

# Southampton Local Plan

## Houses in Multiple Occupation Supplementary Planning Document

Draft for public consultation

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Written comments by 29 March 2016

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## 1. Introduction

- 1.1 Houses in Multiple Occupation (HMOs) provide much-needed housing accommodation. 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 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.
- 1.3 On 23<sup>rd</sup> March 2012, an Article 4(1) direction<sup>1</sup> to remove the permitted development rights of house owners to convert a single dwellinghouse (class C3)<sup>2</sup> into an HMO came into effect in Southampton. This applies to the whole city. Planning permission is therefore required to convert a dwellinghouse to a small/medium HMO as well as to convert a property into a large HMO for 7 or more occupants.
- 1.4 Supplementary guidance setting out the HMO policy was adopted by the council in March 2012. This applied to both uses 'class C4' (commonly referred to as small/medium-sized) and 'sui generis' (commonly referred to as large-sized) dwellings. A threshold approach was introduced to determine planning applications for new HMOs and the city was divided into two parts; northern wards (Bassett, Swaythling and Portswood) where a 10% threshold was applied and the rest of the city where a 20% threshold was applied. If an application was received for a new HMO in a local area where the proportion of HMOs in the housing stock was above these thresholds, it would not be granted (unless there were exceptional circumstances). The local area was defined as within a 40 metre radius of the application property, or covering a minimum of 10 nearest residential properties.
- 1.5 The council is undertaking formal consultation on a revised SPD to address issues identified with the current approach from determining planning applications and raised during informal consultation. This consultation proposes changing the adopted HMO SPD to remove the 20% threshold and apply a 10% threshold throughout the city. It also proposes addressing the issue of 'sandwiching' where a residential property is sandwiched between two HMOs. It also seeks to further clarify the policy on exceptional circumstances.
- 1.6 In order to make the policy and methodology clear, this draft SPD is a streamlined document and supporting information has been moved into the document's appendices. The original policy is shown overleaf with additions

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<sup>1</sup> 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 - [https://www.southampton.gov.uk/Images/Article%204\\_tcm63-360879.pdf](https://www.southampton.gov.uk/Images/Article%204_tcm63-360879.pdf)

<sup>2</sup> 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>

to the text underlined and deletions struck through. The initial background evidence used by the council to justify the threshold approach is found in the current HMO SPD on the council's policy website. An updated document setting out background evidence is also available on the website.

### 1.1 Proposed changes to the policy text:

**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 of the residential property 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).**

**ii) Where it would result in any residential property (C3 use) being 'sandwiched' between two HMOs**

**When the threshold has been breached already, planning permission will only be granted in exceptional circumstances (see section 4.5).**

**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~~ 4.2.1 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.

### 1.2 Consultation

1.2.1 The revised HMO SPD is out for consultation until 29 March 2016.

1.2.2 Please email your comments to [city.plan@southampton.gov.uk](mailto:city.plan@southampton.gov.uk) or send them to Planning Policy, Lower Ground Floor, West Wing, Civic Centre, Southampton, SO14 7LY

## 2. Purpose of the SPD

- 2.1 This SPD is adopted as part of the council's Local Plan. 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.
- 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 Review<sup>3</sup> and 'CS16 – Housing Mix and Type' in the Core Strategy<sup>4</sup>**. Refer to Appendix 1 for an extract of these policies.
- 2.4 In broad terms, a HMO under planning legislation 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 Order<sup>5</sup>:-
- Class C4 – *between 3 and 6 residents*
  - Sui Generis (of its own kind) - *more than 6 residents*
- 2.5 A more detailed planning definition of HMOs is included in Appendix 2.
- 2.6 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.
- 2.7 The Environmental Health Housing Team provides guidance to landlords and is responsible for two licensing schemes. The mandatory licensing of larger HMOs and the preparation of guidance relating to their living standards<sup>6</sup> and an additional licensing scheme covering eight wards in the city.
- 2.8 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 Notice<sup>7</sup>.

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<sup>3</sup> City of Southampton Local Plan Review (as amended 2015)

<sup>4</sup> Local Development Framework Core Strategy (as amended 2015)

<sup>5</sup> The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010 (SI 2010/653) - <http://www.legislation.gov.uk/ukSI/2010/653/article/2/made>

<sup>6</sup> The following link provides further detail - <http://www.southampton.gov.uk/housing-council-tax/landlords-home-owners/landlords/houses-in-multiple-occupation/licensing-houses-in-multiple-occupation/default.aspx>

<sup>7</sup> The following link provides further detail - <http://www.southampton.gov.uk/environmental-issues/environmental-health/default.aspx>

### 3. New Approach

#### 3.1 Planning applications determined so far

- 3.1.1 A total of 111 planning applications for new HMOs have been processed over the past 4 years since March 2012 when the city-wide Article 4 direction was introduced<sup>8</sup>.
- 3.1.2 Based on the table of statistics set out in Appendix 3, a total of 42 applications were approved and 69 refused. This represents a 38% approval rate within all the wards of the city. In terms of the 10% and 20% threshold split between the 3 northern central wards and the rest of the city, the applications processed for new HMOs are as follows:
- Wards with a 20% threshold - 67 (32 approved and 35 refused)  
Wards with a 10% threshold - 44 (10 approved and 34 refused)
- 3.1.3 The overall outcome of these statistics shows a strong trend that the growth of new HMOs is spreading out to less saturated wards in the city as per the intention of the council's strategy.
- 3.1.4 Within the 10% wards, the following number of applications were processed:
- Bassett – Total 10 (2 approved and 8 refused)  
Portswood – Total 26 (5 approved and 21 refused)  
Swaythling – Total 8 (3 approved and 5 refused)
- 3.1.5 This demonstrates that the 10% threshold approach is limiting new HMOs in known areas of high concentration, as shown by the high refusal rate in the above wards and low number of new applications. The council's experience in applying the HMO SPD shows that inspectors have supported 10% as a reasonable threshold.
- 3.1.6 Looking outside the 10% wards, it is evident that the majority of planning applications for new HMOs in the city fell within the following 20% wards:
- Bargate – Total 13 (3 approved and 10 refused)  
Bevois – Total 11 (2 approved and 9 refused)  
Freemantle – Total 22 (9 approved and 13 refused)  
Shirley – Total 9 (9 approved and 0 refused)
- 3.1.7 Within the 20% wards, there was significantly lower refusal rate than that found in the 10% wards; 52% in comparison to 77% in the 10% wards. However the 52% refusal rate shows that there is still an issue with the concentration of HMOs in parts of the 20% wards.
- 3.1.8 It therefore evident that the growth of new HMOs is spreading to other parts of the city away from the most concentrated areas. In addition, the growth of

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<sup>8</sup> Applications determined 23.03.12 – 22.12.15, see Appendix 3

new HMOs within the widely known overly saturated areas such as the Polygon and Portswood is being limited.

### 3.2 Issues with the current threshold approach

- 3.2.1 Over the past 4 years, it has been evident that local residents are consistently reporting concerns to officers and the members of the planning panel about the negative impacts of introducing a new HMO into their neighbourhood.
- 3.2.2 The main concerns raised relate to:
- 1) the negative impacts on amenity from the transient nature of the occupiers living within a family home orientated community and upsetting the balance and mix of the households within the community;
  - 2) the disturbance arising from the intensification of use of a home by the greater comings and goings associated with occupiers living independently of each other in comparison to a typical a family unit;
  - 3) and the greater demand on street parking in neighbourhoods with heavily parked streets where occupiers of HMOs would independently use their own vehicles, leading to a negative impact on amenity by the displacement of street parking available for local residents within close walking distance of their homes.
- 3.2.3 The council's policy regarding HMOs has also been considered in a scrutiny inquiry and recent consultation on expanding the additional HMO licence scheme.
- 3.2.4 After the Article 4 and HMO SPD had been in place for 18 months the city council's scrutiny panel held an inquiry to discuss how effectively they were working. The panel made a number of recommendations including gathering further information on housing need, HMO numbers and tipping points. It proposed amending the HMO SPD to include no new HMOs which would 'sandwich' family homes. Other recommendations relating to the HMO SPD include amending the guidance placing greater emphasis on amenity and neighbourhood character when considering HMO applications.
- 3.2.5 In July 2013 the city council introduced an additional HMO licensing scheme which covered all HMOs (excluding those subject to Mandatory Licensing) in four wards of the city - Bargate, Bevois, Swaythling and Portswood. In October 2015 following consultation, the scheme was extended to cover four more wards, Shirley, Freemantle, Millbrook, and Basset.
- 3.2.6 The scheme applies to any property occupied by three or more people (including children) who form two or more households. It has the aim to deliver safer properties, better conditions for tenants, reduce the impact of HMOs on established communities and deter bad landlords from operating in our city. There was widespread support for the aims of the additional license scheme. Over 500 responses were received in the consultation on

extending the HMO license scheme and over 90% of respondents agreed with the council aims.

- 3.2.7 In the light of concerns about the impact of HMOs on the character of local areas in Southampton, it is proposed to introduce a citywide 10% threshold. This will ensure that a consistent approach is applied across the whole city given the recent trend of HMOs to relocate away from the overly saturated areas of the city.
- 3.2.8 Since the introduction of the HMO SPD in 2012, the 10% threshold has now been widely adopted nationally by other council's in the UK. Portsmouth City Council and Bournemouth Borough Council have introduced a 10% threshold as well as other councils including Canterbury, Hastings, Warwick, Worcester and York and emerging policy in Brighton.

### 3.3 Applying a 10% threshold in wards with a high proportion of HMOs

- 3.3.1 The Housing Condition Survey (2008) estimated the proportion of HMOs in Southampton as part of the housing stock<sup>9</sup>. The proportion of HMOs in wards in the west, north east and south east of the city was between 4-6%, considerably below the 10% threshold. The proportion in the central wards (Bevois, Bargate and Freemantle) was estimated at 18.2%, significantly above the 10% threshold.
- 3.3.2 The intention of the policy is not to prevent HMOs in these areas but to consider local circumstances. Within these wards, there will be areas where the new 10% threshold has not been breached. The revised policy looks at the impact of HMOs within the immediate surrounds of the application property. Although the proportion within a ward may exceed the threshold, this may not be the case within the 40 metre radius (or 10 closest properties). Where there is a concentration of HMOs above 10%, the policy will restrict further HMOs as the policy seeks to spread HMOs away from the most concentrated areas.

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<sup>9</sup> Further information is available in the Background evidence document available at [www.southampton.gov.uk/HMOSPD/Background](http://www.southampton.gov.uk/HMOSPD/Background)

## 4. Policy and methodology

### **Planning permission will not be granted**

**i) where the proportion of HMO dwellings will exceed 10% of the residential properties\*.**

**where the curtilage of the residential property 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).**

**ii) Where it would result in any residential property (C3 use) being 'sandwiched' between two HMOs**

**When the threshold has been breached already, planning permission will only be granted in exceptional circumstances (see section 4.5).**

**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 4.2.1 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.

### 4.1 Approach to determining a planning application

4.1.1 Based on the information provided and on the council's own records, the council will calculate 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 4.2.2, 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.

### 4.2 How to apply the threshold

4.2.1 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 4.4 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). Appendix 2 includes a list of properties from Schedule 14 of the Housing Act which will not be identified as residential properties, for example student halls of residence, care homes and children's homes.

### **Stage 2 – Count HMOs**

Using the HMO sources listed in paragraph 4.2.2, 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 Appendix 2 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 equal to or greater than decimal point 0.5, and rounded down when less than 0.5.

4.2.2 For the purposes of the threshold, 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.

- 4.2.3 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 6<sup>th</sup> April 2010<sup>10</sup> 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 23<sup>rd</sup> March 2012<sup>11</sup>.
- 4.2.4 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.
- 4.2.5 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.

### 4.3 The approach to sandwiching

- 4.3.1 Since the adoption of the HMO SPD, an issue has been identified with residential properties being sandwiched and the potential impact on neighbouring properties.
- 4.3.2 As shown in the worked example, planning permission would not be granted where the introduction of new HMO would result in an existing dwelling being sandwiched by any adjoining HMOs on both sides, see worked example 1. This would not apply where the properties are separated by an intersecting road or where properties have a back to back relationship in different streets.
- 4.3.3 Subdivided units will be considered on a case by case basis.

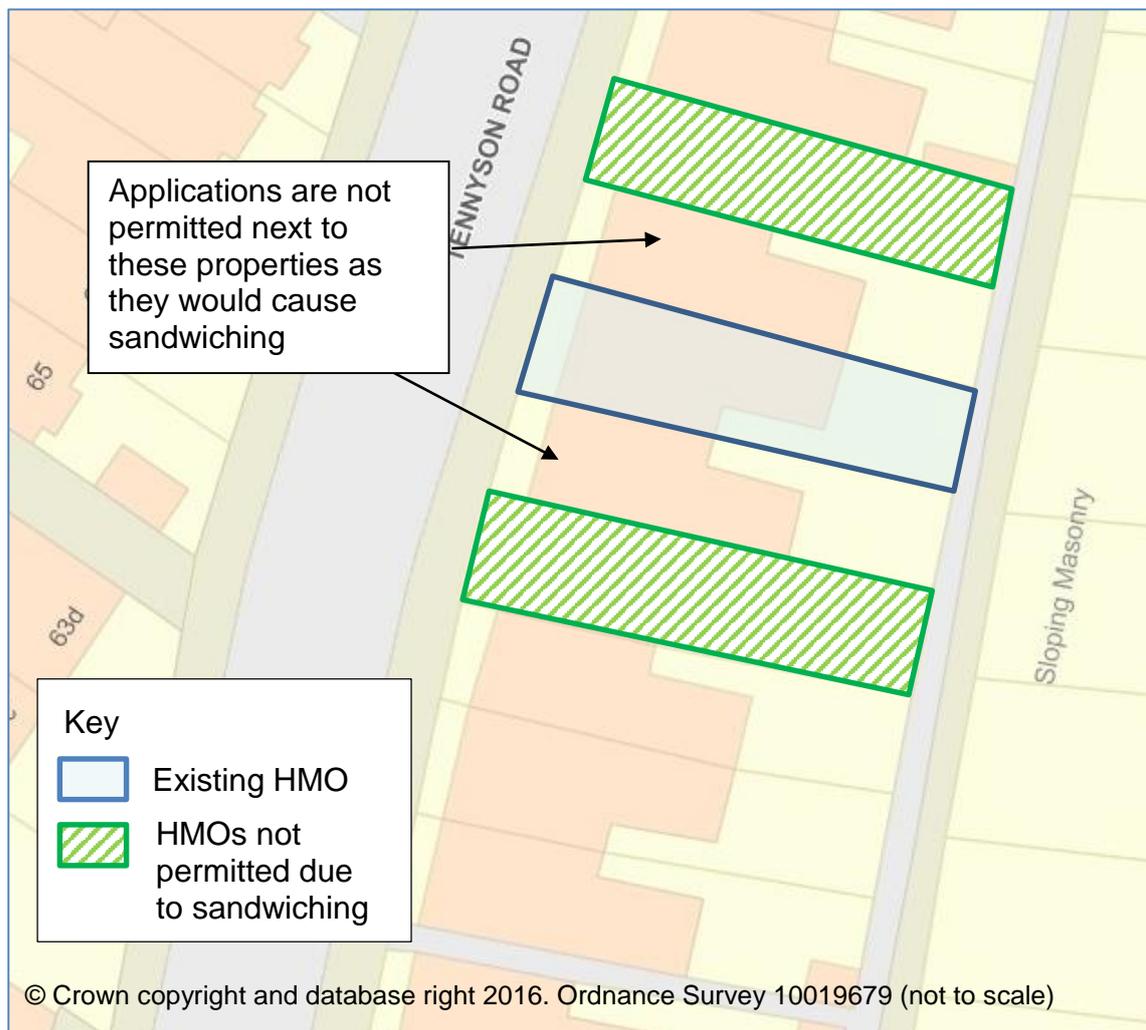
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<sup>10</sup> The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010 (SI 2010/654) - <http://www.legislation.gov.uk/ukksi/2010/653/contents/made>

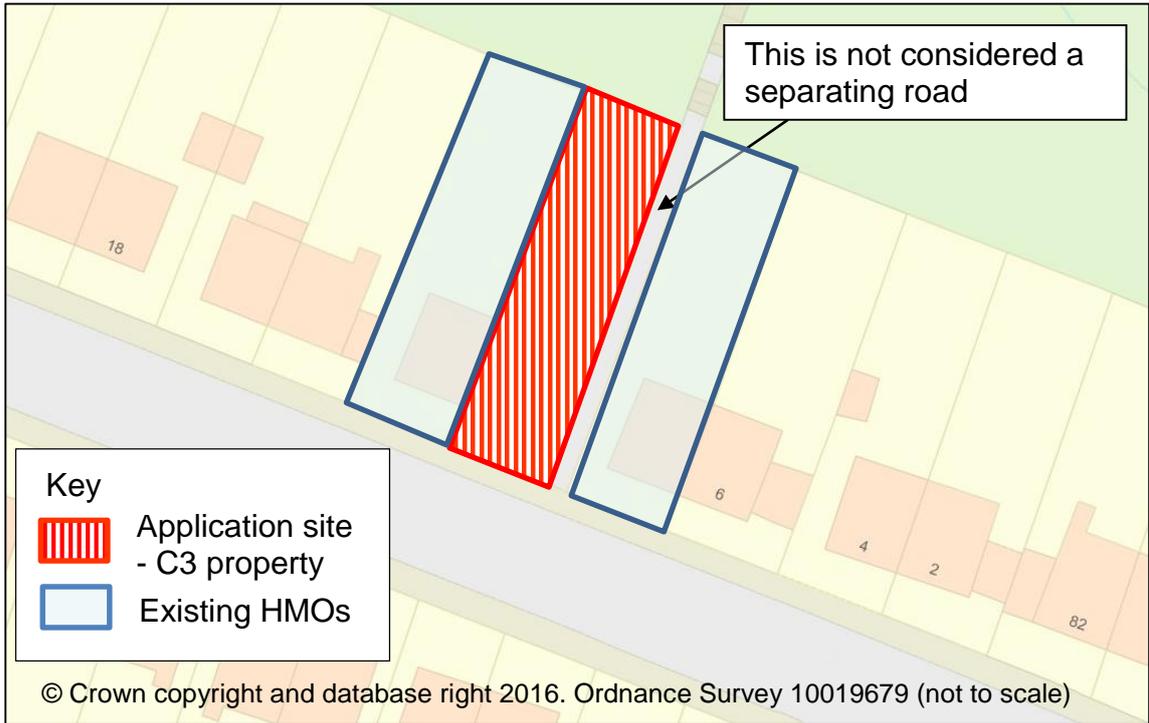
<sup>11</sup> The Town and Country Planning (General Permitted Development) (Amendment) (No.2) (England) Order 2010 (SI 2010/2134) - <http://www.legislation.gov.uk/ukksi/2010/2134/contents/made>

#### 4.4 Worked examples

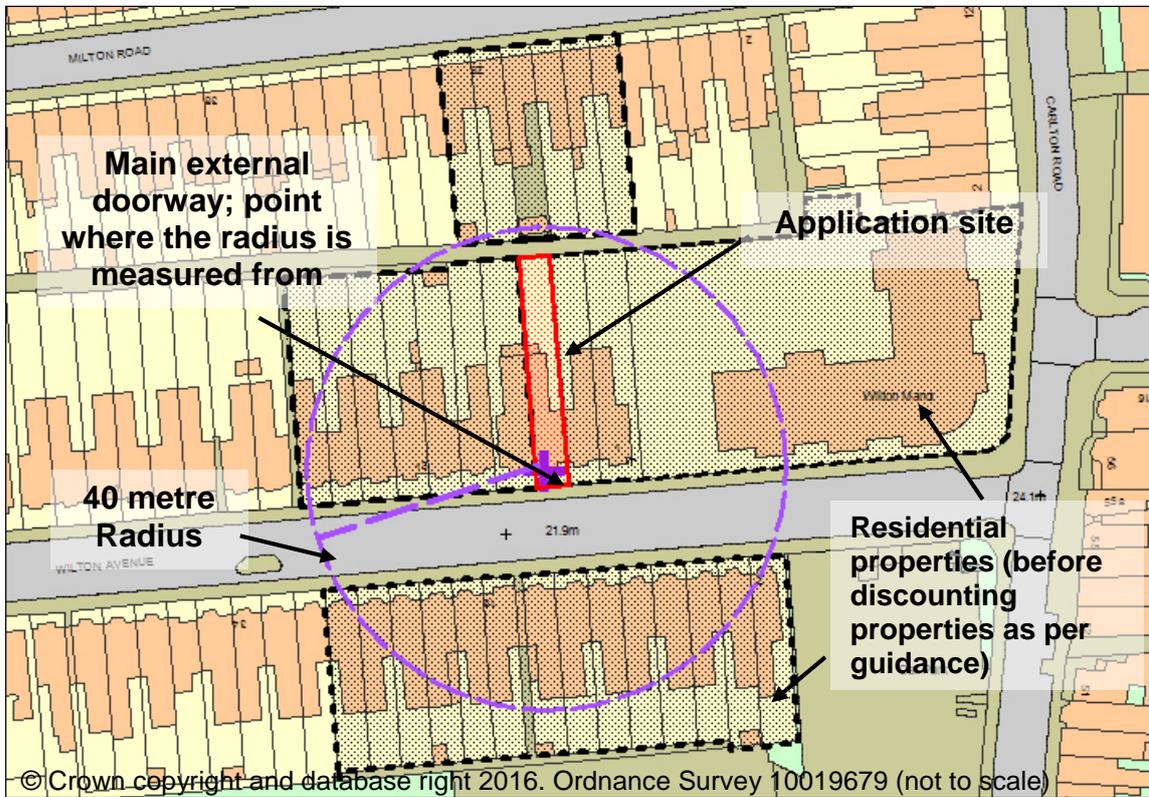
##### Worked example 1: Tennyson Road (Portswood) – HMOs restricted due to sandwiching



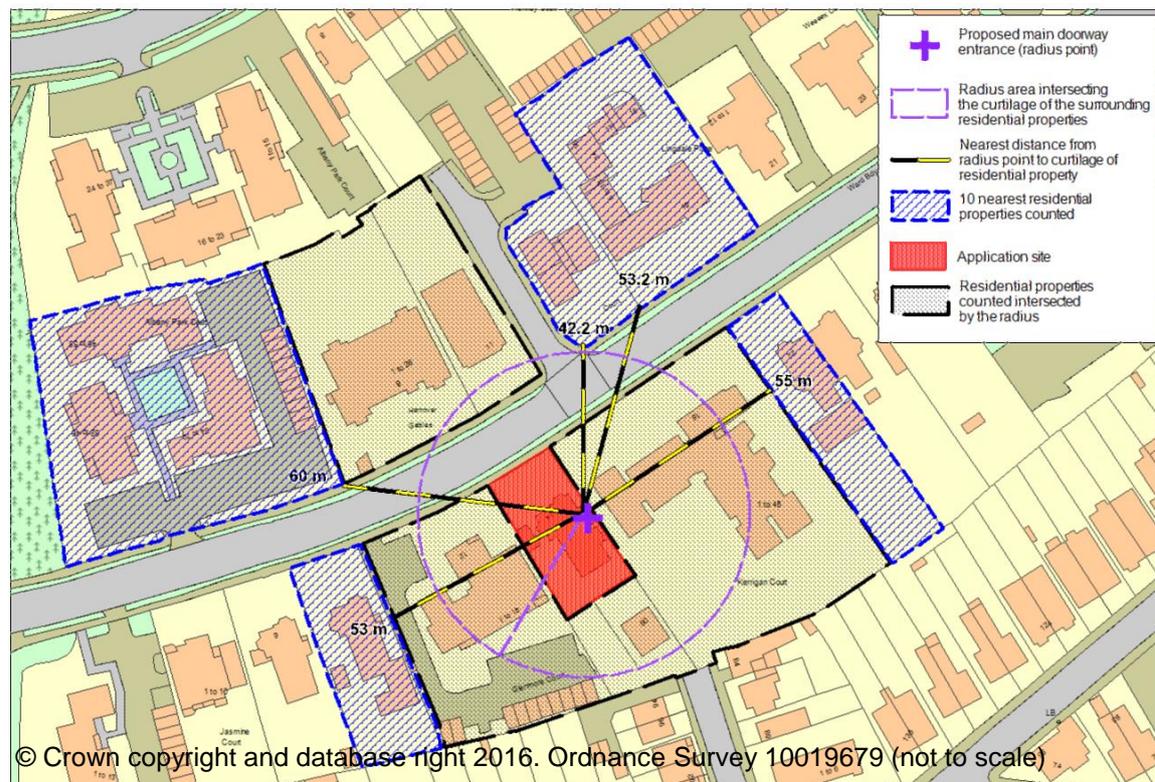
Worked example 2: 10 Sirdar Road (Swaythling) – sandwiched property



Worked example 3: 5 Wilton Avenue (Bargate) applying the 40 metre radius



#### Worked example 4: 14 Westwood Road (Bevois) identifying 10 nearest residential properties



### 4.5 Exceptional circumstances

- 4.5.1 Having reviewed the implementation of this approach, the council is proposing to introduce an upper threshold limit to clearly specify when the exceptional circumstances will apply. This new limit applies to an area where the concentration of HMOs is at such a point where the introduction of any new HMO would not change the character. This is because the vast majority of properties are already HMOs, with only a very small proportion of buildings suitable for use as family homes remaining.
- 4.5.2 The retention of these remaining buildings will have little effect 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 buildings to a HMO would not further harm the character of the area.
- 4.5.3 It is recognised that some owner occupiers or long term residents in the 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.

Exceptional circumstances will be a material consideration and will be determined in accordance with the following criteria:

**Where 80% 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.**

#### 4.6 Large HMOs (more than 6 occupiers)

- 4.6.1 Planning applications for the change of use of properties into large HMOs will be assessed using the threshold limit.
- 4.6.2 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, has no further effect on the concentration of HMOs and balance and mix of households in the local community.
- 4.6.3 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 (Appendix 4) and parking standards set out in section 5. Other impacts will be assessed as set out in the policy text.

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

- 4.7.1 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.
- 4.7.2 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 E<sup>12</sup>. 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.

- 4.7.3 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 23<sup>rd</sup> March 2012, this will then be a material consideration when the council considers the planning application or where lawful use can be demonstrated (see section 6 for guidance on lawful use).

#### 4.8 Extensions to existing HMOs

- 4.8.1 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, has no further effect on the concentration of HMOs and balance and mix of households in the local community.
- 4.8.2 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.
- 4.8.3 Where the extension results in an increase of occupiers which results in 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 4.6). The threshold limit will not apply, though other impacts arising from the proposal will be assessed (see policy text) including standard of living conditions and parking standards set out in Appendix 4 and section 5.

### **5. Parking Standards**

- 5.1 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 SPD<sup>13</sup>.**
- 5.2 **In areas with parking restrictions, local parking policy will also be applied.** Where the HMO is within a residents permit zone, occupants are entitled to apply for permits if they have registered their car at the address,

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<sup>12</sup> This is a provision under the Town and Country Planning (General Permitted Development) Order 1995 Part 3 Class E - <http://www.legislation.gov.uk/ukxi/1995/418/schedule/2/made>

<sup>13</sup> SCC adopted Parking Standards SPD - <http://www.southampton.gov.uk/planning/planning-policy/supplementary-planning/parking-standards-spd.aspx>

however the number of permits available will be restricted in accordance with the local parking policy. This generally restricts the number of permits to one or two per postal address<sup>14</sup>.

- 5.3 Table 1 overleaf 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'.
- 5.4 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.
- 5.5 This parking may be provided via on and off-street parking subject to the conditions and recommendations set out in the Parking Standards SPD. 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.**

Table 1 – 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

- 5.6 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**

<sup>14</sup> Further information on student parking in residents parking zones is available online at <https://www.southampton.gov.uk/roads-parking/parking/student-parking.aspx>

**Standards SPD sets out guidance to assess the type and design of cycle facilities to be provided.**

- 5.7 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.
- 5.8 **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'.**

**6. Regularising established HMOs - applying for a Certificate of Lawful Use**

- 6.1 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.
- 6.2 A certificate can be applied for to regularise a large or small HMO. Subject to examination through the application process, a small C4 HMO occupied on or before 23<sup>rd</sup> March 2012 (when the Article 4 direction became effective) or demonstrating four years of continuous C4 occupancy will be deemed the lawful use after this date. Satisfactory evidence will be required to demonstrate the lawful occupation of the HMO.
- 6.3 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 23<sup>rd</sup> March 2012 or demonstrating four years continuous C4 occupancy. This will reduce the owner's risk of the council taking enforcement action against them.

**7. Monitoring**

- 7.1 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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## 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.
Sandwiching	This is the circumstances where there are adjoining HMOs directly on both sides of an existing dwelling. Where properties are separated by a road or where there is a back to back relationship in different streets then the approach will not apply.
Threshold	This is the set limit or level of the concentration of HMOs.

## Appendix 1 Policy Background

1. The City of Southampton Local Plan incorporates a number of documents. These include two citywide plans; the Local Plan Review and the Core Strategy and the City Centre Action Plan (CCAP). These plans were updated in March 2015 when the CCAP was adopted.
2. The policy for Houses in Multiple Occupation is set out in Core Strategy policy CS 16, see below. The Core Strategy updated the overarching Local Plan Review policies. The supporting text of policy CS16 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.

3. The Local Plan Review includes detailed development management policies. Policy H4 of the Local Plan Review (see 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. 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 parking standards and refers to other guidance on standards for HMOs.
5. Although the National Planning Policy Framework (NPPF) does not directly refer to HMOs, paragraph 50 addresses the need to plan for a mix of housing to deliver sustainable, inclusive, mixed communities.

#### **National Planning Policy Framework, Paragraph 50**

To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, local planning authorities should:

- plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);
- identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and
- where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve

or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.

## Appendix 2 HMO definition

1. In broad terms, a HMO under planning legislation 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 Order<sup>15</sup>:  
Class C4 – *between 3 and 6 residents*  
Sui Generis (of its own kind) - *more than 6 residents*  
  
Class C4 HMO (small/medium)
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 2004**<sup>16</sup> with exception of **section 257** (relating to converted flats) and those buildings listed in **schedule 14** (see paragraph 3.4 below). 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. The meaning of '**basic amenities**' is defined under the Housing Act **section 254(8)**:
  - a toilet;
  - personal washing facilities; or
  - cooking facilities.
4. **Schedule 14** of the Housing Act includes a list of 'buildings which are not HMOs'. It includes the following types which will not be identified as residential properties when calculating the proportion of HMOs on accordance with the methodology in the HMO SPD:
  - 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';
5. 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 which do not fall under the planning definition of HMOs and, therefore, cannot be counted towards the threshold.

<sup>15</sup> The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010 (SI 2010/653) - <http://www.legislation.gov.uk/ukSI/2010/653/article/2/made>

<sup>16</sup> Housing Act 2004 - <http://www.legislation.gov.uk/ukpga/2004/34/introduction>

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.
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 4.7 for more information on flexible permissions.

Sui Generis HMO (large)

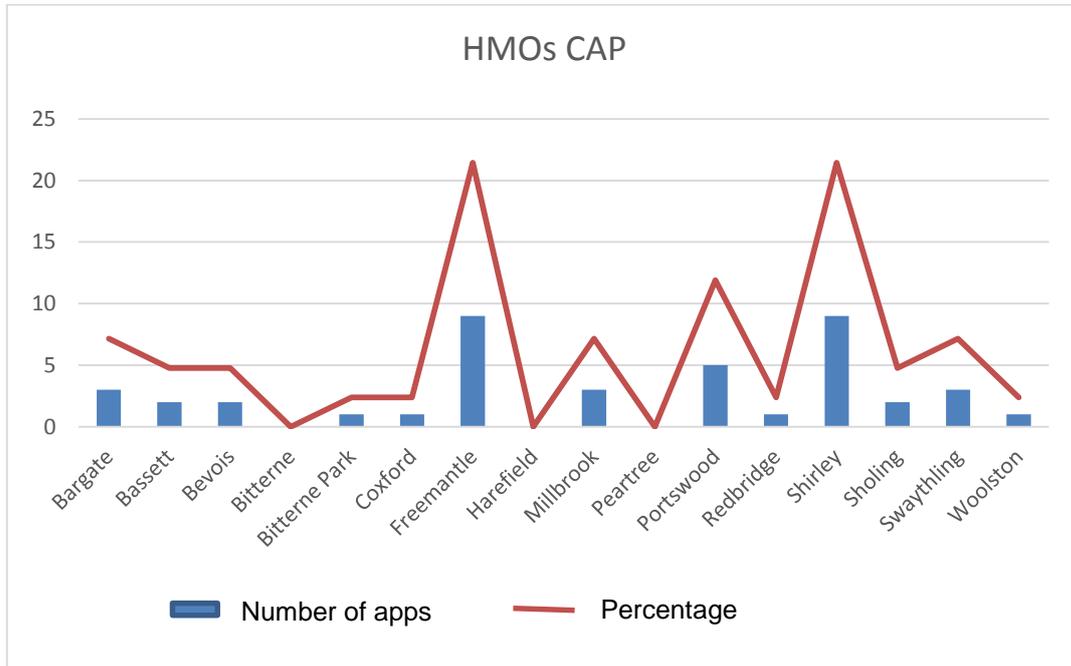
8. For the purposes of defining the occupation of a 'Sui Generis' HMO dwelling there is no meaning defined under planning legislation and therefore the council will assess each case on an individual basis.

### Appendix 3 Planning application statistics by ward

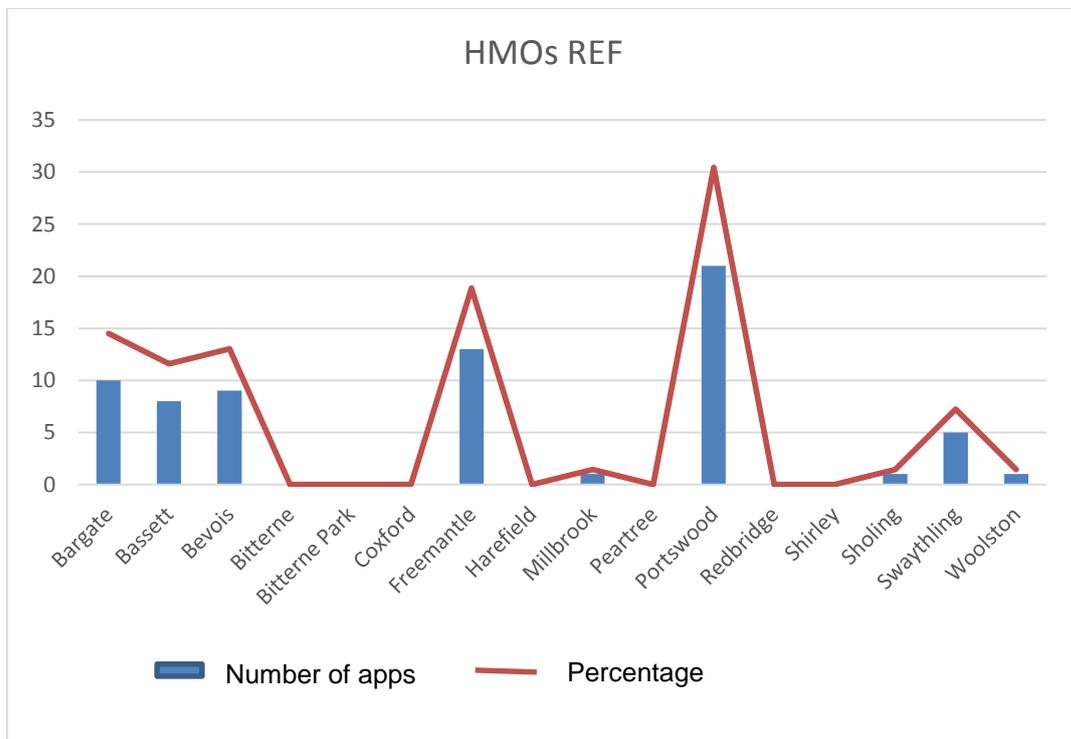
Table 1 All HMO applications by ward (decisions 23.03.12 - 22.12.2015)

Wards	Threshold (%)	New HMOs						
		Number of apps Refused	% of apps refused	% refused by ward	Number of apps approved (with conditions)	% of apps approved	% by ward	Total
Bargate	20	10	76.9	14.5	3	23.1	7.1	13
Bassett	10	8	80.0	11.6	2	20.0	4.8	10
Bevois	20	9	81.8	13.0	2	18.2	4.8	11
Bitterne	20	0	0	0.0	0	0	0.0	0
Bitterne Park	20	0	0.0	0.0	1	100.0	2.4	1
Coxford	20	0	0.0	0.0	1	100.0	2.4	1
Freemantle	20	13	59.1	18.8	9	40.9	21.4	22
Harefield	20	0	0	0.0	0	0	0.0	0
Millbrook	20	1	25.0	1.4	3	75.0	7.1	4
Peartree	20	0	0	0.0	0	0	0.0	0
Portswood	10	21	80.8	30.4	5	19.2	11.9	26
Redbridge	20	0	0.0	0.0	1	100.0	2.4	1
Shirley	20	0	0.0	0.0	9	100.0	21.4	9
Sholing	20	1	33.3	1.4	2	66.7	4.8	3
Swaythling	10	5	62.5	7.2	3	37.5	7.1	8
Woolston	20	1	50.0	1.4	1	50.0	2.4	2
	Total	69			42			111
	%	62.2			37.8			

Graph 1 – HMO applications approved with conditions (decisions 23.03.12 - 22.12.2015)



Graph 2 – HMO applications refused (decisions 23.03.12 - 22.12.2015)



## Appendix 4 Standard of living conditions for future tenants

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.

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 team<sup>17</sup>. 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*<sup>18</sup>. Landlords who are caught without a licence, risk being fined by the courts.
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'<sup>19</sup> 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:
  - rooms of a reasonable size,
  - sufficient number of bathrooms,
  - suitable cooking facilities, and
  - sufficient number of toilets for the number of people living there.
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 applied.
5. The council will seek to ensure that the Private Housing amenity standards are met to improve the quality of living environments across

<sup>17</sup> Guidance on the council's standards for amenities and safety - <http://www.southampton.gov.uk/housing-council-tax/landlords-home-owners/landlords/houses-in-multiple-occupation/safety-standards.aspx>

<sup>18</sup> 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/housing-council-tax/landlords-home-owners/landlords/houses-in-multiple-occupation/licensing-houses-in-multiple-occupation.aspx>

<sup>19</sup> The council's 'Approved Standards for HMOs' - [http://www.southampton.gov.uk/Images/Guidance%20on%20HMO%20Standards%20v2\\_tcm63-368099.pdf](http://www.southampton.gov.uk/Images/Guidance%20on%20HMO%20Standards%20v2_tcm63-368099.pdf)

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. It is likely that any application that fails to meet these requirements will be refused planning permission.

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.

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.**

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](#)<sup>20</sup>.
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 Document<sup>21</sup>. 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.
9. **The relevant standards are set out in the Residential Design Guide, Section 2.2 – 'Access to natural light, outlook and privacy'.**

<sup>20</sup> The SASSH website (Student Accreditation Scheme for Student Housing) - <http://www.sasshstudentpad.co.uk/Landlords.asp>

<sup>21</sup> Residential Design Guide (approved version September 2006) - <http://www.southampton.gov.uk/planning/planning-policy/supplementary-planning/residential-design-guide.aspx>

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.

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.
12. **When assessing the physical impact of an extension (refer to section 4.8) 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.**

Waste management

13. 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.
14. 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.
15. 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.
16. Where appropriate the council will require the submission of a waste management plan or statement to show in detail that tenants can manage their waste in an acceptable way, and this plan must be put in place once approved.

17. **The planning application will be assessed in accordance with the guidance set out in the Residential Design Guide, Section 9 - 'Waste management'.**