



Houses in Multiple Occupation questions

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1. What is a Dwellinghouse?

The change to the General Permitted Development Order include an amendment to the planning system's definition of "a dwellinghouse" as defined by Class C3 of the Use Classes Order. Class C3 is now broken into three parts. In short, for a property to be defined as a Class C3 dwellinghouse it must be occupied by people who form a 'single household'. A dwellinghouse is one which has a kitchen, a bathroom and a toilet for the exclusive use of the household living in that building or part thereof.

2. What is a House in Multiple Occupation?

The recent changes have brought the planning definition of an HMO broadly in line with that provided by the Housing Act 2004. An HMO is a house or flat occupied as their main residence by 3 or more unrelated people who share a communal kitchen, bathroom and/or toilet.

In planning terms there are now two different types of HMO. Where between 3 and 6 unrelated people live in a dwelling and share amenities the property will be classed under the new Use Class C4 (small HMO). Buildings containing bedsits, with some communal space, accommodating 3 to 6 unrelated people will also be classified as Class C4.

Larger HMOs are typically defined as having more than 6 unrelated people sharing amenities, and are not classified by the Use Classes Order. For planning purposes such HMOs are regarded as having a "Sui Generis" use (meaning that they do not fit comfortably into a standard use class) and planning permission is required prior to a building's occupation as such.

3. Is a block of flats an HMO?

A purpose built block of flats is not an HMO. However, an individual flat within it might be if it is let/occupied to 3 or more unrelated people.

4. Do all HMOs require Planning Permission?

From 23 March 2012 both types of HMO will require planning permission following the confirmation of the city-wide Article 4 Direction.

5. Do I need planning permission to change a C4 HMO into a C3 dwellinghouse?

No. A change back to a C3 dwellinghouse is a permitted change without the need for planning permission. Any external physical changes to the building may require approval and should be discussed with the council's Planning Department before they are undertaken.

6. Do I need to apply for a HMO licence?

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 Housing team. Apply for an HMO licence: <http://www.southampton.gov.uk/housing-council-tax/landlords-home-owners/landlords/houses-in-multiple-occupation/licensing-houses-in-multiple-occupation/default.aspx>

7. I own a house which I live in with my family but we want to take in one or two lodgers. They would each have their own bedroom but would share the kitchen with us. Would I need planning permission to do this? I am not intending to do any building work.

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." Therefore, planning permission is not required where the property owner lives with up to two lodgers.

8. Would a house which was occupied by between 3 and 6 unrelated people prior to 23 March 2012 require Planning Permission?

No. The regulations do not apply retrospectively for the new C4 use class. The Use Classes amendments will, therefore, only apply to changes after the effective date. Larger unauthorised "Sui Generis" HMOs would still require retrospective permission and may be the subject of an enforcement investigation to remedy any harmful breach of planning control.

9. What type of evidence do I need to demonstrate that my property was established as a HMO before March 23 2012?

This evidence may include signed tenancy agreements, a legally binding sworn statement (affidavit), details from the electoral role and/or Council Tax records and appropriate utility bills. You do not need to register an established HMO with the council, though you may wish to apply for a certificate of lawfulness which would formalise the use. A certificate can be applied for through a formal application

process with supporting evidence (examples of evidence above) to demonstrate the use is lawfully established.

10. I own a house which I have let to a group of between 3 and 6 non-related people in the past but this year it has been vacant as I have been unable to find tenants. Will I need planning permission to move new tenants in?

No. If the house was last let in a way defined by Class C4 then you do not need permission to re-let the property after it has been vacant for a short time. Similarly you would not need to reapply for planning permission every time a C4 HMO property is re-let with new tenants.

11. I own a house which I have let to a group of between 3 and 6 non-related people in the past but this year I struggled to find tenants so I have let it to a family for 6 months – will I need planning permission to let it as a C4 HMO again?

Yes. You will need to apply for planning permission if the house is being used as a C3 dwellinghouse on 23 March 2012. Similarly, if a property was let as a C4 HMO on the 23 March 2012, but is let to a single family in the future it would also need planning permission to become a C4 HMO again.

12. What do you recommend I do if I'm looking for flexibility to let the property to both family groups and shared tenants?

It is recommended that a flexible C3/C4 permission is sought under Schedule 2 Part 3 Class E of the Town & Country Planning (General Permitted Development) Order 1995 (as amended). This would require a planning application to be submitted, but would allow continuous occupation of the building as either use for a period of 10 years without the need for subsequent planning applications. If the property is currently occupied as an HMO, and greater flexibility is required after 23 March 2012, a planning permission would be required before the building can be used flexibly for C3/C4 uses.

If it can be demonstrated that the property was an HMO on 23 March 2012 this will be a material consideration when the Council considers the planning application. Please ensure that your planning application is accompanied by proof of occupation on 23 March 2012 to assist us in dealing with your application efficiently. This evidence may include signed tenancy agreements, details from the electoral role and/or Council Tax records and appropriate utility bills.

13. What happens if I am in the process of converting my house to a HMO?

If the tenants have not occupied the property by 23 March 2012 and the conversion works continue after this date, then planning permission will be required prior to the building's occupation as a C4 HMO. A year's notice was given to the change to assist landlords.

14. Do I need Planning Permission to add additional rooms to an authorised C4 HMO?

If additional rooms can be accommodated without external development works, planning permission would only be required if the completed building is to be occupied by more than 6 unrelated people as a change of use (to the larger type of HMO) may have occurred.

Any external building works to accommodate the additional rooms, such as an extension to the footprint or a roof alteration, would constitute operational development that may require planning permission as a Class C4 (HMO) and larger "Sui Generis" HMO. Please contact the Planning Duty Officer to confirm whether the HMO does benefit from "permitted development" rights to build extensions without planning permission, and see the link for the Planning Inspectorate's advice permitted development rights:

http://www.planningportal.gov.uk/uploads/pins/advice_for_inspectors/hmo_2014.pdf.

Listed Building Consent for any internal or external works will be required if the building is listed.

15. What planning application forms should an applicant use?

Where a material change of use is proposed to create an HMO a formal planning application will be required. The current system for submitting a planning application requires the correct form to be supplied with the formal submission. Apply for planning permission: <http://www.southampton.gov.uk/planning/planning-permission/apply-planning-permission.aspx>.

In the case of applications affecting a material change of use to an HMO the full planning application form should be submitted. The council would request that further details of how the building will be used (including the number of existing and proposed bedrooms, likely and existing occupancy and the location of ancillary refuse and cycle storage) should be provided. Failure to provide this detail at the submission stage could result in an application being made invalid or may result in the application being incorrectly determined by the council. This could cause delays or lead to legal problems with the planning permission.

If you are seeking to extend an existing C4 than a householder planning application form should be submitted.

16. What is the fee for an application for change of use?

Following changes to the national planning fees, planning fees are applicable for HMO applications despite the Article 4 Directive. The current planning fee for a change of use to an HMO can be found here: https://ecab.planningportal.co.uk/uploads/english_application_fees.pdf

17. How long will it take for my planning application to be dealt with by the Planning Department?

As a guideline there is a national target for local authorities to decide 80% of planning applications within 8 weeks of the application being validated by the council.

18. Can I get the opinion of an officer for the property I am interested into converting into a HMO before I submit a planning application?

Yes. You can apply for pre-application advice through submitting a request form. We will provide a written report or letter confirming the advice. As part of our response we would assess the current concentration of HMO.

Please be aware that the advice would be based on the council's best knowledge of the location and number of HMOs at the time of the request. The circumstances may change in the short term if any conversions to or from a HMO take place before your formal application is submitted and the advice may then be out of date. Therefore it is encouraged to submit a formal application to seek the council's formal view whether the threshold for HMO concentration will be exceeded rather than submitting a pre-application enquiry, as there is no fee for the planning application. Pre-application advice: <http://www.southampton.gov.uk/planning/planning-permission/pre-application-advice.aspx>

19. How will the council determine planning applications for a Change of Use to an HMO?

Where planning permission is required the council will consider all planning applications on their own individual merits against the adopted Development Plan unless other material planning considerations dictate otherwise.

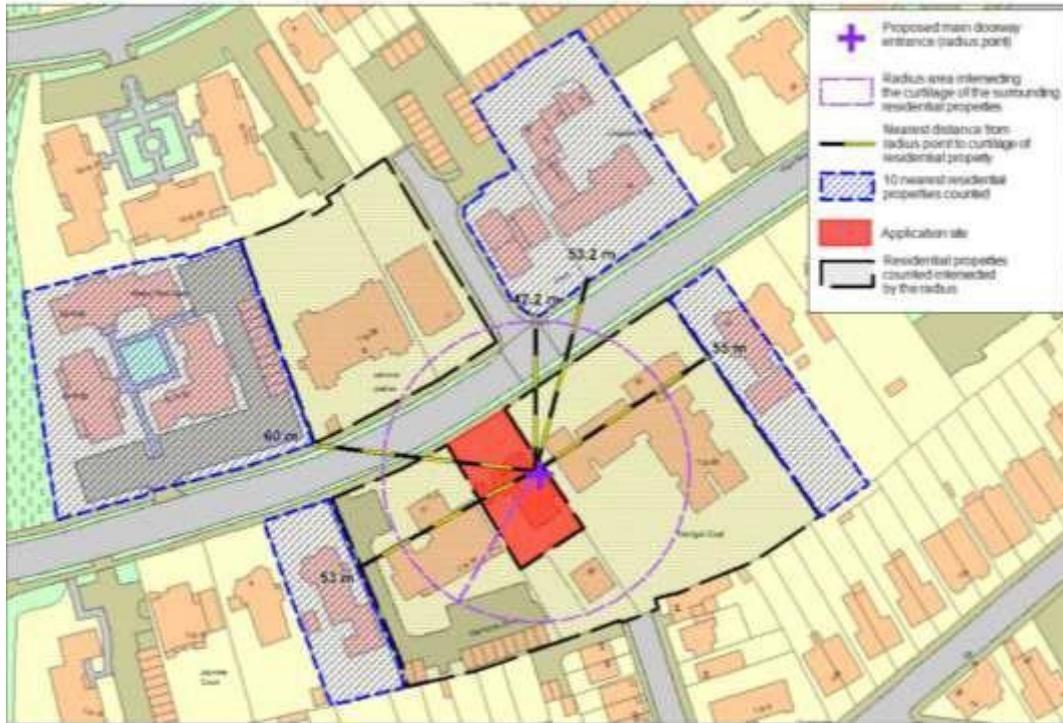
The council has adopted supplementary guidance 'Houses in Multiple Occupation Supplementary Planning Document' (SPD). This expands and provides more detail for the conversion of properties from a family house to a small HMO (3 to 6 unrelated people) and large HMO (7 or more people) under saved policy H4 (Houses in Multiple Occupation - Local Plan Review) and policy CS16 (Housing Mix and Type - Core Strategy). The document also provides guidance on standards for 'living conditions of tenants' and 'parking' in relation to HMO. Houses in Multiple Occupation Supplementary Planning Document' (SPD):

<http://www.southampton.gov.uk/planning/planning-policy/supplementary-planning/planning-hmo.aspx>

The SPD defines a tipping point where the concentration of HMO begins to adversely impact on the character and balance of a community. The guidance sets a threshold limit which will not permit new HMOs in a community above a concentration of 10% in the northern wards (Bassett, Portswood and Swaythling) and 20% for the rest of the city. The threshold applies to small and large HMO.



For each planning application, the threshold will be applied using a 40 metre radius or minimum of the nearest 10 residential properties surrounding an application site. Please see worked example below and other examples in the SPD. The threshold limit aims to prevent new concentrations of HMO and thus encourage a more even distribution across the city, whilst addressing future needs for growth of HMO accommodation. Exceptional circumstances will be considered in streets where there are 1 or 2 family homes remaining.



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.

As part of the council's determination of such applications to extend and change the use to larger HMO, the proposed intensification and its impact on the local character of the street will be considered.

As part of the council's consideration of the application it may impose planning conditions on a planning permission to ensure that any potential harmful impacts of the proposed HMO are mitigated against. For instance, planning conditions can be used to secure appropriately screened refuse storage, the provision of secure cycle storage, the retention of existing boundary walls and additional noise attenuation of the party wall (where the proposal affects a terraced or semi-detached property). It may also be appropriate where there is justification for doing so for the council to use planning conditions to restrict the number of occupants and remove any further permitted development rights for that building; including the ability to switch between C3 and C4 use classes and or extend the building further to create additional accommodation. The use of planning conditions will also be considered in the determination of planning applications for larger HMO.

20. What happens if the resulting concentration of HMO is not a whole number?

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

21. Does the council have a database for HMO?

No. It is not practical or feasible for the council to set up and maintain a comprehensive database of all HMOs in the city, given the available resources and the frequency of change within the HMO sector. The council will continue to maintain the best records possible from available information sources. Where there is significant doubt as to whether a property is a HMO then it will not be counted against the threshold.

22. How do I find out which properties are HMO?

The council's Planning Register, Electoral Register, and HMO licensing register provide a way of investigating a street's current concentration. These sources will initially provide a reasonable indication of the numbers and location of HMO 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.

23. Will 1 and 2 bed flats be counted towards the 10/20% target?

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

24. Are properties with a flexible permission (C3 and C4) counted as an existing HMO?

Once a property has been given permission as a C4 HMO it will be established in the street, and will be counted towards threshold in future applications regardless of its current occupation.

25. How do I calculate the percentage concentration of HMO?

Following the 3 stages set out in the SPD (section 6.4), you will need to identify all the residential properties the 40 metre radius or 10 nearest properties with the same street address except those listed under Schedule 14 of the Housing Act 2004 (see paragraph 3.4 of the SPD), where subdivided properties and blocks of flats are counted as one whole property at this stage.

You should then investigate which of those properties are existing HMO using the sources listed in the SPD (paragraph 6.4.3) including the individual larger flats (3 bedroom or more) forming the blocks of flats and subdivided units counted as a whole.

Once you have estimated the total number of existing HMO, then you will need to carry out the calculation below:

% HMO (round up greater than 0.5 or down when less)		
'total estimated number of existing HMOs'	÷	'total number of residential properties'

NB. Total number of residential properties = All residential properties including individual larger flats (3 bedroom or more) identified in the radius or 10 nearest. Do not include properties listed under 'Schedule 14' and '1 and 2 bed flats'

26. How will the council determine planning applications for other development works (including extensions) affecting an HMO?

For those planning applications that seek to extend Class C3 dwellinghouses or C4 HMO in excess of the current permitted development allowances the planning case officer will work with the applicant, and the local community, to ascertain the established and likely proposed use of the building before then looking at the proposed design and its impact on residential amenity. This may not be clear from the application form and will require a detailed site visit to ascertain how the building is used, and whether or not additional accommodation will materially affect the use of the building.

The council will also seek to ensure the retention of an external area of private garden space to serve the residents' needs. The over intensive use of the building following its extension and alteration is a material planning consideration as it may affect existing residential amenity. Each case will, however, be assessed against its own individual merits and the prevailing local circumstances.

The council's guidance relating to residential extensions is set out in Part 2 of the approved Residential Design Guide (RDG) Supplementary Planning Document (2006). Residential Design Guide: <http://www.southampton.gov.uk/planning/planning-policy/supplementary-planning/residential-design-guide.aspx>

The RDG seeks to ensure that extensions and alterations to the roof space are sympathetic to the existing building and its context, whilst maintaining existing levels of neighbouring residential amenity in terms of outlook, day-lighting, privacy and overshadowing.

In those circumstances where an applicant confirms that the extension works will serve an extended C3 dwellinghouse, and no material change of use to an HMO is proposed, the applicant will be informed that planning permission is required to occupy the HMO with 7 or more persons. This would be the case particularly where the introduction of a larger HMO would prove harmful to local and/or visual amenity. This restriction would provide the council and the local community with the added certainty it requires.

27. What other standards for HMO will the application be assessed against?

A HMO 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 of SPD 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.

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 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.

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.

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 Document under paragraph 2.2.1. 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. The council will assess whether adequate amenity space is provided for the tenants.

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 SPD. 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: <http://www.southampton.gov.uk/planning/planning-policy/supplementary-planning/parking-standards-spd.aspx>

Adequate space for management of refuse bins 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.

28. Will the threshold apply to extensions to an existing HMO?

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

more than 6 persons living in an HMO planning permission must be sought in its own right for a change of use to a large HMO.

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

29. Is there an exception to the threshold if I am struggling to sell the family home I live in to another family?

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

You 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 an estate agent.

30. What other powers does the council have to control problem HMO?

The council accepts that the majority of HMO do not cause a problem. There are, however, a range of departments within the council that have a role to play in facilitating and controlling nuisance HMOs.

For instance, as well as planning control, the Private Sector Housing Service provides guidance to landlords and is responsible for the licensing of larger HMO and the preparation of guidance relating to their living standards. More information on HMO: <http://www.southampton.gov.uk/housing/landlords/houses-multiple-occupation/default.aspx>

The Council's Environmental Health Department provide 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 Notice. More information on Noise and Neighbourhood Nuisance:

<http://www.southampton.gov.uk/environmental-issues/environmental-health/default.aspx>

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

31. Is there any accreditation system for the good management of student rented properties?

Yes. The council works in partnership with the University of Southampton and Southampton Solent University to promote the SASSH (Southampton Accreditation Scheme for Student Housing) programme for student shared private rented sector properties advertised through a new online letting service. The Standards are not intended to be onerous and are divided into three separate categories (One Star, Two Star and Three Star) allowing landlords to achieve greater recognition for properties meeting the appropriate criteria. Current SASSH standards and registration can be viewed on the Student Accreditation Scheme site:

<http://www.sasshstudentpad.co.uk/Landlords.asp>

If you have any doubts concerning the above changes and guidance relating to HMO please contact the Local Planning Authority:

Southampton City Council
Development Planning
Infrastructure, Planning and Development
Civic Centre
Southampton SO14 7LS
Tel: 023 8083 2603
Email: planning@southampton.gov.uk
Web: www.southampton.gov.uk/planning