

**Houses in Multiple Occupation in Bath:
Frequently Asked Questions**

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1 General FAQs

1.1 What is an HMO?

A House in Multiple Occupation or HMO is defined by the 2004 Housing Act as a house or flat that is occupied by 3 or more people from 2 or more households, who share basic amenities such as a bathroom, toilet or cooking facilities.

There is a basic flow diagram setting out the key exclusions and definitions on page 6 of the SPD.

1.2 Is a house accommodating lodgers considered to be a HMO?

Properties that contain the owner occupier (and his / her family, including unmarried couples) and up to two lodgers, are NOT described as an HMO. However, if you are sub-letting rooms in a rented house, this will count as an HMO. An owner occupier, their family and 3 or more lodgers will be a HMO.

1.3 What about co-habiting couples?

Co-habiting couples are considered to be family, regardless of gender.

2 Planning and SPD FAQs

2.1 Why has an Article 4 Direction being confirmed and a Supplementary Planning Document (SPD) adopted?

Houses in Multiple Occupation (HMOs) are a much needed element of the housing market. However, large concentrations of HMOs in a small area can impact on the character of a residential area and give rise to a negative impact on social balance. It is hoped that the Article 4 Direction help to achieve an appropriately balanced housing mix across the city of Bath.

The Article 4 Direction triggers a requirement for planning application when someone wants to convert a family home to an HMO, but the real impacts will be determined in the policy introduced via the Supplementary Planning Document. This will determine the basis for decisions on the planning applications triggered and the streets that will be affected.

2.2 What are Use Classes?

A Use Class defines a building type in planning terms. Use Class C3 is a family dwelling.

HMOs are classified by the Use Class Order as;

- Class C4 – accommodating between 3 and 6 residents
- Sui Generis – accommodating more than 6 residents

2.3 What is new in the SPD (Sep 2017)?

The original SPD was adopted in July 2013. The performance of the original SPD was monitored and revised SPD reflects more up to date evidence and comments received through the reviewing process.

The key changes are to introduce a sandwich policy as the Criteria 1 test, then apply the threshold test (lower to 10% from 25%) as the Criteria 2 test.

2.4 What is a sandwich policy?

Planning permission would not be normally granted where the introduction of new HMO would result in an existing residential property (C3 non-HMO) being sandwiched by any adjoining HMOs on both sides.

This is to avoid the potential impact on neighbouring properties and aims to ensure that there is balance at street level.

2.5 Why is a threshold approach proposed to determine HMO applications?

Evidence shows that HMOs are currently more concentrated in certain areas of the city. A threshold approach has been selected in order to achieve an appropriately balanced housing mix across the city of Bath.

2.6 Why has a two stage approach been proposed in the SPD?

A two stage approach has been decided upon following consultation with various stakeholders in order to ensure an efficient and fair application process. The two stages have different purposes; stage 1 helps to provide clarity for applicants; whilst stage 2 ensures that there is equity across applications:

- The Stage 1 test ensures that potential applicants are given an indication of whether their application is likely to be successful, without the need for detailed and costly analysis.
- The Stage 2 test ensures a fair policy across the city, ensuring that the application site forms the centre point. A 100m radius has been set, which represents approximately a two minute walk, or your immediate neighbourhood.

2.7 Will the Article 4 Direction apply retrospectively?

The Article 4 Direction will not apply retrospectively. Therefore HMOs in Bath that were in place before 1st July 2013 are not affected. However, the licencing changes will be retrospective and cover all new and existing HMOs.

2.8 Will the 10% threshold apply retrospectively?

No, it does not apply to existing properties. This new threshold only applies to new proposals.

2.9 Will this affect larger HMOs (with more than 6 people)?

Planning permission is already required for larger HMOs (6+ or more unrelated people). However, the introduction of the Supplementary Planning Document also helps provide the basis for making the decision as to whether or not a change of use should be permitted.

2.10 Why have the Article 4 Direction and the SPD been applied across the whole of Bath?

Bath is a relatively small, walkable city, and it was felt that a smaller area could lead to a simple displacement of HMOs to an immediately adjacent area, rather than producing more of a balance across the whole city, as this approach allows.

What is the key difference between the new revised SPD (July 2017) and adopted SPD (July 2013)?

The original SPD introduced a two stage approach with xxx the new

2.11 Are there any exemptions to the assessment approach detailed in the SPD?

There are no exemptions. The proposals apply to any HMO conversion within Bath.

2.12 What is involved in the application process when the A4D and SPD are in force?

Applicants will be expected to submit the following details with their planning application:

- Application Form
- Site plan showing specific location
- Design and Access Statement (where required)

Applications will first be assessed against the stage 1 criteria; a 10% HMO threshold at the Census Output Area Level (COA). This is assessed against a map available at www.bathnes.gov.uk/hmo, which will be updated on a quarterly basis. If the application location falls outside the 10% threshold area, then officers will be minded to approve the application (assuming there are no other material considerations); if it is within the area, then a Stage 2 assessment will be carried out; considering the threshold in a 100m Radius area around the application property.

The applicant will not have to pay to submit an application, assuming planning permission would not have been required anyway. Further detail can be found on the planning portal (www.planningportal.gov.uk), but a fee may be required for larger HMOs (over 6 people) or where significant extensions are required in order to facilitate the change to an HMO.

2.13 How will policy be enforced and what should local residents do if they suspect a home is being converted to an HMO now that the Policy is in effect?

On receipt of an enforcement complaint alleging an unauthorised HMO, the planning enforcement team will need to visit and collect information from the owner, such as tenancy agreements Council tax bills, utility bills with named tenants an HMO license, register from a voluntary accreditation scheme for HMOs operated by B&NES to establish whether or not there has been a material change of use to a C4 HMO. Officers may have to serve a planning contravention notice to obtain this information if the owner is reluctant to provide it voluntarily i.e. because they are operating an HMO but think that they won't achieve permission.

If Officers determine from their evidence that a material change of use has occurred, they may ask for a planning application as is normal practice with enforcement. Any application would be publicised in the normal way and all views taken into account. In any event they would be obliged to discuss the situation with the owner and no formal action would be taken whilst an application and possible appeal was being considered.

Officers would have to determine any planning application based upon the SPD and other development management policies/material considerations and decide if there are any grounds upon which permission could be refused having regard to the fact that the National Planning Policy Framework directs Local Planning Authorities to approve planning permission for development unless there is substantial harm. Some proposals may be acceptable and gain permission.

If no application is forthcoming Officers would have to consider the expediency of taking enforcement action, also based on the SPD and policy/material considerations and in respect of the level of harm.

If local residents suspect that a home is being converted to an HMO they can submit an enforcement complaint form on the Council's web site at <http://www.bathnes.gov.uk/services/planning-and-building-control/planning-enforcement> and email to planning_enforcement@bathnes.gov.uk

2.14 How can I find out more?

All of the information on Planning Controls for HMOs can be found on our webpage www.bathnes.gov.uk/hmo

3 Housing and Licensing FAQs

3.1 What is the area to be covered?

The additional licensing designation will cover the entire Wards of Oldfield and Westmoreland, a large part of Widcombe and small sections of the adjoining Wards of Bathwick, Lyncombe, Southdown and Twerton. A map and list of roads included in the scheme are available at www.bathnes.gov.uk/hmos. It is anticipated that this will cover up to 1,400 properties.

3.2 When did this come into effect?

The designation came into effect on 1st January 2014.

3.3 How does licensing work?

Housing Services are unable to monitor the living conditions or management of the majority of HMOs in the area without the power of additional licensing.

Additional licensing will give Housing Services the power to require all landlords of HMOs to be included in the scheme as described above to apply for a licence and provide details of the management arrangements and the property. This will enable officers to know where these properties are and place conditions on the licence holder to ensure minimum standards of safety, welfare and management are maintained.

Landlords will have to pay a fee for each application to cover the Council's costs of running the scheme. Housing Services will be able to proactively inspect these properties to deal with any significant health and safety hazards and ensure they meet minimum management requirements.

3.4 Wasn't there already a licensing scheme in place?

Yes, *mandatory* licensing is in place for HMOs which have 5 or more people living in a property of three or more stories (including loft room or basement) and sharing a basic amenity such as a toilet, bathroom or cooking facilities. This is a requirement set by central government.

The new scheme is *additional* licensing for HMOs, within a designated area. Where there is appropriate evidence in place that this could be successfully used to address an issue within a specific area or covering a certain type of HMO, additional licensing can be introduced by local councils to supplement the mandatory licensing scheme.

3.5 What types of properties are covered by the additional licensing?

The proposed scheme includes all HMOs in the designated area that are not already subject to mandatory licensing, subject to the exception below.

Exception

- Buildings converted entirely into self-contained flats (s257 HMOs), although the individual flats maybe licensable in their own right.
- Purpose built student accommodation where the organisation has signed up to the ANUK/Unipol Code of Standards for Larger Residential Developments or The National Code of Standards for larger Developments.

3.6 How will this be enforced and what should a local resident do if they suspect that an HMO is operating without a licence?

Where landlords are unable to meet the licensing requirements, Housing Services will be able to follow their Enforcement and Licensing Policy (see www.bathnes.gov.uk/ and pursue the necessary sanctions against the landlord which could include prosecution and forcing a change of management of the property.

A register of HMOs will be available to the public so they can find out who manages HMOs near them and are able to more quickly and easily report problems.

If the property you have concerns about does not appear on the public register, please email us on hmo_licensing@bathnes.gov.uk and entitle your email with UNLICENSED HMO.

3.7 How do I apply for a licence?

Applications must be made to Housing Services as soon as the property becomes licensable. To apply for an HMO licence you will need to use the application form, associated guidance and submit a fee. For more information see www.bathnes.gov.uk/hmos

3.8 Will the additional licensing be applied retrospectively?

Yes. Any HMO, either existing or future, within the designated area, will be required to apply for a licence.

3.9 How can I find out more?

All of the information is on our specific webpage www.bathnes.gov.uk/hmos

4 Glossary

SPD – Supplementary Planning Document; this is a document that sets out planning policy on a certain subject, supporting the main development plan in an area.

A4D – Article 4 Direction; this is a legal notice applied to a specific geographical area, and means that planning permission is required for types of development or changes of use, which would normally fall under permitted development (i.e. would not require express planning permission).

HMO – House in Multiple Occupation; a house or flat that is occupied by more than one household, who share basic amenities. A fuller definition can be found in the Housing Act 2004.

s.257 – section 257 of 2004 Housing Act; the definition of a s.257 HMO is ‘a building converted into and consisting entirely of self-contained flats’ that does not meet at least the required 1991 building regulations and where less than two thirds of the flats are owner occupied.

COA – Census Output Area; a geographical area used to analysis data from the census, it normally consists of approximately 125 households.

LSOA – Lower Super Output Area a geographical area used to analysis data from the census, containing a minimum population of 1,000 persons and on average (mean) contain a population of 1,500 persons.

Use Class Order – Town and Country Planning Use Class Order puts uses of land and buildings in to categories known as ‘use classes’

C3 (dwellinghouse) – A Use Class described as a “dwellinghouse”; use of a house by:

- (a) a single person or by people to be regarded as forming a single household;
- (b) not more than six residents living together as a single household where care is provided for residents; or
- (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

C4 (house of multiple occupation) – A Use Class defined as use of a dwellinghouse by not more than six residents as a “house in multiple occupation”. This does not include a converted block of flats to which section 257 of the Housing Act 2004 applies but otherwise has the same meaning as the Housing Act 2004.