
NOTICE OF MEETING

CABINET MEMBER FOR PLANNING, REGENERATION & ECONOMIC DEVELOPMENT

WEDNESDAY, 6 SEPTEMBER 2017 AT 1.00 PM

THE EXECUTIVE MEETING ROOM - THIRD FLOOR, THE GUILDHALL

Telephone enquiries to Vicki Plytas 02392 834058

Email: vicki.plytas@portsmouthcc.gov.uk

If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

CABINET MEMBER FOR PLANNING, REGENERATION & ECONOMIC DEVELOPMENT Decision maker -

Councillor Donna Jones (Conservative) Leader of the Council with responsibilities for PRED

Group Spokespersons

Councillor Yahiya Chowdhury, Labour

Councillor Ben Dowling, Liberal Democrat

Councillor Colin Galloway, UK Independence Party

(NB This Agenda should be retained for future reference with the minutes of this meeting.)

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: www.portsmouth.gov.uk

Deputations by members of the public may be made on any item where a decision is going to be taken. The request should be made in writing to the contact officer (above) by 12 noon of the working day before the meeting, and must include the purpose of the deputation (for example, for or against the recommendation/s). Email requests are accepted.

A G E N D A

- 1 Declarations of Members' Interests**
- 2 Apologies for Absence**
- 3 Houses in Multiple Occupation - Supplementary Planning Document (SPD) (Pages 3 - 30)**

The purpose of this report is to seek approval for public consultation on amendments to the Supplementary Planning Document (SPD): Houses in multiple occupation (HMOs): ensuring mixed and balanced communities.

RECOMMENDED that

- (1) the amended SPD (attached as Appendix 1) be approved for public consultation, and**
- (2) The Assistant Director of Culture and City Development be authorised to make editorial amendments to the wording of the amended SPD prior to public consultation, in consultation with the Leader with responsibility for Planning, Regeneration and Economic Development. These amendments shall be restricted to correcting errors and formatting text and shall not alter the meaning of the document.**

Members of the public are now permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting or records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue.



Decision maker:	Leader with responsibility for Planning, Regeneration and Economic Development
Subject:	Houses in Multiple Occupation (HMOs) – Draft Supplementary Planning Document
Report by:	Claire Upton-Brown Assistant Director of Culture and City Development
Wards affected:	All
Key decision (over £250k):	No

1.0 Purpose of report

- 1.1 The purpose of this report is to seek approval for public consultation on amendments to the Supplementary Planning Document (SPD): Houses in multiple occupation (HMOs): ensuring mixed and balanced communities
- 1.2 Whilst the SPD has proved a robust document detailing how Policy PCS20 will be applied when considering applications for HMOs, the Planning Committee has asked that the document be reviewed to specifically deal with matters relating to change of use from C4 to Sui Generis HMOs, thresholds, living conditions and impact on the amenities of neighbours specifically relating to the change of use of smaller homes.
- 1.3 The current policy PCS20 remains unchanged, the issues and options around future approaches to HMO will be examined and developed as part of the current Local Plan review.

2.0 Recommendations

It is recommended that:

- 1. the amended SPD (attached as Appendix 1) be approved for public consultation, and**
- 2. the Assistant Director of Culture and City Development be authorised to make editorial amendments to the wording of the amended SPD prior to public consultation, in consultation with the Leader with responsibility for Planning, Regeneration and Economic Development. These amendments shall be restricted to correcting errors and formatting text and shall not alter the meaning of the document.**

3.0 Background

- 3.1 Policy PCS20 (HMOs: Ensuring mixed and balanced communities) of the Portsmouth Plan is the key local planning policy against which applications for HMO

use in the city are assessed. Where there is to be a material change of use to either a Class C4 HMO (between three and six unrelated people sharing amenities) or to an HMO in *sui generis* use (seven or more people sharing amenities), planning permission will be required.

- 3.2 This includes the need for planning permission where there is a material change of use from a Class C3 (dwellinghouse) to a Class C4 HMO. The reason why planning permission is required is that on 1st November 2011, a city wide Article 4 Direction came into force in the city which removed permitted development rights for such changes.
- 3.3 The SPD sets out how Policy PCS20 is implemented and explains how the city council applies this policy to planning decisions for HMO use. The amended SPD will be accorded some weight as a material planning consideration in the determination of applications for Class C4, HMOs in *sui generis* use and mixed C3 /C4 use once the consultation is agreed. This weight will increase following public consultation and adoption. The amendments to the SPD are set out as track changes, with new text underlined and deleted text ~~struck through~~, within the SPD document.

4.0 Consultation on the draft SPD

- 4.1 Public consultation on the draft SPD will take place for a six-week period. Whilst consultation would normally start within a few days of this decision, to avoid any confusion between this consultation and the current Local Plan Issues and Options consultation it is recommended that this consultation starts on the first Monday following the completion of the Issues and Options consultation. The start date being Monday 2nd October and ending on Monday 13th November.
- 4.2 The draft SPD will be made available on the Council website, at the civic offices and in all the libraries across the city. Targeted consultation will be undertaken with key stakeholders such as the University of Portsmouth and Landlords Associations, as well as those who have registered an interest on the Council's Local Plan.
- 4.3 Any interested parties will be able to comment on the document in writing or by e-mail. All consultation responses will be reported to the Leader with responsibility for PRED together with a final version of the amended SPD for approval.

5.0 Reasons for recommendations

- 5.1 The amended SPD sets out how the city council will implement Policy PCS20, the proposed amendments include consideration of other relevant policies including Policy PCS19 and PCS23. Consideration has been given to the following matters and amendments have been made where there is considered to be adequate justification to do so:

Threshold

- 5.2 Full consideration has been given to whether there is justification for lowering the % figure either across the city or within specific areas or wards within the city. The

Inspector who carried out the examination of the draft Portsmouth Plan in October 2011 concluded that the evidence base for the Policy PCS20 (then PCS19) was not sufficiently robust and that there was a lack of justification for the detailed criteria (threshold approach) contained in the draft policy at that stage. Policy PCS20 was amended during examination to remove this detailed criteria and the policy was subsequently adopted as part of the Portsmouth Plan.

- 5.3 The Inspector agreed that the city council should prepare a Supplementary Planning Document that would set out details of how Policy PCS20 would be implemented. In order to evidence the approach the city council carried out detailed research in order to evidence the approach set out in the SPD. This evidence '*Shared housing in Portsmouth: an assessment of demand, supply and community impacts*' has been revisited. It is considered that the evidence remains relevant and that there is insufficient justification to seek to reduce the threshold at this time.
- 5.4 When the original SPD was drafted considerable time and debate took place on how the community was measured. The 50m radius remains a reasonable approach and no amendment is suggested, amendments is suggested in cases where whole blocks of flats part fall into the 50m radius.

Living Conditions

- 5.5 There has been considerable debate and concerns raised on specific schemes by the Planning Committee about the size of bedrooms, the size and amount of communal space and bathroom accommodation. Amendments include space standards to ensure that the quality of accommodation meets the council's vision for the city.

Impact on amenities

- 5.6 Of specific concern to the Planning Committee has been a series of recent schemes that have sort to change the use of existing C4 HMOs to sui generis HMO in area where there is already a concentration of over 10%. In these circumstances it is considered that the more intensive use of these properties does not create a mixed and balanced community.
- 5.7 Whilst the Planning Committee's concern about the loss of smaller dwellings is noted based on current policies no amendment is proposed.

6.0 Equality impact assessment (EIA)

- 6.1 A full Equality Impact Assessment (EIA) has been carried out on the Portsmouth Plan (Core Strategy), including Policy PCS20: Houses in multiple occupation: ensuring mixed and balanced communities. This exercise did not highlight any specific issues relating to equalities groups in the city. As this supplementary planning document amplifies existing policy, no further EIA is considered necessary.

7.0 Legal comments

- 7.1 Preparation of the Council's supplementary planning documents, including the process of public consultation, is regulated in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012. Publication, consultation with appropriate stakeholders, and receiving and considering relevant representations are necessary steps towards adoption, and the report and recommendation support compliance with the Council's statutory obligations as Local Planning Authority.

8.0 Director of Finance's comments

- 8.1 The purpose of this report is to seek approval to consult on a draft Supplementary Planning Document (SPD). No additional resources will be required to carry out this consultation and therefore there are no financial implications as a result of the approval of the recommendations of this report.

Signed by:

.....

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Article 4 Direction (Art 4/HMO/01)	www.portsmouth.gov.uk/living/20617.html
Report to Cabinet Member for Planning, Regeneration and Economic Development: Houses in multiple occupation (HMOs) – 22 nd September 2010	www.portsmouth.gov.uk/yourcouncil/18922.html
Shared housing in Portsmouth: an assessment of demand, supply and community impacts. Portsmouth City Council.	Planning Services section of Portsmouth City Council website

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by

..... on

.....

Signed

This page is intentionally left blank

Houses in multiple occupation (HMOs)

Ensuring mixed and balanced communities

Supplementary Planning Document (SPD) - proposed revisions September 2017

www.portsmouth.gov.uk



Houses in multiple occupation (HMOs) - Ensuring mixed and balanced communities

Supplementary Planning Document (SPD)[as amended in 2017](#)

Foreword

~~Shared accommodation provides an important way of meeting the housing needs of many people in Portsmouth and will continue to do so in the future.~~

~~At the same time, high concentrations of HMOs (houses in multiple occupation) are presenting a challenge to the future sustainability of many of our city's communities. Residents in some areas have found their streets dominated by HMOs. Fewer and fewer family homes are available because many properties have been converted for shared use.~~

~~This document sets out how the city council aims to prevent high concentrations of HMOs in the future and ensure that our communities are mixed, balanced and sustainable. It provides a useful guide to understanding how planning applications for new HMOs in the city will be decided.~~

~~Councillor Mike Hancock CBE MP,
Cabinet Member for Planning, Regeneration and Economic
Development~~
Foreword

Shared accommodation provides an important way of meeting the housing needs of many people in Portsmouth and will continue to do so in the future.

At the same time, high concentrations of C4 and Sui Generis HMO's are presenting a challenge to the future sustainability of many of our city's communities. The concentration of HMO's in some areas of the city is changing the character of these areas. Further HMO's are removing some valuable housing stock, in particular removing some of the smaller dwellings from the housing stock and in doing so depriving others from entering the housing market.

Since the Adoption of the Local Plan the Council has seen a significant number of properties that would have otherwise been suitable for conversion to flats being changed to HMO's and Sui Generis HMO's thus restricting the choice of accommodation for our residents.

This document sets out how the city council aims to prevent the high concentration of HMO's in the future and ensure that our communities are mixed, balanced and sustainable and that there is a range of accomodation across the city to meet different housing needs. It provides a useful guide to understanding how planning applications for new HMOs in the city will be decided.

Councillor Donna Jones

Leader with responsibility for Planning, Regeneration and Economic Development

Contents	Page
Foreword	3
Purpose and scope of the SPD	5
What is a House in Multiple Occupation (HMO)?	5
The need to ensure mixed and balanced communities	6
Implementation of Policy PCS20	7
How will planning applications for HMO use be determined?	7
Living environment/ quality of living accommodation	8
Amenity of neighbours and local occupiers	9
Identifying 'the area surrounding the application property'	9
Identifying properties in HMO use	11
Making a planning application for HMO use	11
Forms and fee	11
Parking and the storage of refuse and recyclables	12
Monitoring and review	12
Other issues to consider	13
Licensing under the House Act (2004)	13
Portsmouth City Council Landlord Accreditation Scheme	13
Appendix 1 Definition of a Class C4 HMO (Housing Act 2004)	14
Appendix 2 Policy PCS20 of the Portsmouth Plan	15
Appendix 3 The 10% threshold- worked example	17
Map A: Identifying surrounding properties	17
Map B: Identifying Properties in HMO use	18
List of Figures	
Figure 1 Houses- Identifying 'the area surrounding the application property'	9
Figure 2 Flats- Identifying 'the area surrounding the application property'	10

Purpose and scope of the SPD

- 1.1 This Supplementary Planning Document (SPD) sets out how Policy PCS20 (Houses in multiple occupation (HMOs): Ensuring mixed and balanced communities) of the Portsmouth Plan¹ will be implemented. ~~It~~ This document amends the SPD adopted in October 2012. It details how the city council will apply this policy to all planning applications for HMO (C4) 3-6 occupants use and for large HMOs in sui generis use for more than 6 people. The SPD will be accorded significant weight as a material planning consideration in the determination of such applications. It is supported by an assessment of the need for, and supply of, shared housing in Portsmouth and the impacts on local communities of high concentrations of HMOs².

What is a house in multiple occupation (HMO)?

- 1.2 The Government's Circular 08/2010³ notes that the C4 (HMO) use class covers:
- small shared houses or flats occupied by between three and six unrelated people who share basic amenities such as a toilet, personal washing facilities or cooking facilities.
- 1.3 For the purposes of Class C4, a 'house in multiple occupation' has the same meaning as in section 254 of the Housing Act 2004⁴, with the exception of section 257 which applies to converted block of flats (and those buildings listed in schedule 14 of the Act). Further explanation is set out in Appendix 1.
- 1.4 Where there are more than six unrelated individuals sharing amenities, this is termed an HMO in *sui generis* use because it is not in any particular planning use class.
- 1.5 Where there is to be a material change of use to either type of HMO (small Class C4 or *sui generis*), planning permission will be required.
- 1.6 In the city of Portsmouth, this includes the need for planning permission for change of use from a Class C3 (dwellinghouse) to a Class C4 HMO. On 1st November

¹ Portsmouth City Council (2012) *The Portsmouth Plan: Portsmouth's Core Strategy*. Portsmouth:PCC www.portsmouth.gov.uk/living/7923.html

² Portsmouth City Council (2012) *Shared housing in Portsmouth – an assessment of demand, supply and community impacts*. Portsmouth: PCC.

³ The Town and Country Planning (Use Classes) (Amendment) (England) Order 2010. www.legislation.gov.uk/ukxi/2010/653/pdfs/ukxi_20100653_en.pdf
Further guidance can be found in Circular 08/2010 - Changes to Planning Regulations for Dwellinghouses and Houses in multiple occupation www.communities.gov.uk/documents/planningandbuilding/pdf/1759707.pdf

⁴ The Housing Act 2004 www.legislation.gov.uk/ukpga/2004/34/contents

2011, a citywide Article 4 Direction came into force which removed permitted development rights for such changes⁵.

The need to ensure mixed and balanced communities

- 1.7 The contribution of HMOs to meeting Portsmouth's current and future housing needs is recognised, particularly as a source of accommodation for people on low incomes and benefit payments, young professionals, students and the growing number of one-person households. The negative impacts of high concentrations of HMOs on local communities must also, however, be considered².
- 1.8 Policy PCS19 (Housing mix, size and the provision of affordable homes) of the Portsmouth Plan¹ identifies a need for a variety of housing types throughout the city in order to deliver a choice of homes and to create inclusive and mixed communities. This includes a need for family housing (of three or more bedrooms), the supply of which has declined in the city in recent years.
- 1.9 The Portsmouth Plan notes a predicted increase in the number of people who will require larger, family sized properties in the future as well as a growth in the number of one person households for which HMOs may provide a suitable housing choice. Policy PCS20 seeks to ensure that the future supply of family housing is not jeopardised by its unchecked conversion to shared accommodation and that communities are not negatively impacted by HMO development.
- 1.10 In order to avoid high concentrations of HMOs in the city, and to ensure the future provision of mixed and balanced communities in accordance with national planning policy⁶, Policy PCS20 of the Portsmouth Plan will be the key local planning policy against which applications for HMO use will be assessed (see below).

PCS20 houses in multiple occupation (HMOs): ensuring mixed and balanced communities*

In order to support mixed and balanced communities, and to ensure that a range of household needs continue to be accommodated throughout the city, applications for changes of use to a House in Multiple Occupation (HMO) will only be permitted where the community is not already imbalanced by a concentration of such uses or where the development would not create an imbalance.

For the purposes of this policy, dwellings in use as Class C4, mixed C3/C4 use and HMOs in *sui generis* use will be considered to be HMOs.

[*See Appendix 2 to this SPD for full text contained in the Portsmouth Plan.](#)

⁵ For more information about this Article 4 Direction see www.portsmouth.gov.uk/living/20617.html

⁶ See Communities and Local Government (CLG) *PPS1: Delivering Sustainable Development* www.communities.gov.uk/publications/planningandbuilding/planningpolicystatement1 and *PPS3: Housing* www.communities.gov.uk/publications/planningandbuilding/pps3housing

Implementation of Policy PCS20

- 1.11 Policy PCS20 of the Portsmouth Plan¹ (see below) will be used to determine applications for:
- Class C4 HMOs (between three and six unrelated individuals sharing amenities);
 - mixed C3/C4 use (this type of permission allows a property to be used in either way, overcoming the need for a new planning permission each time a change of use from Class C3 to C4 is required), it should be noted that 10 years from the permission the flexibility ceases and the use at that time becomes the lawful use.
 - HMOs in *sui generis* use (seven or more unrelated individuals sharing amenities).
- Other policies set out in the Portsmouth Plan will also form material considerations in respect of such applications.

How will planning applications for HMO use be determined?

- 1.12 In accordance with policy PCS20, the city council will seek to refuse planning applications for HMO uses (Class C4, HMOs in *sui generis* use and mixed C3/C4 use) where a community is already 'imbalanced' by existing HMO uses or where granting the application would create an 'imbalance'.
- 1.13 A community will be considered to be 'imbalanced' where:
- more than 10% of residential properties within a 50m radius of the area surrounding the application property are already in HMO use.
- 1.14 The 'development' (proposed HMO use) that is the subject of the planning application will create an imbalance where:
- granting the application would 'tip' the ratio of HMOs to Class C3 residential uses within the area surrounding the application property over the 10% threshold.
- 1.15 Where planning permission is sought to change the use of a Class C4 or mixed C3/C4 use to a HMO in *sui generis* use, the city council will seek to refuse applications 'in areas where concentrations of HMOs already exceed the 10% threshold.,

Living conditions / quality of living environment

- 1.16 In order to secure a good standard of living accommodation within HMOs (C4 and Sui generis HMO's), and in accordance with Policy PS23, the city council will seek to refuse applications for HMO development where proposals would fail to protect the amenity of, and the provision of a good standard of living environment for future occupiers.
- 1.17 All planning applications must be supported by a full set of floor plans, that clearly identify whether rooms are intended to be single or double and show the internal measurements for each room including areas of reduced ceiling height. Whilst acknowledging that the National Described Space Standard (NDSS) relating to new dwellings nevertheless the city council will require that bedrooms comply with this space standard, as set out below or any subsequent standard replacing the NDSS. Further planning permission will be refused for all HMO's that fail to provide adequate community or amenity space for occupiers in accordance with the standards set out below. Where proposals meet the required space standards and levels of amenity, there will be a condition on the planning permission requiring the development to accord with the approved floor plans.

Bedroom space standards

- 1.18 Single bedrooms must have a minimum gross internal floor(GIA) area of 7.5m² with a minimum width of 2.15m.
- 1.19 Double bedroom or twin bedrooms must have a minimum GIA of at least 11.5m² and is at least 2.75m wide.
- 1.20 For both single and double rooms any area with a headroom of less than 1.5m is not counted in the GIA unless used solely for storage. Any area with a head room of less than 1.5m is not counted within the GIA unless used solely for storage (if an area under the stairs is to be used for storage assume a general floor area of 1m² with the GIA). Any other area that is used for storage solely for storage and has a headroom of 900-1500mm is counted as 50% of its floor area and any area lower than 900mm is not counted at all.
- 1.21 A built-in wardrobe counts towards the GIA and bedroom floor area requirements but should not reduce the effective width of the room below the minimum widths set out above.

Amenity Space

Room	Metric ³
Dining Room (3 to 5 persons)	11m ²
Dining Room (6 to 10 <u>or more</u> persons)	14m ²
Living Room (3 to 5 persons)	11m ²
Living Room (6 to 10 <u>or more</u> persons)	14m ²
Kitchen (3 to 5 persons)	7m ²
Kitchen (6 to 10 <u>or more</u> persons)	11m ²
Combined living space (3 to 5 persons) ¹	24m ²
Combined living (6 to 10 <u>or more</u> persons) ¹	34m ²
Bathroom ²	3.74m ²
1-4 persons	<u>At least 1 bathroom and 1 WC (can be combined)</u>
5 persons	<u>1 Wash Hand Basin (WHB) in each sleeping room; plus 1 bathroom; and 1 separate WC with WHB (WC could be contained in second bathroom)</u>
6-10 persons	<u>1WHB in each sleeping room; plus 2 separate bathrooms; and 2 separate WC's with WHB (one of WCs can be contained with one bathroom)</u>
11-15 persons	<u>1 WHB in each sleeping room; plus 3 bathrooms; and 3 separate WCs and WHB (two of WCs can be contained within 2 bathrooms)</u>

NOTE: 1 Combined living space is kitchen, eating area and living area.
 2 A pod bathroom which complies with the current Building Regulation will be accepted.
 3 Areas based on bedrooms of 6.5m²

Amenity of neighbours and local occupiers

1.22 In accordance with Policy PCS23, the city council will seek to refuse applications for HMO development where such development would fail to protect the amenity, and the provision of a good standard of living environment, for neighbouring and local occupiers. For the purpose of assessing applicaitons for the change of use to C4 HMO's, planning permission will only be granted where the proposal would not result in an over intensive use of the property.

– Identifying ‘the area surrounding the application property’

1.23—Points i) to viii) below and Figures 1 and 2 set out the method that the city council will use when it is calculating the percentage of dwellings in HMO use in the area surrounding the application property (see also the worked example contained in Appendix 3).

- i) Where the application property is a house - an area with a radius of 50 metres will be identified from the mid-point of the application property's frontage (see ii and Figure 1).
- ii) A property's frontage comprises the width of that building as it faces directly onto the street and generally includes the entrance to the property. A 'street' is defined here as any highway (including footpath) or public area which contains a property's frontage.
- iii) Where the application property is a flat - an area with a radius of 50 metres will be identified from the mid-point of the main entrance door to the flat (see Figure 2).

Figure 1: Houses - identifying 'the area surrounding the application property'



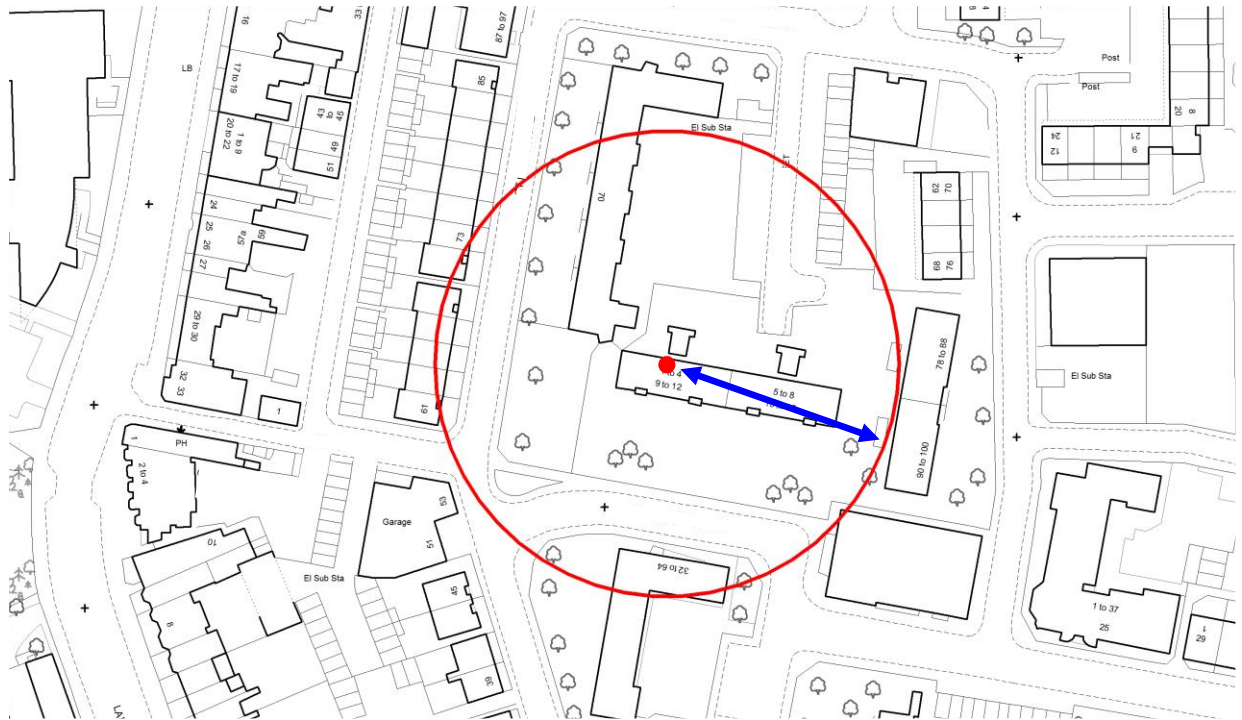
Map not to scale

● = application property

↔ = 50 metre radius

○ = area surrounding application property

Figure 2: Flats - identifying 'the area surrounding the application property'



Map not to scale

● = application property

↔ = 50 metre radius

○ = area surrounding application property

- iv) For the purposes of implementing Policy PCS20, this area with a radius of 50 metres will be known as 'the area surrounding the application property'.
- v) A 'count' will be made of residential properties that fall within the area surrounding the application property⁷ and their addresses will be checked against the council's 'HMO database' in order to identify which, if any, are in HMO use (see paragraphs 1.16 – 1.20 and worked example [using a 10% threshold](#) in Appendix 3).
- vi) Only residential properties will be counted (i.e the count will exclude properties in, for example, retail or commercial uses).
- vii) Where any part of the curtilage of a residential property (house), including the property boundary falls within the area surrounding the application property, this property will be included in the 'count' (see Figure 1 and worked example in Appendix 3).
- viii) Where the 50 metre radius captures any part of a building containing residential flats, the city council will endeavour to establish the number of flats

⁷ In some instances, a complex street pattern or arrangement of buildings may require the city council to use judgement in determining which properties are captured by the 50 metre radius, based on the guidance set out in paragraph 1.17⁵.

that fall, in part or whole, within the 50m radius if this proves impossible then all properties inside of this building will be included in the 'count'.

Identifying properties in HMO use

1.24 When identifying the number of HMOs in the area surrounding the application property, the city council will include Class C4 HMOs, HMOs in *sui generis* use and 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).

1.25 A list of all addresses that have been identified as being in the area surrounding the application property, which will also highlight those that the council considers to be in HMO use, will be made publicly available during the determination period of the planning application.

1.26 In order to identify properties in HMO use, the council will use data held on its 'HMO database'⁸ at the time of the planning application. The database is made up of records of properties with planning permission for Class C4 use, *sui generis* HMO use and mixed C3/C4 use, records of Class C4 HMOs submitted to the council by property owners, HMOs that have been issued a licence by the council and council tax records. A list of addresses held on this database will be published on the city council's website and updated on a regular basis. However the city council acknowledges that it may not have captured all of the HMO's in an area and therefore will consult Ward Members and local residents to capture further local knowledge about the way properties are being occupied in their neighbourhood.

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 evidence that the property was in 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.

Making a planning application for HMO use

Forms and fees

1.28 Detailed guidance about making a planning application for change of use, including relevant application fees and information required as part of the application, can be found on the city council's website www.portsmouth.gov.uk/living/planning.html. Alternatively, applicants can visit the Planning Portal directly at www.planningportal.gov.uk to make an application online.

⁸ A copy of addresses held on the city council's HMO database can be found at: www.portsmouth.gov.uk/living/20617.html

1.29 The city council has made an Article 4 Direction⁵ removing permitted development rights which would otherwise allow changes of use from Class C3 to Class C4, consequently there will be no fee for the following types of application:

- change of use from Class C3 (dwellinghouse) to Class C4 (HMO), or
- change of use from Class C3 or C4 to a mixed Class C3/C4 use.

1.30 An application fee will be payable for:

- change of use from any other use class other than Class C3 to a Class C4 or mixed C3/C4 use, and
- change of use from any use class to an HMO in *sui generis* use (to accommodate seven or more unrelated people sharing amenities).

Parking and the storage of refuse and recyclables

1.31 Planning applications for HMO use must meet the parking standards set out in the city council's Residential Parking Standards Supplementary Planning Document (SPD)⁹ (for cars) and 'saved' Appendix 9 of the Local Plan¹⁰ (for bicycles).

1.32 Planning applications for HMO use will also be expected to demonstrate that adequate storage for refuse and recyclables will be provided at the property.

Monitoring and review

1.33 The monitoring and review of Policy PCS20 will be carried out as part of the city's ~~Authority Annual~~ Monitoring Report which it is required to produce as part of its Local Development Framework (LDF). The indicators that will be used to monitor this policy are contained in the full policy wording attached as Appendix 2.

⁹ Portsmouth City Council (2008) *Residential Parking Standards, Supplementary Planning Document (SPD)*. Portsmouth: PCC. www.portsmouth.gov.uk/living/13599.html See also map showing public transport accessibility throughout the city www.portsmouth.gov.uk/living/15043.html

¹⁰ Saved Appendix 9 of the Portsmouth City Local Plan 2001-2011 can be found at: www.portsmouth.gov.uk/living/13599.html

Other issues to consider

- 1.34 In addition to the need for planning permission, those wishing to establish an HMO should consider if they need an HMO licence in accordance with the Housing Act (2004) and are also encouraged to join the city council's Landlord Accreditation Scheme (LAS).

Licensing under the Housing Act (2004)

- 1.35 Landlords and property managing agents who intend to let large houses in multiple occupation (HMOs) may need to apply to the city council for an HMO licence. An HMO licence will be required if the property is:

- over three or more floors, and
- will be used to accommodate five or more tenants belonging to two or more households.

- 1.36 In these circumstances, it is a criminal offence not to have an HMO licence and an unlimited fine could be issued upon successful proceeding or Portsmouth City Council could issue a civil Penalty up to £30,000 a fine of up to £20,000 could be levied.

- 1.37 For more information about licensing, please visit the city council's website www.portsmouth.gov.uk/living/6091.html
You can also contact the Housing Standards team on (023) 9283 4215

Portsmouth City Council Landlord Accreditation Scheme

- 1.38 The city council's Landlord Accreditation Scheme aims to improve both the physical and management standards of the private rented sector within Portsmouth. Whilst it is a voluntary scheme, all private landlords who own and rents out properties in the city (PO1–PO6) are encouraged to join the LAS. For more information, and to join the scheme, visit www.las.portsmouth.gov.uk or contact the Housing Standards team (see above).

Appendix 1 – Definition of Class C4 HMO (Housing Act 2004)

- A1.1 The Government's Circular 08/2010³ notes that the C4 use class covers small shared houses or flats occupied by between three and six unrelated people who share basic amenities (see A1.4 below).
- A1.2 For the purposes of Class C4, a 'house in multiple occupation' 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 in section 254 of the Housing Act 2004.
- A1.3 An HMO is defined by the Housing Act 2004 as a building or part of a building (i.e. a flat) which:
- is occupied by persons who do not form a single household, and
 - is occupied as the only or main residence, and where
 - rents are payable or other consideration is provided in respect of at least one of those occupying the property, and where
 - two or more households share one or more basic amenities (or lack such amenities).
- A1.4 The meaning of basic amenities as defined by the Housing Act 2004 is:
- a toilet,
 - personal washing facilities, and/or
 - cooking facilities.
- A1.5 Schedule 14 of the Housing Act 2004 lists buildings (or parts of buildings) which are not defined as HMOs and includes those that are:
- controlled or managed by a registered social landlord or local authority;
 - controlled or managed by a fire and rescue authority, police authority or health service body;
 - occupied by students and controlled or managed by an education establishment i.e. halls of residence;
 - occupied for the purposes of a religious community whose main occupation is prayer, contemplation, education or the relief of suffering;
 - occupied solely by one or more persons who are owners (with either freehold or leasehold interest granted for more than 21 years);
 - occupied by two persons who form two households.
- A1.6 The Government's Circular 08/2010³ may also provide helpful guidance on what does and does not constitute a Class C4 use (in accordance with the Housing Act 2004) . It highlights that:
- small bedsits will be classified as C4 use;
 - students, migrants and asylum seekers who do not occupy the property all year will be considered as occupying the property as their main residence;
 - properties containing the owner and up to two lodgers will be in Class C3, and
 - to be classified as a house in multiple occupation a property does not need to be converted or adapted in any way.

Appendix 2 – Policy PCS20 of the Portsmouth Plan¹

Houses in multiple occupation (HMOs): ensuring mixed and balanced communities

- 5.23 National planning policy guidance (PPS1 and PPS3) provides the context for local planning policy to ensure that mixed and balanced communities are developed in the future and to avoid situations where existing communities become unbalanced by the narrowing of household types towards domination by a particular type, such as shared housing (HMOs).

The Portsmouth Plan approach to houses in multiple occupation

- 5.24 PPS1 encourages development that ‘supports existing communities and contributes to the creation of safe, sustainable, liveable and mixed communities’ (p.3). It also requires that development plans ‘ensure that the impact of development on the social fabric of communities is considered and taken into account’ (p.7). PPS3 supports the role of development plans in promoting mixed communities and ensuring that a wide range of household needs are catered for.
- 5.25 While the contribution of HMOs to meeting the city’s accommodation needs is recognised, particularly as a source of housing for people on low incomes, those on benefit payments and those starting off in the economy as young professionals, the potential negative social, environmental and economic impacts of high concentrations of HMOs on communities have been widely discussed.
- 5.26 The city council’s private sector house conditions survey (2008) notes that HMOs occur at a significant rate in Portsmouth, driven by the student population and residents on low incomes. In 2007/8, it was estimated that 5.1% of dwellings in the city were HMOs compared to 2.5% nationally. It is likely however, given recent economic challenges and the continuing growth of the city’s university that numbers of HMO properties in the city have increased in the past two years.
- 5.27 In order to continue to accommodate the need and demand for houses in multiple occupation, while ensuring the future balance of established communities, policy PCS20 provides guidance for developers and prospective landlords with regard to the appropriateness of future HMO schemes in the city.

PCS20 houses in multiple occupation (HMOs): ensuring mixed and balanced communities

In order to support mixed and balanced communities, and to ensure that a range of household needs continue to be accommodated throughout the city, applications for changes of use to a House in Multiple Occupation (HMO) will only be permitted where the community is not already imbalanced by a concentration of such uses or where the development would not create an imbalance.

For the purposes of this policy, dwellings in use as Class C4, mixed C3/C4 use and HMOs in *sui generis* use will be considered to be HMOs.

Implementation, delivery and monitoring

- 5.28 This policy will be implemented through planning decisions taken in the development management process. Once an application is received the location will be checked against a database holding all existing HMOs in order to determine if the proposed location would fall within an area of concentration. The city council will produce an SPD setting out in greater detail how this policy will be applied. In the meantime, further advice to applicants is available on the planning pages of the city council's website.
- 5.29 The city council will continue to work with the University of Portsmouth to promote appropriate development of purpose built student accommodation.

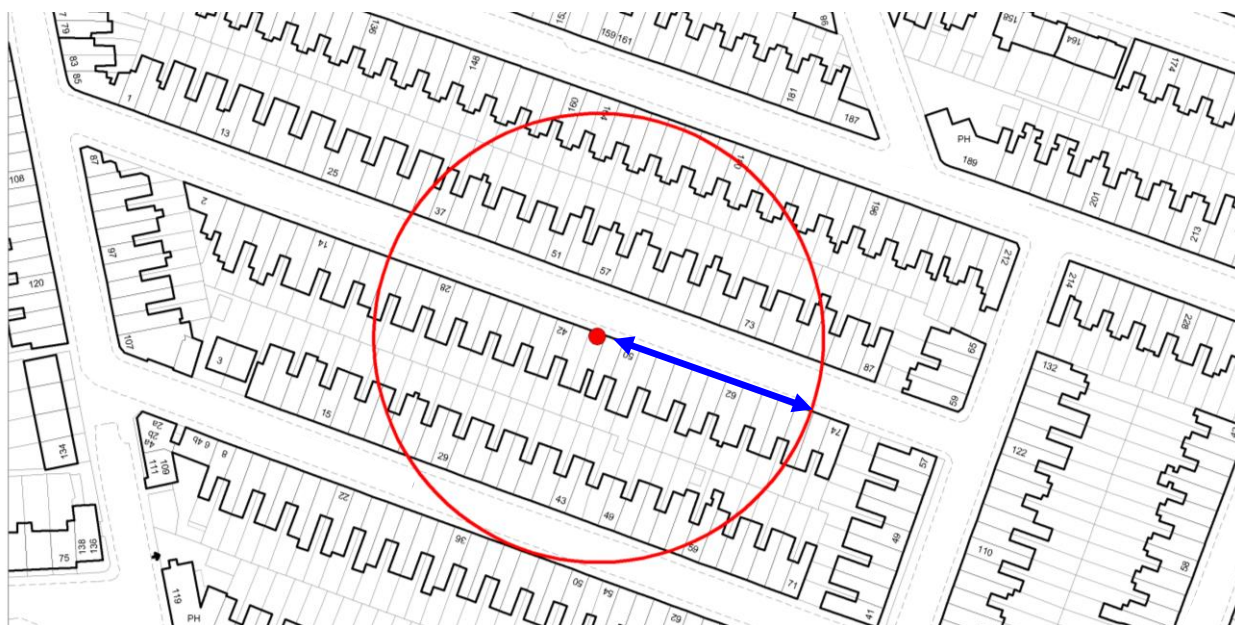
monitoring framework for PCS20 houses in multiple occupation (HMOs): ensuring mixed and balanced communities	
Policy Outcomes	Key Indicators
<ul style="list-style-type: none"> To avoid concentrations of HMOs within the city 	<ul style="list-style-type: none"> Change in number of homeless (particularly the 25 - 34 year old age group who will be affected by changes to the Local Housing Allowance which will mean they can no longer afford to rent whole properties and will increasingly turn to HMOs) Changes in the concentration of HMOs across the city Number of planning applications received for HMOs and whether approved or refused Any appeal decision relating to HMOs
where else to look	
<ul style="list-style-type: none"> Article 4 Direction: Houses in Multiple Occupation http://www.portsmouth.gov.uk/living/19524.html 	

Appendix 3 - The 10% threshold - worked example

Worked example

- A3.1 A planning application is received for the change of use of a dwellinghouse from Class C3 to Class C4. In order to assess whether the area surrounding the application property is currently 'imbalanced' by HMO uses, or whether granting the application would create an 'imbalance', the council will firstly calculate how many residential properties (in total) fall within this area. (See paragraph 1.15 for full details of the method that will be used.)
- A3.2 Map A shows that, in this instance, the total number of properties in the area surrounding the application property is 93.

Map A: Identifying surrounding properties



Map not to scale

● = application property

↔ = 50 metre radius

○ = area surrounding application property

- A3.3 The city council will then check its 'HMO database' in order to identify which of these properties it considers to be in HMO use. Map B shows that, in this instance, there are four HMOs in the area surrounding the application property.

Map B: Identifying properties in HMO use



Map not to scale

● = application property

🏠 = properties in HMO use

A3.4 The number of HMOs as a percentage of all properties in the area surrounding the application property will then be calculated:

$$(4 \div 93) \times 100 = 4.3\%$$

So in this case, the percentage of HMOs in the area surrounding the application property is 4.3%.

A3.5 In accordance with Policy PCS20, applications for HMO use will only be allowed if the number of HMOs (as a percentage of all properties in the area surrounding the application property) is calculated to be less than 10% and wouldn't go above 10% if the application were to be granted.

This page is intentionally left blank