipped to fix the outcome of applications through the given threshold.

#### **8. Exception areas**

Concerned that the approach will further degrade conditions for remaining owner occupiers.

Properties take up to a year to sell.

Council should not be giving up on these areas. Council should be regenerating the central wards, purchase properties & renovate them.

There should be an upper limit.

Does not take in account the negative impact on property equity for families who want to move out of areas with high concentrations of HMOs at 40-50%, where families do not want to live anymore.

#### Council response

The Council would like the areas with high concentrations of HMOs to become more mixed communities. However it is recognised that this is a long term aim as there is a demand for HMO properties. As a consequence the SPD includes guidance on how to deal with applications for HMOs in these areas. No upper limit has been proposed for when the threshold ceases to have effect as each application site will be treated on its merits. The exceptional circumstances only apply where the vast majority of properties are already HMOs with 1 or 2 family dwellings remaining and, therefore, the retention of the 1 or 2 family dwellings will not further harm the character of the area. Where there is an exception to the threshold, other material considerations will still apply.

Council's virtual HMO team should help to be more proactive re dealing with complaints in these areas.

It is proposed to amend the text in the box of paragraph 6.6.2 to indicate that the reasonable price will be based on an assessment of the property market in the local area.

## 9. Amenity standards

- i) How they will be enforced.
- ii) Query their inclusion in the SPD as covered by separate legislation. Also onerous to provide the level of detail required.
- iii) Private amenity space needs to be defined.
- iv) Concerned about impact on amenity space, car parking and infrastructure such as sewerage.

### SCC response

The Council needs to take all possible steps to ensure that their standards are applied in practice. The guidance in the SPD will help in applying our current standards to new HMOs and will reduce the potential negative effects on amenity space, car parking and other infrastructure. This guidance should also be read with the standards set out in the Residential Design Guide SPD which is cross referenced in the HMO SPD. It would make the SPD unwieldy to include all the relevant guidance from other SPDs.

- v) Suggested the SASSH standards for student properties should be mentioned in the SPD.

### SCC response

It is proposed to include a reference to the SASSH standards in the SPD.

## 10. Extensions

Extensions should be controlled.  
Intensification should be a material consideration.  
Should not be permitted if the threshold has been breached.

### SCC response

Planning permission may not be required for extensions under householder permitted development rights. If an extension results in more people living in a C4 HMO, providing it is no more than 6 people then the intensification of occupation will not be considered as 3 to 6 persons are permitted to live in such a HMO. However, the physical impact of the extension will be assessed in accordance with the Council's relevant planning policies and guidance. When an extension results in more than 6 persons living in an HMO planning permission must be sought in its own right for a change of use to a large HMO.

An intensification of the number of people living in an existing small or large HMO will not change the overall concentration of HMOs in the local area (as limited by the given threshold limit). Therefore, the threshold limit will not be applied to an extension of an existing HMO as no further increase in the concentration of HMOs will occur, and there will be no adverse impact on the balance and mix of households in the local community. This applies to all HMOs (small and large) as the given threshold limit does not differentiate between large and small HMOs.

## 11. Flipping



The property should remain as family home once they change back from a HMO to prevent the loss of family homes, and planning permission should be sought to change back to a HMO to reassess the impact on the balance and mix of the community.

SCC response

To prevent flipping would provide a strong disincentive to landlords wishing to rent their property to a family or a couple. This is not the Council's intention.

A flexible permission is only granted where the given threshold has not been breached, which shows that concentration of HMOs surrounding the application site, in terms of mix and balance of households, is acceptable. It would be unreasonable for the Council to require an established HMO to remain a family house once it has flipped use from a small HMO or no longer rented as a HMO. The property will still be counted as a HMO against the threshold for future applications and therefore the concentration of HMOs will not adversely affect the balance and mix of households.

**12. Parking**

- i) Standards should be minimum provision rather than maximum provision.

SCC response

The car parking standards accord with the general approach in the adopted Parking Standards SPD which refers to maximum parking standards. Maximum rather than minimum standards provide more flexibility to provide the right amount of parking for a development based on individual circumstances. It would not be reasonable to have a blanket minimum in the light of car ownership levels in HMOs and the range and type of properties, many of which are in highly accessible locations.

- ii) Reference to existence of residents parking zones must be made.

SCC response

Residents parking zones are mentioned in the parking Standards SPD which should be read in conjunction with the parking section of the HMO SPD.

- iii) Concern about loss of front gardens to parking.

SCC response

The SPD acknowledges that the replacement of front gardens with open hard standing and the removal of front and side boundary walls often creates a negative impact on the existing character of the street and will be resisted.

**13. Lawful Use**

The lawful use of ten years for an established HMO is open to argument and SPD should not make a statement about a subject that would be decided on an individual basis by the council solicitors.

SCC response

Some changes need to be made to Section 8 of the SPD to clarify the position.

**14. Other powers**

- i) The council should be using its other powers as well as planning. There are many tools available to be able to enforce standards for HMOs in the city rather than using planning system. Good landlords want bad landlords to get out of the city.

SCC response

The Council has established a virtual HMO team consisting of all services that are involved with regulating HMOs in Southampton, including Planning, Housing, Environmental Health, Waste, Community Safety, Benefits and City Patrol. The team is working to improve the flow of information between teams to ensure a joined-up, cohesive approach to tackling resident and community concerns. This will also help to ensure a more targeted approach, in particular to environmental issues. The initial work programme includes developing a corporate HMO protocol, which will clearly set out legal powers and accountabilities; developing a shared HMO database; and cascading information to officers working in all teams so that they are aware of the support available to robustly tackle issues. It is planned to widen the virtual team to include external agencies, such as the Universities and the Fire and Rescue Service.

- ii) Council should consider licensing of all HMOs as Oxford City Council has just started to do.

SCC response

Current Council policy is that powers contained in the Housing Act 2004 and associated legislation will be used to regulate housing conditions in and the management of HMOs. An additional licensing scheme, as introduced by Oxford City Council, is considered to be unduly bureaucratic.

The Council operates a mandatory licensing scheme for high-risk HMOs (properties of three or more stories containing five or more unrelated people).

- iii) Accreditation schemes for landlords suggested.

SCC response

The Council 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](#)<sup>1</sup>.

- iv) Query the waiting time for a response from the council to complaints about properties.

SCC response

The Environmental Health Housing Team screens and prioritises all service requests about poor housing conditions and visits cases where there is likely

to be an imminent danger on the same day.

For cases where a visit is required to deal with a serious hazard, but the property is not occupied by a vulnerable person, the Council previously wrote to the landlord to set out the issues of concern and allowed up to sixteen weeks for the work to be completed before an officer visited. This approach was reviewed following customer feedback and an officer now visits within twelve weeks of the service request being received. This is considered to achieve a better balance between a landlord being given sufficient time to complete the work and the occupier living in unsatisfactory conditions.

It is easier for the team to take formal legal action if work has not been completed by the time the officer visits, as the landlord has already had a reasonable opportunity to put things right beforehand. In cases where the landlord is considered unlikely to respond and where there are special circumstances, a visit will be arranged more quickly.

#### **15. Monitoring**

The document should include a section on monitoring.

##### SCC response

The guidance can be reviewed if issues are raised that were not addressed in the SPD or circumstances change.

It is proposed to add a section to the SPD to refer to monitoring.

#### **16. General**

i) What is going to be the result of this policy 10 years down the road?

##### SCC response

One of the aims the Council's Core Strategy is to provide a mix of housing types and more sustainable and balanced communities within the city. Preventing new concentrations of HMOs from establishing and encouraging a more even distribution across the city is one of the ways of helping to achieve this aim. This is the intention of the Article 4 direction and the accompanying SPD. The SPD also includes more guidance on living conditions, parking standards and waste management for HMOs as the council is keen to improve the standards of HMOs in the city. It is expected that within 10 years this will be the result of the council's approach to dealing with HMOs. The SPD will be regularly reviewed so that if amendments are needed to reflect changing circumstances then the document can be revised.

ii) Net effect of the SPD will be homelessness as there will be a shortage of properties coming forward.

SCC response

This policy does not prevent the addition of new HMOs to existing stock, though it will have implications for their distribution, so there is no reason to believe that it will lead to homelessness.

- iii) Officers should have talked to planners in Northern Ireland. The HMO Policy has not worked there.

SCC response

Currently unable to check this information.

- iv) Query whether the guidance is really social engineering.

SCC response

Comments noted

- v) Manchester City Council is paying out compensation to landlords as the Article 4 direction has been rescinded.

SCC response

Officers have checked with officers from Manchester City Council's Planning department. Their Article 4 direction came into effect in October 2011. A year's notice was given of when the Article 4 direction would come into effect in order that they do not have to pay out any compensation. This is the procedure that SCC has followed.

- vi) C4 properties are more valuable than C3.

SCC response

Comment noted

- vii) Asked how many planning applications council is expecting. Expect this guidance to put a stop to planning applications for HMOs.

SCC response

It is difficult to estimate but expect there to still be applications for HMOs.

- viii) The Rugg report on private sector rented housing indicated the flexibility of the tenancy should be protected rather than restricted by the type of guidance the council is proposing.

SCC response

The Rugg report was published in October 2008 and since that date there have been a number of significant changes to Government policy for HMOs. The Council's approach is fully in line with current Government policy. In November 2010 the current government removed the need to obtain planning permission for a change of use to C4 but also indicated that councils could introduce A4 directions if they considered there was a problem with high concentrations of HMOs.