

Houses in Multiple Occupation

Draft Supplementary
Planning Document

August 2021



Bath & North East
Somerset Council

Improving People's Lives

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This document can also be viewed on our website: **www.bathnes.gov.uk**

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1.0 Introduction

1.1 Purpose

This Draft Supplementary Planning Document (SPD) supplements Placemaking Plan policy H2, and at the point of its adoption, Local Plan Partial Update (LPPU) policy H2, by setting out Bath & North East Somerset Council's approach to the distribution and dispersal of Houses in Multiple Occupation (HMOs).

It aims to encourage a sustainable community in Bath and the wider district, by encouraging an appropriately balanced housing mix, supporting a wide variety of households in all areas.

The SPD does this by setting out criteria for assessing planning applications for new and intensified HMOs.

The original Houses in Multiple Occupation SPD was adopted in 2013, alongside an Additional Licencing Scheme and an Article 4 Direction removing permitted development rights for the change of use of a dwelling (C3 use class) to a small HMO (C4 use class) in Bath.

The SPD introduced a threshold approach to determine planning applications for new HMOs. Since this time, the performance of the original SPD and its 2017 update have been reviewed, in order to reflect more up-to-date evidence and comments received through the reviewing process.

The main changes in this revised Draft SPD comprise:

- removal of the census output area test previously used to assess applications,
- provision of guidance on assessing flatted developments using the sandwich test, and;
- provision of additional guidance relating to updates to policy H2 set out within the Local Plan Partial Update Draft Plan.

It is important to note that planning applications are assessed against national and local planning policy and all other material considerations. Requiring an application to be submitted does not mean that all will be refused; rather it allows the Council to assess each case against agreed criteria before making a decision.

1.2 Scope

A Supplementary Planning Document (SPD) is intended to provide further detail supporting policies in the Development Plan. It does not have Development Plan status, but it will be afforded significant weight as a material planning consideration in the determination of planning applications. The provisions of any SPD cannot, therefore, be regarded as prescriptive but they can provide a powerful indicative tool in the interpretation and application of the policy.

This document does this by setting out key decision making criteria for determining the following types of planning application¹:

- Applications for change of use from a C3 (dwellinghouse) to C4 HMO where permitted development rights have been withdrawn via an Article 4 Direction covering the City of Bath (see map 1);
- Applications for change of use to large HMOs of more than 6 people (sui generis), where there is a material change of use;
- Applications for new build HMOs;
- Applications for change of use from other uses (i.e. Class E uses) to C4 HMO or sui generis HMO.

1.3 Policy Context

National

The National Planning Policy Framework sets out a need to provide a mix of housing supply to provide for current and future generations and to “achieve healthy, inclusive and safe places”.

Local

Placemaking Plan policy H2 sets out criteria to be considered when assessing planning applications for the change of use of a residential dwelling to a HMO. At the point at which this SPD is adopted, relevant elements of the approach set out in the SPD shall be applied to Placemaking Plan policy H2.

Policy H2 shall be updated as part of the Local Plan Partial Update, to increase the scope of applications assessed by the criteria (see draft wording on page 4). At the point at which Local Plan Partial Update policy H2 is adopted, the approach set out in this SPD shall be applied to all applications listed in the updated policy.

Also of key relevance are Core Strategy Policies CP10 (Housing Mix), B1 (Bath Spatial Strategy), and CP1 (retro fitting existing buildings).

¹ Until the LPPU is adopted, the criteria shall apply only to applications for change of use as set out in Placemaking Plan policy H2.

1.0 Introduction

Draft Local Plan Partial Update Policy H2

POLICY H2: Houses in Multiple Occupation

Proposals for:

- Change of use from residential (C3) to small HMO (C4) in Bath;
- Change of use from residential (C3) to large HMO (sui generis) district-wide;
- Provision of new build HMOs district-wide;
- Change of use of other uses to HMO district-wide; and
- Intensification of small HMO (C4) to large HMO (Sui Generis) district-wide.

will be refused if:

- i The site is within an area with a high concentration of existing HMOs (as defined in the Houses in Multiple Occupation Supplementary Planning Document, or successor document). Further changes of use to HMO use, proposals for new build HMOs, or proposals for intensification, will not be supported as they will be contrary to supporting a balanced community;
- ii The HMO is incompatible with the character and amenity of established adjacent uses;
- iii The HMO significantly harms the amenity of

adjoining residents through a loss of privacy, visual and noise intrusion;

iv The HMO creates a severe transport impact;

v. The HMO does not provide a good standard of accommodation for occupiers;

vi. The HMO property does not achieve an Energy Performance Certificate 'C' rating;

vii. The HMO use results in the unacceptable loss of accommodation in a locality, in terms of mix, size and type;

viii. The development prejudices the continued commercial use of ground/lower floors.


Where a new build HMO is proposed, development should be consistent with other relevant Local Plan policies and guidance relating to new build residential accommodation.

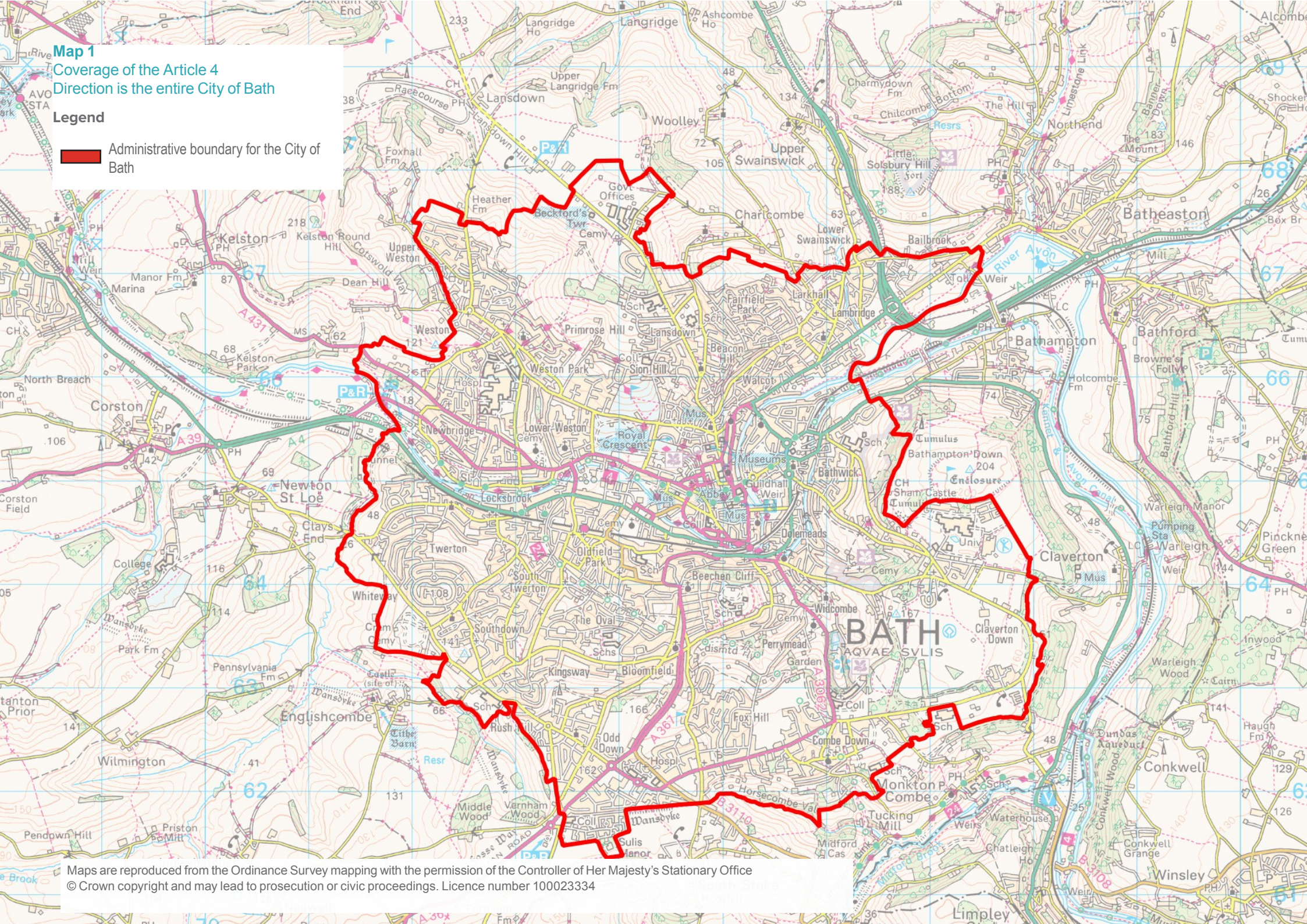
A condition restricting the number of occupants may be attached to permissions where deemed necessary to ensure that no further harmful intensification will occur.

Map 1

Coverage of the Article 4
Direction is the entire City of Bath

Legend

 Administrative boundary for the City of Bath



2.0 Background

2.1 What is a HMO?

Houses in Multiple Occupation (HMOs) can be defined as houses with three or more people from two or more families living together in a residence.

Under the Housing Act 2004² a House in Multiple Occupation (HMO) is defined as a building or part of a building (e.g. a flat):

- which is occupied by more than one household and in which more than one household shares an amenity (or the building lacks an amenity) such as a bathroom, toilet or cooking facilities; or,
- which is occupied by more than one household and which is a converted building which does not entirely comprise self-contained flats (whether or not there is also a sharing or lack of amenities); or
- which comprises entirely of converted self-contained flats and the standard of conversion does not meet, at a minimum, that required by the 1991 Building Regulation and more than one third of the flats are occupied under short tenancies.

And the households comprise:

- families (including single persons and co-habiting couples); or
- any other relationship that may be prescribed by regulations, such as domestic staff or fostering or carer arrangements.

In 2010, the legislative planning framework for Houses in Multiple Occupation (HMOs) changed significantly with the introduction of a new planning Use Class (C4); an HMO with between three and six people. This change aligns the Use Classes Order with the definition of a HMO within the Housing Act 2004.



2.2 Context

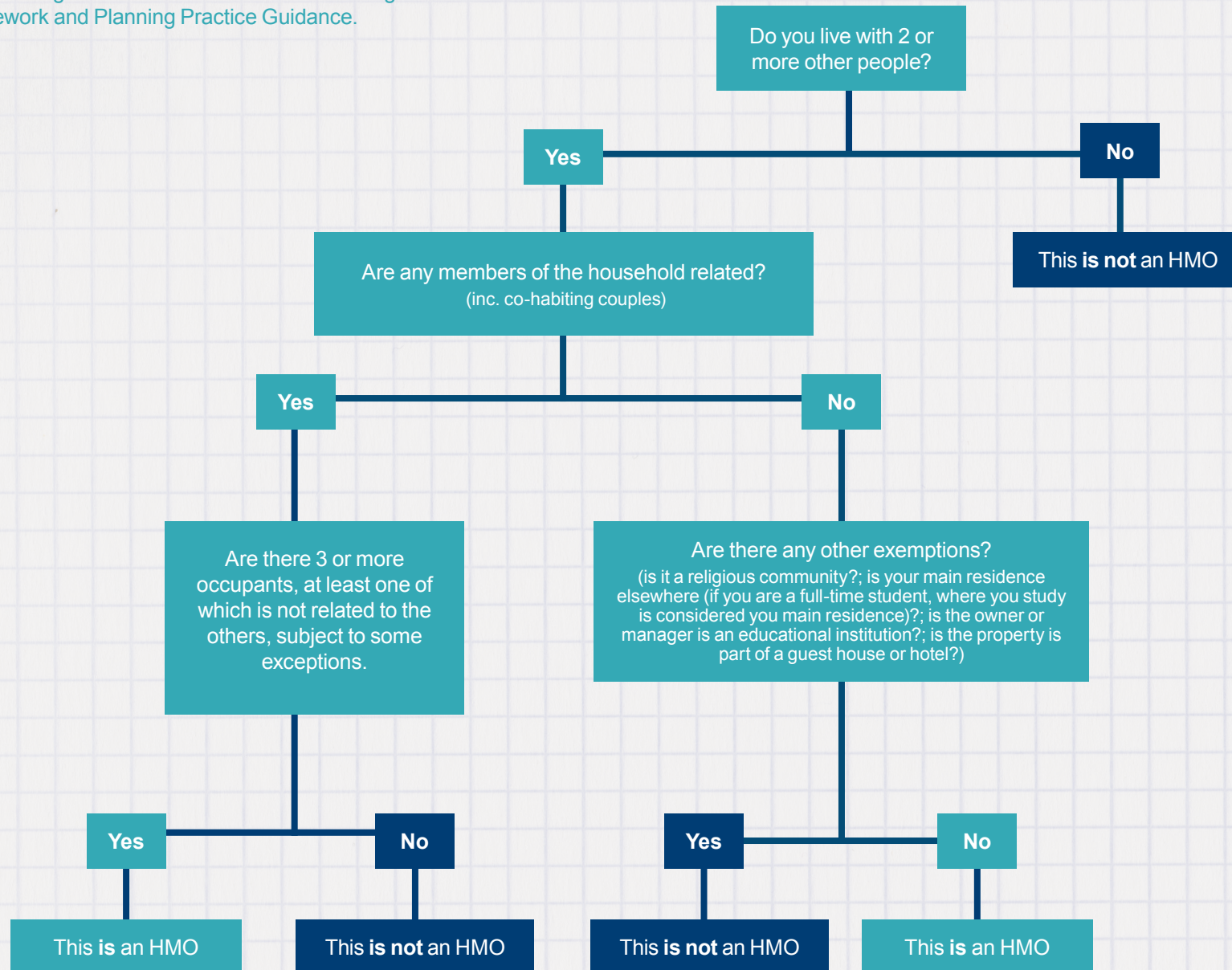
The private rented housing market in Bath is complex, and there is a diverse demand for flexible housing. HMOs are occupied by a wide range of groups including young professionals, students, immigrants, asylum seekers, those on housing benefit and contract workers. HMOs therefore have an important role to play in Bath's economy. HMOs have traditionally been more concentrated in certain areas of the city, particularly in the wards of Oldfield, Westmoreland and Widcombe.

The combination of an Article 4 Direction and this SPD will manage the future growth and distribution of HMOs across the City, with the aim of creating more balanced communities.

Flow Chart 1

Do you live in a HMO?

This is a guide only. For a legal definition of HMOs, please refer to the Housing Act 2004 and the National Planning Policy Framework and Planning Practice Guidance.



3.0 Supplementary Policy

Applications³ in Bath City for the change of use from C3 residential to C4 HMO, and applications district-wide for the change of use from C3 residential to sui generis HMO, new build HMOs, change of use of other uses to HMO, and the intensification of C4 HMO to sui generis HMO, will not be permitted where:

Criterion 1

It would result in any residential property (C3 use) being 'sandwiched' between two HMOs; or

Criterion 2

HMO properties represent 10% or more of households within a 100 metre radius of the application property, or the application property tips the concentration to 10% or more.

HMOs will be defined as falling within one or more of the following categories:

- Recorded on B&NES Housing team's database as a licensed HMO;
- A property benefiting from C4 or sui generis HMO planning consent;
- Any other properties held on B&NES Housing team's database as HMOs; and
- Council tax exempt student properties.

3 Until the LPPU is adopted, the criteria set out above shall apply only to applications for change of use set out in Placemaking Plan policy H2

Criterion 1

Where C3 residential properties are sandwiched between two HMOs, issues commonly associated with HMOs regarding disturbance and impact on amenity can be intensified.

Criterion 1 aims to prevent the potential for negative impacts upon an existing dwelling due to this sandwiching effect. It also aims to ensure that there is balance at street level.

Criterion 2

A threshold of 10% has been proposed, based on a number of factors including local evidence, a consideration of the suitability of the housing stock, public transport corridors and existing levels of HMOs.

Criterion 2 ensures a fair policy across the district, ensuring that the application site forms the centre point. A 100m radius has been set, which represents approximately a two minute walk, or the immediate neighbourhood.

Supporting information

The 2017 iteration of the HMO SPD included an additional stage to the testing, which assessed whether an application was located in a Census Output Area with over 10% concentration of HMOs. This has been removed following the Council's HMO mapping data being made publicly available.

The following data will be used to map the areas with over 10% HMOs:

- Licensed HMOs – records from the Council's housing team of those properties requiring an HMO licence will be utilised. This will cover both mandatory (those properties that are three storeys or over and are occupied by five or more persons) and additional licensing;
- Properties benefiting from C4 or sui generis HMO planning consent – in addition to those properties already identified as having HMO permission, where planning permission is given for a change of use to C4 HMO or;
- A certificate of lawful development issued for existing HMOs this will be recorded in the future to build up a clearer picture of HMO properties;
- Council tax exempt student properties; and
- Properties known to the Council to be HMOs – this can be established through site visits undertaken by the Council's Housing or Planning Enforcement team in response to complaints for example.

These data sets will be used to calculate the proportion of HMOs as a percentage of all households.

It is considered that these sources will provide the best approach to identifying the numbers and location of HMOs in an area, although it is accepted that it may not be

possible to identify all properties of this type. There may be existing HMOs which are occupied but unknown to the Council. For example, outside Bath City boundary, a change of use from C3 to C4 does not require planning permission, and will not therefore be registered on the Council's register of planning applications. Similarly, a small HMO outside Bath City boundary will not require a HMO licence, and will not therefore be included on the Council's list of licensed HMO properties.

The data will be analysed to avoid double counting, for example, identifying where a property may be listed as a licensed HMO and have sui generis HMO planning consent.

Data will be updated on a quarterly basis to ensure that changes over time are captured and that the latest data can be used in determining a planning application.

Mapping showing the location of existing licensed HMOs is publicly available to view on the Council's HMO Public Register website.

The Council's Development Management Team offer a HMO eligibility test pre-application service, to assess potential application properties against criteria 1 and 2.

4.0 Assessment for Planning Applications

4.1

Criterion 1: Sandwich test - Houses

Planning permission would not be granted where the introduction of a new HMO would result in an existing residential property (C3) being sandwiched by any adjoining HMOs on both sides, see worked example 1 below.

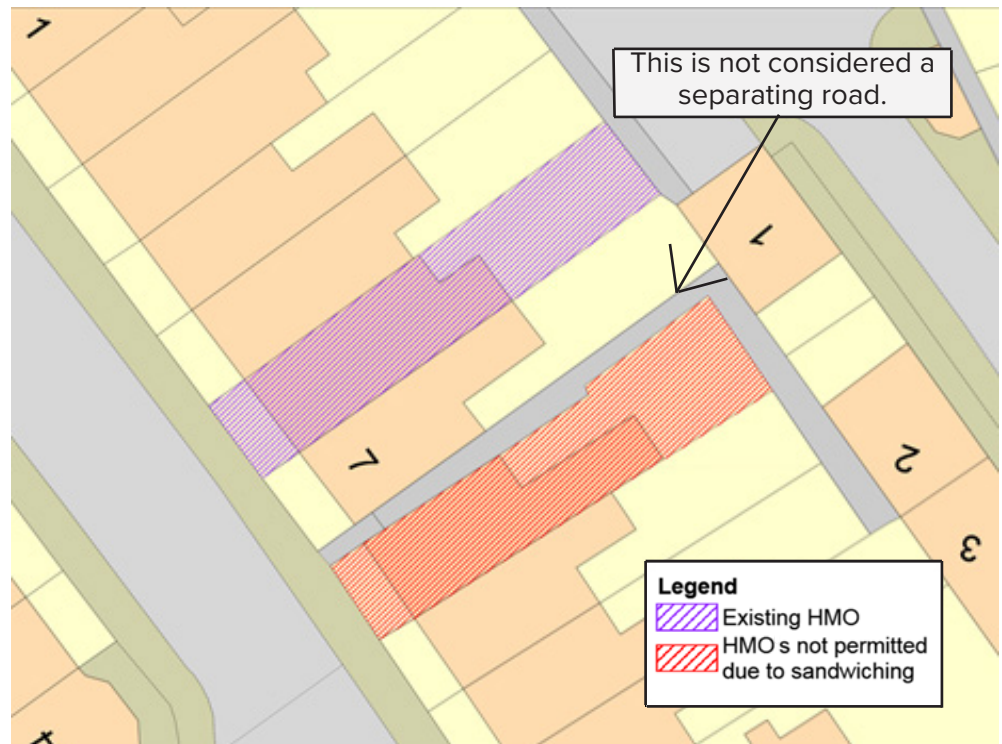
The sandwich test is required in order to avoid the potential for negative impacts commonly associated with HMOs on both sides of an existing residential property. Such impacts are a particular issue where properties share a party wall, and where

driveways and back gardens adjoin, or are in very close proximity to each other. It is therefore considered appropriate to restrict situations where an existing residential property would have a HMO located on both sides.

Map 2 Sandwich test example 1



Map 3 Sandwich test example 2



4.0

Assessment for Planning Applications

4.2

Criterion 1: Sandwich test - Flats

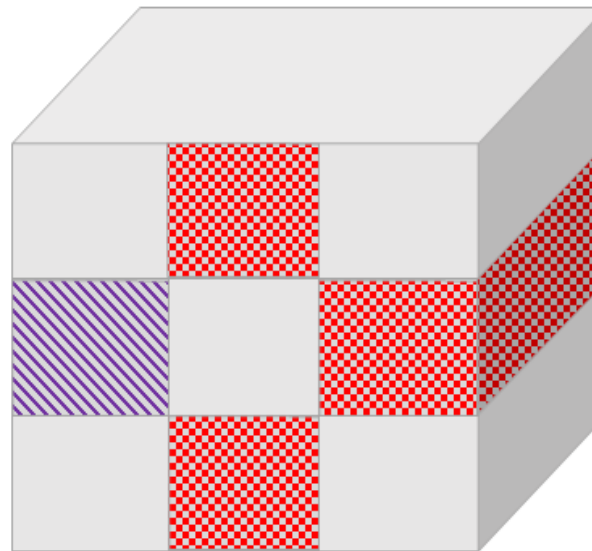
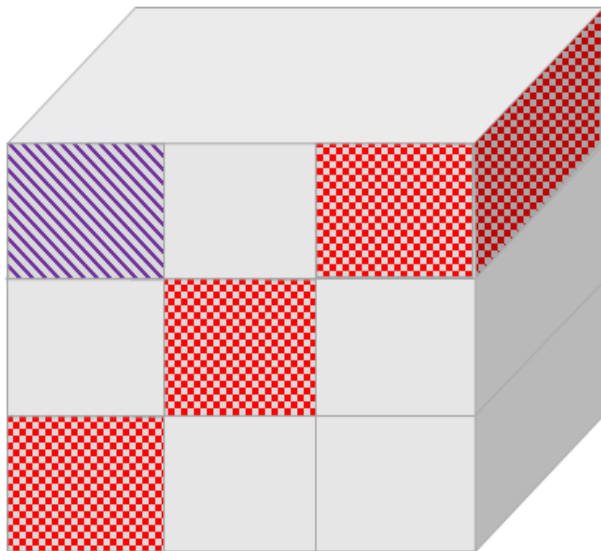
Planning permission would not usually be granted where the introduction of a new HMO within a sub-divided building would result in an existing residential flat (C3) being sandwiched by adjoining HMO flats on two or more sides (not including those located diagonally across from the C3 dwelling), unless circumstantial evidence or




evidence of mitigation exists to justify that no harm would be caused to the amenity of the sandwiched C3 property. See worked example below.

Such circumstantial evidence and mitigatory measures might comprise:

- The number of bedrooms proposed and their relationship to common boundary walls;
- Management considerations;
- Quality of sound insulation;
- Ambient noise levels.

Diagram 1 Sandwich test example 3 (flats)



Legend	
	Existing HMO
	Existing C3 dwelling
	HMO flats unlikely to be permitted due to sandwiching ⁴

⁴ Unless relevant circumstantial evidence or mitigatory measures exist

4.0 Assessment for Planning Applications

4.3 Criterion 2: Concentration Test

Planning permission would not be granted for a new or intensified HMO where HMO properties represent 10% or more of households within a 100 metre radius of the application property.

If the application property tips the concentration of an area to 10% or more, the application will be refused.

The 100m radius of the application property is calculated from a central point in the property, as defined by the Local Land and Property Gazetteer (LLPG).

For properties on the edge of the 100 metre radius, a property will be included in the calculation where any part of its curtilage, including the property boundary, falls within the radius (see worked example at Map 5).

Where the 100m radius captures any part of a building containing residential flats, the Council will endeavour to establish the number of flats that fall, in part or whole, within the 100m radius (see inset showing a situation where the Council might establish that 7 flats should be counted). If the Council is unable to establish this, then all properties inside of the building will be included in the calculation.

Map 5 Criteria 2 Example Assessment and inset showing flattened development

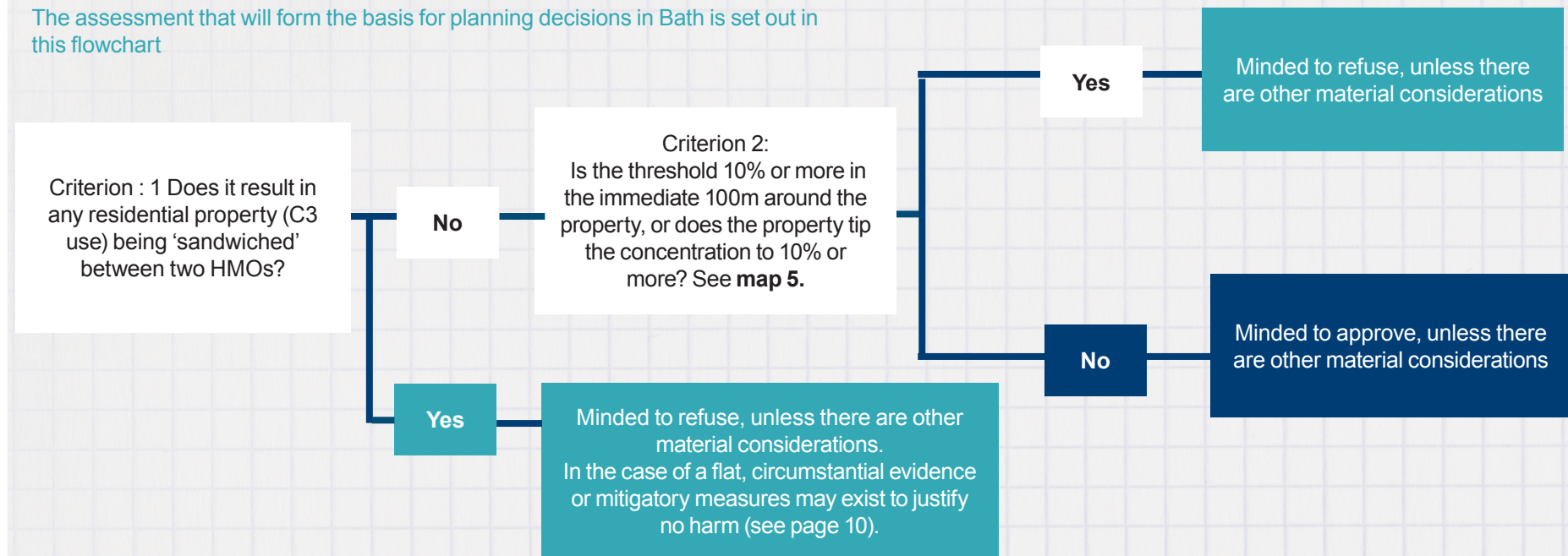


4.0

Assessment for Planning Applications

Flow Chart 2

The assessment that will form the basis for planning decisions in Bath is set out in this flowchart



5.0

Securing a good standard of accommodation

5.1 Policy H2 update

Policy H2 in the Placemaking Plan shall be updated as part of the Local Plan Partial Update to provide a number of policy requirements focused on securing a good standard of accommodation for HMO occupiers, including a requirement for all new and intensified HMOs to meet Energy Performance Certificate 'C'.

Policy CP1 (retrofitting existing buildings) shall also be updated as part of the Local Plan Partial Update to refer to the requirement for HMOs to meet Energy Performance Certificate 'C'.

All developments should be consistent with relevant Local Plan policies and guidance with regards to providing a good standard of accommodation. The following guidance sets out further information regarding how these policy requirements should be achieved.

5.2 Minimum room size standards

Bedrooms

Single bedrooms must have a minimum Gross Internal Floor Area (GIA) of 6.51 sqm, and double bedrooms or twin bedrooms must have a minimum GIA of at least 10.22 sqm. Areas of floorspace where the ceiling height is less than 1.5m will not be counted when calculating the GIA of a bedroom.

Shared facilities

Where shared facilities are provided for occupiers, the minimum size standards for kitchens and communal living spaces set out in table 1 will apply.

The total communal living space includes kitchens, dining rooms and living rooms, and the kitchen must be at least the minimum size specified in the table.

Other standards

Further information on minimum room sizes and other licencing standards can be found on the [Council's HMO Standards and Guidance web page](#).

Table 1: Shared facilities minimum size standards

No. of occupiers	1-3	4	5	6	7	8	9	10
Kitchen	5 sqm	6 sqm	7 sqm	9 sqm	9.5 sqm	10 sqm	10.5 sqm	11 sqm
Total communal living space	13.5 sqm	17 sqm	18 sqm	20 sqm	22 sqm	24 sqm	26 sqm	27.5 sqm

5.0 Securing a good standard of accommodation

5.3 Energy Performance Certificate C

Planning applications for new or intensified HMOs shall be supported by evidence to show proposed works to achieve an Energy Performance Certificate of C or above, unless any of the following exemptions apply:

- The cost of making the cheapest recommended improvement would exceed £10,000¹ (including VAT).
- Where all relevant energy efficiency improvements for the property have been made (or there are none that can be made) and the property remains below EPC C.
- Where the proposed energy efficiency measures are not appropriate for the property due to potential negative impact on fabric or structure.
- Where the proposed energy efficiency measures would amount to harm to the significance of a heritage asset.

Where exemptions are relevant, planning applications should be supported by evidence from relevant independent experts.

Score	Energy rating	Current	Potential
92+	A		
81-91	B		
69-80	C	72 c	78 c
55-68	D		
39-54	E		
21-38	F		
1-20	G		

5.4 Sound reduction measures

In some circumstances a condition seeking sound reduction measures may be attached to a planning permission for a new or intensified HMO development, where it is deemed necessary to ensure the amenity of both neighbouring occupiers and occupiers of the HMO.

In all circumstances applicants should consider on a voluntary basis the provision of sound reduction measures where appropriate. Such measures might include:

- Soft-closers on internal and external doors;
- Provision of doorbells or keyless entrance systems, rather than door knockers;
- Sound-deadening material on stair treads;
- Location and design of bathroom sanitary ware to avoid noise transmission through party walls;
- Plan layouts which avoid positioning of communal rooms opposite bedrooms in adjoining properties.

5.5 Ventilation

HMOs should have sufficient means for ventilation that can be maintained securely while the occupants are absent to minimise occurrence of damp and mould.

The use of measures such as trickle vents are encouraged.

Applications for planning permission should provide details of adequate space to dry clothes within a ventilated area of the property.

¹ Cost to be reviewed in line with outcome of Government consultation on improving the energy performance of privately rented homes 2020

6.0 Monitoring

Changes in HMO numbers will be continually monitored and maps on the Council's website showing the location of HMOs will be updated on a quarterly basis.

A key aspect of monitoring will be to look at possible displacement effects within or beyond highly concentrated areas. It is possible, that there will be some displacement to other parts of the city of Bath.

7.0 Submission Requirements for Applicants

The following submission documents will be required to support a change of use planning application for a new or intensified HMO:

- Application Form
- Site location plan
- Block plan of the site (e.g. at a scale of 1:100 or 1:200) showing any site boundaries and any car parking (if on site)
- Existing and proposed floor plan, including internal floor areas for each room.
- Details of waste and recycling
- Details of bicycle parking
- Details of external amenity space
- Details of drying space
- EPC Certificate, statement of works proposed to meet 'C' standard, or evidence of exemption.

In some cases specific additional requirements may be triggered as a result of assessing your application.

NB Where building work and/or development that requires planning permission is also proposed to be undertaken, normal submission requirements for a planning application of that type will apply.

For more detail about submitting planning applications see our website www.bathnes.gov.uk

8.0 Other considerations

Licencing

The Council also operates licencing schemes for HMOs in Bath. In addition to the current Mandatory HMO licensing, the Council has introduced an Additional Licensing scheme which was extended to cover the whole of Bath City from 1st January 2019.

For more informaton, see www.bathnes.gov.uk

Building Regulations

Proposals for the development or intensification of HMOs may be subject to building regulations requirements.

