

# **Planning Policy Document**

## **Houses in Multiple Occupation in the Article 4 Direction Area of Selly Oak, Edgbaston and Harborne wards**

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# Planning Policy Document

## Houses in Multiple Occupation in the Article 4 Direction Area of Selly Oak, Edgbaston and Harborne wards

### 1. Purpose

- 1.1 This Planning Policy Document is to provide a policy approach to apply to planning applications seeking a change in use from residential property to Houses in Multiple Occupation (HMOs) in the Article 4 Direction area (see map at Appendix I).
- 1.2 A decision to introduce an Article 4 Direction in this area has resulted from an analysis of city wide concentrations of HMOs revealing the particularly high levels found in Bournbrook and the spread to surrounding areas of Selly Oak, Harborne and Edgbaston wards.
- 1.3 The Planning Policy Document will be a material planning consideration until the policy is included in the forthcoming Development Management Development Plan Document.

### 2 Aim of the policy

- 2.1 The policy aims to manage the growth of HMOs by dispersing the locations of future HMOs and avoiding over-concentrations occurring, thus being able to maintain balanced communities. The neighbourhoods included in the confirmed Article 4 area have capacity to accommodate further HMOs in the right locations. Existing high concentrations in parts of Selly Oak ward have led to a significant loss of amenity for residents.

### 3 Scope

- 3.1 Conversion from a C3 to a C4 use<sup>1</sup> is a permitted development right and owners of property would normally have no need to inform the local authority that a family dwelling is changing to a small (C4) HMO. However in November 2014, an Article 4 Direction will be brought into effect that will remove these permitted development rights for change of use to C4 HMOs, within a designated area of Selly Oak, Edgbaston and Harborne wards.
- 3.2 Within the area covered by the Article 4, planning permission will be required to convert a family dwelling into a C4 HMO. Planning permission is already required for a change from a dwelling to a larger (Sui Generis)<sup>2</sup> HMO. In this way the planning authority can make a judgement as to whether any further HMOs should be permitted and the basis for their decision will be the city's planning guidance as to whether such a use would harm local amenity, the proper planning of the area, and/or lead to creating an unbalanced neighbourhood. This guidance is further strengthened by the adoption of this policy.
- 3.3 The policy will not apply to purpose-built student accommodation and will not be applied retrospectively to existing C4 HMOs.

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<sup>1</sup> The Use Classes Order defines a C3 as a single family house and a C4 as a house occupied by 3 - 6 unrelated people sharing as a 'house in multiple occupation'.

<sup>2</sup> A Sui Generis HMO is not in a planning use class and is defined as a large HMO with more than 6 people sharing. This use always requires planning consent.

## 4 Planning policy approach

4.1 In this area a planning application must be submitted to the city council and planning permission granted in order to convert a dwelling into an HMO regardless of size.

4.2 Where planning applications for such conversions are brought forward the city council will take account of the following when determining the application.

- The ability to maintain sustainable, mixed communities. Account will be taken of the proportion of HMO properties in the local area.

### 4.3 Policy HMO1

**Conversion of C3 family housing to HMOs will not be permitted where there is already an over concentration of HMO accommodation (C4 or Sui Generis) or where it would result in an over concentration. An over-concentration would occur when 10% or more of the houses, within a 100m radius of the application site, would not be in use as a single family dwelling (C3 use). The city council will resist those schemes that breach this on the basis that it would lead to an over-concentration of such uses.**

4.4 Should the application not cause an over concentration, or the exacerbation of an existing over concentration, the city council will then apply the existing policies that apply to HMOs city wide in determining planning applications for C4 HMOs, as well as large HMOs in the Article 4 Direction area. The proposal would also need to satisfy these criteria in order to be granted planning consent.

4.5 Existing policies that apply to HMOs are contained in Residential Uses (Specific Needs) SPG adopted 1992:

[www.birmingham.gov.uk/resspecificneeds](http://www.birmingham.gov.uk/resspecificneeds)

and the Birmingham Unitary Development Plan (2005) see extract at paragraph 7.2 of this policy document.

These policies are being reviewed and will be incorporated into a Development Management DPD (Development Plan Document) in due course.

## 5 Maintaining sustainable neighbourhoods

5.1 The government encourages local planning authorities to help maintain balanced communities. A balanced community is defined as one that is not dominated by one particular household type, size or tenure. There is no possibility of a sustainable community without an appropriate balance between settled residents and a transient population. The key issue with imbalance in neighbourhoods, which the government has recognised, is that it leads to rising problems and declining community, and potentially to unsustainability. Over-concentrations of HMOs can cause this imbalance.

5.2 It is recognised that HMOs are an important element of the city's housing stock and it is not the aim of the policy to reduce their overall numbers. Shared and/or rented housing fulfils a need for students and residents other than students, especially at the lower cost end of the housing market.

5.3 The neighbourhoods included in the proposed Article 4 area have capacity to accommodate further HMOs in the right locations, but over-concentrations will be avoided. In the Bournbrook area of Selly Oak, the existing concentration of HMOs is already so great that the community here can no longer be regarded as mixed, balanced and sustainable. Bournbrook therefore is excluded from the Article 4 by virtue of its existing over-concentration of HMOs. Not only does this area contain very high levels of student only HMOs it also contains a significant number of other, non-student, HMOs. The imperative here is to prevent the leakage of these same high levels to streets adjacent to Bournbrook.

- 5.4 The council will continue to work with all its partners (the University, private landlords, letting agents, purpose built specialists, the Police etc) to support the best management, maintenance and provision of student only accommodation in the Bournbrook area, and also with local families and residents and families to ensure their amenity is protected.
- 5.5 Proposals to convert C4 HMOs back into family accommodation do not need planning permission and are encouraged where there is no longer demand for shared housing.

## 6 Assessing concentrations of HMOs

- 6.1 An assessment of the proportion of households that are known HMOs has been undertaken across the city. The council has used:
- council tax records – students in full time education can apply for exemption from council tax and this data has been used to identify properties
  - properties licensed as an HMO<sup>3</sup>
  - properties with C4 or Sui Generis HMO<sup>4</sup> planning consent or issued with a certificate of lawful development

These data sets have been collated to calculate the proportion of shared households as a percentage of all households. The data will be reviewed at least annually and an assessment will be based on data at a single point in time.

- 6.2 The subsequent calculation to provide a percentage concentration in any area **will only use this data**<sup>5</sup>. It is accepted that although these sources provide the most robust approach to identifying the numbers and location of HMOs in an area, it will not identify all such properties.
- 6.3 In assessing planning applications for new HMOs, a circle with a radius of 100 metres will be drawn from the address point of the property. The percentage calculation will count residential properties whose address point<sup>6</sup> falls within the circle. The assessment will include only residential properties and will exclude commercial uses, such as retail or office units.

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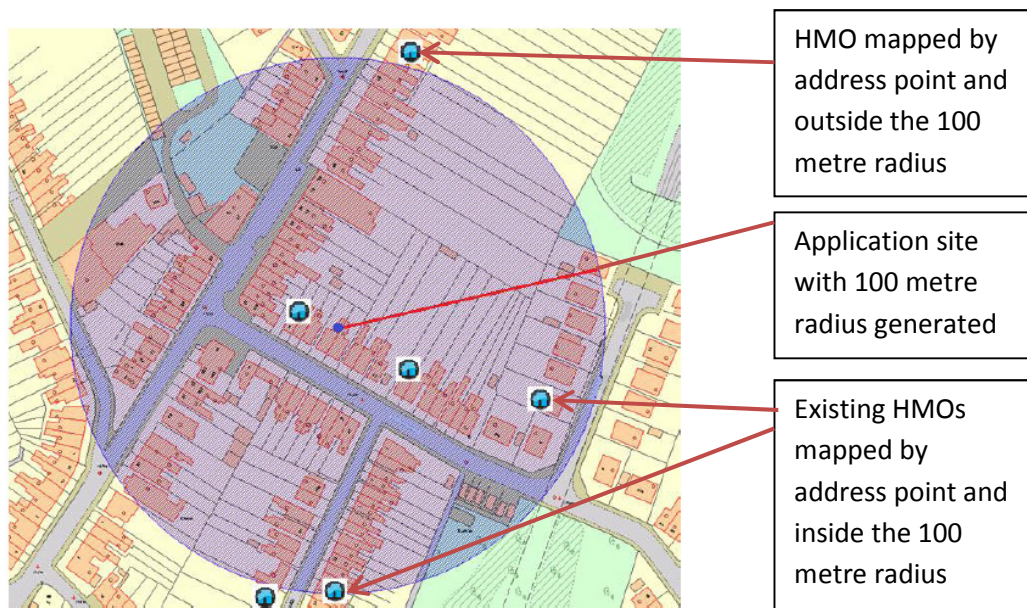
<sup>3</sup> Mandatory HMO licensing is separate to the Article 4 Direction and applies to a building of three or more storeys and occupied by five or more tenants in two or more households. Details can be found at <http://www.birmingham.gov.uk/hmo>

<sup>4</sup> A Sui Generis HMO is not in a planning use class and is defined as a large HMO with more than 6 people sharing. This use always requires planning consent.

<sup>5</sup> Should other verifiable and appropriate data sets become available, these will be accessed and this Planning Policy Document amended accordingly.

<sup>6</sup> The number of properties will be calculated using the Council's GIS (Geographic Information Systems) mapping software. Each property has a unique address point defined on the Local Land and Property Gazetteer (LLPG) and the location point of the proposed HMO will be the centre of the 100m radius. The number of residential properties falling within the 100m radius of the proposed HMO will be assessed by totalling the address points falling within that defined radius. For properties that fall partly within the 100 metre radius, they will only be included if the address point, as depicted on the LLPG, falls within this buffer.

#### 6.4 Illustration of mapping a 100 metre radius from an application site:



6.5 Following a review of the current percentage of HMOs in Birmingham’s wards, coupled with analysis of percentage thresholds used in other local authorities and best practice advice, a 10% threshold for HMOs will be introduced. This policy will lead to a more even spread of HMOs across the Article 4 area. A 10% threshold is the equivalent of 1 in 10 households being an HMO.

6.6 The threshold based policy approach tackles concentrations of HMO properties and identifies a point beyond which issues arising from concentrations become harder to manage and a balanced community is undermined. Whilst there is no formal definition of what this point is there is a view<sup>7</sup> that imbalance occurs at around 10% of the residential properties in an area.

## 7.0 Policy context

### 7.1 National Planning Policy Framework (NPPF)

7.1.1 The NPPF includes the aim to “always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”. Also, planning should “enhance and improve the places in which people live their lives” (paragraph 17).

7.1.2 Paragraph 56 refers to the need to makes places better for people. This includes “safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion”.

7.1.3 The NPPF states that Local Plans should identify areas where it may be necessary to limit freedom to change the uses of buildings, and support such restrictions with a clear explanation (paragraph 157).

### 7.2 Birmingham Unitary Development Plan (2005)

<sup>7</sup> The National HMO Lobby identifies 10% of properties or 20% of the population as the ‘tipping-point’ for HMO-dominance in a neighbourhood: see the discussion in Chapter 2 of *Balanced Communities & Studentification* (2008).

- 7.2.1 The Unitary Development Plan (UDP) contains policies and proposals that currently guide development and land use across the city and is the existing Development Plan for Birmingham. In time, it will be replaced by the Birmingham Development Plan (see below) and a Development DPD (Development Plan Document). Once approved, these will be the main basis for planning application decisions.
- 7.2.2 The UDP refers to the loss of housing - paragraph 5.19A "The loss to other uses (through conversion or redevelopment) of housing which is in good condition, or could be restored to good condition at reasonable cost, will normally be resisted. Such loss of residential accommodation will only be permitted if there are good planning justifications or an identified social need for the proposed use".
- 7.2.3 In addition the area character affected by HMOs is covered by paragraph 5.19B "Some residential areas contain properties which have been converted into "institutional" uses such as hotels, hostels, "foyers," day nurseries or nursing homes, subdivided into flats, or are in multiple occupation. Although these are normally appropriate in residential areas, concentrations of such uses can have an adverse effect upon the essential residential character of a particular street or area".
- 7.2.4 Student accommodation in residential areas: paragraph 5.19C "In addition there are areas of the City where the quality of the residential environment has been adversely affected by high levels of student and other private rented accommodation. These areas are identified in the appropriate Constituency chapter. (Paragraph 20.18 states that there is a need to deal with the high concentration of privately rented properties and HMOs in Selly Oak). In such areas the City Council will take appropriate measures to prevent further erosion of the residential environment and will seek to improve the existing residential environment".
- 7.2.5 The UDP contains policy for Houses in Multiple Paying Occupation, namely paragraphs 8.23-8.25.

"This policy applies to dwellings which are either let in one or more separate tenancies, or are occupied by persons who do not form a single household.

The following criteria will be referred to in determining planning applications:

- The effect of the proposal on the amenities of the surrounding area, and on adjoining premises;
- The size and character of the property;
- The floorspace standards of the accommodation;
- The facilities available for car parking;
- The amount of provision in the locality.

- 7.2.6 The following guidelines will also apply:  
Generally, the use of small terraced or small semi-detached houses for multiple paying occupation will cause disturbance to the adjoining house(s), and will be resisted. The impact of such a use will depend, however, on the existing use of adjoining properties and on the ambient noise level in the immediate area.
- 7.2.7 Where a proposal relates to a site in an area which already contains premises in similar use, and/or properties converted into self-contained flats, and/or hostels and residential care homes, and/or other non-residential uses, account will be taken of the cumulative effect of such uses upon the residential character and appearance of the area".

### 7.3 Birmingham Development Plan

The Birmingham Development Plan is currently in draft having been submitted to the Secretary of State, but awaiting Examination in Public.

- 7.3.1 Chapter 5 'Spatial Delivery of Growth' refers to promotion of The Selly Oak and South Edgbaston area for major regeneration and investment (Policy GA9 Selly Oak and south Edgbaston). The aims are to maximise the potential of the University and Hospitals, promote economic diversification and to secure significant spin off benefits from new development.
- 7.3.2 Paragraph 5.108 " Finally, the policy seeks to address some of the problems faced by residential areas and make Selly Oak/Bournbrook an attractive, balanced and sustainable residential community. The policies in this plan will be supported by other measures to address these issues including an Article 4 Direction and the Student Accommodation SPD."
- 7.3.3 In addition, paragraph 5.109 "A SPD is being prepared for Selly Oak/South Edgbaston that will be used to guide investment decisions on the major sites and realise the vision for the area".
- 7.3.4 Chapter Eight, Homes and Neighbourhoods Policy, refers to Policy TP34 - The existing housing stock. "Best use will be made of the existing dwelling stock". "The city council will prevent the loss to other uses (through conversion or redevelopment) of housing which is in good condition, or could be restored to good condition at reasonable cost. Such loss of residential accommodation will only be permitted if there are good planning justifications or an identified social need for the proposed use."

## **8 Monitoring and Review**

- 8.1 The policy approach and in particular the threshold will be reviewed annually to ensure that it is effective in preventing the over concentration of HMOs occurring. The data record of the number and location of new HMOs approved through the planning process, new HMO licences and properties containing students exempt for council tax will be updated as appropriate. Percentage concentrations of known HMOs in the Article 4 area and immediate surrounds will be monitored and the council will review periodically.

## **9 Pre-application Advice**

- 9.1 In order to check if a property is likely to get planning permission before a formal application is submitted, the city council's Planning and Regeneration service provide free pre-application advice. A check can also be made to advise on the relevant information needed for an application so it gets decided as quickly as possible. Further information and a guide to the pre-application advice service can be found on the city council's website: <http://www.birmingham.gov.uk/preappadvice>.

Appendix I  
Map of the Article 4 Direction Area

