

Public Document Pack

Scrutiny Panel A

Thursday, 28th November, 2013
at 6.00 pm

PLEASE NOTE TIME OF MEETING

Conference Room 3 - Civic Centre

This meeting is open to the public

Members

Councillor Burke
Councillor Lloyd
Councillor McEwing
Councillor Mintoff
Councillor Vinson
Councillor Claisse
Councillor L Harris

Contacts

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PUBLIC INFORMATION

Role of Scrutiny Panel A

The Overview and Scrutiny Management Committee have instructed Scrutiny Panel A to undertake an inquiry into maintaining balanced neighbourhoods through planning.

Purpose:

To review how effectively the City Council's Article 4 and HMOs Supplementary Planning Document is working.

To increase understanding of the various Government proposals to relax permitted development rights, including those relating to extensions, office to residential conversions and changing retail use without consent, and to consider if a local response should be developed.

To consider the Council's approach to planning enforcement.

Southampton City Council's Priorities

- **Economic:** Promoting Southampton and attracting investment; raising ambitions and improving outcomes for children and young people.
- **Social:** Improving health and keeping people safe; helping individuals and communities to work together and help themselves.
- **Environmental:** Encouraging new house building and improving existing homes; making the city more attractive and sustainable.
- **One Council:** Developing an engaged, skilled and motivated workforce; implementing better ways of working to manage reduced budgets and increased demand.

Public Representations

At the discretion of the Chair, members of the public may address the meeting about any report on the agenda for the meeting in which they have a relevant interest.

Smoking policy – the Council operates a no-smoking policy in all civic buildings.

Mobile Telephones – please turn off your mobile telephone whilst in the meeting.

Fire Procedure – in the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

Access – access is available for the disabled. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

Dates of Meetings: Municipal Year

2013	2014
28 th November	9 th January
	6 th February
	6 th March
	3 rd April
	8 th May

CONDUCT OF MEETING

TERMS OF REFERENCE

The general role and terms of reference of the Overview and Scrutiny Management Committee, together with those for all Scrutiny Panels, are set out in Part 2 (Article 6) of the Council's Constitution, and their particular roles are set out in Part 4 (Overview and Scrutiny Procedure Rules – paragraph 5) of the Constitution.

BUSINESS TO BE DISCUSSED

Only those items listed on the attached agenda may be considered at this meeting.

RULES OF PROCEDURE

The meeting is governed by the Council Procedure Rules and the Overview and Scrutiny Procedure Rules as set out in Part 4 of the Constitution.

QUORUM

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

DISCLOSURE OF INTEREST

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Personal Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

DISCLOSABLE PERSONAL INTERESTS

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

(i) Any employment, office, trade, profession or vocation carried on for profit or gain.

(ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

(iv) Any beneficial interest in land which is within the area of Southampton.

(v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

(vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

(vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

a) the total nominal value of the securities exceeds £25,000 or one hundredth of

- the total issued share capital of that body, or
- b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

Other Interests

A Member must regard himself or herself as having a, 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

Principles of Decision Making

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

AGENDA

Agendas and papers are now available via the City Council's website

1 ELECTION OF CHAIR AND VICE-CHAIR

To appoint a Chair and Vice-Chair to the Scrutiny Panel for this Municipal Year.

2 APOLOGIES AND CHANGES IN PANEL MEMBERSHIP (IF ANY)

To note any changes in membership of the Panel made in accordance with Council Procedure Rule 4.3.

3 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

NOTE: Members are reminded that, where applicable, they must complete the appropriate form recording details of any such interests and hand it to the Democratic Support Officer.

4 DECLARATIONS OF SCRUTINY INTEREST

Members are invited to declare any prior participation in any decision taken by a Committee, Sub-Committee, or Panel of the Council on the agenda and being scrutinised at this meeting.

5 DECLARATION OF PARTY POLITICAL WHIP

Members are invited to declare the application of any party political whip on any matter on the agenda and being scrutinised at this meeting.

6 STATEMENT FROM THE CHAIR

7 REVIEW TERMS OF REFERENCE

Report of the Assistant Chief Executive detailing draft terms of reference to be approved, for the scrutiny review examining the contribution planning policy can make to maintaining balanced neighbourhoods and the quality of life for their residents, attached.

8 INTRODUCTION TO THE REVIEW

Report of the Assistant Chief Executive providing an introduction to the review for the Panel to consider and use the information provided as evidence, attached.

WEDNESDAY, 20 NOVEMBER 2013

HEAD OF LEGAL AND DEMOCRATIC SERVICES

Agenda Item 7

DECISION-MAKER:	SCRUTINY PANEL A		
SUBJECT:	REVIEW TERMS OF REFERENCE		
DATE OF DECISION:	28 th NOVEMBER 2013		
REPORT OF:	ASSISTANT CHIEF EXECUTIVE		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Mark Pirnie	Tel: 023 8083 3886
	E-mail:	mark.pirnie@southampton.gov.uk	
Director	Name:	Dawn Baxendale	Tel: 023 8091 7713
	E-mail:	Dawn.baxendale@southampton.gov.uk	
STATEMENT OF CONFIDENTIALITY			
None			

BRIEF SUMMARY

On 12th September 2013 the Overview and Scrutiny Management Committee (OSMC) agreed the outline terms of reference for a scrutiny review examining the contribution planning policy can make to maintaining balanced neighbourhoods and the quality of life for their residents.

The OSMC asked Scrutiny Panel A to conduct the review and the outline terms of reference were circulated to the Panel for comment in advance of this meeting. Attached at Appendix 1 are the draft terms of reference reflecting the input from Panel Members. The Panel are recommended to approve the draft terms of reference, including the inquiry plan to enable the review to commence.

RECOMMENDATION:

- (i) That the Panel discuss, amend and approve a final version of the attached draft terms of reference allowing for sufficient flexibility and the availability of suitable witnesses.

REASON FOR REPORT RECOMMENDATIONS

1. To enable the Scrutiny Panel to commence the evidence gathering process.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

2. There are numerous options that could be included within the attached draft terms of reference. The version attached reflects the feedback from both the OSMC and members of Scrutiny Panel A.

DETAIL (Including consultation carried out)

3. The OSMC agreed the outline terms of reference for a scrutiny review examining the contribution planning policy can make to maintaining balanced neighbourhoods and the quality of life for their residents on 12th September 2013.
4. The outline terms of reference were supplemented to include the potential consultees and the timescales for the review. This document was circulated

to Scrutiny Panel A for comment. Feedback from the Panel was incorporated into the draft terms of reference that is attached at Appendix 1.

5. Panel members are invited to discuss, amend and approve the draft terms of reference. The approved plan will then provide the structure to the subsequent meetings of this review allowing for flexibility and the availability of suitable witnesses.
6. The draft outline project plan identifies that the review will be conducted over 6 meetings of the Scrutiny Panel. It is envisaged that each of the inquiry meetings will last for approximately two hours.

RESOURCE IMPLICATIONS

Capital/Revenue

7. Resources to support the scrutiny review will come from existing budgets.

Property/Other

8. N/A.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

9. The duty to undertake overview and scrutiny is set out in Part 1A Section 9 of the Local Government Act 2000.

Other Legal Implications:

10. None

POLICY FRAMEWORK IMPLICATIONS

11. The outcome of the scrutiny review may contribute to the following priorities within the Council Plan:
 - Making the city more attractive and sustainable
 - Encouraging new house building and improving existing homes
 - Helping individuals and communities to work together and to help themselves.

KEY DECISION? No

WARDS/COMMUNITIES AFFECTED:	None directly as a result of this report
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SUPPORTING DOCUMENTATION

Appendices

1.	Draft Terms of Reference
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Documents In Members' Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	Dependent upon forward plan item
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Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s)

Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None	
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1. Scrutiny Panel:

Scrutiny Panel A

2. Membership:

- a. Councillor Derek Burke
- b. Councillor Matthew Claisse
- c. Councillor Les Harris
- d. Councillor Mary Lloyd
- e. Councillor Catherine McEwing
- f. Councillor Sharon Mintoff
- g. Councillor Adrian Vinson

3. Purpose:

To examine the contribution planning can make to maintaining balanced neighbourhoods and the quality of life for their residents.

4. Background:

- To address concerns related to Houses in Multiple Occupation (HMOs), the Council, in 2011, introduced an Article 4 direction to require planning consent to create new HMOs and has produced a Supplementary Planning Document to accompany this change. This policy has been in place for over 18 months and now is an opportunity to reflect on its effectiveness.
- In addition to HMOs there are wider issues relating to planning enforcement. The Council has recently undertaken an internal audit of this area and this review provides members with an opportunity to identify where improvements can be made in addition to the action plan developed following the audit.
- In May 2013 the Government relaxed certain Permitted Development Rights. These include the following;
 - increasing the size limits for single storey domestic extensions and conservatories;
 - the change of use of office to residential use.

The Government has also recently consulted on another proposal, although there has been no decision as to whether this change will happen:

- the change of retail to residential use

Members have an opportunity to explore the proposals, their potential impact on Southampton and how, if at all, the Council want to respond to the proposals.

All of the above must be considered in light of the budget pressures the Council is facing.

5. Objectives:

- a. To review how effectively the City Council's Article 4 and HMOs Supplementary Planning Document is working.
- b. To increase understanding of the various Government proposals to relax permitted development rights, including those relating to extensions, office to residential conversions and changing retail use without consent, and to consider if a local response should be developed.
- c. To consider the Council's approach to planning enforcement.

6. Methodology:

- a. Outline of current national policy and local activity including:
 - Key findings from recent internal audit of Planning Enforcement
 - Review recent decisions of the Planning Inspectorate
 - Government Policy
- b. Engage members, partners and community representatives
- c. Identify and consider best practice and options for future delivery:
 - National best practise examples
 - Local success stories

7. Proposed Timetable:

Six meetings November 2013 – May 2014

8. Inquiry Plan (subject to the availability of speakers)

Meeting 1: 28th November 2013

- Introduction, Context and Background

To be invited:

Cllr Letts

Senior officers from Planning

Meeting 2: 9th January 2014

- To review the effectiveness of the Councils Article 4 and HMO Supplementary Planning Document

To be invited:

Residents Association Representative

Landlord Representative

Universities / Student Unions

Senior officers from Planning and HMO licensing officer

Meeting 3: 6th February 2014

- Consider the Councils approach to planning enforcement

To be invited:

Cllr Blatchford, Chair of the Planning Committee

Senior officers from Planning

Meeting 4: 6th March 2014

- To increase understanding of the various proposals to relax certain permitted development rights

To be invited:

Senior officers from Planning

Meeting 5: 3rd April 2014

- To summarise the inquiry's evidence and highlight emerging recommendations

To be invited:

Senior officers from Planning

Meeting 6: 8th May 2014

- To approve the final report of the inquiry and recommendations

Agenda Item 8

DECISION-MAKER:	SCRUTINY PANEL A		
SUBJECT:	INTRODUCTION TO THE REVIEW		
DATE OF DECISION:	28 th NOVEMBER 2013		
REPORT OF:	ASSISTANT CHIEF EXECUTIVE		
<u>CONTACT DETAILS</u>			
AUTHOR:	Name:	Mark Pirnie	Tel: 023 8083 3886
	E-mail:	mark.pirnie@southampton.gov.uk	
Director	Name:	Dawn Baxendale	Tel: 023 8091 7713
	E-mail:	Dawn.baxendale@southampton.gov.uk	
STATEMENT OF CONFIDENTIALITY			
None			

BRIEF SUMMARY

For the opening meeting the Leader has been invited to introduce the review and outline the Executives position on the contribution planning can make to maintaining balanced neighbourhoods and the quality of life for their residents. This will be followed by an overview, to be delivered by Southampton City Council's Planning and Development Manager, of the 3 main issues the review will focus on.

RECOMMENDATION:

- (i) The Panel is recommended to consider the comments made by the Leader and the Planning and Development Manager and use the information provided as evidence in the review.

REASON FOR REPORT RECOMMENDATIONS

1. To enable the Panel to compile a file of evidence in order to formulate findings and recommendations at the end of the review process.

ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

2. None.

DETAIL (Including consultation carried out)

3. Councillor Letts, Leader and Cabinet Member with responsibility for Planning Policy, will introduce the review by outlining the Executive's position on the contribution planning can make to maintaining balanced neighbourhoods and the quality of life for their residents.
4. Dr Chris Lyons, Southampton City Council's Planning and Development Manager, will provide the Scrutiny Panel with an overview of the 3 areas the review will focus on. Background information on the key issues is attached as Appendix 1.
5. The guests invited to present information at the meeting will take questions from the Panel relating to the evidence provided. Copies of any presentations will be made available to the Panel.

RESOURCE IMPLICATIONS

Capital/Revenue

6. Resources to support the scrutiny review will come from existing budgets.

Property/Other

7. N/A.

LEGAL IMPLICATIONS

Statutory power to undertake proposals in the report:

8. The duty to undertake overview and scrutiny is set out in Part 1A Section 9 of the Local Government Act 2000.

Other Legal Implications:

9. None

POLICY FRAMEWORK IMPLICATIONS

10. None

KEY DECISION? No

WARDS/COMMUNITIES AFFECTED:	None directly as a result of this report
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SUPPORTING DOCUMENTATION

Appendices

1.	Background information
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Documents In Members' Rooms

1.	None
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Equality Impact Assessment

Do the implications/subject of the report require an Equality Impact Assessment (EIA) to be carried out.	Dependent upon forward plan item
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Other Background Documents

Equality Impact Assessment and Other Background documents available for inspection at:

Title of Background Paper(s) Relevant Paragraph of the Access to Information Procedure Rules / Schedule 12A allowing document to be Exempt/Confidential (if applicable)

1.	None	
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Background to the Review

Examining the contribution planning policy can make to maintaining balanced neighbourhoods and the quality of life for their residents

The draft terms of reference are:

- a. To review how effectively the City Council's Article 4 and HMOs Supplementary Planning Document is working.
- b. To increase understanding of the various Government proposals to relax permitted development rights, including those relating to extensions, office to residential conversions and changing retail use without consent, and to consider if a local response should be developed.
- c. To consider the Council's approach to planning enforcement.

Background on (a) - To review how effectively the City Council's Article 4 and HMOs Supplementary Planning Document is working

The Houses in Multiple Occupation Supplementary Planning Document (SPD), attached as Annexe 1, was approved in March 2012 and sets out how the Council will determine planning applications. The SPD was intended to guide the interpretation of the policy and to ensure that HMOs were spread across the city with no area (within a 40m radius) having more than either 20% or 10% of properties as HMOs so communities were balanced (defined as the "tipping point").

It has been over 18 months since the council adopted the SPD. A number of issues have arisen within this time period, particularly, from the Planning Department's perspective, relating to the Planning & Rights of Way Panel refusing planning applications that meet the requirements of the SPD on the grounds of being out of character with the area and the Planning Inspectors supporting subsequently that approach in several appeal cases.

It is not suitable to continue with the current approach of officers supporting applications that appear to meet the requirements of the SPD, only to have them refused at Panel. Landlords are also concerned that the SPD is not being followed as they want certainty when they are considering whether to buy a property or not.

The Scrutiny Panel may therefore wish to consider:

- The need to improve clarity about the SPD and whether it needs to be amended to better meet the aims and aspirations of the Council.

Background on (b) - To increase understanding of the various Government proposals to relax permitted development rights

In May 2013 the Government relaxed certain Permitted Development Rights. The two main changes are:

- Increasing the size limits for single storey domestic extensions and conservatories;
- The change of use of office to residential use.

Single storey domestic extensions

It is usually permitted development as long as the extension does not extend beyond the rear wall of the original house by more than 3m if an attached house or by 4m if a detached house. This was increased to 6m and 8m respectively by these changes (there are lots of other caveats that must also be met). This runs from 30th May 2013 and 30th May 2016. The process is (this is a shortened version):

1. A homeowner wishing to build a larger single-storey rear extension must notify the local planning authority and provide:
 - a. A written description of the proposal which includes the length that the extension extends beyond the rear wall of the original house, the height at the eaves and the height at the highest point of the extension;
 - b. A plan of the site, showing the proposed development
 - c. The addresses of any adjoining properties, including at the rear
 - d. A contact address for the developer and an email address if the developer is happy to receive correspondence by email.

There is no fee in connection with this process.

2. The local authority may ask for further information if it needs it to make a decision about the impact of the development on the amenity of adjoining properties.
3. The local authority will serve a notice on adjoining owners or occupiers, i.e. those who share a boundary, including to the rear. This will give the address of the proposed development and describe it. It will also set out:
 - a. When the application was received, and when the 42-day determination period ends
 - b. How long neighbours have to make objections (which must be a minimum of 21 days), and the date by which these must be received.

A copy of this notice must also be sent to the developer.

4. If any adjoining neighbour raises an objection within the 21-day period, the local authority will take this into account and make a decision about whether

the impact on the amenity of all adjoining properties is acceptable. No other issues will be considered.

5. The development can go ahead if the local authority notifies the developer in writing either:

- a. That, as no objections were received from adjoining neighbours it has not been necessary to consider the impact on amenity, or
- b. That following consideration, it has decided that the effect on the amenity of adjoining properties is acceptable.

6. If the local authority does not notify the developer of its decision within the 42-day determination period, the development may go ahead.

7. If approval is refused, the developer may appeal.

8. The extension must be built in accordance with the details approved by the local authority (or, if no objections were raised or the local authority has not notified the developer of its decision, the details submitted), unless the local authority agrees any changes in writing.

9. The development must accord with all other relevant limitations and conditions which apply to other rear extensions allowed under permitted development. These are set out in Class A, and include for example, the requirement that the extension (apart from a conservatory) must be constructed using materials of a similar appearance to those used in the construction of the rest of the house.

10. To benefit from these permitted development rights, the extension must be completed on or before 30 May 2016. The developer must notify the local authority in writing of the date of completion.

Change of use from office to residential

Premises in B1(a) office use can change to C3 residential use, subject to prior approval covering flooding, highways and transport issues and contamination. This runs from 30th May 2013 and 30th May 2016 and prior approval fees for change of use is set at £80.

The prior approval process is (this is a shortened version):

Before beginning the development, the developer shall apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to-

- (a) Transport and highways impacts of the development;
- (b) Contamination risks on the site; and
- (c) Flooding risks on the site,

The application shall be accompanied by—

- (a) A written description of the proposed development;
- (b) A plan indicating the site and showing the proposed development;
- (c) The developer's contact address; and
- (d) The developer's email address if the developer is content to receive communications electronically; together with any fee required to be paid.

The local planning authority shall notify the consultees specifying the date by which they must respond (being not less than 21 days from the date the notice is given).

The local planning authority shall give notice of the proposed development—

(a) By site display in at least one place on or near the land to which the application relates for not less than 21 days of a notice which—

- (i) Describes the proposed development;
- (ii) Provides the address of the proposed development;
- (iii) Specifies the date by which representations are to be received by the local planning authority; or

(b) by serving a notice in that form on any adjoining owner or occupier.

The local planning authority may require the developer to submit such information regarding the impacts and risks as the case may be, as the local planning authority may reasonably require in order to determine the application, which may include—

- (a) Assessments of impacts or risks;
- (b) Statements setting out how impacts or risks are to be mitigated.

The local planning authority shall, when determining an application—

(a) Take into account any representations made to them as a result of any consultation under paragraphs (3) or (4) and any notice given under paragraph (6);

(b) Have regard to the National Planning Policy Framework issued by the Department for Communities and Local Government in March 2012 as if the application were a planning application; and

(c) In relation to the contamination risks on the site—

- (i) Determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(a), and in doing so have regard to the Contaminated Land Statutory Guidance issued by Secretary of State for the Environment, Food and Rural Affairs in April 2012, and
- (ii) If they determine that the site will be contaminated land, refuse to give prior approval.

The development shall not be begun before the occurrence of one of the following—

- (a) The receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required;
- (b) The receipt by the applicant from the local planning authority of a written notice giving their prior approval; or
- (c) The expiry of 56 days following the date on which the application was received by the local planning authority without the authority notifying the applicant as to whether prior approval is given or refused.

The development shall be carried out—

- (a) Where prior approval is required, in accordance with the details approved by the local planning authority;
- (b) Where prior approval is not required, or where paragraph (9)(c) applies, in accordance with the details provided in the application referred to in paragraph (1), unless the local planning authority and the developer agree otherwise in writing.

The only way to remove these permitted development rights would be to serve an Article 4 direction. A years notice needs to be given of this to avoid any risk of compensation and the Council would have to clearly set out the harm that is resulting. After that, planning permission would be required but there would not be a fee for any such application.

Background on (c) - To consider the Council's approach to planning enforcement

In April 2013 the City Council's Internal Audit Service conducted a review of Development Management – Enforcement. This report is attached as Annexe 2 and it provides a background to some of the issues regarding planning enforcement.

Dr Chris Lyons
Planning & Development Manager
Planning, Transport & Sustainability Division
Southampton City Council

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Southampton Local Development Framework

Houses in Multiple Occupation Supplementary Planning Document

Adopted

March 2012

Planning Policy team
Planning and Sustainability
Southampton City Council
Civic Centre
Southampton SO14 7LY
city.plan@southampton.gov.uk



Contents

1	Introduction	3
2	Purpose of the SPD	3
3	Definition of a HMO	4
	Class C4 HMO (small/medium)	4
	Sui Generis HMO (large)	6
4	Policy Background	6
5	Background and evidence base	7
5.2	Meeting the city’s housing needs	7
	Housing supply	7
	Housing demand	8
5.3	The distribution of HMOs	9
	Table 1 Distribution of HMOs	10
5.4	Impact of high concentrations of HMOs	10
5.5	Maintaining a balanced community	11
6	The approach	13
6.2	Defining the tipping point – threshold	13
6.3	Measuring the area of impact – radius	14
6.4	Implementing the threshold	15
6.5	Threshold guidance	17
	Worked example 1: 5 Wilton Avenue – 20% threshold (Bargate)	18
	Worked example 2: 16 Bassett Heath Avenue – 10% threshold (Bassett)	18
	Worked example 3: 14 Westwood Road – 20% threshold (Bevois) and 10 nearest residential properties)	19
	Map 1 Threshold limits for Southampton wards	19
6.6	Exceptional circumstances	20
6.7	Large HMOs (more than 6 occupiers)	20
6.8	Flipping use between a dwellinghouse and an HMO (C3 and C4)	21
6.9	Standard of living conditions for future tenants	21
6.10	Waste management	24
6.11	Extensions to existing HMOs	25
7	Parking Standards	25
	Table 2 Parking Standards	26
8	Regularising established HMOs - applying for a Certificate of Lawful Use	27
9	Pre-application	27
10	Monitoring	27
	Bibliography	28
	Glossary	30
	Appendix 1 Council’s ‘Approved Standards for HMOs’	31

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 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 23rd 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 Representation Statement 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/uk/si/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 Housing Mix and Type

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 houses in multiple occupation 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.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 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 a 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 curtilages lie 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 demonstrate this process. To be clear which residential properties are identified, all sub-divided properties including flatted blocks within the 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 to check 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 a 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 comprise 3 or more storeys and are 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/uksi/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/uksi/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).**

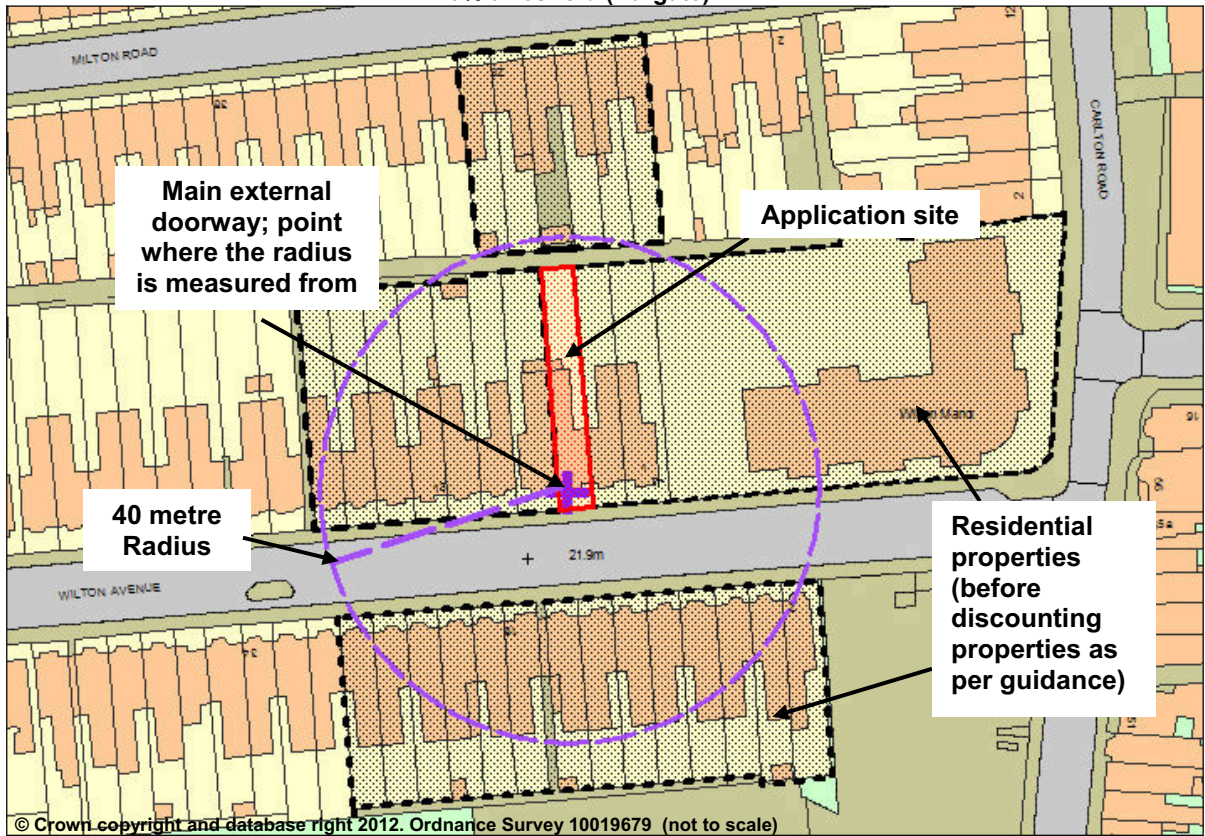
When the threshold has been breached already, planning permission will only be granted in exceptional circumstances (see section 6.6).

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.

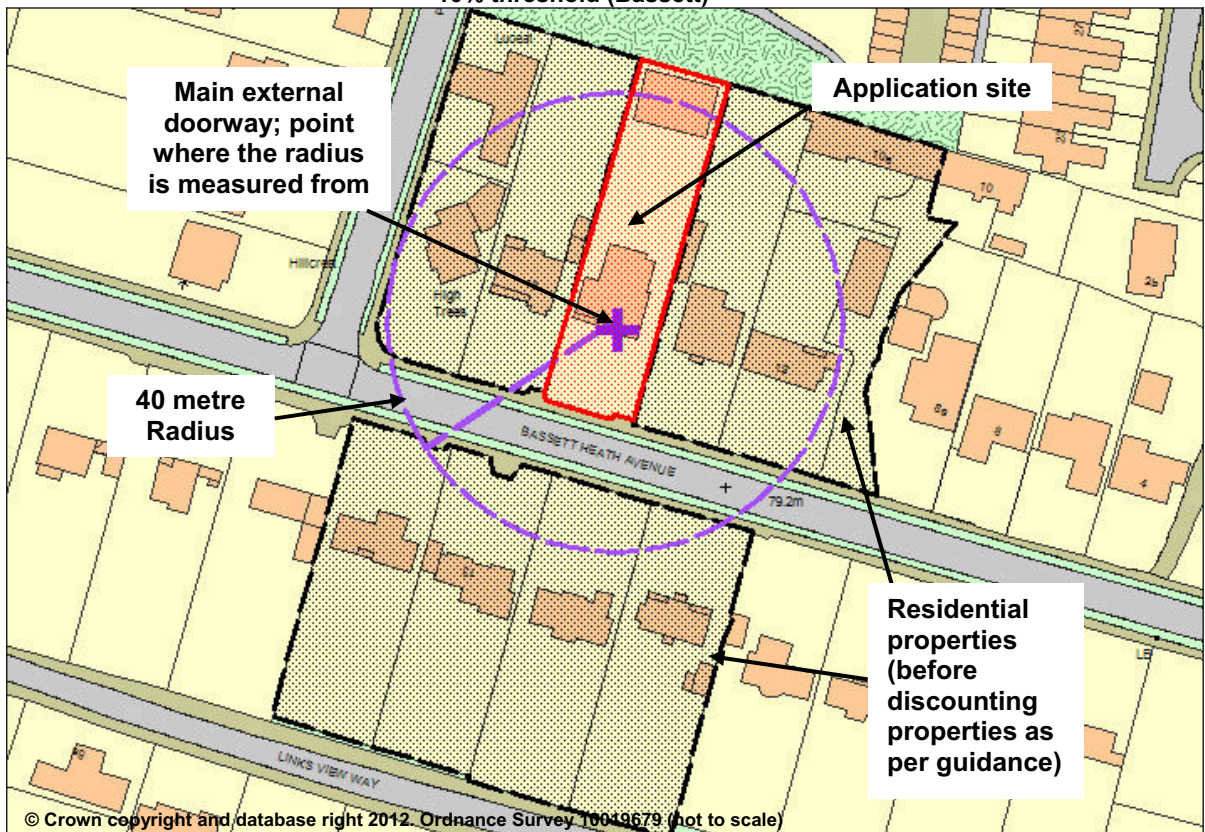
* Paragraph 6.4.2 sets out the 'residential properties' identified for the purposes of calculating the percentage concentration of HMOs.

** 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.

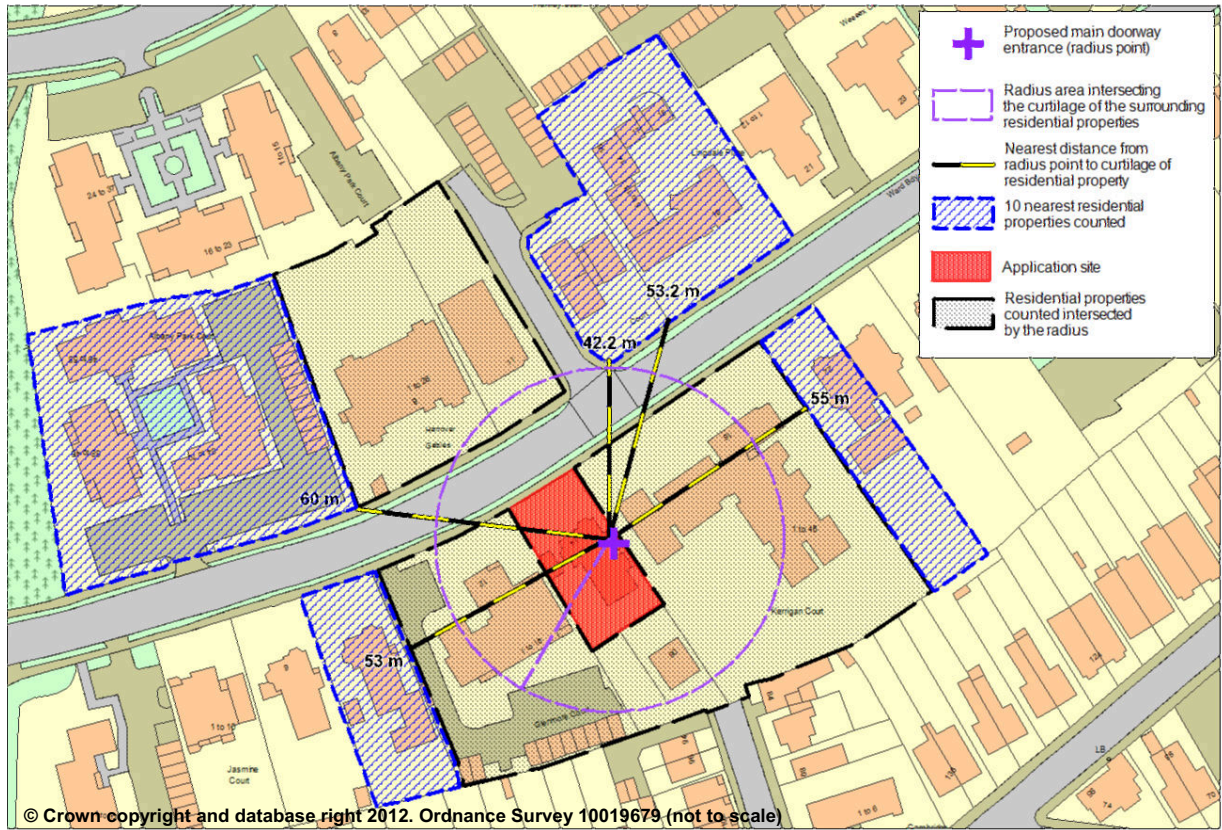
**Worked example 1: 5 Wilton Avenue
20% threshold (Bargate)**



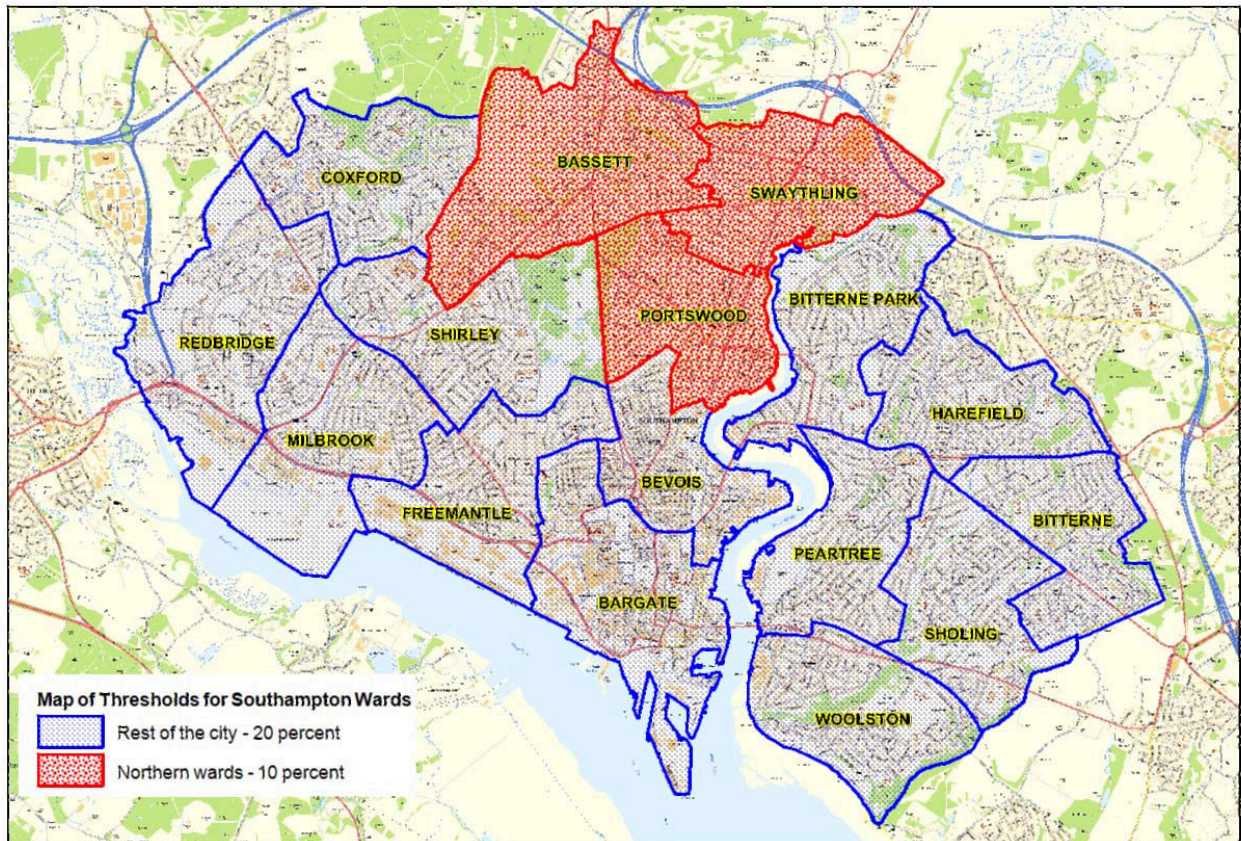
**Worked example 2: 16 Bassett Heath Avenue
10% threshold (Bassett)**



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 set standards for multiple occupation accommodation, which relate to room and space standards, range of facilities provided, fire escape provision, security and health and 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 Environmental Health 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 Environmental Health 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 as approved 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. Bins should not be stored visible from a public highway or in full public view. 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.

6.10.5 The planning application will be assessed in accordance with the guidance set out in the Residential Design Guide, Section 9 - 'Waste management'. If further advice is required at pre-application stage see section 9.

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. These should be 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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SCC, Statement of Community Involvement - www.southampton.gov.uk/s-environment/policy/developmentframework/communityinvolvement/

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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 came 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) was 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.

Appendix 1

**GUIDANCE ON STANDARDS
FOR HOUSES IN
MULTIPLE OCCUPATION**

SOUTHAMPTON CITY COUNCIL

JUNE 2010

SOUTHAMPTON CITY COUNCIL

GUIDANCE ON STANDARDS FOR HOUSES IN MULTIPLE OCCUPATION (HMOS)

Introduction

These standards assist landlords and developers to design, improve and maintain HMOs to a reasonable standard. These standards cover both licensed and non-licensable HMOs.

The standards may be revised from time to time. To ensure that these standards are current, please check with the City Council website on www.southampton.gov.uk/living/housing. New editions of the standards will be re-dated.

Further information about standards for privately rented houses is available on the City Council website including mandatory licensing and the Housing Health and Safety Rating System (HHSRS).

Enquiries about HMOs can be made to Private Housing at Southbrook Rise, 4-8 Millbrook Road East, Southampton. Telephone: 023 8083 3006 or e-mail: private.housing@southampton.gov.uk.

There is considerable diversity in the way that HMOs are occupied and in the health and safety risks that may be present. This advice therefore suggests standards that are appropriate for a wide range of the most common types of HMO.

The advisory standards are flexible and can be adapted to suit circumstances. The exception is in regard to licensed HMOs where national minimum HMO standards must be complied with and in particular the level of bathroom, WC and wash hand basin provision.

As part of the HMO licensing process, the council can discuss with landlords any variations from the standards that may be appropriate for a particular HMO.

WHAT IS A HOUSE IN MULTIPLE OCCUPATION?

The Housing Act 2004 redefines a HMO as a building or part of a building (i.e. flat) which:

- Is occupied by persons not forming a single household and;
- Two or more households occupy and share one or more basic amenities (or lack such amenities);
- Is occupied by more than one household and is a converted building not entirely comprising of self-contained flats;
- Comprises entirely of self-contained flats and the conversion does not comply with the Building Regulations 1991 and less than 2/3 of the flats are owner occupied;
- The HMO is occupied as the only or main residence;

- Rents are payable or other consideration is provided in respect of at least 1 of those occupying the HMO.

ARE ANY BUILDINGS EXEMPT?

Yes – the following are exempt from the HMO definition:

- Building occupied by only two people who do not form a single household;
- Buildings managed by educational establishments, Local Housing Authorities, Registered Social Landlords, Police, Fire, Health Authority or regulated by other legislation such as residential care homes etc;
- Buildings occupied by religious communities;
- Buildings predominantly owner occupied, including residential landlords where the owner occupier (and family members) occupies the building (or flat) with no more than 2 other persons;
- Buildings converted into self-contained flats, where the conversion meets 1991 Building Regulations.

WHAT IS A SINGLE HOUSEHOLD?

A single household includes members of the same family either by blood, marriage or other recognised means such as adoption or fostering. As an example, four friends sharing a student dwelling will be classed as four individual households and therefore a HMO.

EXPLANATION OF CATEGORIES OF HMOs

The number of amenities and the health and safety standards that are appropriate for an HMO are related to the differing needs of different types of occupiers. These standards take this into account and suggest different standards for different categories of HMOs as described below:

Category A HMOs

These are HMOs comprising parts that are rented as individual lettings with exclusive use of certain rooms. Occupiers may share washing, WC and kitchen facilities, but do not usually have a communal living room. The occupiers of this type of HMO tend to live completely independently of each other and have individual tenancy agreements.

Individuals or households may have a letting agreement that specifies the part(s) of the accommodation that they may occupy.

Typical examples are:

1. Single room bedsits – may have exclusive use of, or may share, personal washing, WC and kitchen facilities
2. Flatlets – multi-room lettings sharing some personal washing, WC and kitchen facilities.

Category B HMOs

These are HMOs that are rented to a group of people, commonly students or young professional adults, who may be on a group/joint contract. Occupiers share personal washing, WC and kitchen/dining facilities and usually have a communal living room. The occupiers of this type of HMO tend not to live completely independently of each other and may operate communally.

Hostels

These are HMOs that are generally referred to as hostels, guest houses, or bed & breakfast accommodation which provide accommodation for people with no other permanent place of residence. The accommodation is often on a temporary basis.

The category includes hostel and bed and breakfast establishments used by local authorities for housing homeless people, or similar establishments which provide accommodation for single people whose only financial support is state benefit and who would otherwise be homeless.

General notes to be read in conjunction with the HMO standards provided on the next pages

No kitchen facility should be more than one floor distant from the users of that facility. This will not apply if a communal living space or dining space is available on the same floor, or is not more than one floor away from the kitchen.

No personal washing or WC facility should be more than one floor distant in the case of a category A HMO, or two floors distant in the case of a category B HMO, from the users of those facilities.

A small household is one that consists of no more than 2 persons.

Sleeping rooms should not be occupied by more than 2 persons. No persons should share a room unless:

- they are married, or living together as if married
- they are parent and child (as long as the child is the same sex as the parent, or the child is under 10 years of age if opposite sex)
- they are members of the same family and are both of the same sex, e.g. 2 brothers (if below 10 years of age, opposite sexes can share a room)

There may be exceptions to the above sharing rule in bona fide hostels and similar establishments. Advice should be sought from the City Council in these cases.

The term 'bathroom', as used in the standards, normally means a bathroom containing a bath or shower, a WC and a wash hand basin. The basin should be of an adequate size for normal personal hygiene purposes including personal washing, the cleaning of teeth and shaving.

A wash hand basin with a constant adequate supply of hot and cold running water must be provided for each WC. If the WC is separate from a bathroom then a small hand rinse basin will suffice.

A standard cooking appliance should comprise four rings or hot plates, an oven and a grill. Microwave ovens may be satisfactory as supplementary cooking appliances but should not be the only cooking appliances.

The advisory room sizes do not include any en-suite bathroom facilities that may be provided, and do not include any floor area that is not effectively useable, for example, where the ceiling slopes to a low level.

An appliance with 2 rings or hot plates and oven is satisfactory for a one person unit of accommodation.

Sinks must be provided with a draining board and adequate constant supplies of hot and cold running water.

The provision of a second sink in a shared HMO may not be necessary if a dishwasher is provided. Private Housing will advise in these circumstances.

CATEGORY A & B HMOs - SHARED PERSONAL WASHING & WC FACILITIES

	CATEGORY A HMO	CATEGORY B HMO
Bathroom	1 per 5 occupiers	
WC	1 per 5 occupiers	
Wash hand basins	<p>In licensable HMOs 1 WHB to be provided within each letting where it is reasonably practicable. It will be the responsibility of the landlord to demonstrate that is not reasonably practicable for WHB to be provided in each room. Regard should be had to the age and character of the HMO, the size and layout of each room and its existing provision for WHBs toilets and bathrooms.</p> <p>A wash hand basin must be provided with every WC</p>	
Heating	Adequate and suitable heating to be provided.	
Ventilation	Adequate and suitable ventilation to be provided	

KITCHEN FACILITIES STANDARDS

FACILITY	CATEGORY A	CATEGORY B
Cooker	1 per 3 occupiers/small households	1 for up to 5 occupiers. The addition of a microwave oven will allow the facilities to be used by up to 7 persons. If there are more than 7 occupants, 2 cookers must be provided, for use by up to 10 occupants.
Sink	1 per 3 occupiers/small households.	1 for up to 5 occupiers.
Adequate no. of suitably located electrical power points (adjacent to worktop)	4 single sockets or 2 double sockets are required for every 3 occupiers/small households. Additional sockets are needed for a cooker or refrigerator.	4 single sockets or 2 double sockets per 5 occupiers. Additional sockets are needed for a cooker or refrigerator.
Worktops	2m x 0.5m per 3 occupiers/small households.	2m x 0.5m per 5 occupiers.
Dry food storage	Double wall unit or single base unit (0.16m ³) for each occupier/small household. Storage in communal areas to be lockable.	Single wall unit per occupier (0.08m ³)
Refrigerated storage	Standard sized fridge (0.15m ³) with adequate freezer compartment per occupier/small household. If no freezer compartment in the fridge, separate freezers should be provided. Storage in communal areas to be lockable.	Standard sized fridge (0.15m ³) per 5 occupiers. Separate standard sized freezer should be provided per 5 occupiers.
Extractor fan	To be provided	To be provided
Fire blanket	To be supplied and wall mounted, but not to be sited immediately adjacent to or over a cooker	To be supplied and wall mounted, but not to be sited immediately adjacent to or over a cooker
Storage space for crockery & kitchen utensils	Adequate cupboard and/or drawer space	Adequate cupboard and/or drawer space

SPACE STANDARDS

ROOM(S)	CATEGORY A	CATEGORY B
One room unit for one person	13 m ² including kitchen facilities for exclusive use. 10 m ² where separate shared kitchen	Not applicable
One room unit for a co-habiting couple	16.5 m ² including kitchen facilities for exclusive use. 14m ² where separate shared kitchen	Not applicable
Two or more roomed unit for one person	Kitchen – 4.5m ² Living / kitchen – 11m ² Living room – 9m ² Bedroom – 6.5m ² Bed/living room – 10m ²	Not applicable
Two or more roomed unit for two persons living as a single household	Kitchen – 7 m ² Living / kitchen – 15 m ² Living room – 12m ² Bedroom – 10m ² Bed/living room – 14m ²	Not applicable
Shared kitchens	7m ² for up to 5 occupants. 10m ² for 6 – 10 occupants.	7m ² for up to 5 occupants. 10m ² for 6 – 10 occupants.
Bedroom/study	Not applicable	10m ² except where a separate communal living room is provided in which case the bedroom may be 6.5 m ²
	Continued on next page	Continued on next page
Dining/kitchen	Not usually applicable. Check with Private Housing if dining/kitchen present.	11.5 m ² for up to 5 occupants. 19.5m ² for 6 – 10 occupants.
Communal living room	Not usually applicable. Check with Private Housing if dining/kitchen present.	12 m ² for up to 5 occupants. 16.5 m ² for 6 – 10 occupants.

STANDARDS FOR HOSTELS

SHARED PERSONAL WASHING, WC AND KITCHEN FACILITIES

Bathroom	1 per 5 occupiers
WC	1 per 5 occupiers
Wash hand basin	In licensable HMOs 1 WHB to be provided within each letting where it is reasonably practicable. It will be the responsibility of the landlord to demonstrate that it is not reasonably practicable for WHB to be provided in each room. Regard should be had to the age and character of the HMO, the size and layout of each room, and its existing provision for WHBs toilets and bathrooms. A wash hand basin must be provided with every WC
Cooker	1 cooker for up to 3 lettings. 2 cookers for up to 10 lettings and one cooker per additional 5 lettings thereafter.
Sink	1 sink for up to 3 lettings. 2 sinks for up to 10 lettings and one sink per additional 5 lettings thereafter.

SPACE STANDARDS FOR HOSTELS

ROOM(S)	MINIMUM ROOM SIZE
1 person	6.5m ² if communal area provided. 9m ² if no communal area.
2 persons	10m ² if communal area provided. 13m ² if no communal area.
Kitchen facilities located within the letting	Add 3m ² to each of the room sizes given above
Shared kitchens (for use by occupants)	7m ² for up to 5 occupants. 10m ² for 6 – 10 occupants. If more than 10 occupants sharing, contact the Private Housing team for guidance.
Kitchen/dining rooms	11.5m ² for up to 5 persons. 19.5 m ² for 6-10 persons. If more than 10 occupants sharing, contact the Private Housing team for guidance.
Lounge/dining area	12m ² for up to 5 persons. 16.5m ² for 6-10 persons. Dining space to be in close proximity to kitchen. If more than 10 occupants sharing, contact the Private Housing team for guidance.



Internal Audit Services

Confidential

Final Internal Audit Report

Development Management - Enforcement

Prepared by: Jane Collins
Issued date: 26th April 2013

This document has only been distributed to:

Name	Title
Dawn Baxendale	Interim Chief Executive
Paul Nichols	Senior Manager, Planning, Sustainability and Transport
Chris Lyons	Planning and Development Manager

1. Audit objective

1.1. This review has sought to assess the effectiveness of controls in place focusing on those designed to mitigate risk in achieving the following key objectives:

- Policies and procedures are in place for planning enforcement;
- Complaints received are prioritised, investigated, their progress monitored and resolved in a timely manner;
- Enforcement decisions are executed within statutory and legal timeframes; and
- Staff are appropriately trained and qualified.

2. Audit opinion

2.1. The overall opinion of this review based on the audit evidence obtained, is that **limited assurance** can be placed on the effectiveness of the framework of risk management, control and governance designed to support the achievement of management objectives.

3. Executive summary

3.1. The work of the enforcement team is largely generated from complaints from the public regarding planning permission and changes of use. Its aim is to put right unauthorised development.

3.2. The enforcement policy has not been reviewed since it was published in October 2008 and does not reflect the updated National Planning Policy Statement dated March 2012. As part of its adoption there was a recommendation that a simple guidance leaflet should be produced and made available to the public detailing the main elements of the policy. This guidance leaflet has not been produced.

3.3. Enforcement complaints are recorded on the Uniform and Comino systems and initial site visits are made within the best practice timeframes. Key data such as response dates, details of the breach and status of cases are not being entered into the correct areas of Uniform to allow statutory information to be made available to the public on the Get Access Portal and to allow management reports to be run to determine the status of cases, appeals and to monitor progress.

3.4. There is no single document maintained that gives clear visibility to the team, management and the legal team of the status of cases, the length of time to respond to and to resolve a case and key dates by which actions must be taken.

3.5. The legal and enforcement teams used to have regular meetings with Legal Services to discuss the progress of cases where enforcement notices have been served, their status and required actions. These meetings also gave an opportunity to flag potential issues and seek legal advice. These meetings ceased in July 2012.

- 3.6. All notes, correspondence and documents relating to a case are required to be recorded on the data base Comino, including actions agreed with the perpetrator and outcomes communicated to the complainant. A review of 10 cases found that only two case records evidenced that the complainant had been informed of the outcome of their complaint.
- 3.7. Documents relating to cases in some instances are stored in outlook folders and on the services shared drive. The Council's document retention policy for Planning Enforcement; section D1-3, states that there is a statutory requirement under the Town and County Planning Act 1990 for permanent retention of Planning Enforcement documents. Due to inconsistency in filing of documents both in and out of Comino assurance can not be fully given that this policy is being fully adhered to, any requests for documents may not be met as locating them may be difficult as they are not filed in a central location.
- 3.8. The National Planning Policy Statement (March 2012) states that enforcement should be proactive. The team will follow up on some cases to ensure that a recommendation or an enforcement notice continues to be enforced, however their current approach is mainly reactive.

4. Action plan(s)

4.1. The action plan(s) detailed within this report describe:

- key risks internal audit considered were inadequately controlled by the framework in place;
- the actions management propose to undertake to bring the risks within acceptable parameters; and
- internal audit's assessment as to whether management's actions achieve an acceptable level of risk exposure.

Action Plan 1			
Objective	Policies and procedures are not in place for planning enforcement.		
Observation	<p>Enforcement Policy</p> <p>The enforcement policy has not been reviewed since it was published in October 2008 and does not reflect the updated National Planning Policy Statement dated March 2012.</p> <p>Wording within the document suggests that it remains a draft working copy with some areas still awaiting clarification, for example section 8.4 states:</p> <p>'It may be possible in the future to utilise other officers (e.g. City Patrol) to monitor issues at the weekend, but this is a matter that will need appropriate resourcing, consultation and staff training to achieve, outside the adoption of this policy. If such changes in resourcing the service do occur, the Policy wording here or advice leaflet can always be adjusted later.'</p> <p>Although this document is available to the public through the Southampton City Council's website it is not clear if it is a current and final version.</p> <p>Adoption of the policy was approved by Cabinet on the 28/07/08. As part of the adoption there was a recommendation that a simple guidance leaflet be produced detailing the main elements of the policy. This guidance leaflet has not yet been produced.</p> <p>An up to date and relevant enforcement policy which can be easily understood by users including the public will lead to a better understanding of planning policies and the enforcement system to ensure that legal and statutory requirements are met.</p>		
Management Action			
What	Priority (High, Medium, Low)	Responsible Officer	Target Date
Review and update enforcement policy and place on website	Medium	Chris Lyons, Planning and Development Manager	30th September 2013
Produce simple guidance sheet to the enforcement process	Medium	Chris Lyons, Planning and Development Manager	30th September 2013
Auditor's assessment of management response:			
Management actions will mitigate the risks identified			

Action Plan 2	
Objective	Complaints received are prioritised, investigated, their progress monitored and resolved in a timely manner
Observation	<p>Recording, reporting and monitoring of complaints</p> <p>Enforcement complaints are recorded on the Uniform and Comino systems. Data is mapped from Uniform to the Get Access Portal on the Southampton City Council website to give the public visibility of cases and to allow management reports to be run.</p> <p>Data such as complaint response dates are not being entered into Uniform. Other data such as the details of the breach and status of the cases are not being entered into the correct areas of Uniform to allow key information to be displayed on the Get Access Portal and to allow management reports to be run to determine the status of cases, appeals and monitor progress.</p> <p>Without clear and accurate information, management are unable to determine if the best practice timeframes for responses are being met, how many complaints have been received over a period of time, how long they have taken to resolve, types of enforcement breaches and the number of enforcement notices issued. This information is not only useful as a management tool but may be required in response to freedom of information requests. Additionally the Council is not fully meeting its statutory requirements to make information on enforcement cases available to the public.</p> <p>Document maintenance and Retention</p> <p>All notes, correspondence and documents relating to a case are required to be recorded on the data base Comino, including actions agreed with the perpetrator and outcomes communicated to the complainant. In some instances documents were stored in outlook folders and on the services shared drive and on review of a sample of 10 cases the following was noted:</p> <ul style="list-style-type: none"> • only two case records evidenced that the complainant had been informed of the outcome of their complaint. • two case records sampled contained no documentation or notes. • eight cases were responded to within the good practice guidelines. <p>There is inconsistency in how notes are recorded on Comino. In some instances the notes function is used to record actions, in others a word document is completed which includes a timeline of actions taken.</p>

The Council's document retention policy for Planning Enforcement; section D1-3, states that there is a statutory requirement under the Town and County Planning Act 1990 for permanent retention of Planning Enforcement documents. Due to inconsistency in filing of documents both in and out of Comino assurance can not be fully given that this policy is being fully adhered to and any requests for documents may not be met as locating them may be difficult due to them not being filed in a central location.

Management Action

What	Priority (High, Medium, Low)	Responsible Officer	Target Date
Review processes of recording information and ensure new processes are in place to be able to monitor enforcement data and retain data as required	High	Chris Lyons, Planning and Development Manager	31st July 2013
Ensure process is in place, clear, and understood by team on communicating with complainants	High	Chris Lyons, Planning and Development Manager	31st July 2013

Auditor's assessment of management response:

Management actions will mitigate the risks identified

Action Plan 3	
Objective	Enforcement decisions are not executed within statutory and legal timeframes
Observation	<p>Enforcement Notices</p> <p>Enforcement notices contain dates for the enforcement notice to be complied with. The enforcement officers enter the compliance dates and agreed action dates into their outlook diaries. This aids with planning visits to ensure that breaches have been resolved, however it does not allow for clear visibility of all cases including their current status and key dates for actions that can be easily accessed by the whole team.</p> <p>Without visibility of the status of cases, management, and enforcement officers can not monitor progress of cases and appeals and verify that key dates and actions have been complied with. Key actions may not be implemented in the absence of a team member which may result in enforcement notices not being issued or statutory timeframes adhered to resulting in reputational damage to the Council.</p> <p>Authorisation to enter land</p> <p>Section 196A of the town and country planning act gives officers, who are authorised in writing by the council, to enter any land. Although the officers carry ID badges with them on visits, such powers are not highlighted on their identity badges or carried in writing.</p> <p>Failure to provide information regarding their power under the town and country planning act could result in challenges from the public and full powers not being executed when required.</p> <p>Liaison with the Legal Team</p> <p>The legal and enforcement teams used to have regular meetings to discuss the progress of cases where enforcement notices had been served, their status and required actions. These meetings also gave an opportunity to flag potential issues and seek legal advice. These meetings ceased in July 2012.</p> <p>Legal maintain a spreadsheet of cases where legal action is required, it includes the nature of the breach, status of proceedings and also tracking of appeals. Until July 2012 the enforcement team had visibility of this spreadsheet and would update it with information regarding the status of the case, they would also have visibility of any updates entered by legal.</p> <p>This spreadsheet is a useful tool to inform each team of the status of cases as the legal team do not have access to Uniform or Comino where enforcement case visit notes are stored and are therefore reliant on information being provided to them by enforcement. Consequently, Legal and Enforcement teams may therefore not be in possession of full and current information regarding a case, resulting in incomplete information to inform decisions.</p>

Management Action			
What	Priority (High, Medium, Low)	Responsible Officer	Target Date
Ensure process is in place where cases are reviewed periodically and action taken when appropriate	Medium	Chris Lyons, Planning and Development Manager	30 th September 2013
Get written authorisation for all enforcement officers to be able to enter land	High	Chris Lyons, Planning and Development Manager	31st July 2013
Reinstate regular liaison meetings with the legal team	High	Chris Lyons Planning and Development Manager	31st July 2013
Auditor's assessment of management response:			
Management actions will mitigate the risks identified			

Action Plan 4			
Objective	Policies and procedures are not in place for planning enforcement.		
Observation	<p>The National Planning Policy Statement (March 2012) states that enforcement should be proactive. The team will follow up on cases to ensure that a recommendation or an enforcement notice continues to be enforced. Compliance checks to ensure that planning conditions are implemented in accordance with the approved plans are only undertaken if a complaint has been received. Although resources do not allow for 100% compliance checks, there is no process in place to make targeted random checks.</p> <p>A proactive approach to enforcement will aid the education and understanding of planning requirements by the public and help to reduce the number of complaints and breaches. It can also enhance the reputation of the service.</p>		
Management Action			
What	Priority (High, Medium, Low)	Responsible Officer	Target Date
Given current resourcing it is unlikely that this will be possible in the foreseeable future	Low	Chris Lyons, Planning and Development Manager	
Auditor's assessment of management response:			
Due to current resourcing levels, management accept the risk highlighted.			

Annex A**Key**

The following is the key to quantify observations identified in the audit:

Assurance levels

Opinion	Framework of governance, risk management and management control.
Substantial assurance	A sound framework in place that is operating effectively.
Adequate assurance	Basically a sound framework in place with possible opportunities to improve controls or some immaterial evidence of inconsistent application.
Limited assurance	Critical weakness (es) identified within the framework and / or significant evidence of inconsistent application.
No assurance	Fundamental weaknesses have been identified or the framework is ineffective or absent.

Priority

Priority rating	Current risk
High	A significant risk of; failure to achieve objectives; fraud or impropriety; system breakdown; loss; or qualification of the accounts by the organisation's external auditors. Such risk could lead to adverse impact on the organisation or expose the organisation to criticism.
Medium	A serious, but not immediate risk of: failure to achieve objectives; system breakdown; or loss.
Low	Areas that individually have no major impact, but where management would benefit from improved risk management and / or have the opportunity to achieve greater efficiency and / or effectiveness.