

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



Supplementary Planning Document (SPD)

October 2019

Document

House in Multiple Occupation (HMOs) - Ensuring mixed and balanced communities
Supplementary Planning Document (SPD) (as amended in July 2018 and October 2019)

Revisions proposed for consultation July 2019

Map Licence

© Crown Copyright and database rights (2019) Ordnance Survey (LA 100019671)

Foreword

It is essential that we work towards maintaining mixed and balanced communities in Portsmouth. Part of creating those communities is ensuring we have the right housing mix in order to both meet the demand for certain types of accommodation as well as ensuring we do not have a saturation of any one type of accommodation in one location or community.

Houses in Multiple Occupation (HMO) are an important type of accommodation for Portsmouth residents. However, the geographic constraints of Portsmouth streets consisting of densely built Victorian terraced housing mean that the conversion of these terraces to HMOs can create problems for a community's cohesion and sustainability. Furthermore, the increase in HMOs in the city has led to lower availability of much needed family housing in the city.

This SPD seeks to prevent an over saturation of HMOs in Portsmouth's communities by setting guidance for applications for change of use class to C4 and/or Sui Generis use as well as ensure those living in HMOs are doing so under good standards of living by setting space standards for bedroom areas and communal living areas.

Councillor Steve Pitt

Cabinet Member for Culture and City Development & Deputy Leader

Contents

1	Purpose and scope of the SPD.....	5
	What is a house in multiple occupation (HMO)?	5
	Amenity Impact of HMO's on residents	6
	The need to ensure mixed and balanced communities	6
	Implementation of Policy PCS20	7
2	How will planning applications for HMO use be determined?.....	8
	Living conditions / quality of living environment.....	8
	Bedroom space standards.....	9
	Amenity Space	9
	Waste Storage.....	10
	Amenity of neighbours and local occupiers.....	10
	Implementation of Policy PCS23	11
	Identifying 'the area surrounding the application property'	12
	Identifying properties in HMO use.....	14
3	Making a planning application for HMO use.....	16
	Forms and fee	16
	Parking and the storage of refuse and recyclables	16
4	Monitoring and review.....	17
5	Other issues to consider	18
	Licensing under the Housing Act (2004)	18
	Portsmouth City Council Landlord Accreditation Scheme	18
	Appendix 1. – Definition of Class C4 HMO (Housing Act 2004)	19
	Appendix 2. – Policy PCS20 of the Portsmouth Plan	20
	Appendix 3. – Policy PCS23 of the Portsmouth Plan	22
	Appendix 4. - The 10% threshold - worked example.....	24
	Appendix 5. Evidence of harm	26
	Appendix 6 - Identifying local impacts- 3 Indications of concentration or proliferation of HMOs in a local area.....	29

List of figures and tables

Table 1	Amenity Space	9
Figure 1	House-Identifying 'the areas surrounding the application property'	12
Figure 2	Flats-Identifying 'the areas surrounding the application property'	12

1 Purpose and scope of the SPD

- 1.1 This Supplementary Planning Document (SPD) sets out how Policies PCS20 'Houses in multiple occupation: Ensuring mixed and balanced communities' and PCS23 'Design and Conservation' of the Portsmouth Plan¹ will be implemented.
- 1.2 The document amends the previous SPD adopted in November 2017. It details how the City Council will apply this policy to all planning applications for HMO (C4) and for large HMOs (*Sui Generis*). 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, and evidence of harm caused by HMO properties (appendix 5).
- 1.3 This SPD is intended to inform planning applications and planning decisions. [Further guidance](#) on licensing requirements for HMOs has been published by the Council's Private Sector Housing Team and should be read in conjunction with this SPD.
- 1.4 This document is to be read alongside other documents such as the [Local Plan](#) and [Parking Standards and Transport Assessments SPD](#).

What is a house in multiple occupation (HMO)?

- 1.5 Government Circular 08/2010³ identifies that the C4¹ (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 Portsmouth City Council (2012) *The Portsmouth Plan: Portsmouth's Core Strategy*. Portsmouth: PCC <https://www.portsmouth.gov.uk/ext/documents-external/pln-portsmouth-plan-post-adoption.pdf>

² Portsmouth City Council (2012) Shared housing in Portsmouth – an assessment of demand, supply and community impacts. Portsmouth: PCC <https://www.portsmouth.gov.uk/ext/documents-external/pln-hmo-research-report.pdf>

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

1.1.51.6 For the purposes of Class C4, a 'house in multiple occupation' has the same meaning as in section 254 of the Housing Act 2004, 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

- 1.6 Where there are more than six unrelated individuals sharing amenities, this is termed an HMO in *Sui Generis* use.
- 1.7 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.
- 1.8 In the city of Portsmouth planning permission is needed for change of use from a Class C3 (dwelling house) to a Class C4 HMO as a citywide Article 4 Direction is in force which removes permitted development rights for such changes².

Amenity Impact of HMO's on residents

- 1.9 Across the city there are a much higher proportion of complaints related to licenced houses of multiple occupation (HMO's) than non HMO properties. Complaints were received relating to 9% of all licenced HMO properties compared to complaints received relating to 1% of non HMO properties. For those categories of complaint that have the most potential amenity impact (mess, neighbour, waste and HMO) the proportion of complaints received are significantly higher for HMO properties than non HMO properties (12x). Detailed breakdown of the amenity impact of HMO's across the city can be found in Appendix 5 to this report.

The need to ensure mixed and balanced communities

- 1.10 The contribution of HMOs to meeting Portsmouth's current and future housing need 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 considered (see appendix 5).
- 1.11 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 opportunities for which are limited in a densely developed city such as Portsmouth.
- 1.12 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.

² For more information about this Article 4 Direction see <https://www.portsmouth.gov.uk/ext/documents-external/pln-hmo-article4direction-plan-nov10.pdf>

- 1.13 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.

Implementation of Policy PCS20

- 1.14 Policy PCS20 of the Portsmouth Plan¹ (see above) 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.

⁶ See National Planning Policy Framework:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

2 How will planning applications for HMO use be determined?

2.1 In accordance with policy PCS20, the City Council will only support planning applications for HMO uses (Class C4, HMOs in *Sui Generis* use and mixed C3/C4 use) a community is not already 'imbalanced' by existing HMO uses or where granting the application would create an 'imbalance'. As noted above there is a robust correlation between amenity complaints and the number of HMOs in a community.

2.2 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

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

2.3 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, in areas where concentrations of HMOs exceed the 10% threshold the Council will consider the potential harm to amenity caused by an increase in the number of bedrooms in an already unbalanced community.

Living conditions / quality of living environment

2.4 In order to secure a good standard of living accommodation within HMOs (C4 and *Sui Generis* HMOs), and in accordance with Policy PCS23, the City Council will ensure applications for HMO development will protect the amenity of, and the provision of a good standard of living environment for future occupiers.

2.5 In addition to obtaining a planning permission the Council also requires HMO landlords to obtain a license for their property. Details of how to obtain an HMO license can be found on the [City Council's web page](#). From 1 October 2018 mandatory HMO licensing changed and mandatory licensing is no longer limited to HMOs that are three or more storeys high occupied by 5 or more people sharing an amenity, but now also includes buildings with one or two storeys. This new legislation now applies to landlords across the UK.

2.6 All planning applications must be supported by a full set of floor plans that include details of the bathroom sanitary ware and kitchen fitments and white goods; 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. The guidance below is set in line with the Council's Standards for [Houses in Multiple Occupation Guidance \(September 2018\)](#). This document contains detailed guidance on the requirements a landlord must meet in order to be given an HMO license. The broad headline requirements are set out below, however the Guidance should be the document referred to for more detailed requirements.

Bedroom space standards

- 2.7 Single bedrooms must have a minimum Gross Internal Floor area (GIA) of 6.51m² (10m² in certain circumstances³).
- 2.8 Double bedroom or twin bedrooms must have a minimum GIA of at least 11m² (14m² in certain circumstances⁴).

Amenity Space

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

NOTE: 1: Combined living space is defined as a single, typically open plan space, usually containing a kitchen, dining area and living area, laundry and utility space.

2: A pod bathroom which complies with the current Building Regulation will be accepted.

³ Where no separate living space is provided in the dwelling see page 4 of [Houses in Multiple Occupation Guidance \(September 2018\)](#).

⁴ Where no separate living space is provided in the dwelling see page 4 of [Houses in Multiple Occupation Guidance \(September 2018\)](#).

Waste Storage

- 2.9 HMOs should provide adequate facilities for the storage of waste within their curtilage in line with the Council's [HMO licensing guidance for landlords](#). All licences issued after 1 October 2018 will include a condition requiring compliance with the council's storage and waste disposal scheme. The scheme for Portsmouth City Council is that rubbish and recycling bins/boxes/bags must be presented at the front boundary by 7.00am on the day of collection (and not before 7.00pm the day before) and bins/ boxes taken back inside the property boundary on the same day. If a licence holder does not comply with this scheme it will be a breach of the licence and is a criminal offence.
- 2.10 Landlords or managers should abide by certain standards applicable to HMOs. For example, a manager has a duty to ensure the property is maintained in a good condition, that the water, gas and electricity supplies are maintained, the common areas are kept clean and in good repair, the living accommodation is maintained and arrangements are made for the storage of refuse. Residents are also required not to hamper or frustrate the manager from carrying out these responsibilities.

Amenity of neighbours and local occupiers

- 2.11 The National Planning Policy Framework (NPPF) notes that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve. The Framework goes on to say that planning policies and decisions should ensure that developments "will function well and add to the overall quality of the area" and "create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users."
- 2.12 The Portsmouth Plan seeks the delivery of a range of housing types and tenures to meet the varying needs of the community. Whilst it is acknowledged that HMOs meet the housing needs of many in the city, it is important that the amenity and standard of living environment of neighbours and local occupiers is protected.

PCS23 design and conservation (extract)*

All new development must be well designed and, in particular, respect the character of the city.

The following will be sought in new development:

- Protection of amenity and the provision of a good standard of living environment for neighbouring and local occupiers as well as future residents and users of the development

* See Appendix 2a to this SPD for full text contained in the Portsmouth Plan.

Implementation of Policy PCS23

- 2.13 In order to consider whether an application accords with Policy PCS23, once an application is received the location of the application property will be checked against a database holding all existing HMOs. This will determine if the proposed HMO would impact upon the amenity and/or standard of living environment of neighbouring and local occupiers.
- 2.14 Applications will be required to include a full set of floor plans that include details of the bathroom sanitary ware and kitchen fitments and white goods; 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. This will enable the application to be assessed against the PCS23 requirement for new development to protect amenity and provide good standards of living environment for future residents and users of the development.
- 2.15 Analysis of public sector housing complaints data for the City has shown that HMO properties in the City have a significant proportion more complaints than non HMO properties (see appendix 5) especially around amenity issues such as Mess and Waste.
- 2.16 In accordance with Policy PCS23, the City Council will ensure applications for HMO development will protect the amenity, and the provision of a good standard of living environment, for neighbouring and local occupiers. For the purpose of assessing applications for the change of use to C4 HMOs and *Sui Generis* HMOs, planning permission will only be granted where the proposal would not result in an over intensive use of the property.
- 2.17 It will be taken as an indication that an application for HMO development would be likely to fail to protect the amenity, and the provision of a good standard of living environment, for neighbouring and local occupiers where:
- There is a concentration or proliferation of HMOs within the local area (see Appendix 6); and
 - it would cause material harm to the proposed, existing and / or adjacent users, residents, occupiers or where it is liable to be detrimental to human health. Matters to be considered include changes in overlooking, privacy, daylight, sunlight, disturbance and outlook.

Disturbance includes factors such as volume and type of traffic, noise, artificial lighting, smell and other pollution, and flooding.

The amenity impacts above are not exhaustive and a judgement should be made on the individual merits of proposed schemes.

2.18 When considering the impact of proposals under policy PCS23 in respect of HMOs, the Council will take into consideration the impact of the proposal in the context of the concentration of HMOs already in the neighbourhood as defined using the 50m radius as set out in this SPD. Relevant factors include -

- The existing proportion of properties which are in HMO use within a 50m radius, and the extent to which it exceeds the 10% threshold;
- The increase in the number of bedrooms sought by the proposal; and
- Impact the proposed intensification of the use will have upon the residential character of the area in the context of a mixed balanced community. (as discussed in Appendix 5)

Please refer to Appendix 4 for worked examples.

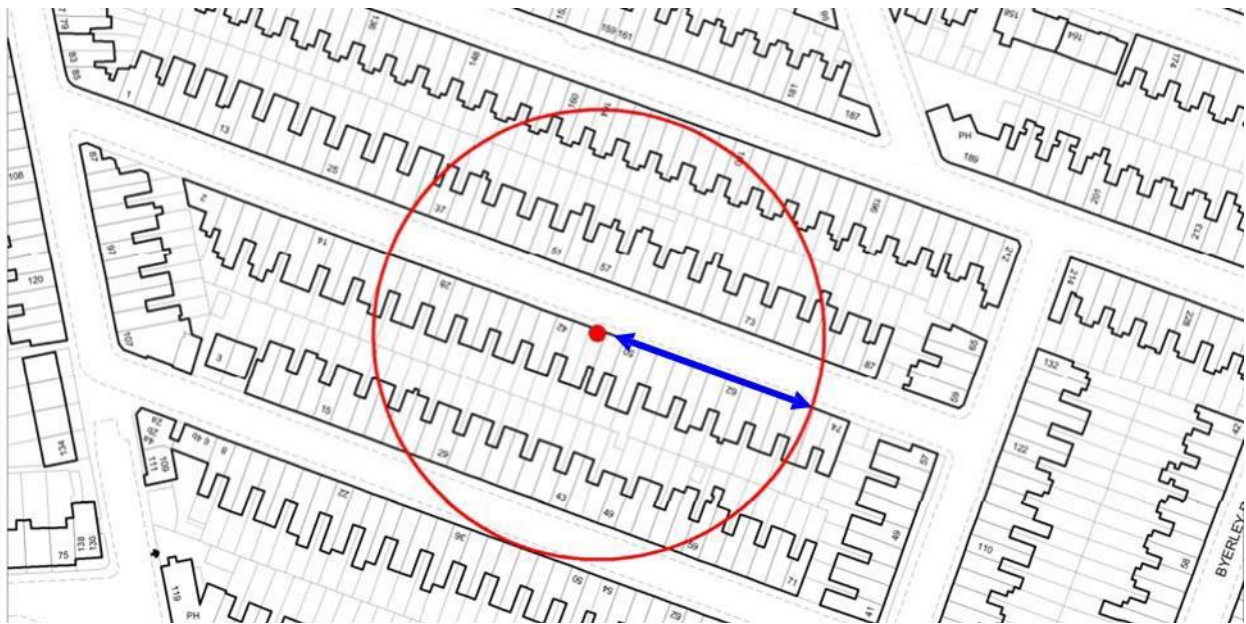
Identifying 'the area surrounding the application property'

2.19 This section is intended as a starting point for determining the proposed impacts of HMO's on the surrounding community. Decisions on the potential amenity impact individual schemes will need to take account of the merits of the particular application.

2.20 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 4).

- 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).

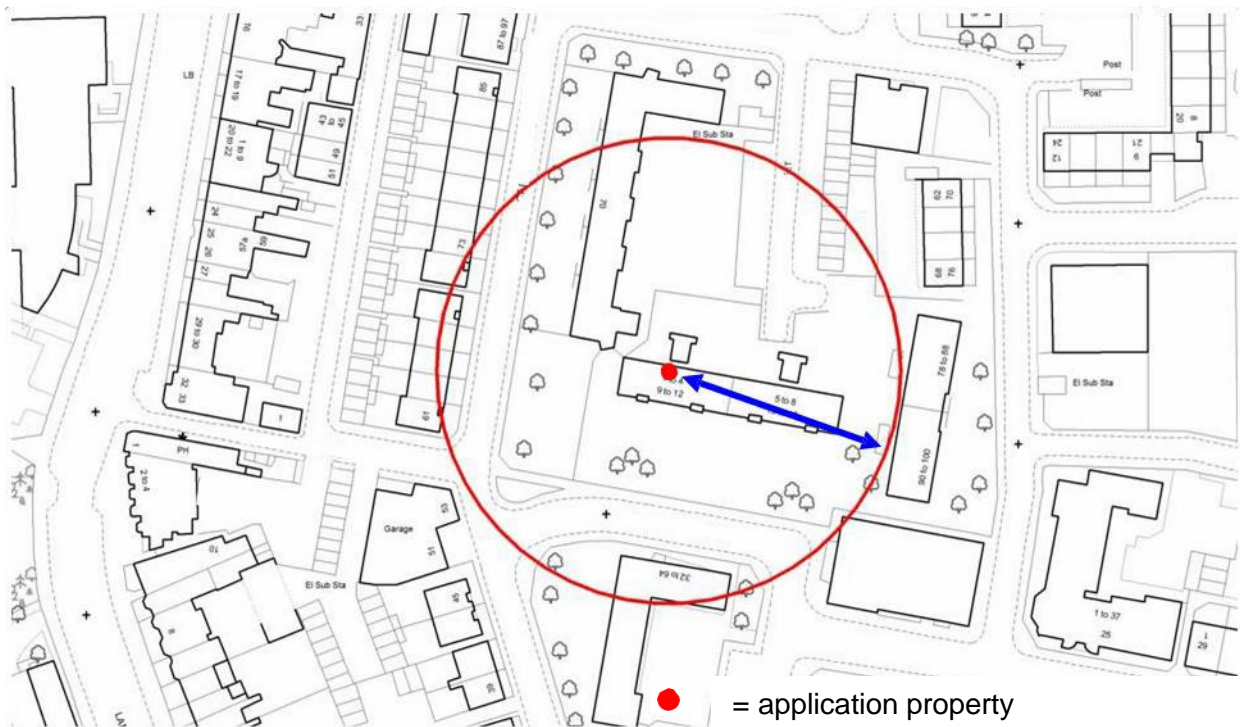
Figure 1: Houses - identifying 'the area surrounding the application property'



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 property⁸ 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 2.21 – 2.24) and worked example using a 10% threshold in Appendix 4, p24).
- 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 4, p24).
- viii) Where the 50m radius captures any part of a building containing residential flats, the City Council will endeavour to establish the number of flats 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

2.21 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.

2.22 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.

⁸ 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 1.17

- 2.23 In order to identify properties in HMO use, the council will use data held on its 'HMO database'⁹ 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 HMOs 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.
- 2.24 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 1.8, p6) and has been in continuous use since then. 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.

⁹ A copy of addresses held on the City Council's HMO database can be found at:
<https://www.portsmouth.gov.uk/ext/development-and-planning/planning/planning-houses-in-multiple-occupation>

3 Making a planning application for HMO use

Many new and existing HMOs require licencing in addition to planning permission and applicants should ensure they are fully compliant with both planning and licencing regimes (see Section 5 below)

Forms and fee

- 3.1 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](#)

Alternatively, applicants can visit the Planning Portal directly at www.planningportal.gov.uk to make an application online.

- 3.2 The City Council has made an Article 4 Direction removing permitted development rights which would otherwise allow changes of use from Class C3 to Class C4.
- 3.3 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).
 - 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.

Parking and the storage of refuse and recyclables

- 3.4 Planning applications for HMO use must meet the parking standards set out in the City Council's Parking Standards and Transport Assessments Supplementary Planning Document (SPD 2014) and any subsequent update¹⁰.
- 3.5 Planning applications for HMO use will also be expected to demonstrate that adequate storage for refuse and recyclables will be provided at the property.

¹⁰ Portsmouth City Council (2014) Parking Standards and Transport Assessment Supplementary Planning Document (SPD). Portsmouth: PCC <https://www.portsmouth.gov.uk/ext/documents-external/pln-parking-standards-transport-assessments-spd.pdf>. See also map showing public transport accessibility throughout the city <https://www.portsmouth.gov.uk/ext/documents-external/trv-74.185-public-transport-map-aug-2017-web-final.pdf>

4 Monitoring and review

- 4.1 The monitoring and review of Policy PCS20 will be carried out as part of the city's Authority Monitoring Report which it is required to produce as part of its Local Plan. The indicators that will be used to monitor this policy are contained in the full policy wording attached as Appendix 2.

5 Other issues to consider

- 5.1 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); Rent it Right.

Licensing under the Housing Act (2004)

- 5.2 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:
- will be used to accommodate five or more tenants belonging to two or more households.
- 5.3 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.
- 5.4 For more information about licensing, please visit the City Council's website <https://www.portsmouth.gov.uk/ext/housing/shared-houses---mandatory-licensing-of-houses-in-multiple-occupation>

You can also contact the Housing Standards team on (023) 9284 1659.

Portsmouth City Council Landlord Accreditation Scheme

- 5.5 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 rent out properties in the city are encouraged to join the LAS. For more information, and to join the scheme, visit <https://www.rentitright.co.uk>

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
 - more than two 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 and 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.

³ [The Town and Country Planning \(Use Classes\) \(Amendment\) \(England\) Order 2010. www.legislation.gov.uk/ukxi/2010/653/pdfs/ukxi_20100653_en.pdf](http://www.legislation.gov.uk/ukxi/2010/653/pdfs/ukxi_20100653_en.pdf)

Appendix 2. – Policy PCS20 of the Portsmouth Plan

Houses in Multiple Occupation (HMOs): ensuring mixed and balanced communities

- A2.1 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

- A2.2 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.
- A2.3 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.
- A2.4 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.
- A2.5 In order to continue to accommodate the need and demand for houses in multiple occupations, 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.

- A2.6 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.
- A2.7 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

- Article 4 Direction: Houses in Multiple Occupation
<https://www.portsmouth.gov.uk/ext/development-and-planning/planning-applications/planning-houses-in-multiple-occupation>

Appendix 3. – Policy PCS23 of the Portsmouth Plan

Design and Conservation

A3.1 Portsmouth has been shaped and characterised by its maritime history and defence role. However, recent development in the city, such as Gunwharf Quays, has begun a new chapter in the life of Portsmouth as a desirable place to live which epitomises contemporary waterfront living.

The Portsmouth Plan approach to design and conservation

A3.2 Portsmouth should continue to develop in this way but new development must also recognise the unique historic maritime characteristics of the city. To this end, only the highest standards of architectural quality will be sought in new development. Furthermore, the city council will work proactively to ensure the valuable elements of the city's history are preserved and enhanced.

PCS23 design and conservation

All new development must be well designed, and in particular, respect the character of the city.

The following will be sought in new development:

- Excellent architectural quality in new buildings and changes to existing buildings
- Delight and innovation
- Public and private spaces that are clearly defined, as well as being safe, vibrant and attractive
- Development that relates well to the geography and history of Portsmouth, particularly the city's conservation areas, listed buildings, locally listed buildings and scheduled ancient monuments
- Protection and enhancement of the city's historic townscape and its cultural and natural heritage, in particular its links to the sea
- Appropriate scale, density, layout, appearance and materials in relation to the particular context
- Protection and enhancement of the city's views important views and settings of key buildings across the sea, harbours and from Portsdown Hill
- Creation of new views and juxtapositions that add to the variety and texture of a setting
- Flexibility to responds to future changes in use, lifestyle and demography
- Promotion and encouragement of public art
- Car parking and cycle storage should be secure, well designed, integral to the scheme and convenient to the users
- Active street frontages in town centre uses
- Consideration of how to reduce crime through design
- Accessibility to all users
- Protection of amenity and the provision of a good standards of living environment for neighbouring and local occupiers as well as future residents and users of the development.

Implementation, delivery and monitoring

- A3.3 The design and conservation policy will be implemented through decisions made during the development management process.
- A3.4 It is acknowledged that it will not be possible to fulfil all of the criteria in the policy in every development. Applicants are therefore encouraged to engage in pre-application discussions with the planning authority in order to address any potential issues before an application is made. This will result in a smoother and timelier planning process.
- A3.5 The planning authority has produced an Urban Characterisation Study which provides information on the different areas of the city and will help to ensure new development respects the character of its surroundings. A web-based design guide will be produced which will collate the latest national design guides and locally distinctive design characteristics for ease of reference.
- A3.6 The “Reducing crime through design” SPD should be used to ensure new development reduces opportunities for crime, as well as the fear of crime.
- A3.7 The documents listed above are valuable tools for producing well designed buildings in Portsmouth. Applicants should take note of the guidance and advice available and, where design and access statements are required, should show how they have taken them into account in the design process.
- A3.8 Good design is extremely important for development on prominent sites in the city. As part of the design process for these sites, applicants should consider staging a design competition to produce locally distinctive buildings and/or public art to complement the development.
- A3.9 The city council will continue to seek advice from design review panels on applications for sites likely to have a significant impact on the locality. Generally these will be major development applications and those of citywide importance. This advice will be a consideration in the determination of the relevant planning application.
- A3.10 The council will continue to encourage new development to be built to Building for Life standards.

Monitoring framework for PCS23 design and conservation

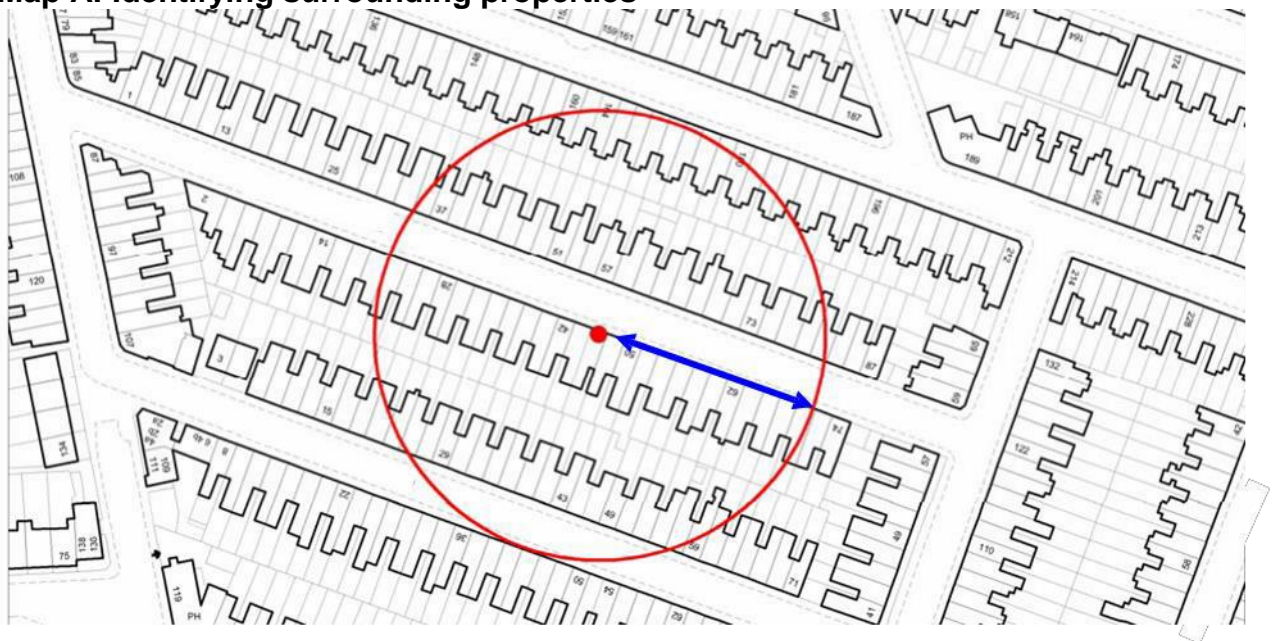
- | | |
|--|--|
| <ul style="list-style-type: none"> • To create an attractive living environment • To achieve the highest quality of design standards and development across the city • Protecting and enhancing the city's conservation areas, listed buildings and other heritage assets | <ul style="list-style-type: none"> • Percentage of people satisfied with their local area as a place to live • Improvements in design quality of development • New developments meeting Buildings for Life standards • Area of the city designated as conservation areas |
|--|--|

Appendix 4. - The 10% threshold - worked example

Worked example

- A4.1 A planning application is received for the change of use of a dwelling house 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 first calculate how many residential properties (in total) fall within this area. (See 2.20 p12 for full details of the method that will be used.)
- A4.2 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

- A4.3 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

A4.4 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%.

A4.5 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.

Appendix 5. Evidence of harm

Introduction

A 5.1 This appendix explores the correlation between houses of multiple occupation in Portsmouth and the harm caused to the amenity of residents in their proximity. In order to do this complaints records received by the Council for both HMO and Non HMO properties have been compared. The City has 1,202 licenced HMO's compared to 94,128 non HMO's. Taking into account student HMO's and non-licenced HMO's the cities HMO stock is higher at around 4,300 in total. The impact of HMO's in the city is therefore expected to be higher than can be demonstrated by records relating to licenced HMO's only.

Sources of information

- A 5.2 A number of sources of data controlled by the City Council have been interrogated including:
- HMO licensing Public Register
 - Council tax records
 - Planning database
 - Complaint records from Public Sector Housing database

Table 1 breakdown of HMO and non HMO complaints by Ward

WARD	Licensable HMOs	complaints	Percentage of total Licensable HMOs	Non HMOs	Number of complaints	Percentage of total Non HMOs
Baffins	1	0	0.0	5947	27	0.5
Central Southsea	469	35	7.5	6064	123	2.0
Charles Dickens	56	3	5.4	5616	117	2.1
Copnor	6	2	33.3	6712	32	0.5
Cosham	4	0	0.0	5409	26	0.5
Drayton & Farlington	1	1	100.0	6307	18	0.3
Eastney & Craneswater	63	12	19.0	6771	72	1.1
Fratton	73	3	4.1	10291	111	1.1
Hilsea	8	1	12.5	6924	43	0.6
Milton	46	1	2.2	6524	61	0.9
Nelson	18	6	33.3	6417	107	1.7
Paulsgrove	3	2	66.7	6689	31	0.5
St Jude	140	26	18.6	8247	95	1.2
St Thomas	314	16	5.1	6210	73	1.2
Total	1202	108	9.0	94128	950	1.0

A 5.3 As shown in table 1 the total number of complaints relating to private sector housing is higher overall than those related to HMO's. When looked at as a proportion of the cities total housing however there are much more likely to be issues leading to complaints for a licenced HMO than a non HMO property.

A 5.4 Across the city as a whole there is a much higher proportion of complaints related to licenced HMO's. Complaints were received relating to 9% of all Licenced HMO properties compared to complaints received relating to 1% of non HMO properties in the City.

A 5.5 This is reflected in all wards with a significant proportion of HMO's ranging from 2x the number of complaints relating to HMO's compared to the non HMO stock in Milton Ward, up to 17x in Eastney and Craneswater.

Complaints about specific amenity impact issues

A 5.6 The Public Sector Housing complaints database categorised complaints received into a number of categories:

- Accumulation
- Damp
- HMO
- Licenced
- Mess
- Mould

- Neighbour
- Pest
- Student
- Waste

A 5.7 Looking at categories of complaint which most closely relate to the amenity impact of properties on neighbouring residents (table 2) it can be seen that for those categories of complaint (mess, neighbour, waste and HMO) the proportion of complaints received is higher for HMO properties than non HMO properties (12x). Other categories of complaint (such as damp /mould) are likely to be raised by residents of properties and not have an amenity impact of neighbours, so haven't been considered here.

Table 2: Summary of types of main areas of complaint with neighbouring amenity impact

	Licensed HMO	Percentage of total Licensable HMOs	Non HMOs	Percentage of total Non HMOs
Mess	2	0.17	38	0.04
Neighbour	2	0.17	45	0.05
Waste	13	1.08	84	0.09
HMO	21	1.75	70	0.07
Total	38	3.16	237	0.25

Appendix 6 - Identifying local impacts- Indications of concentration or proliferation of HMOs in a local area

- A6.1 The worked examples below detail how the specific proximity of HMOs to adjacent dwellings may give rise to a particular risk of harm to amenity and disturbance.
- A6.2 It should be noted that the circumstances described will be considered less likely to result in demonstrable harm where the properties are separated by an intersecting road or where properties have a back to back relationship where properties have their primary access in different streets. Subdivided units will be considered on a case by case basis.
- A6.3 In all cases, permission will not be recommended where the community is already imbalanced, or the proposal would lead to it being imbalanced in accordance with the adopted policy.

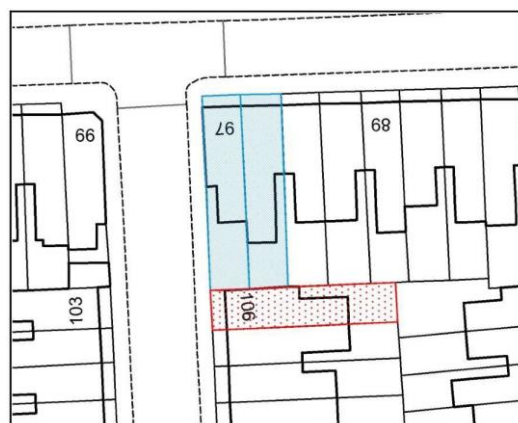
Worked example 1: Risk of 3 adjacent HMOs

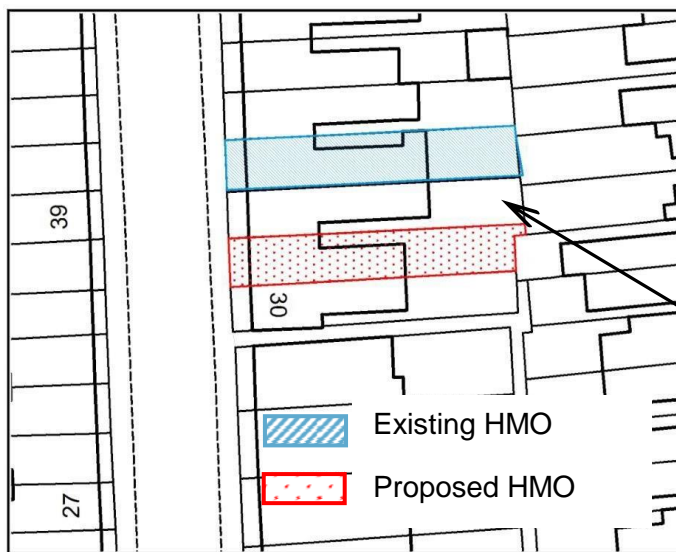


Due to the increased likelihood of disturbance and harm to amenity particular regard will be had to applications with the effect of causing 3 adjacent HMOs with access in the same street

Worked example 2: 3 adjacent HMOs with primary accesses in different streets

Where less than 10% of residential properties within a 50m radius of the area surrounding the application property are already in HMO use, it is considered that there is a reduced likelihood of adverse impact if a HMO application results in 3 adjacent HMOs as long as the primary access for the application property is located in a different street from the existing adjacent HMOs



Worked example 3: Property at risk of 'sandwiching'

Particular regard will be had to the potential adverse implications to amenity arising from proposal that would result in the 'sandwiching' of property between existing and proposed HMO.

Property at risk of being 'sandwiched'

End of document