

East St Thomas Residents Forum

Response to Consultation “Houses in multiple occupation -SPD amendments”

20 August – 31 October 2017

Local context

The members of East St Thomas Residents Forum (ESTRF) warmly welcome revisions to “Supplementary Planning Document 20 (SPD20) - Houses in multiple occupation (HMOs) Ensuring mixed and balanced communities”, originally published in October 2012.

Prior to 2012, there was no planning control over the conversion of family homes to HMOs for up to 6 people. The proximity of the East St Thomas Area to the University (particularly the streets known locally as comprising “the ladder”), coupled with the availability of modest, reasonably-priced properties, proved a magnet for developers, who driven by lucrative investment returns, converted **significant** numbers of properties in the area to HMOs between the turn of the millennium and 2012.

This original uncontrolled development has produced a massively unbalanced community in the East St Thomas area, with up to approximately 70% of the housing stock in some roads being converted to HMOs, as illustrated by the table below:

	Registered HMOs in PCC HMO database	Number of separate addresses (from Royal Mail Website) in each road	Approximate HMO Density
Hudson Road	55	79	70%
Bailey's Road	34	50	68%
Playfair Road	23	35	66%
Margate Road	62	97	64%
Fraser Road	16	27	59%
Pains Road	31	55	56%
Montgomerie Road	41	73	56%
Cottage Grove	42	83	51%
Bradford Road	11	27	41%
St. Peters Road	5	17	29%
St. Andrews Road	50	175	29%
Somers Road	41	151	27%
Victoria Road North	37	156	24%
St. Davids Road	13	70	19%
St. Ursula Grove	5	39	13%
Grove Road North	3	32	9%

The original SPD20 issued in 2012 implemented some welcomed measures to reduce further conversion of family homes into HMOs, notably requiring all new HMOs for up to 6 people to require C4 planning permission and the implementation of a 10% density threshold.

In 2016, developers identified a loophole in the original SPD20 drafting and in order to circumvent the cap on HMO density, they brought forward countless “*sui generis*” applications to enlarge existing small HMOs (in many cases gutting the properties and enlarging them with additional floors, loft extensions and basements – see example in Appendix A) to increase their intensity of use. As a result of this loophole, what were originally “tight-packed” modest family homes can currently, in planning law, be legitimately converted into 9+ bedroomed mini halls of residence.

The historic increase in HMO density followed by the more recent increases in HMO intensity has resulted in a community which, by definition, is the epitome of unbalanced and unsustainable. The extreme concentration of HMOs in East St. Thomas has pushed the community to breaking point in

terms of amenity (noise, litter, antisocial behaviour) and placed an unsustainable strain on local services (waste collection/rubbish (see Appendix B), water etc.).

To be clear, members of ESTRF are not anti-HMO or anti-student – it's just that we know from our own personal experience, there needs to be a further level of control to prevent the continuous over- densification and over-intensification of HMOs by developers in any one area.

As such, ESTRF is **highly supportive** of the proposal to update SPD20. Many of the principles in the draft under consultation will curtail further unsustainable HMO development in the area, but there are some additional concepts that we would like to see included which we feel could be introduced to support our community.

Specific Points on the current draft revisions

- *Amenity Space Standards (1.16 – 1.21)*

We want to ensure that where HMO development is approved, that the site is not overdeveloped and the best possible facilities provided for their residents. In particular we would like to ensure there is no relaxation of space standards such that developers can increase the intensity of use of a property through smaller rooms, removal of communal spaces and/or reduction of facilities. We welcome the inclusion of more detail (included in the table in 1.21) taken from the Private Sector Licensing space standards. We also welcome confirmation in the draft revised SPD of the single occupancy room space requirement of 7.5m² (with a minimum width of 2.15m) in section 1.18 and double occupancy space requirement of 11.5m² (and is at least 2.75m wide) in section 1.19.

As many *sui generis* applications involve simply converting the living room of a property into an additional bedroom, we would like the draft to include confirmation of the principles stated in PCC's Private Sector Housing 'Standards for Houses in Multiple Occupancy (2014)' on the need for enhanced bedroom space where communal areas are removed, and suggest the following modified text from that document is included in the SPD

"Where properties do not have separate communal space that is not a kitchen-diner-living area, the minimum floor area of all single occupancy bedrooms must be 10 sq. metres.

PCC's Housing Standards document "Standards for Houses in Multiple Occupancy (2014)" provides details of the facilities that must be provided in HMOs, including bathroom and kitchen facilities, based on the number of occupants. The drawings and documentation accompanying HMO planning applications must demonstrate that these requirements will be met."

- *Amenity of neighbours and local occupiers (1.22)*

We were extremely pleased with the proposal to include the principles that C4 planning applications would be refused where there was a negative impact on neighbours and local occupiers, and where the proposal resulted in an over-intensive use of the property. We would however like to be sure that this principle equally applies to *sui generis* applications and that the wording prevents any further loopholes emerging. A revised text for 1.22 would therefore be:

"1.22 For the purpose of assessing applications for the change of use to C4 and sui generis HMOs, planning permission will only be granted where the proposal would not result in an over intensive use of the property or the neighbouring area."

▪ Identifying properties in HMO use (Section 1.23)

We are pleased that when the calculation of HMO density is made in respect to HMO planning applications, that all properties with C4, C3/C4 and *sui generis* HMO planning permission will be included in the count, irrelevant as to whether they are in HMO use at the time of the application. However we would also like “section 257” HMOs included to ensure clarity and robustness as they are, to all intents and purposes, HMOs by another name and impact equally on the HMO load on a neighbourhood. We therefore suggest the following wording to provide clarity:

“1.24 When identifying the number of HMOs in the area surrounding the application property, the city council will include:

- *All properties continuously in HMO use since 1 November 2011*
- *All properties with Class C4 HMO planning permission*
- *All properties with sui generis HMO planning permission*
- *All properties with planning permission for mixed C3/C4 use (regardless of whether they are in C3 or C4 use at the time of the application).*
- *All Section 257 Houses in Multiple Occupation properties”*

▪ Establishing the existing lawful use of a property (1.27)

With reference to “grandfathered” HMOs, we would like more robust language included in section 1.27 of the draft SPD to indicate that the evidence of HMO use since November 2011 must be complete, credible and continuous and we suggest the following amendments to the wording of section 1.27:

“Those wishing to confirm the existing lawful use of a property should not rely on the database as evidence but should seek to establish whether planning permission for HMO use has been granted or, where appropriate, to secure unambiguous evidence that the property was in continuous Class C4 use prior to the 1st November 2011 when the Article 4 Direction came into force (see paragraph 1.6 above). An application could also be made to the city council for a Certificate of Lawful Use. A fee is required for making this type of application together with supporting evidence to support the application.”

Additional concepts for inclusion

- Sandwiching and “Three in a row” (addition to 1.22)

We would also like restrictions included with regard to the concepts of “sandwiching” and “3 in a row” HMOs. These principles have been established by a number of local councils to prevent over-intensive HMO development and similar restrictions have already been included into many SPDs since 2014 including Southampton* and Lincoln**. We would therefore like to see them included in PCC’s planning guidance and, given that precedents have already been set by many other local authorities, we believe that the following text should be added in section 1.22:

*“ii. HMO planning permission will not be granted where it would result in any residential property (C3 use) being ‘sandwiched’ between two HMOs or where it would result in three adjacent HMOs, unless the application property is located between two existing HMOs **”.*

*https://www.southampton.gov.uk/policies/Final-HMO-SPD_tcm63-383554.pdf

**<https://www.lincoln.gov.uk/EasySiteWeb/GatewayLink.aspx?allid=49856>

- Process Efficiency– Planning and Licensing (1.34)

The dual requirement to apply for planning permission and to apply for, and obtain, a licence before a new HMO can be occupied, is currently confused and lacks clarity. Both the Council’s and landlords’ resources are wasted when licence applications are processed and approved before planning permission is sought and subsequently rejected.

We would therefore like the following amendments to be implemented:

“In addition to the need for planning permission, those wishing to establish an HMO need to obtain a HMO licence in accordance with the Housing Act (2004).

An HMO licence will not be granted until planning permission for the HMO / sui generis development has been granted by Portsmouth City Planning Department.

Landlords are also encouraged to join the city council’s Landlord Accreditation Scheme (LAS)”.

- Rebalancing Communities

The draft SPD refers to the Portsmouth Plan’s projection of an increase in the number of people who will require larger, family sized properties in the future (Section 1.9) and PCC’s stated aim ‘to avoid high concentrations of HMOs in the city, and to ensure the future provision of mixed and balanced communities’ (Section 1.10).

With the East St Thomas area already several times above the HMO threshold recognised as being sustainable, we feel that some mechanisms (within or outside the revised SPD20) to encourage rebalancing of the local community are essential.

We understand that Portsmouth City Council is the only UK council that permits dual C3/C4 planning applications for properties. The revised SPD drafting indicated that at the 10 year anniversary of the C3/C4 planning approval, the property’s status would revert to either C3 or C4, depending on its use at that time.

The issue with this is that it effectively provides maximum flexibility for landlords but no protection for tenants, allowing landlords to “flip” their properties between C3 and C4 use at will, and most crucially at the 10 year anniversary of their planning application, allowing them to preserve their potentially more lucrative C4 status. This means that if market conditions had encouraged the landlord to use the property as a family home in year 9, the current system would financially encourage them to evict the family tenants and return the property to HMO use in year 10.

We would like PCC to return to the standard national framework of assigning planning approval for either C3 or C4 rather than dual C3/C4 use. This would then eliminate the current practise which acts as a barrier preventing the return of housing stock back towards family use.

Conclusion

ESTRF is very supportive of the update of the SPD20 to close loopholes in the original drafting, tighten language where there is ambiguity and provide clarity for Developers, Residents, Councillors and Council officials. In addition, the revisions should also help raise the bar and encourage high quality HMO development whilst helping maintain the now scarce family housing stock in the area.

Given the experience of developers identifying the “super HMO loophole” in the current SPD and using this to circumvent the spirit and intent of the original policy, we would urge PCC to ensure that the drafting of the final document is robust, delivering a revised SPD which is resistant to exploitation.

In addition to the amendments proposed, we would like to see some additional changes to provide protection against “Sandwiching” and “Three in a Row” developments, and to eliminate licensing applications being unnecessarily reviewed and approved before planning permission has been granted.

Finally, given the extreme imbalance of HMO properties in East St Thomas, we desperately need some policy measures to support changes in the market demand for rented accommodation and “nudge” housing stock in the East St Thomas area away from HMO use and back towards family homes.

On behalf of the over 120 members of East St Thomas Residents Forum.

Appendix A – Examples of building overdevelopment

8 Montgomerie Road



May 2015
Courtesy of Google Earth



10 December 2016



13 January 2017



27 February 2017

Appendix B – Photographs of Montgomerie and Margate Road (August 2017)

